Reviewed for Code Compliance
Inspections Division
Approved with Conditions
Date: 03/27/18

Jeff Levine, AICP, Director
Ann Machado, Zoning Administrator

September 23, 2015

Jonathan Goldberg
MittelAsen, LLC
85 Exchange Street
Portland, ME 04101

Re: 25 Alderbrook Road, Peaks Island – 085-M-009 – the "Property "- Current Owner: Alexander Realty Trust – IR-1 Island Residential Zone

Dear Mr. Goldberg,

I am in receipt of your request for a zoning determination letter concerning the Property at 25 Alderbrook Road, Peaks Island, Assessor's Chart 085, Block M, Lot 009. The request is for the determination that a dwelling can be built on the Property which is currently vacant.

The Property is located in an IR-1 Island Residential Zone. § 14-145.5(a)(1) lists the minimum lot size as 40,000 square feet for lots with public water except for lots of record. § 14-433(a)(3) outlines the criteria for a lot of record in the IR-1 zone:

> *Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.*

You have provided the deeds for the Property and the abutting properties that show that the Property has been held under separate and distinct ownership since July 15, 1985. The City Assessor's records give the lot size as 18,239 square feet which meets the minimum required area of 10,000 square feet for a lot of record. A copy of the "Oceanside Project, Peaks Island, Maine, Southgate Subdivision, recorded at the Registry of Deeds April 14, 1969, Plan Book 79, page 39 (the "Plan"), shows lot 20 (the Property). I am unable to scale this copy, but it appears that a dwelling could be built that meets "the applicable yard dimensions of the IR-1 zone which are a thirty foot front setback, a thirty foot rear setback and

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twenty foot side setbacks [section 14-145.5(c)]. The Plan gives the street frontage as 102.35 feet which meets the current required street frontage of 100 feet [section 14-145.5(b)] and exceeds the "applicable street frontage "required for a lot of record.

The Property is also located in the Shoreland Zone. § 14-449(a) of the ordinance requires that "all principal and accessory structures shall be setback at least seventy (75) feet horizontal distance from the normal high water line of water bodies, the upland edge of a wetland..". I have not been provided with a boundary survey prepared by a licensed surveyor showing the seventy-five foot setback, but I have a copy of a site plan for a Subsurface Wastewater Disposal System Application prepared by Albert Frick on 8/18/2015. This site plan shows the Proposed Disposal Area as +/- 105' from the "Pond" with the "Approx. Proposed Dwelling" located a minimum of twenty feet beyond the Disposal Area and further from the body of water.

Based on the fact that the Property meets the definition of a lot of record, and the applicable street frontage requirement, the minimum lot size and the applicable yard dimensions for a lot of record in the IR-1 Zone, the Property is a buildable lot and a single family dwelling may be built on it. The site plan, shown as part of the Waste Water Disposal System Application, demonstrates that a structure can probably be built beyond the required seventy-five setback for the Shoreland Zone. Please be aware that this determination letter is not a substitute for an application to build. Separate building permits and reviews are required for any construction on the Property.

If you have any questions regarding this matter please do not hesitate to contact me.

Yours truly,

Ann B. Machado
Zoning Administrator
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