

Meeting of November 7, 2016

South Portland City Council
Position Paper of the Interim City Manager

Subject:

ORDER #73-16/17 – Authorizing the exchange of deeds between the City and L&H Associates, LLC for parcels of land approx. 6,581 s.f. in size and located along the Greenbelt Walkway (portion of Map 34, Lots 45 and 45D). Passage requires majority vote.

Position:

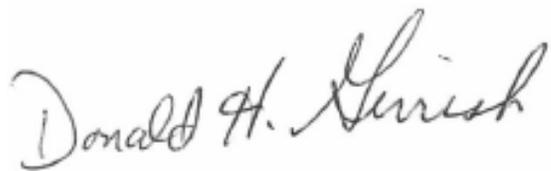
The City Council, at its regular meeting held on August 7, 2000, approved Order #21-00/01, which authorized the City Manager to exchange parcels of land with Kennedy Bros. LLC (former owner of the current Dock's Seafood property at 15 Evans Street). At that time, it had been determined that a piece of land at the southwest side of the lot being used by the business for parking and truck turn-around was in fact owned by the City. Likewise, the City had interest in acquiring more land adjacent to the Greenbelt walkway. The subsequent agreement included the transfer of City land for use by the business in exchange for an equal size piece of land adjacent to the Greenbelt walkway (the general area being where the small baseball diamond is located today). The proposed land exchange was given a thorough review by the Planning Board and final approval had been given by City Council. However, earlier this year staff became aware that the land transfer, for an unknown reason, had never been completed.

Several months ago staff contacted the new owner, L & H Associates LLC, and informed the company of the yet-to-be-completed land exchange. They were agreeable to the exchange with some minor modifications, including a view and utility easement for the business sign, and minor changes to the boundaries of the land to be conveyed. This item is returning to City Council for subsequent review and approval because these changes have been made, which differ modestly from what was originally approved.

A land survey has been completed and deed descriptions have been reviewed by Corporation Counsel. Staff is prepared to complete this transaction subject to Council approval.

Requested Action:

Council passage of ORDER #73-16/17.



Interim City Manager



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE
Mayor

DON H. GERRISH
Interim City Manager

EMILY F. SCULLY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

IN CITY COUNCIL

ORDER #73-16/17

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

ORDERED, that the Interim City Manager be, and hereby is, authorized and directed to accept delivery on behalf of the City of a quitclaim deed without covenant, in substantially the same form as shown on the attached, from L&H Associates, LLC, conveying title to that certain lot or parcel of land, approximately 6,581 s.f. in size (Parcel C on the survey plan attached hereto) and located on the southerly side of Broadway and the southwesterly side of Evans Street (a portion of Assessor's Map 34, Lot 45); and

BE IT FURTHER ORDERED, that the Interim City Manager be, and hereby is, authorized and directed to execute and deliver on behalf of the City a quitclaim deed without covenant, in substantially the same form as shown on the attached, to L&H Associates, LLC, conveying title to that certain lot or parcel of land being approximately 6,581 s.f. in size (Parcel B on the survey plan attached hereto) and located on the southeasterly side of Elizabeth Taylor Lane (a portion of Assessor's Map 34, Lot 45D); and

BE IT FURTHER ORDERED, that the Interim City Manager be, and hereby is, authorized and directed to execute any necessary paperwork reasonably incident to these conveyances.

Fiscal Note: Less than \$1,000

Date: November 7, 2016

**QUITCLAIM DEED
WITHOUT COVENANT**

KNOW ALL PERSONS BY THESE PRESENTS, that **L&H ASSOCIATES, LLC**, a limited liability company organized and existing under the laws of the State of Maine with a place of business at 1122 Broadway, South Portland, Maine 04106, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby **RELEASE** and **QUITCLAIM** unto the **CITY OF SOUTH PORTLAND**, a municipal corporation organized and existing under the laws of the State of Maine with a principal place of business located at 25 Cottage Road, South Portland, Maine 04106, its successors and assigns forever, the following described real estate:

See **Exhibit A** attached hereto and incorporated herein.

IN WITNESS WHEREOF, L&H Associates, LLC has caused this instrument to be signed and sealed in its corporate name by Lei Wang, its Manager, on this ____ day of November, 2016.

WITNESS:

L&H ASSOCIATES, LLC

By: Lei Wang
Its: Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

November _____, 2016

Then personally appeared the above-named Lei Wang, Manager of L&H Associates, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of L&H Associates, LLC.

Before me,

Notary Public/Attorney-at-Law/

Print Name

EXHIBIT A

A certain lot or parcel of land with the improvements thereon on the southerly side of Broadway (a/k/a Route 77) and the southwesterly side of Evans Street, in the City of South Portland, County of Cumberland, State of Maine and being more particularly bounded and described as follows:

Reference is made to a two-sheet plan set, with Sheet 1 entitled "Lot Division Plan of Green Belt Trail Easement" and Sheet 2 entitled "Easement Plan of Green Belt Trail Easement," prepared for the City of South Portland by Sebago Technics, Inc. (File # 00377), last dated September 7, 2016 (collectively, the "Plan").

Beginning at a 5/8-inch rebar set at the southerly sideline of Broadway and southeasterly sideline of the Portland Terminal Company as described in a deed recorded in Book 996, Page 245;

Thence S 38°-44'-54" W along the Portland Terminal Company land, a distance of 121.46 feet to a found 2-inch crimped iron pipe 12 inches high;

Thence S 46°-12'-51" E, crossing Elizabeth Taylor Lane (a/k/a Taylor Lane), a distance of 55.25 feet, to a 5/8-inch rebar set with Right of Way cap;

Thence N 44°-56'-45" E along the southeasterly sideline of Taylor Lane, a distance of 112.47 feet;

Thence N 50°-59'-51" W, crossing Taylor Lane and through land of this grantor, a distance of 37.03 feet;

Thence S 42°-49'-30" W through land of this grantor, a distance of 10.28 feet to a 5/8-inch rebar set;

Thence N 46°-31'-44" W through land of this grantor, a distance of 20.81 feet to a 5/8-inch rebar set;

Thence N 27°-03'-44" E through land of this grantor, a distance of 24.62 feet to a 5/8-inch rebar set at the southerly sideline of Evans Street and Broadway;

Thence westerly along the southerly sidelines of Evans Street and Broadway along a curve deflecting to the left have a radius of 351.10 feet, an arc length of 3.90 feet and a chord of N 69°-45'-58" W 3.90 feet to the Point of Beginning.

The total area of the above-described parcel is approximately 6,581 square feet.

SUBJECT TO a 20-foot wide access/utility easement known as Taylor Lane within the southeasterly side of this parcel, being more particularly bounded and described as follows:

Beginning at the most easterly corner of Parcel C on the southeasterly sideline of Taylor Lane;

Thence S 44°-56'-45" E, along Parcel A, a distance of 112.47 feet to a 5/8" rebar set with Right of Way cap;

Thence N 46°-12'-51" W, crossing Taylor Lane, a distance of 20.01 feet to the northwesterly edge of Taylor Lane;

Thence N 44°-56'-45" E, being 20 feet from and parallel with the first described line, a distance of 110.79 feet;

Thence S 50°-59'-51" E, crossing Taylor Lane, a distance of 20.11 feet to the Point of Beginning.

SUBJECT TO an existing sewer/storm drainage easement described in the second easement of a deed recorded in Book 3323, Page 327, being more particularly bounded and described as follows:

Beginning at a 5/8-inch rebar set at the southerly sidelines of Evans Street and Broadway and southeasterly sideline of the Portland Terminal Company as described in deed recorded in Book 996, Page 245;

Thence S 38°-44'-54" W along the Portland Terminal Company land, a distance of 22.09 feet;

Thence S 01°-12'-09" W a distance of 55.62 feet;

Thence S 14°-53'-51" E a distance of 31.81 feet to the southeasterly sideline of Taylor Lane;

Thence N 44°-56'-45" E along the southeasterly sideline of Taylor Lane, a distance of 29.81 feet;

Thence N 15°-01'-51" W a distance of 13.33 feet;

Thence N 01°-05'-09" E a distance of 36.25 feet to Parcel A;

Thence S 42°-49'-30" W along Parcel A, a distance of 5.76 feet;

Thence N 46°-43'-44" W along Parcel A, a distance of 20.81 feet;

Thence N 27°-03'-44" E along Parcel A, a distance of 24.62 feet to the southerly sideline of Evans St and Broadway;

Thence westerly along the southerly sidelines of Evans Street and Broadway along a curve deflecting to the left have a radius of 351.10 feet, an arc length of 3.90 feet and a chord of N 69°-45'-58" W 3.90 feet to the Point of Beginning.

SUBJECT TO an existing storm drainage easement described in the third easement of a deed recorded in Book 3323, Page 327, being more particularly bounded and described as follows:

Beginning at a 5/8-inch rebar set in pavement at the southeasterly sideline of Taylor Lane being S 44°-46'-45" W along the southeasterly sideline of Taylor Lane a distance of 143.32 feet from the southerly sideline of Evans Street;

Thence N 44°-56'-45" E along the southeasterly sideline of Taylor Lane, a distance of 25.15 feet;

Thence N 15°-01'-35" W a distance of 71.59 feet to the southeasterly sideline of the Portland Terminal Company;

Thence S 38°-44'-54" W along the Portland Terminal Company, a distance of 37.19 feet;

Thence S 15°-01'-35" E a distance of 48.62 feet;

Thence S 46°-12'-51" E a distance of 15.88 feet to the Point of Beginning.

SUBJECT TO a 25-foot wide drainage easement granted to the State of Maine, being more particularly bounded and described as follows:

Beginning at a point on the southwesterly sideline of the Parcel C described above, being N 46°-12'-51" W a distance of 27.79 feet from a 5/8" rebar set on the southeasterly sideline of Taylor Lane;

Thence N 46°-12'-51" W along the southwesterly sideline of Parcel C, a distance of 25.00 feet;

Thence N 42°-49'-30" E though Parcel C, a distance of 98.98 feet to Parcel A;

Thence S 46°-31'-44" E along Parcel A, a distance of 20.00 feet to a 5/8-inch rebar set;

Thence N 42°-49'-30" E along Parcel A, a distance of 10.28 feet to a 5/8-inch rebar set;

Thence S 50°-59'-51" E along Parcel A, a distance of 5.01 feet;

Thence S 42°-49'-30" W a distance of 109.79 feet to the Point of Beginning.

SUBJECT TO a ten foot wide utility easement lying five feet on each side of the utility connection from the restaurant building on Parcel A to the sign on Parcel A as it may pass through Parcel C.

RESERVING TO THE GRANTOR two certain view easements to protect views of the existing sign on Parcel A, being more particularly bounded and described as follows:

View Easement 1 beginning at a the easterly corner of Parcel C on the southeasterly sideline of Taylor Lane, being S 44°-56'-45" W along the southeasterly sideline of

Taylor lane, a distance of 30.85 feet from a 5/8" rebar set at the southerly sideline of Evans Street;

Thence N 50°-59'-51" W along Parcel A, a distance of 37.03 feet;

Thence S 42°-49'-30" W along Parcel A, a distance of 10.28 feet to a 5/8" rebar;

Thence S 66°-12'-37" E though Parcel C, a distance of 39.08 feet to the Point of Beginning.

View Easement 2 beginning at the northerly corner of Parcel C on the southerly sideline of Broadway and the southeasterly sideline of land now or formerly of the Portland Terminal Company as described in a deed recorded in Book 996, Page 245;

Thence S 38°-44'-54" W along land of the Portland Terminal Company, a distance of 22.09 feet;

Thence S 46°-06'-25" W through Parcel C, a distance of 8.72 feet to Parcel A;

Thence N 27°-03'-44" E along Parcel A, a distance of 24.62 feet to the southerly sidelines of Evans Street and Broadway;

Thence westerly along the southerly sidelines of Evans Street and Broadway along a curve deflecting to the left have a radius of 351.10 feet, an arc length of 3.90 feet and a chord of N 69°-45'-58" W 3.90 feet to the Point of Beginning.

The conveyance is made to facilitate the Greenbelt Walkway and any easements created or reserved herein are not intended to preclude use by the City of South Portland, its successors and assigns forever, of a recreational right of way for the benefit of the citizens of the State of Maine.

Bearings herein are based on a grid north based on Maine Department of Transportation information.

Meaning and intending to describe Parcel C as shown on the Plan, and being a portion of the land described in a deed to L&H Associates, LLC dated July 15, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32451, Page 134.

**QUITCLAIM DEED
WITHOUT COVENANT**

KNOW ALL PERSONS BY THESE PRESENTS, that the **CITY OF SOUTH PORTLAND**, a municipal corporation organized and existing under the laws of the State of Maine with a principal place of business located at 25 Cottage Road, South Portland, Maine 04106, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby **RELEASE** and **QUITCLAIM** unto **L&H ASSOCIATES, LLC**, a limited liability company organized and existing under the laws of the State of Maine with a place of business at 1122 Broadway, South Portland, Maine 04106, its successors and assigns forever, the following described real estate:

See **Exhibit A** attached hereto and incorporated herein.

This conveyance is made as a transfer to an abutter, and Grantee shall merge the premises conveyed herein with Grantee's adjacent land described in a deed from MSL Associates, LLC dated July 15, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32451, Page 134.

IN WITNESS WHEREOF, the City of South Portland has caused this instrument to be signed and sealed in its corporate name by Donald H. Gerrish, its Interim City Manager, on this ____ day of November, 2016.

WITNESS:

CITY OF SOUTH PORTLAND

By: Donald H. Gerrish
Its: Interim City Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

November _____, 2016

Then personally appeared the above-named Donald H. Gerrish, Interim City Manager of the City of South Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of South Portland.

Before me,

Notary Public/Attorney-at-Law/

Print Name

EXHIBIT A

A certain lot or parcel of land with the improvements thereon on the southeasterly side of Elizabeth Taylor Lane (a/k/a Taylor Lane), the southerly side of, but not adjacent to Broadway (a/k/a Route 77), and the southwesterly side of, but not adjacent to Evans Street, in the City of South Portland, County of Cumberland, State of Maine and being more particularly bounded and described as follows:

Beginning at a found 1½ inch iron pipe, 6 inches high at the southerly corner of Parcel A, being a portion of the premises conveyed to L&H Associates, LLC by deed dated July 15, 2015 and recorded in Cumberland County Registry of Deeds in Book 32451, Page 134, as shown on a two-sheet plan set, with Sheet 1 entitled "Lot Division Plan of Green Belt Trail Easement" and Sheet 2 entitled "Easement Plan of Green Belt Trail Easement," prepared for the City of South Portland by Sebago Technics, Inc. (File # 00377), last dated September 7, 2016 (collectively, the "Plan");

Thence N 46°-12'-51" W, along the southwesterly sideline of Parcel A, a distance of 123.92 feet to a 5/8-inch rebar set in pavement at the southeasterly sideline of Taylor Lane;

Thence S 39°-38'-19" W, along the southeasterly sideline of Taylor Lane, a distance of 51.08 feet;

Thence S 35°-50'-21" W, along the southeasterly sideline of Taylor Lane, a distance of 3.06 feet to remaining land of the City of South Portland;

Thence S 46°-12'-51" E, along remaining land of the City of South Portland, a distance of 119.74 feet;

Thence N 43°-51'-24" E, along remaining land of the City of South Portland, a distance of 53.98 feet to the Point of Beginning.

The total area of the above-described parcel is approximately 6,581 square feet.

SUBJECT TO a proposed sewer/drainage easement in the easterly corner of Parcel B, being more particularly bounded and described as follows:

Beginning at a found 1½ inch iron pipe, 6 inches high at the southerly corner of the above-referenced Parcel A;

Thence N 46°-12'-51" W, along the southwesterly sideline of Parcel A, a distance of 54.88 feet;

Thence S 14°-53'-51" E, through Parcel B, a distance of 64.20 feet;

Thence N 43°-51'-24" E, a distance of 33.37 feet to the Point of Beginning.

SUBJECT TO a proposed 30 foot wide drainage easement being more particularly bounded and described as follows:

An easement 30 feet in width being 15 feet on each side of the centerline of an underground pipe containing Barberry Creek as shown on Sheet 2 of the Plan.

Bearings herein are based on a grid north based on Maine Department of Transportation information.

Meaning and intending to describe Parcel B as shown on the Plan, and being a portion of the land described in deeds to the City of South Portland recorded in the Cumberland County Registry of Deeds in Book 3323, Page 330 and Book 2793, Page 352.

