April 7, 2014

Thomas Covington Johnson

Pleasant Avenue

Peaks Island, Maine 04108

RE: 37 Ballfield Road & Mariner Court & Vermont Avenue, Peaks Island – 88-I-006 to 011 & 013 to 16 & 022 & 88-J-1-2-3 (the “Property”) – IR-1 with Shoreland Overlay

Dear Mr. Johnson,

It has come to the attention of this office that you are using the Property in violation of the City of Portland’s Land Use Ordinance. The Property is located entirely within the IR-1 zone with a shoreland overlay. It has been witnessed that you have made alterations within the shoreland zone area by removing vegetation. Section 14-449(c)c allows an owner to maintain legally existing nonconforming cleared openings, but are not allowed to enlarge such areas. You have enlarged such areas in violation of the shoreland ordinance. By definition, “vegetation” includes trees, shrubs and other plants including plants less than 4”. You will need to submit a site plan application as required under section 14-449(o) of the shoreland ordinance. The planning board or planning authority may approve actions within the shoreland if the listed standards are met. Any new structures that have been added must meet the setbacks of the IR-1 zone along with uses of the IR-1 zone. All of these structures must be shown on your submitted site plan. This office will need a stamped survey indicating all site features. You must show previous conditions and the areas where vegetation was located. You may need to replace the removed vegetated areas with shoreland tolerant vegetation. It is necessary to apply for a site plan review under the City guidelines within thirty (30) days showing what changes you have done within the shoreland zone along with a remediation plan.

The IR-1 zone is essentially a single family residential zone. The IR-1 zone does allow an accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling unit if approved by the Zoning Board of Appeals. There is no such appeal on record for the Property. It has been witnessed that you have a camper/recreational vehicle on the Property that houses individuals on occasion during the year. This is a use violation of the IR-1 zone. Any such activity shall cease immediately.

Please also note that section 14-335 restricts off-street parking in residential zones. The Property is not allowed to include more than one (1) commercial motor vehicle. It has been witnessed that there is more than one (1) commercial vehicle located on the Property. This type of activity shall cease immediately.

Because as noted above, the Property is located within an IR-1 Zone (Island Residential Zone), business uses are not permitted. It has been witnessed that you have allowed commercial contractors to dump

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yard waste and tree trimming materials on the Property. It is understood that those materials are reduced to mulch and sold back to islanders. Business uses such as outlined are not allowed in residential zones and such activity must cease immediately. It is noted that the City of Portland may

have dumped such materials on the Property in the past. It is further noted that all such City activity has been curtailed as of November, 2013. Under Zoning Board of Appeals restrictions, the Board does not have the right to grant business uses in residential zones.

You have the right to appeal my decision concerning this matter. If you wish to exercise your right to appeal, you have 30 days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

If you have any questions regarding this matter, please feel free to contact me at (207) 874-8695.

Very truly yours,

Marge Schmuckal

Zoning Administrator

City of Portland, Maine

Cc: Shiela Hill-Christian

 David Marshall

 Jeff Levine