

**AFFIDAVIT OF MICHAEL BRUENJES**

My name is Michael Bruenjes. I am the Manager of MJECO, LLC, the owner of property at 15-17 Hemlock Street, Portland, Maine pursuant to deed recorded in Book 27319, Page 276.

The deed above contains two (2) separate buildings, a single family located at 15 Hemlock Street and three family located at 17 Hemlock Street.

Permission has recently been given by the City of Portland Zoning Administrator to divide the property into two (2) separate lots as "Functional Subdivision," a copy of the approval is attached hereto.

Also attached hereto is a copy of the sketch of the division of the two (2) lots that was submitted to the City of Portland.

Dated at Portland, Maine this 14<sup>th</sup> day of February, 2011

MJECO, LLC

BY: Michael Bruenjes  
Michael Bruenjes  
Its: Manager

STATE OF MAINE  
CUMBERLAND, SS.

February 14<sup>th</sup>, 2011

Personally appeared the above-named Michael Bruenjes in his capacity as Manager of MJECO, LLC, and made oath that the statements contained in the within Affidavit are based on his personal knowledge and belief and he believes them to be true.

Before me,

Thomas Jewell  
~~Notary Public~~/Attorney-at-Law

Thomas Jewell  
Printed Name of Person Taking  
Acknowledgment



# PORTLAND MAINE

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*Penny St. Louis - Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

**MAR - 3 2011**

February 28, 2011

Thomas F. Jewell, Esq.  
Jewell & Boutin, P.A.  
Suite 1104  
477 Congress Street  
Portland, ME 04101-3427

RE: 15-17 Hemlock Street – 065-A-017 – R-6 Residential Zone

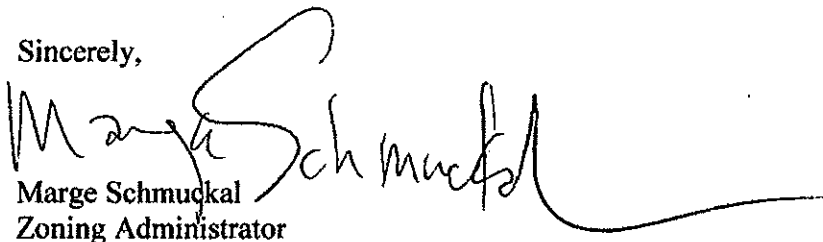
Dear Attorney Jewell,

I am in receipt of your request for a second determination letter concerning 15-17 Hemlock Street.

My letter to you of March 16, 2010, outlined how this property met the tests and requirements for a functional division of land as outlined by the State Law Court under Keith v. Saco River Corridor Commission. You have a new site plan showing corrective changes to the division plan. These changes do not affect the tests and requirements under a functional division of land. The new site plan depicts the appropriate exterior property lines and revises the division line between the two properties.

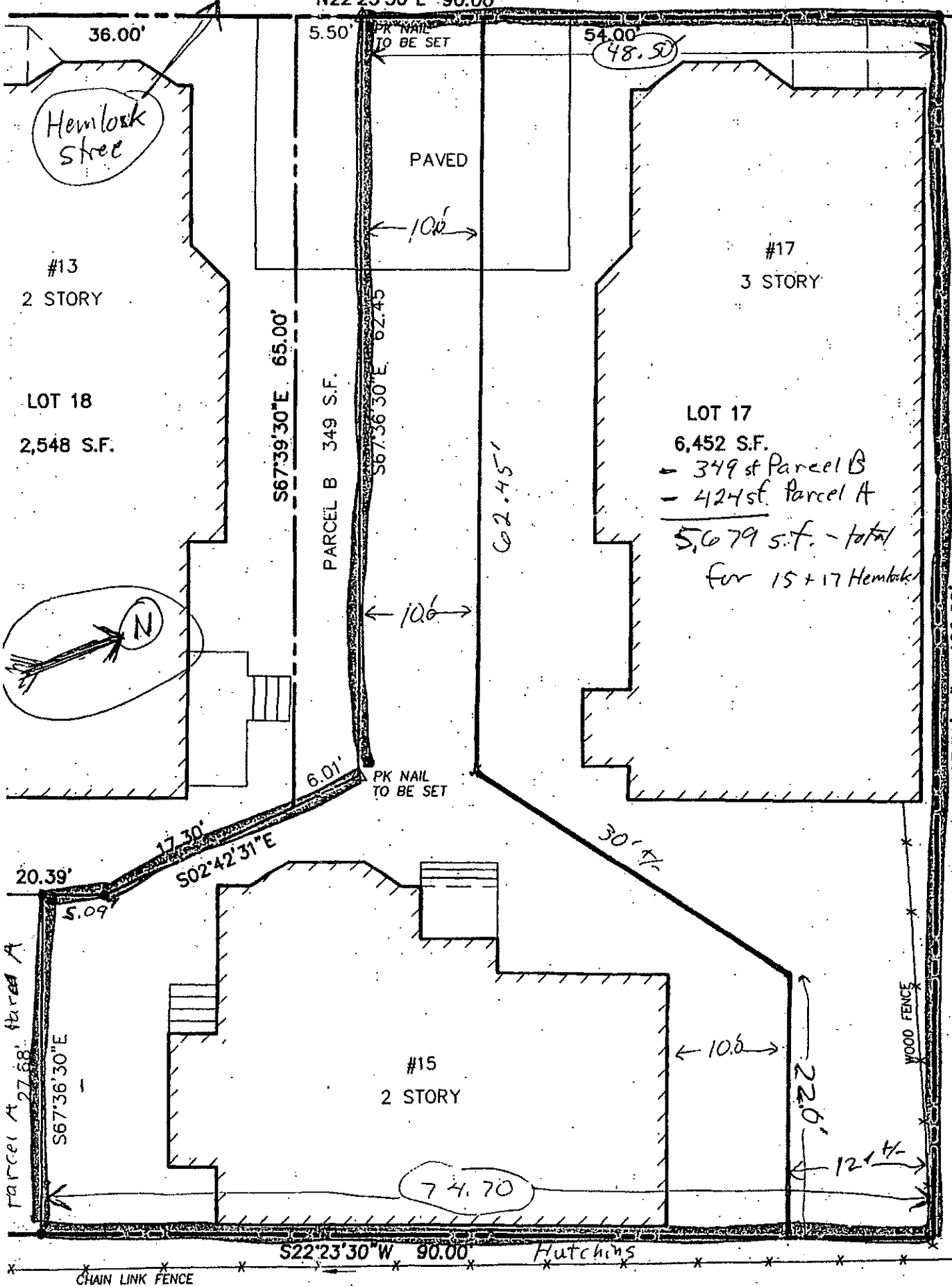
Therefore, in summation, the corrective changes shown on the division site plan is acceptable and the previous decision as outlined in my March 16, 2010 letter is still in force. The property is meeting the burden as outlined for a functional division of land even with the revised site plan.

Sincerely,

  
Marge Schmuckal  
Zoning Administrator

Cc: file

N22°23'30"E 90.00'



McCullum

S67°36'30"E 100.00'

Parcel A 27.58' Area A

Hutchins

CHAIN LINK FENCE

WOOD FENCE

#13  
2 STORY  
LOT 18  
2,548 S.F.

#17  
3 STORY  
LOT 17  
6,452 S.F.  
- 349 sf Parcel B  
- 424 sf Parcel A  
5,679 s.f. - total  
for 15 + 17 Hemlock

PARCEL B 349 S.F.  
S67°39'30"E 65.00'

PK NAIL TO BE SET

PK NAIL TO BE SET

S67°36'30"E 62.45'

62.45'

S22°23'30"W 90.00'

36.00'

5.50'

54.00'

48.50'

20.39'

5.09'

17.30'  
S02°42'31"E

6.01'

10.0'

10.0'

30.47'

10.0'

22.0'

12.47'

74.70



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Penny St. Louis Littell- Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator

March 16, 2010

Thomas F. Jewell, Esq.  
Jewell & Boutin, P.A.  
Suite 1104  
477 Congress Street  
Portland, ME 04101-3427

RE: 15-17 Hemlock Street - 065-A-17 - R-6 Residential Zone

Dear Attorney <sup>John</sup> Jewell,

I am in receipt of your request for a determination letter concerning 15-17 Hemlock Street and whether the property meets the test and requirements of a functional division of land as outlined by the State Law Court under Keith v. Saco River Corridor Commission.

#### Preliminary Criteria:

- 1. Were the structures in existence prior to adoption of the Zoning Ordinance?**  
The records indicate that #15 or the rear single family structure was built prior to or around 1900. #17 Hemlock with three families was built in 1922. The basis of the current Land Use Zoning Ordinance is June 5, 1957. Therefore both structures were in existence prior to the adoption of the current Zoning Ordinance. This criterion is being met.
- 2. From that time to the present, the buildings have been separately used and occupied.** Yes. Documentation in our microfiche shows separate building permit activities for each address. This criterion is being met
- 3. Each structure is served by its own utilities and sewerage disposal systems.** Information has been submitted for each structure showing separate bills and separate meter numbers for the utilities of water, electric and gas. The applicant has also stated that there are two separate waste lines, one for each building. The wastewater fee on each Portland Water District bill supports this. The third criterion is being met.

#### Further Tests:


- 1. The use reflects the "nature and purpose" of the use prevailing when the zoning legislation took effect.** The use of the property has not changed since the Land Use Zoning Ordinance went into effect in 1957. The City's microfiche indicates that #15 Hemlock Street was a single family dwelling prior to 1957 and remains a single family dwelling. The City's microfiche also has evidence that

- #17 Hemlock Street was a residential three unit prior to 1957 and remains a residential three unit. The uses meet this test.
2. **The use created will not be different in quality or character, as well as in degree, from the original use.** As stated above, the uses of the two structures have remained constant. There are no newly created uses involved with this request. Therefore the applicant meets this test.
  3. **The current use is not different in kind, in its effect on the neighborhood from the original use.** The neighborhood is residential. The past and current uses are the same and have no different effect on the neighborhood. The applicant meets this test.

Based upon the submitted information and further research of the property, the applicant is meeting the burden of a functional division of land. The applicant has submitted a sketch of how the property would be divided. There is a common drive that both properties use. It is recommended that the applicant place cross easements upon the land to allow the two lots to use the driveway and any parking spots as needed.

If you have any questions regarding this determination, please do not hesitate to contact me at 874-8695.

Very truly yours,

  
Marge Schmeckel  
Zoning Administrator

Cc: File

Received  
Recorded Register of Deeds  
Mar 09, 2011 10:55:32A  
Cumberland County  
Pamela E. Lovley

