

South Portland City Council  
***Position Paper of the City Manager***

***Subject:***

**ORDER #104-13/14 – Accepting Boysenberry Drive and a portion of Elderberry Drive in the Highland Meadow Phase VI subdivision and a portion of Elderberry Drive in the Elderberry Circle subdivision as City streets. Passage requires majority vote.**

***Position:***

The First Amended Subdivision and Site Plan of Highland Meadow Phase VI was approved by the South Portland Planning Board on March 8, 2005. The Final Plan of Elderberry Circle was approved by the Planning Board on February 25, 2003. Lots in both subdivisions have been sold and improved since that time, yet there were a number of outstanding issues associated with the projects that caused delay in the streets being ready for formal acceptance by the City Council until now. Inspection/engineering certifications were needed related to the bridge over Gambler's Arm Brook. An outstanding mortgage on the Highland Meadow Phase VI streets needed to be released by the developer's lender. There was a delay in issuance of as-built drawings of the streets. However, all of these issues have now been resolved to City staff's satisfaction as relates to the Highland Meadows Phase VI and Elderberry Circle subdivisions.

A sketch of the two streets proposed for acceptance is attached to the City Council order. The City will own the fee simple absolute title in the two streets. The City's acceptance of the streets is subject to existing utilities, but specifically excepts any and all private storm drain or sewer drains connecting to the public storm water or sewer system within the rights-of-way. By acceptance of these two streets, the City will be legally obligated to repair and maintain them.

***Requested Action:***

Council passage of ORDER #104-13/14.

  
City Manager



CITY OF SOUTH PORTLAND

GERARD A. JALBERT  
Mayor

JAMES H. GAILEY  
City Manager

SUSAN M. MOONEY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

IN CITY COUNCIL

ORDER #104-13/14

District One  
MICHAEL R. POCK

District Two  
PATRICIA A. SMITH

District Three  
MELISSA E. LINSKOTT

District Four  
LINDA C. COHEN

District Five  
GERARD A. JALBERT

At Large  
MAXINE R. BEECHER

At Large  
THOMAS E. BLAKE

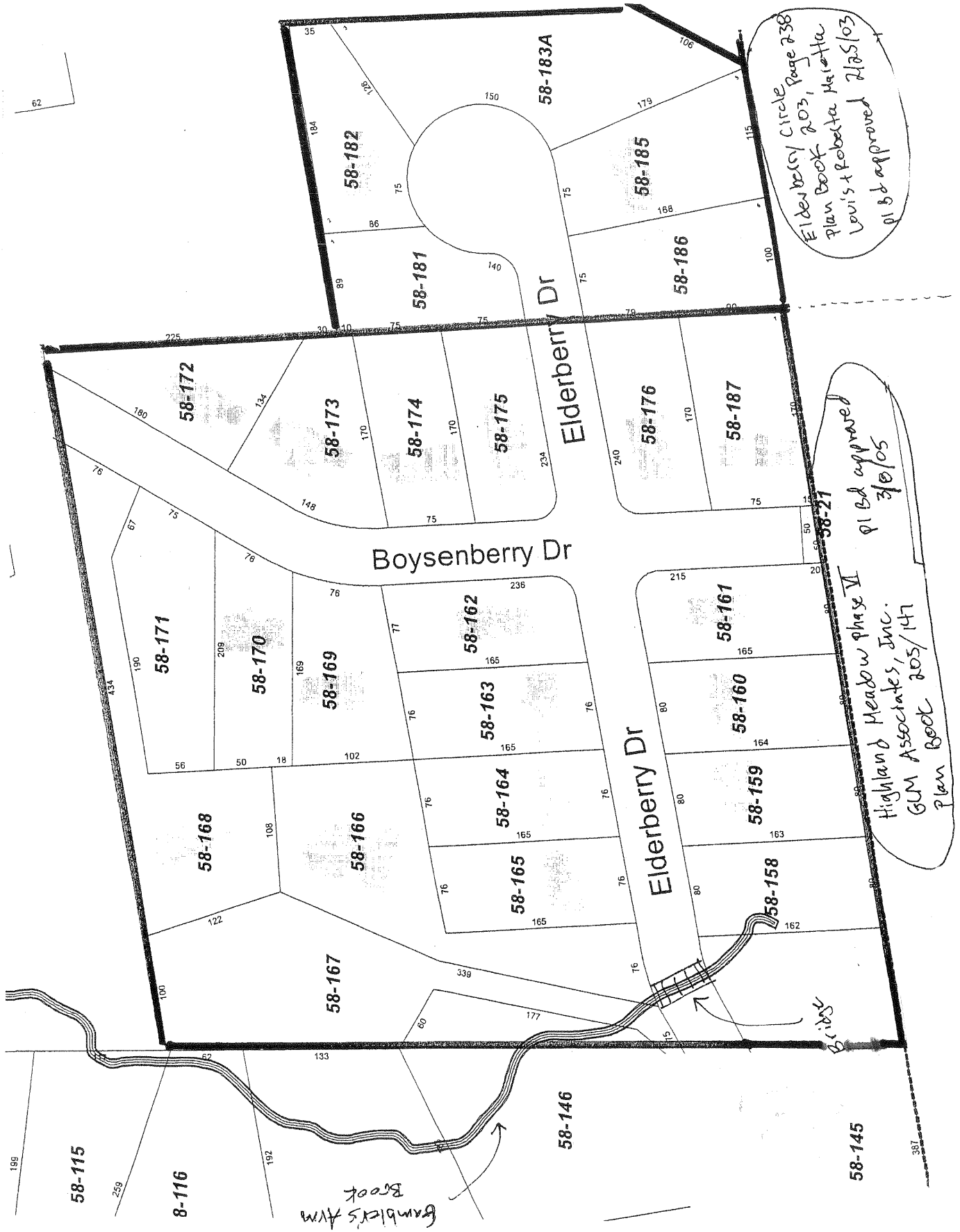
ORDERED, that the City of South Portland hereby accepts delivery of the attached quitclaim deed with covenant from Maietta Enterprises, Inc., Lois B. Maietta and Roberta L. Maietta (“Grantors”), which deed conveys title in fee simple to the City in the portion of Elderberry Drive and the island within Elderberry Drive shown on the “Final Plans of: Elderberry Circle, Tax Map 58, Lot 22, Elderberry & Boysenberry Dr., So. Portland, ME, Final Recording Plat Subdivision & Site Plan” prepared by Land Use Consultants, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 203, Page 238 (the “Elderberry Circle Plan”);

BE IT FURTHER ORDERED, that the City, pursuant to 23 M.R.S.A. § 3025 and Chapters 23 and 24 of the Code of Ordinances, hereby accepts and establishes as City streets (more precisely referred to in State law as “town ways”) those portions of Elderberry Drive and Boysenberry Drive, shown for illustrative purposes only on the attached sketch map, that are more particularly shown on (1) the Elderberry Circle Plan; and (2) a plan entitled “Highland Meadow – Phase VI, Tax Map 58, Lot 21, Highland Ave., So. Portland, ME, 1st Amended Recording Plat Final Subdivision & Site Plan” prepared by Land Use Consultants, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 205, Page 147; such street acceptance is subject to existing utilities but specifically excepts any and all private storm drain or sewer drains connecting to the public storm water or sewer system within the right-of-way. Acceptance is made upon the Grantors’ dedication of said public improvements to the City without claim for any compensation or money damages.

[Fiscal Note: Less than \$1,000]

Dated: February 19, 2014

FOR ILLUSTRATIVE PURPOSES ONLY



Elderberry Circle, Page 738  
Plan Book 203, Mallett  
Lewis + Robertta Harotta  
P1 Bd approved 2/15/03

P1 Bd approved  
3/10/05  
Highland Meadow Phase II  
GUM Associates, Inc.  
Plan Book 205/147

Gambler's Arm  
Brook

Brook