



Planning & Urban Development Department

Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator

Thomas Covington Johnson
Pleasant Avenue
Peaks Island, ME 04108

June 20, 2014

Re: 37 Ballfield Road, Peaks Island – 088-I-006 to 011, 013 to 016 & 022 & 088-J-001 to 003 – IR-1 Residential Zone

Dear Mr. Johnson,

At the June 19, 2014 meeting, the Zoning Board of Appeals voted on four separate items. The board voted 6-0 to overturn the Zoning Administrator's determination that vegetated areas within the Shoreland Zone had been enlarged without site plan approval. The Board voted 4-2 to overturn the Zoning Administrator's determination that the camper/recreational vehicle constituted an unapproved accessory dwelling unit. The board voted 6-0 to uphold the Zoning Administrator's determination that the owner was in violation of having more than one commercial vehicle on his property. Finally, the Board voted 6-0 to overturn the Zoning Administrator's determination that the composting and mulching business was a commercial business. I am enclosing a copy of the Board's decision.

You will also find an invoice for the fees that are still owed for the processing fee, legal ad and the notices for the appeal. Please submit your payment on receipt of this invoice.

Regarding the decision on more than one commercial vehicle being parked on your property, we need you to submit to our office a list of vehicles that are parked on your property and specify exactly what the use of each vehicle is so that we can have it in our records.

Appeals from decisions of the Board may be filed in Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Should you have any questions please feel free to contact me at 207-874-8709.

Yours truly,

A handwritten signature in black ink, appearing to read "Ann B. Machado".

Ann B. Machado
Zoning Specialist

Cc File

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk

From: Marge Schmuckal, Zoning Administrator

Date: June 20, 2014

RE: Action taken by the Zoning Board of Appeals on June 19, 2014

Members Present: Sara Moppin (secretary), Gordon Smith (chair), Donna Katsiaficas, Eric Larsson, William Getz and Kent Avery

Members Absent: Chip Gavin

1. New Business

A. Interpretation Appeal:

37 Ballfield Road, Mariner Court & Vermont Avenue, Peaks Island, Thomas Covington Johnson, owner, Tax Map 088, Block I, Lots 006 to 011, 013 to 016 & 022 & Tax Map 088, Block J, Lots 001 to 003, IR-1 Island Residential Zone with Shoreland Overlay: The appellant is challenging the Zoning Administrator's determination dated April 7, 2014 that the vegetation that has been cleared is in violation of the Shoreland Zone requirements. He is also challenging the determination that the camper/recreational vehicle on the property is a dwelling unit. The determination that the appellant is also in violation of parking more than one commercial vehicle on the property is also being challenged. Finally, the appellant is challenging the determination that the selling of mulch is a business use that is not allowed in the IR-1 Zone. The appellant is requesting that the determination be overturned and that he be allowed to continue the activities stated above. Representing the appeal is the applicant's lawyer, David A. Lourie. **The Zoning Board of Appeals voted on four separate items. On item 1, the Board voted 6-0 to grant the appellant's request to overturn the Zoning Administrator's determination that vegetated areas within the Shoreland Zone had been enlarged without site plan approval. On item 2, the Board voted 4-2 to grant the appellant's request to overturn the Zoning Administrator's determination that a camper/recreational vehicle constituted an unapproved accessory dwelling unit. On item 3, the Board voted 6-0 to deny the appellant's request to overturn the Zoning Administrator's determination that the appellant was in violation of having more than one commercial vehicle on his property. On item 4, the Board voted 6-0 to grant the appellant's request to overturn the Zoning Administrator's determination that the composting and mulching business was a commercial business in violation of the permitted or conditional uses in the IR-1 zone.**

~~Board~~ Board Members
Present:

Kent Arery
Eric Larsson
William Getz

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Cardy Smith
Sara Moppin
Danna Katsaralica

IR-1 Island Residential Zone
Violation Letter Interpretation Appeal

DECISION

Date of public hearing: June 19, 2014

Name and address of Appellant: Thomas Covington Johnson
Pleasant Avenue
Peaks Island, Maine 04108

Represented by: David Lourie, Esq.

Location of property under appeal: 37 Ballfield Road & Mariner Court & Vermont
Avenue, Peaks Island

For the Record:

Andrew Dukas 13B
Pleasant
Ave

Names and addresses of witnesses (proponents, opponents and others):

David Lourie on behalf of the applicant
Marge Schmuckal - Zoning Administrator
Mr./Mrs. Sellers - abutters 89 Pleasant
Barbara Averpos 32 Evergreen Landing
Karen Taylor Peaks resident

Mark Hall
Herron Ave

Jean Alvar 108
Martin McKern Herron Ave
Saco Maine, City employee.

Exhibits admitted (e.g. renderings, reports, etc.):

- ① April 7, 2014 letter from Zoning Administrator to Mr./Mrs. Sellers
- ② Maine Agricultural Protection Act and Rules
- ③ City Code provisions
- ④ ~~Plan~~ Email from Mr. Frick dated June 13, 2014
- ⑤ Plan prepared by Mr. Frick
- ⑥ City map from Mrs. Sellers
- ⑦ email ^{officer} Cindy Taylor to Marge Schmuckal
- ⑧ ~~Plan~~ Plan prepared by Marge Schmuckal

Findings of Fact and Conclusions of Law:

The Board derives authority to review an interpretation of the building authority pursuant to Section 14-472 of the land use code.

The Appellant owns property on Peaks Island. Pursuant to complaints filed with the Zoning Administrator by abutting neighbors, the Zoning Administrator determined that there were four land use violations existing on the property at issue, and sent written notice of these violations to the property owner on April 7, 2014. Specifically, the Zoning Administrator determined that violations of the following land use standards exist on the property:

1. Sec. 14-449. [Shoreland Zone] Land use standards.

“(c) *Clearing or removal of vegetation:*

3. Legally existing nonconforming cleared openings may be maintained but shall not be enlarged, except as allowed by this division.”

The Zoning Administrator determined that vegetated areas within the Shoreland Zone have been enlarged without site plan approval.

Finding:

Appellant has demonstrated that the Interpretation of the Zoning Administrator was incorrect or improper.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

From the pictures, there did not appear to be any active cutting on the property. There was brush which appeared to be either blown down or brush from the Sellers property. The weight of the evidence favors² the appellant.

2. Sec. 14-145.3. Conditional uses.

"The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) Residential:

- 1. Accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling . . ."

The Zoning Administrator determined that a camper/recreational vehicle on the Appellant's property constitutes an unapproved accessory dwelling unit.

Finding:

Appellant has demonstrated that the Interpretation of the Zoning Administrator was incorrect or improper.

Satisfied 4 Not Satisfied ~~1~~ ^(HRA) 2

Reason and supporting facts:

~~The Board on zoning persuaded that the camper is a dwelling unit based on the definition of dwelling unit in the zoning code's~~

~~and~~ Some board members felt camper was not accessory because there are 2 separate lots in separate ownership. Some board members felt camper was not a dwelling unit. and camper and house are on separate lots

3. Sec. 14-335. Off-street parking restricted.

"Off-street parking shall not include:

- (a) More than one (1) commercial motor vehicle in any residence zone, the R-P zone or any B-1 zone . . ."

The Zoning Administrator determined that there is more than one commercial vehicle on the Appellant's property.

Finding:

Appellant has demonstrated that the Interpretation of the Zoning Administrator was incorrect or improper.

Satisfied 0 Not Satisfied 6

Reason and supporting facts:

We heard testimony that there ~~were~~ ^{was} more than one CMV ~~not owned by the appellant~~ parked on the property.

4. Sec. 14-145.4. Prohibited uses.

"Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited."

The Zoning Administrator determined that ~~there~~ ^{the mulching business} is a commercial business on the Appellant's property which is not a permitted or conditional use in the IR-1 Zone.

Finding:

Appellant has demonstrated that the Interpretation of the Zoning Administrator was incorrect or improper.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

the composting and mulching business constitutes agriculture and is permitted in the zone. Weight of evidence indicates that compost is not being sold.

Decisions: (check one for each item)

ITEM 1

Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore GRANTS the application.

Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore DENIES the application.

ITEM 2

Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore GRANTS the application.

Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore DENIES the application.

ITEM 3

Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore GRANTS the application.

Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore DENIES the application.

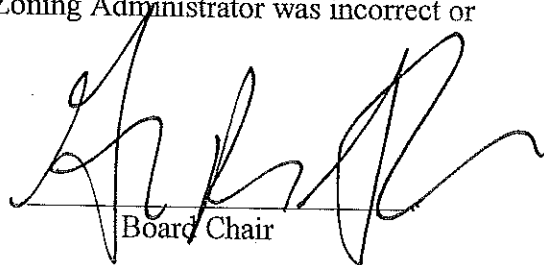
ITEM 4

Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore GRANTS the application.

Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore DENIES the application.

Dated:

6-19-2014


Board Chair

members present: Donna K - Sara Moppin - Bill Getz - Eric
Cansa
Kent Avery Gordon
Smith

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

members absent: Chryp Gavin
APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, June 19, 2014 at 6:30 p.m. on the second floor in room 209 at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following appeal:

1. New Business

A. Interpretation Appeal:

3 - overturned
1 kept

37 Ballfield Road, Mariner Court & Vermont Avenue, Peaks Island, Thomas Covington Johnson, owner, Tax Map 088, Block I, Lots 006 to 011, 013 to 016 & 022 & Tax Map 088, Block J, Lots 001 to 003, IR-1 Island Residential Zone with Shoreland Overlay: The appellant is challenging the Zoning Administrator's determination dated April 7, 2014 that the vegetation that has been cleared is in violation of the Shoreland Zone requirements. He is also challenging the determination that the camper/recreational vehicle on the property is a dwelling unit. The determination that the appellant is also in violation of parking more than one commercial vehicle on the property is also being challenged. Finally, the appellant is challenging the determination that the selling of mulch is a business use that is not allowed in the IR-1 Zone. The appellant is requesting that the determination be overturned and that he be allowed to continue the activities stated above. Representing the appeal is the applicant's lawyer, David A. Lourie.

2. Adjournment

9:25



Planning & Urban Development Department

*Jeff Levine, AICP, Director**Marge Schmuckal, Zoning Administrator*

TO: CHAIR AND ZONING BOARD MEMBERS

FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR

SUBJECT: INTERPRETATION APPEAL CONCERNING 37 BALLFIELD ROAD ET AL

DATE: JUNE 19, 2014

This memo is in response to the interpretation appeal before the Board. The current Land Use Zoning Ordinance has a basis date of June, 1957. The islands were using the same zones as the main land until July 15, 1985. I have attached a Peaks Island zoning map showing the zones prior to the zone changes to the islands in 1985. The property involved in tonight's hearing was located in an R-3 zone prior to changes made to all the island zoning in 1985. It is also relevant to note that on December 9, 1991 the City Council adopted changes to the Shoreland Zone mapping that included freshwater wetlands delineation which encompasses the appellant's property.

I was not aware of the broad reaching effect of State Law 7 M.R.S.A. § 154 Farmland Protection Act. Mr. Johnson was granted a conditional use appeal in June, 1988 for the raising of domestic animals as allowed in the IR-1 zone. Apparently the Farmland Protection Act also applies to and supersedes the Shoreland Zone regulations. However, I am not convinced that bringing in landscaping materials and brush from off-premise locations onto this property is protected under the umbrella of the Farmland Protection Act. This is not an activity that is based upon using the applicant's land for agricultural purposes. If the applicant was cutting and mulching his own land, then I would agree that that activity would be covered by the Farmland Protection Act. Instead the applicant is accepting materials that are from off-premise properties. I have determined that type of activity is really a business use and not a property based agricultural use. Such business uses are not permitted in the IR-1 zone. The commercial trucks used in the operation of the acceptance and mulching of the off-property materials would not be protected under the Farmland Protection Act. Only commercial vehicles used for the applicant's on premise farmland agricultural uses could be covered by State Law.

I am not convinced that the trailer which is used for occupancy falls under an accessory use as define under 14-145.2(f). It is true that temporary private tenting for one (1) tent is permissible under certain defined circumstances within the IR-1 zone. However, a trailer is not a tent by any definition. Trailers or recreational vehicles are considered vehicles and must be registered by the State. The trailer being used for habitation is not permitted in this zone.

The applicant has submitted "Exhibit B" which is an Affidavit of Edward L. Casey in order to show the continuance of legal nonconforming uses ("grandfathered uses") of the land. While it is true that **14-381 Continuation** allows any lawful use of buildings, structures, premises or parts thereof, existing on June 5, 1957, and made nonconforming by the provision of the Ordinance as outlined, the applicant has not shown any uses that were in existence prior to June 5, 1957. First of all, this sections allows the



Planning & Urban Development Department

Jeff Levine, AICP, Director

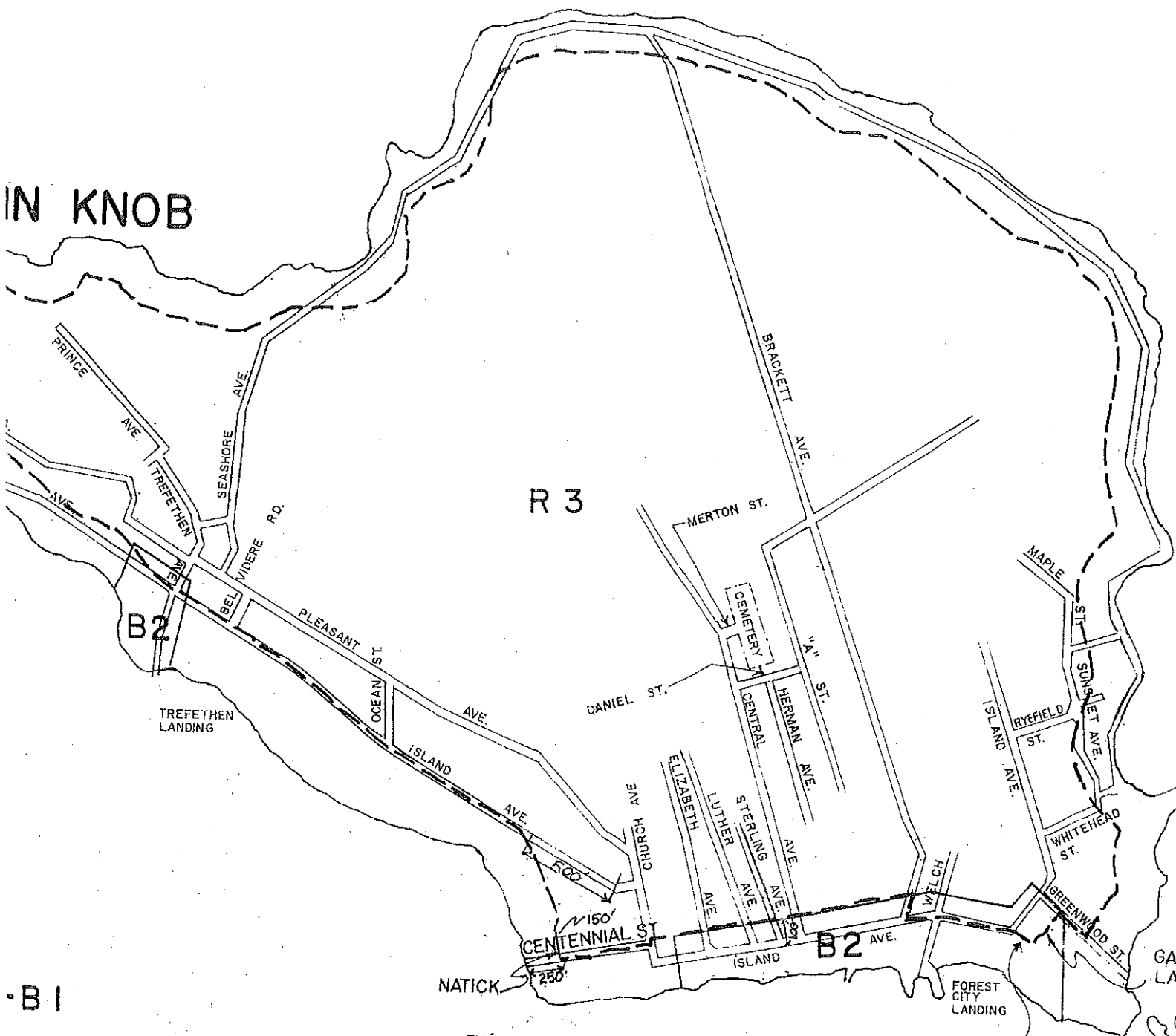
Marge Schmuckal, Zoning Administrator

PG 2

continuance of *lawful use of buildings, structures, premises or parts thereof*. There is no evidence in City records and no evidence submitted by the applicant that the uses outlined by Mr. Edward L. Casey were ever granted permits to show that they were lawful, legal uses. The applicant also has not shown that the uses listed in the affidavit were in uses prior to June 5, 1957. The affidavit states that the uses were in use in the 1970's and 1980's. The applicant has not reached back far enough to be considered lawfully nonconforming. Under the Land Use Zoning Ordinances, these listed uses are not protected under 14-381, and cannot be established as continued lawful uses.

I have no comments regarding the ongoing disputes between the abutters. The focus of this hearing is the letter of violation concerning the appellant and violations on his property.

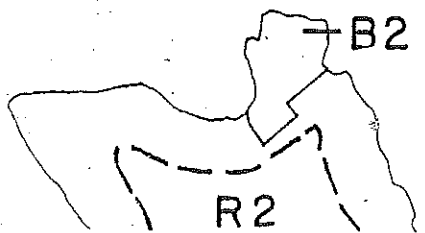
IN KNOB



-B1

PEAKS ISLAND

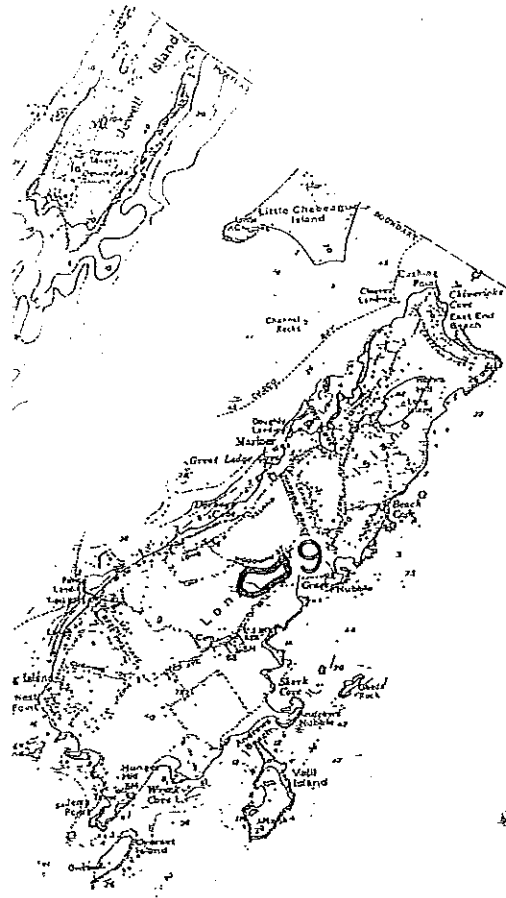
GARDEN PLACE
CATS



DIAMOND

ORDER ADOPTING SHORELAND ZONING REPORT

ORDERED, that the attached Shoreland Zoning Report, dated December 9, 1991, be and hereby is adopted as part of the City's Comprehensive Plan.




CITY
OF

PORTLAND

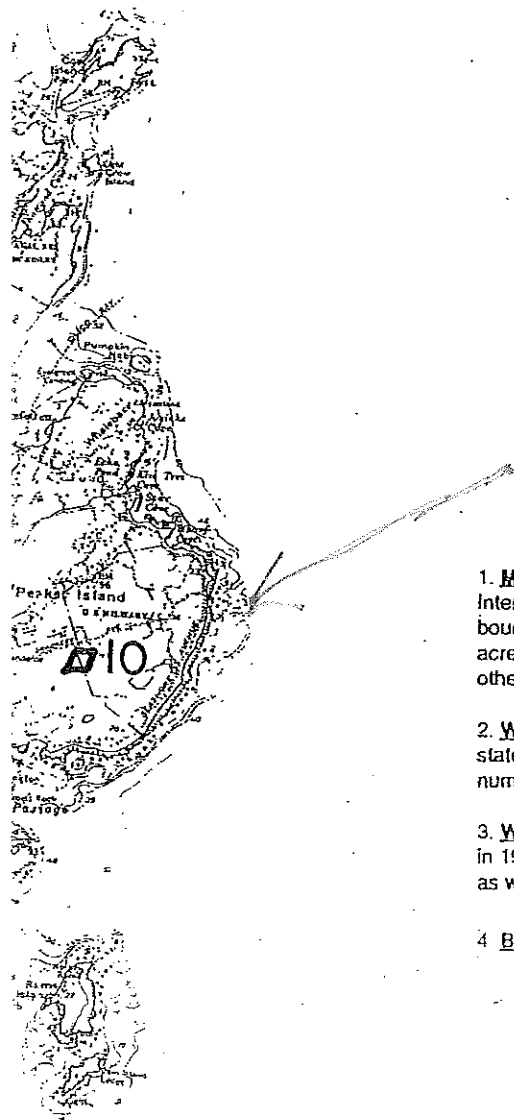
FRESH-WATER WETLANDS
MAP

LEGEND

WETLAND BOUNDARY - 
 WETLAND IDENTIFICATION NUMBER (ID#) - 123
 WILDLIFE VALUE RATING (WVR) - HIGH(H), MEDIUM (M), LOW(L), NOT RATED (N)

TABLE

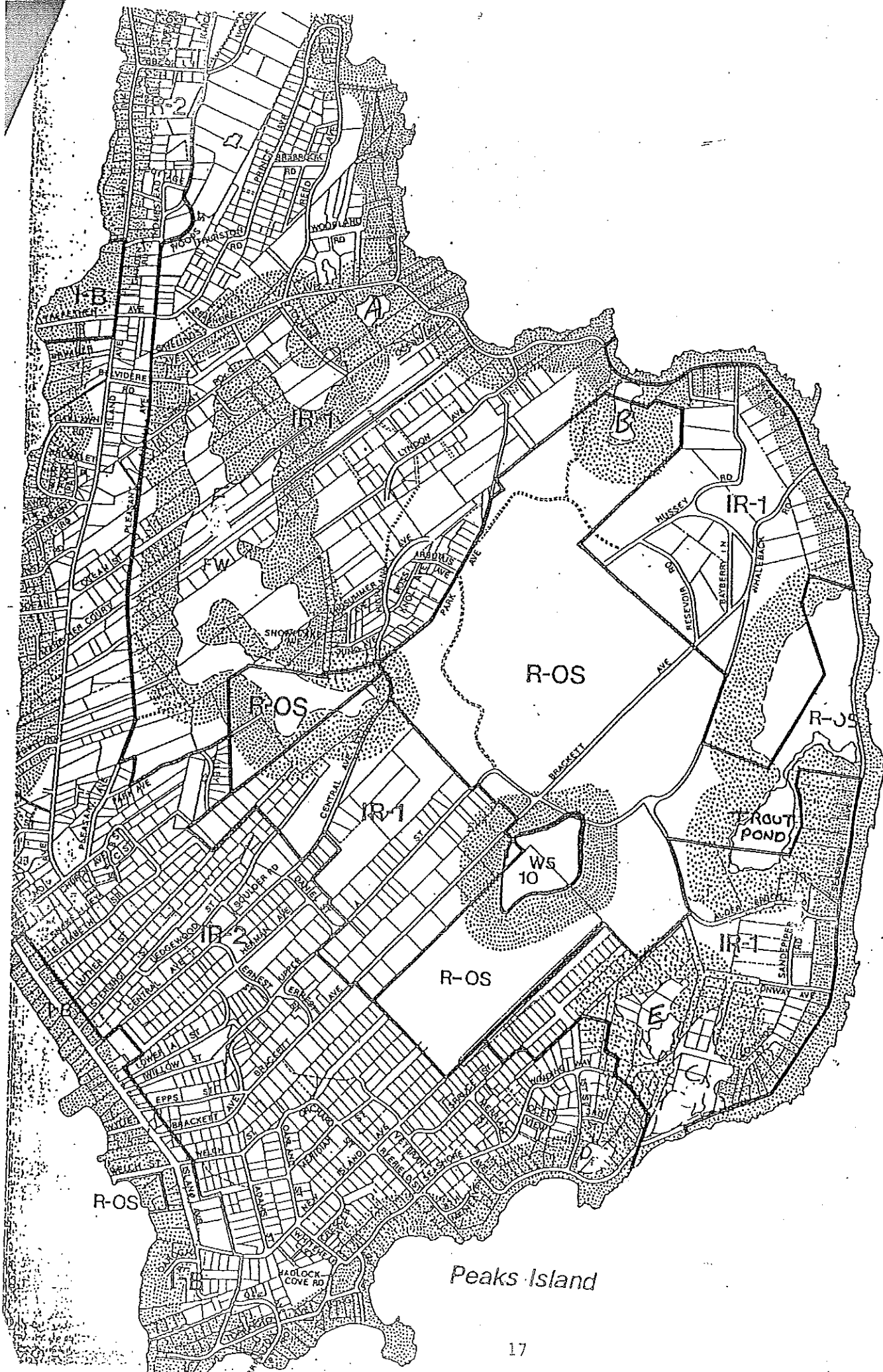
ID #	WVR	ID #	WVR	ID #	WVR	ID #	WVR	ID #	WVR	ID #	WVR
7	N										
9	N										
10	N										



1:50,000

NOTES:

- Mapped Wetlands** This map shows non-forested areas identified as wetlands by air photo interpretation. Interpretations were confirmed by soils mapping and other wetlands inventories. Field verification of the location and boundaries of the wetlands should be undertaken prior to development. Forested wetlands, and other wetlands less than acres in size are not shown on this map. Municipalities wishing to identify and protect these other wetlands should consult other wetland data sources.
- Wetland Identification Number (ID#)** The wetland identification numbers on this township map are associated with state-wide, freshwater wetland maps prepared in 1983 by the Maine Geological Survey. Therefore, the wetland ID numbers are not in sequence.
- Wildlife Value Rating** The wetland ratings on this map are based on a wetlands inventory and assessment completed in 1972 by the Maine Department of Inland Fisheries and Wildlife. The rating is primarily associated with a wetland's value as waterfowl habitat. Other important wetland values are not included in this rating.
- Base Map** U.S. Geological Survey 15' and 7.5' quadrangle maps



Navigation and map controls including a compass, a zoom slider, and several circular icons for map interaction.























received 6/18/14

Albert Frick

From: Albert Frick <albert@albertfrick.com>
Sent: Friday, June 13, 2014 11:11 AM
To: 'johnson.covey@gmail.com'
Cc: 'david@lourielaw.com'
Subject: Covey Johnson, Vermont Ave/Park Ave, Peaks Island, Portland
Attachments: Maine Right to Farm Act.pdf; Peaks Island Johnson Vermont Avenue-2x3.pdf; Aerial 4-28-98.pdf; Aerial 12-31-2002.pdf; Aerial 4-20-2006.pdf; Aerial 7- 24- 2007.pdf; Aerial 5-18-2010.pdf; Aerial 5-18-2010.pdf; Aerial 5-8-13.pdf

Dear Covey:

The field review on June 10 with you was very helpful to review your site since the time we worked on the permitting of the Farm Pond, Septage Application, and farming areas.

I understand that you are registered with the City of Portland and the State of Maine as a Farm under the Maine Agricultural Protection Act. (See Right to Farm Act, attached).

I overlaid the City of Portland tax map information, Maine GIS topographic information (Lidar), City Of Portland Shoreland Zone Overlay into a composite site plan to assist in the analysis of your issue of concern with the City of Portland and abutter. Please note that the Shoreland Zone Overlay includes bedrock controlled upland knolls that are not wetlands, residential structures, City Ball Park etc.

I have also included historical aerial photography of your parcel and farm and the cleared area per the evidence of the tree line seems to me to be quite consistent through the time period covered by the historical photographs from 1998 through 2013. Hence I did not detect the 'area of concern'. You gave me a copy of Marge Schmuckal's letter of April 7, 2014 in which she states that it has "come to the attention of this office that you are using the Property in violation of the City of Portland's :and Use Ordinance. It has been witnessed that have made alterations within the shoreland zone area by removing vegetation". It is unclear to me where the 'area of concern' for the alleged violation has occurred and perhaps a meeting with the Portland Code Enforcement Officer and/or Zoning Administrator could shed some light onto this subject matter.

I had worked on other Shoreland Zone cutting violations on Peaks Island in the past and there was not a complete prohibition of cutting vegetation in the Shoreland Zone at that time but restrictions for maintaining a vegetative density based on the number and size of trees , as measured by the diameter of the tree to maintain a relative point score in the shoreland zone buffer. It is difficult to address this matter without knowing the Planning Department's area of concern.

Respectfully;

Albert Frick

Certified Soil Scientist #66
Licensed Site Evaluator #163

Albert Frick Associates, Inc
Environmental Consultants
95A County Road
Gorham, ME 04038
(207) 839-5563
f (207) 839-5564

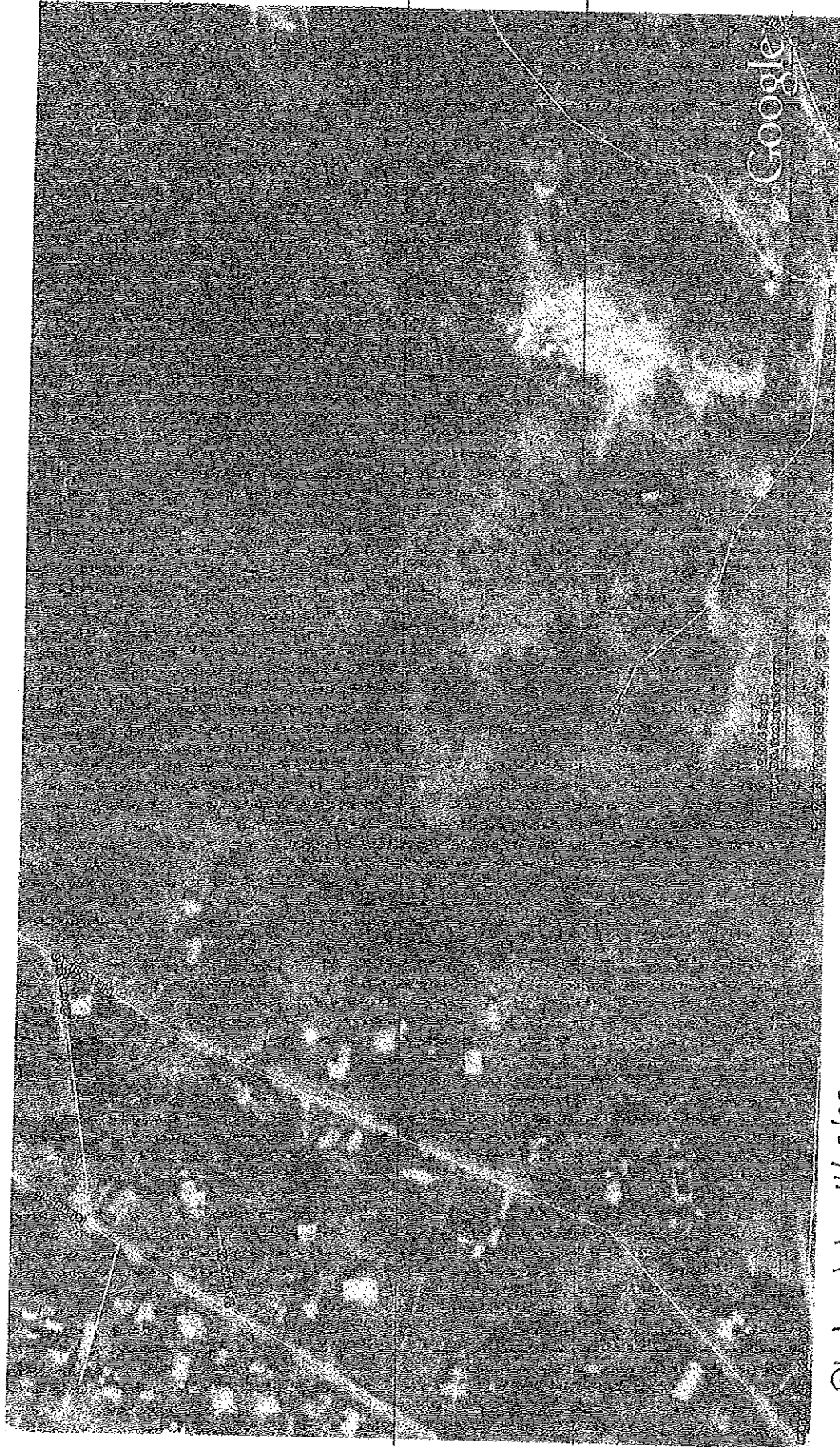


Photo date 4/28/98

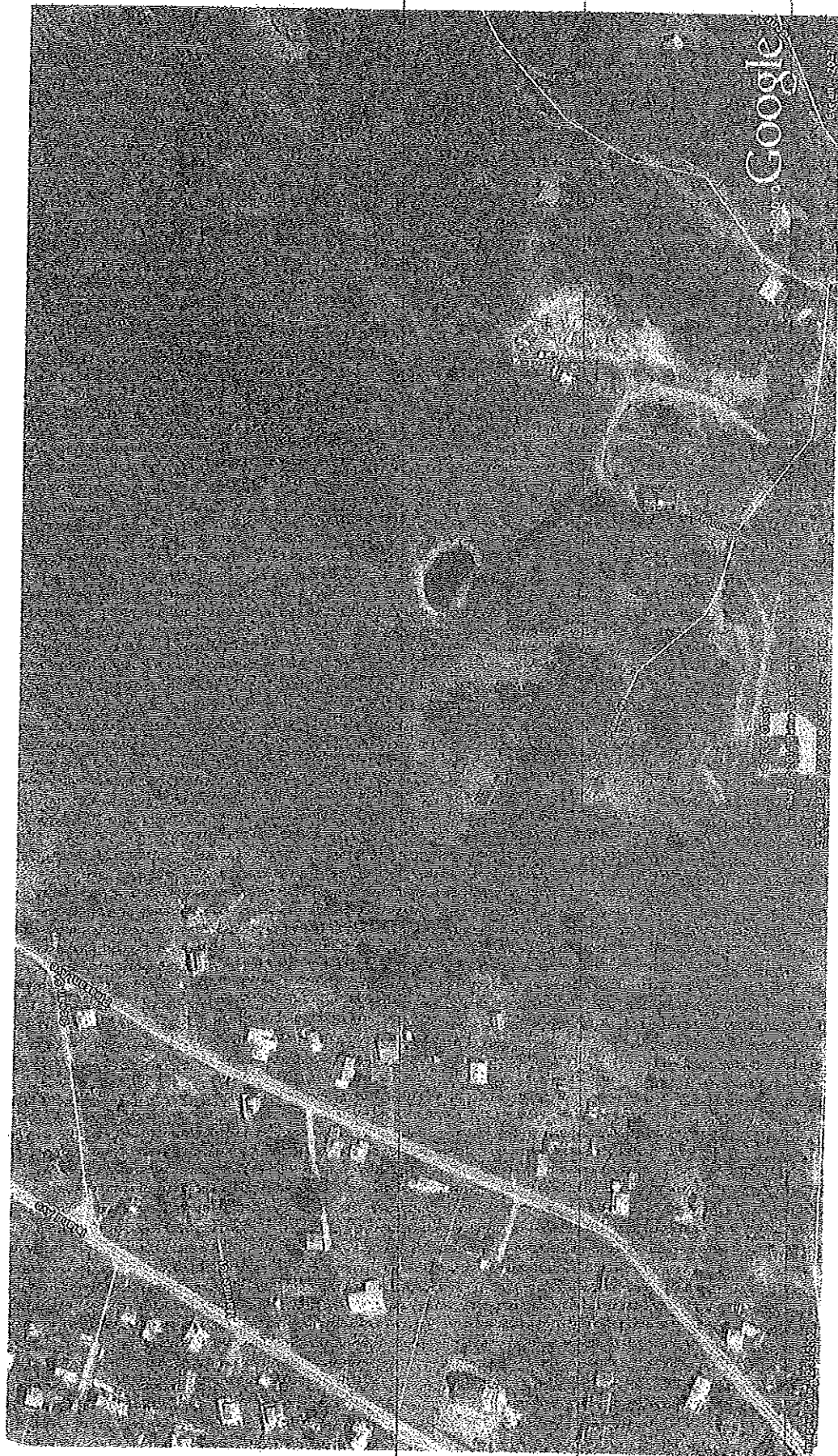


Photo date 12/31/02

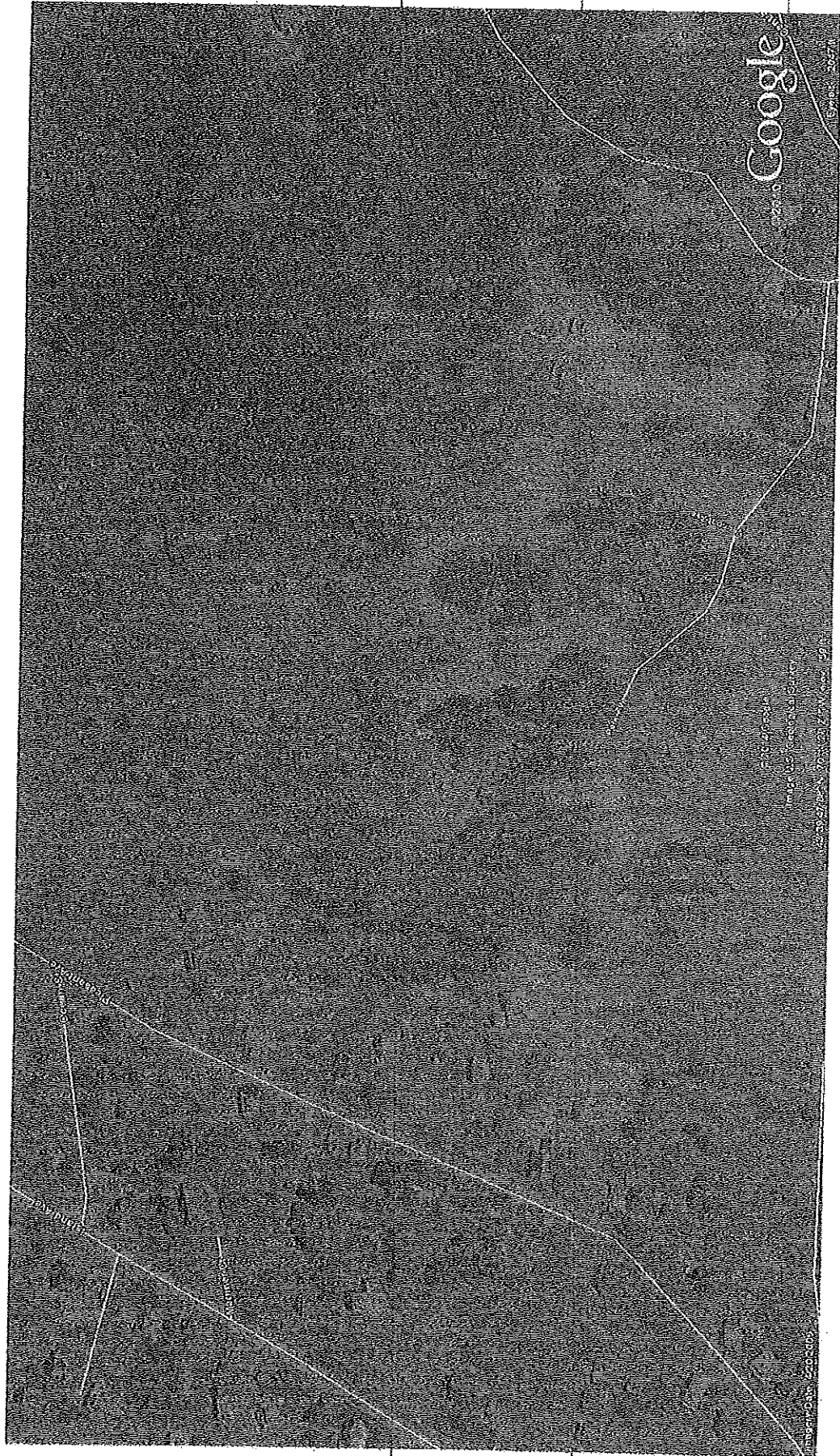


Photo date 4/20/06

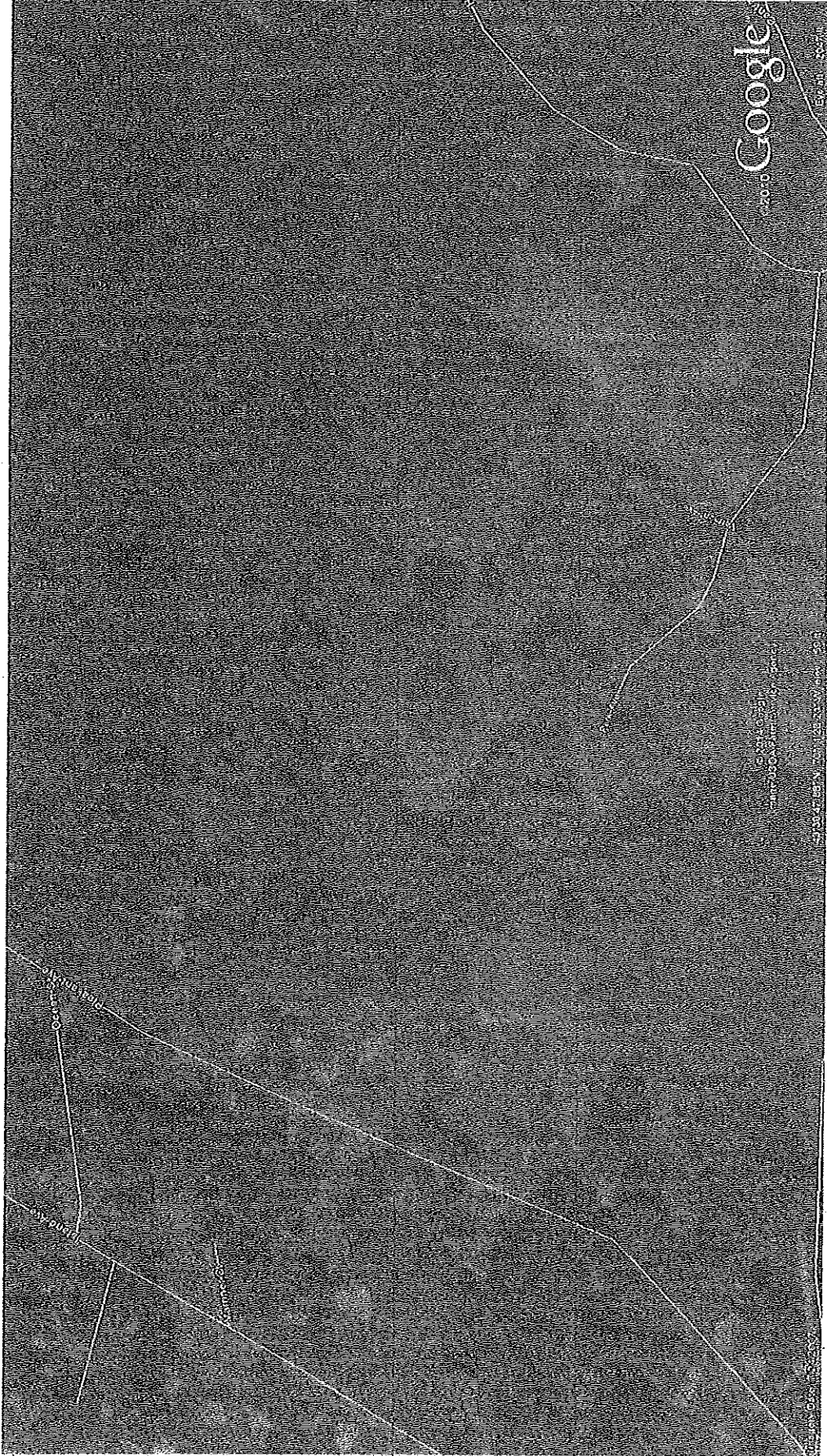


photo date 7/24/07

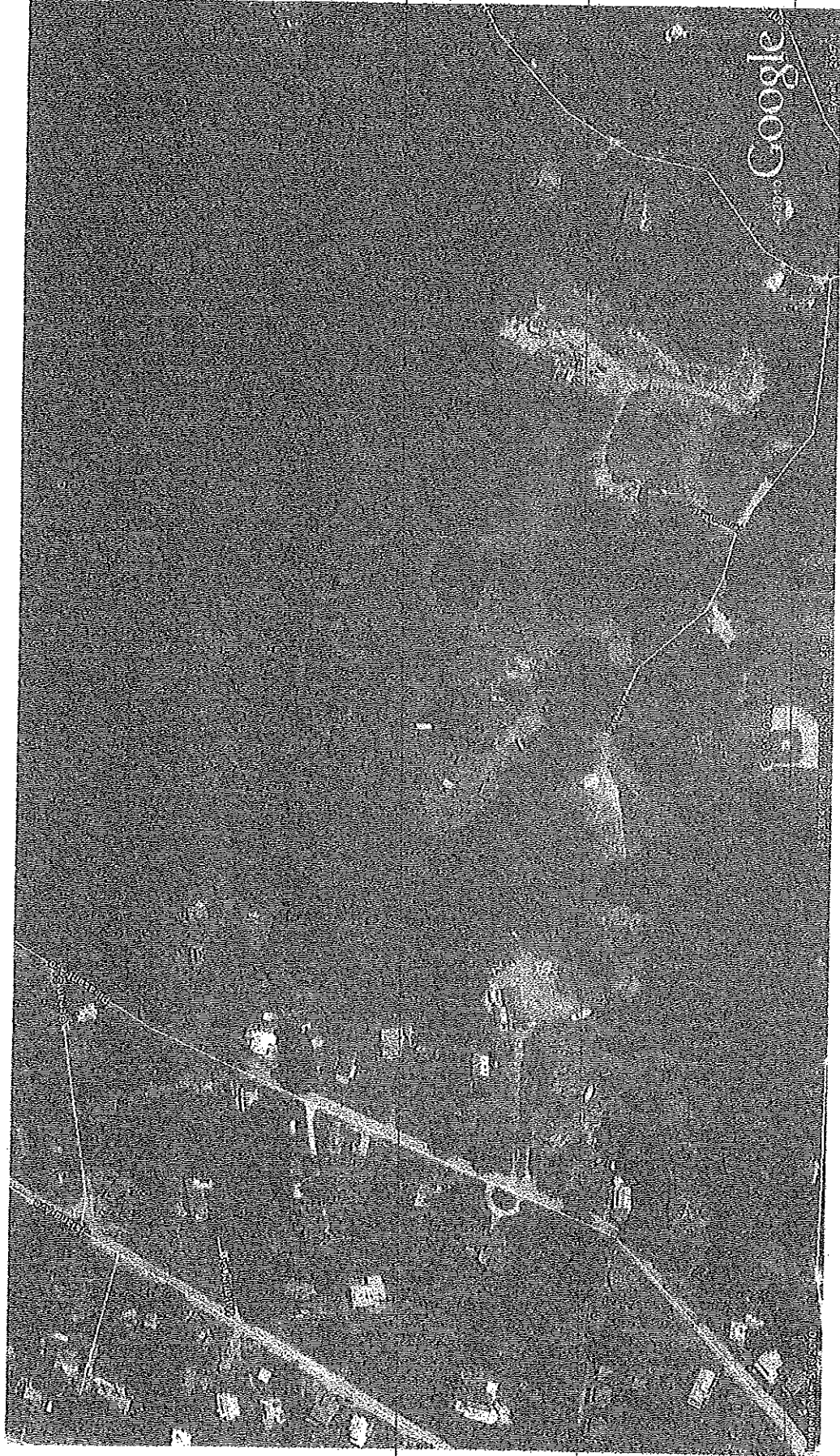


Photo date 5/16/10

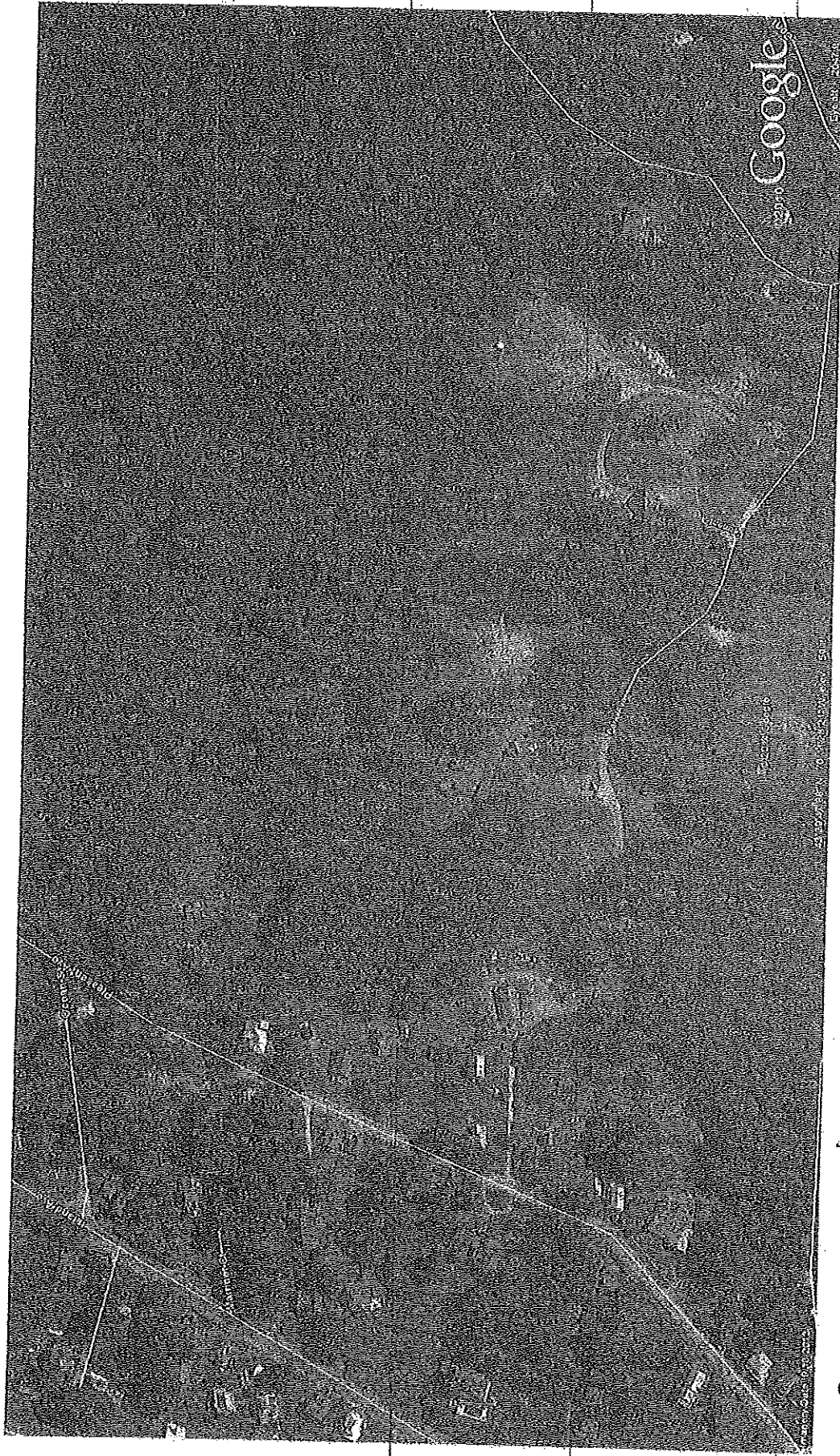


Photo date 9/18/13

Marge Schmuckal - Re: notice of violation to neighbors

From: Marge Schmuckal
To: david@lourielaw.com
Date: 6/19/2014 12:08 PM
Subject: Re: notice of violation to neighbors
CC: Trish McAllister
Attachments: zoning board memo 2014.pdf

Hi David,
Here is my memo. Your submission was sent to the Board members previously. Feel free to bring the Frick memo.
thank you,
Marge

>>> "David A. Lourie" <david@lourielaw.com> 6/19/2014 11:28 AM >>>
I have not received copy of any memo to the Bd, and have checked the Bd package on-line and found nothing.
Can I assume that you already sent them the package I filed, and that they have nothing else in writing?
Shall I will bring copies of the Frick memo to mtg, along with other docs I may present?

Please advise.

On 6/18/2014 9:51 AM, Marge Schmuckal wrote:

thank you

>>> David Lourie <d.lourie@maine.rr.com> 6/18/2014 9:45 AM >>>
Please see attached. I apologize for poor quality of scanned attachments.

On 6/18/2014 9:29 AM, Marge Schmuckal wrote:

Hi David,
Here is the notice of violation sent to Covey's neighbors. Can you send me the information you received from Al Frick? I am working on my memo to the Board now.

Marge

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

--
This message was sent from the Law Offices of David A. Lourie, 97 India Street, Portland ME 04101, and 189 Spurwink Avenue, Cape Elizabeth
This communication may contain attorney-client privileged or confidential matters, that is exempt from disclosure under applicable law.

--
This message was sent from the Law Offices of David A. Lourie, 97 India Street, Portland ME 04101, and 189 Spurwink Avenue, Cape Elizabeth,
This communication may contain attorney-client privileged or confidential matters, that is exempt from disclosure under applicable law. If

Ann Machado - Re: Interpretation Appeal for Thomas Covington Johnson

From: "David A. Lourie" <david@lourielaw.com>
To: Ann Machado <AMACHADO@portlandmaine.gov>
Date: 5/20/2014 9:54 AM
Subject: Re: Interpretation Appeal for Thomas Covington Johnson
CC: Marge Schmuckal <mes@portlandmaine.gov>

Marge cited him as the owner of all of these lots, so they are in the appeal. There is no issue of sufficient right, title and interest here, and it was not clear from my on-line visit to the Registry which properties are covered by which deed. I commend your thoroughness, but I have already wasted too much time on an appeal made necessary only to appease a neighbor to accommodate you on this.

I assume that Marge has now considered the effect of the Farmland Protection Act on the alleged violations, and our other points.

Please advise:

- (1) if Marge has changed her mind and will rescind the NOV, in which case we will also withdraw the Appeal;
- (2) if there have been any communications to the Board on this since I copied your files;
- (3) confirming the hearing date and time;
- (4) a copy of the entire Board package, when it goes out to the Board. E-mail will be sufficient.

On 5/20/2014 9:25 AM, Ann Machado wrote:

David -

I was just doing my completeness check for the Interpretation Appeal and I discovered that the deed 9007/333 you sent me only applies to lots 088-I-012 & 088-I-006. I also need the deed that shows that Mr. Johnson owns CBL lots - 088-I-007 to 011, 013 to 016 and 088-J-001, 002 & 003.

Thank you.

Ann Machado

Ann Machado
Zoning Specialist
Planning & Urban Development
Portland City Hall
(207) 874-8709

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This message was sent from the Law Offices of David A. Lourie, 97 India Street, Portland ME 04101, and 189 Spurwink Avenue, Cape Elizabeth, ME 04108. This communication may contain attorney-client privileged or confidential matters, that is exempt from disclosure under applicable law. If you have received this message in error, please notify the sender immediately by e-mail.

Marge Schmuckal - Concerns regarding illegal dumping on Peaks and shipping brush off island

From: Sam Saltonstall <ssalty88@gmail.com>
To: Troy Moon <thm@portlandmaine.gov>
Date: 6/18/2014 8:02 AM
Subject: Concerns regarding illegal dumping on Peaks and shipping brush off island
CC: Mike Murray <MSM@portlandmaine.gov>, <mes@portlandmaine.gov>, <marshalld...

Dear Troy,

It has come to the Peaks Environmental Action Team's attention that the City is addressing the non-complying use of private property as a composting facility in a Shoreland Overlay zone here on Peaks, and that this facility is currently being used by a number of landscapers to recycle their yard waste.

If and when this facility is shut down, these landscapers will have no alternative but to utilize the City's transfer station or dump illegally elsewhere on the island. Given the expensive rates that currently apply at the transfer station facility, we are concerned about the prospect of illegal dumping.

Additionally, we see the current transport of brush off the island as an environmentally unsatisfactory solution, and believe it would be optimal to process the material here and make it available as compost to island residents.

After extensive discussion at our Board meeting last evening we unanimously passed a motion to this effect, and I am writing you on behalf of the PEAT Board to let you know of this decision. We appreciate the City's intention to deal with this situation soon, and would like to be informed of the progress you are making.

Best wishes,

Sam Saltonstall
PEAT Board President

--

Sam Saltonstall
(707) 899-1100 (home)
(707) 899-1100 (cell)



Planning & Urban Development Department

Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator

June 11, 2014

Thomas Covington Johnson
Pleasant Avenue
Peaks Island, ME 04108

Dear Mr. Johnson,

Your Interpretation Appeal has been scheduled to be heard before the Zoning Board of Appeals on **Thursday, June 19, 2014 at 6:30 p.m.** in room 209 located on the second floor of City Hall.

Please remember to bring a copy of your application packet with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeal highlighted, as well as a handout outlining the meeting process for the Zoning Board of Appeals.

I have also included the bill for the processing fee, the legal ad, and the notices for the appeal. The check should be written as follows:

MAKE CHECK OUT TO: City of Portland
MAILING ADDRESS: Room 315, attn. Ann Machado
389 Congress Street
Portland, ME 04101

Please feel free to contact me at 207-874-8709 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann B. Machado".

Ann B. Machado
Zoning Specialist

Cc: File

Ann Machado - Re: Peaks Island Again

From: Jeff Levine
To: Marge Schmuckal
Date: 7/2/2014 9:21 AM
Subject: Re: Peaks Island Again

Sorry to hear about your computer!

FYI we have agreed to waive Covey's advertising, noticing and processing costs - but not to refund his \$100 application fee. I'm not thrilled with this decision but it is what it is. In rare cases it happens.

Is there something we need to do in UI so his account won't come up delinquent for these charges when he comes back in for future applications?

>>> Marge Schmuckal 7/1/2014 2:52 PM >>>

Sorry, I'm late getting back to you on this - I literally just got my computer back - it had 237 viruses!. We do not charge by hour. That is what the \$50 fee for processing represents.

Marge

>>> Jeff Levine 07/01/14 9:33 AM >>>

Thanks, do we normally bill for staff time for ZBA review? I knew we did it for Planning Board, wasn't aware of it for ZBA.

In any case, I think we are just going to send the usual bill out. They don't want to negotiate right now, apparently.

>>> Marge Schmuckal 6/30/2014 11:14 AM >>>

Hi Jeff,

Newspaper required ad:	\$183.90
64 notices sent out: (at standard rate)	\$ 48.00
Listed Processing Fee:	\$50.00

Ann's time:	2.5 hrs
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Marge's time:	4.0 hrs
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I hope this helps you
Marge

>>> Jeff Levine 6/27/2014 11:21 AM >>>

Who would be able to give me some firm numbers on staff time cost and noticing costs to respond to David Lourie?

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
389 Congress Street
Portland, Maine 04101

RECEIPT OF FEES

Application No: 0000-1905	Applicant: JOHNSON THOMAS COVINGTO
Project Name: 37 BALLFIELD RD	Location: 37 BALLFIELD RD
CBL: 088 I006001	Application Type: Interpretation
Invoice Date: 06/11/2014	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due		Payment Due Date
\$100.00		\$100.00		\$279.90		\$0.00		\$279.90		On Receipt

First Billing

Previous Balance	\$100.00
Payment Received 5/6/2014 - Thank you	-
	\$100.00

Fee Description	Qty	Fee/Deposit Charge
Processing Fee	1	\$50.00
Notices - ZBA	64	\$48.00
Legal Advertisements - ZBA	1	\$181.90
		\$279.90
Total Current Fees:	+	\$279.90
Total Current Payments:	-	\$0.00
Amount Due Now:		\$279.90

Detach and remit with payment

CBL 088 I006001
Bill to: JOHNSON THOMAS COVINGTON
PLEASANT AVE
PEAKS ISLAND, ME 04108

Application No: 0000-1905
Invoice Date: 06/11/2014
Invoice No: 45410
Total Amt Due: \$279.90
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.
Check the status of your permit or schedule an inspection on-line at <http://www.portlandmaine.gov/planning/permitstatus.asp>

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

RECEIPT OF FEES

Application No: 0000-1905	Applicant: JOHNSON THOMAS COVINGTO
Project Name: 37 BALLFIELD RD	Location: 37 BALLFIELD RD
CBL: 088 I006001	Application Type: Interpretation
Invoice Date: 05/06/2014	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due		Payment Due Date
\$0.00		\$0.00		\$100.00		\$100.00		\$0.00		On Receipt

Previous Balance **\$0.00**

Fee Description	Qty	Fee/Deposit Charge
Appeal Application Fee	1	\$100.00
		\$100.00
Total Current Fees:	+	\$100.00
Total Current Payments:	-	\$100.00
Amount Due Now:		\$0.00

CBL 088 I006001
Bill to: JOHNSON THOMAS COVINGTON
 PLEASANT AVE
 PEAKS ISLAND, ME 04108

Application No: 0000-1905
Invoice Date: 05/06/2014
Invoice No: 44977
Total Amt Due: \$0.00
Payment Amount: \$100.00

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.
 Check the status of your permit or schedule an inspection on-line at <http://www.portlandmaine.gov/planning/permitstatus.asp>

Ann Machado - RE: Legal Ad for Zoning Board of Appeals

From: Joan Jensen <jjensen@mainetoday.com>
To: Ann Machado <AMACHADO@portlandmaine.gov>
Date: 6/9/2014 10:08 AM
Subject: RE: Legal Ad for Zoning Board of Appeals
Attachments: Agenda june 13.pdf

Good morning Ann,

All set to publish your ad on Friday, June 13.
The cost is \$181.90 includes \$2.00 online charge. I included a proof.
If you have any questions, please feel free to contact me.

Thank you,
Joan

Joan Jensen
Legal Advertising
Portland Press Herald/Maine Sunday Telegram
295 Gannett Drive
South Portland, ME 04106
Tel: (207) 791-6157
Fax: (207) 791-6910
jjensen@mainetoday.com

Portland Press Herald
Maine Sunday Telegram
www.pressherald.com

From: Ann Machado [mailto:AMACHADO@portlandmaine.gov]
Sent: Monday, June 09, 2014 9:31 AM
To: classified
Subject: Legal Ad for Zoning Board of Appeals

Joan -

Attached is the Zoning Boar of Appeals Legal Ad for Friday, June 13, 2014.

Thank you.

**IMPORTANT NOTICE FROM CITY OF PORTLAND
ZONING BOARD OF APPEALS**

IN THE VICINITY OF 37 BALLFIELD RD, PEAKS ISLAND

The Zoning Board of Appeals will hold a public hearing on Thursday, June 5, 2014 at 6:30 p.m. on the second floor in room 209 at Portland City Hall, 389 Congress Street, Portland, Maine to hear the following appeal.

Interpretation Appeal:

37 Ballfield Road, Mariner Court & Vermont Avenue, Peaks Island, Thomas Covington Johnson, owner, Tax Map 088, Block 1, Lots 006 to 011, 013 to 016 & 022 & Tax Map 088, Block 1, Lots 001 to 003, IR-1 Island Residential Zone with Shoreland Overlay: The appellant is challenging the Zoning Administrator's determination dated April 7, 2014 that the vegetation that has been cleared is in violation of the Shoreland Zone requirements. He is also challenging the determination that the camper/recreational vehicle on the property is a dwelling unit. The determination that the appellant is also in violation of parking more than one commercial vehicle on the property is also being challenged. Finally, the appellant is challenging the determination that the selling of mulch is a business use that is not allowed in the IR-1 Zone. The appellant is requesting that the determination be overturned and that he be allowed to continue the activities stated above. Representing the appeal is the applicant's lawyer, David A. Lourie.

For more information you may contact Marge Schmuckel, Zoning Administrator, at 207-874-8695.

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CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
087 A002001	PEASLEE SUSAN K & JOANNE R STERLING JTS	107 PLEASANT AVE PEAKS ISLAND, ME 04108	107 PLEASANT AVE PI	1
087 A003001	SELLERS RORICK A & TIMMI LI SELLERS JTS	89 PLEASANT AVE PEAKS ISLAND, ME 04108	89 PLEASANT AVE PI	1
087 B001001	SELLERS RORICK A & TIMMI LI SELLERS JTS	89 PLEASANT AVE PEAKS ISLAND, ME 04108	87 PLEASANT AVE PI	1
087 B002001	ROBERTS CHRISTOPHER & MERRIAM ROBERTS JTS	44 CUMBERLAND AVE PORTLAND, ME 04101	85 PLEASANT AVE PI	1
087 C001001	CENTRAL MAINE POWER CO LAND MANAGEMENT DEPT	70 FARM VIEW DR NEW GLOUCESTER, ME 04260	58 PARK AVE	1
087 C002001	HEAPS BRENNIA K & TODD R HEASLEY JTS	631 N 12TH ST PHILADELPHIA, PA 19123	20 PARK AVE	1
087 C003001	FLANAGAN VICKI ANN & ROBERT E FLANAGAN JTS	67 PLEASANT AVE PEAKS ISLAND, ME 04108	67 PLEASANT AVE PI	1
087 C007001	GOELMAN ARTHUR B	73 PLEASANT AVE PEAKS ISLAND, ME 04108	73 PLEASANT AVE PI	1
087 D001001	PEAKS ISLAND LAND PRESERVE	PO BOX 99 PEAKS ISLAND, ME 04108	63 PARK AVE	1
087 H001001	WEISBERG JULIE A & PETER C GORSKI JTS	1677 31ST AVE SAN FRANCISCO, CA 94122	124 PLEASANT AVE PI	1
087 H003001	DAVIS H THOMAS & KATHRYN Y DAVIS JTS	59 OLD BRIARCLIFF RD BRIARCLIFF, NY 10510	118 PLEASANT AVE PI	1
087 H004001	KENNEY LYNETTE T & ROGER A KENNEY JTS	51 BOARDMAN ST NEWBURYPORT, MA 01950	347 ISLAND AVE	1
087 I001001	CUTHBERTSON NANCY M & PAUL PERZANOSKI	341 ISLAND AVE PEAKS ISLAND, ME 04108	341 ISLAND AVE	1
087 I002001	MOXHAY DIANA	100 PLEASANT AVE PEAKS ISLAND, ME 04108	100 PLEASANT AVE PI	1
087 I003001	WALTERS LESLEY P TRUSTEE	125 W TREMONT AVE # 418 CHARLOTTE, NC 28203	90 PLEASANT AVE PI	1
087 I004001	PUTNEY CYNDE GRACE & ROB B MITCHELL TRUSTEE	325 ISLAND AVE PEAKS ISLAND, ME 04108	325 ISLAND AVE	1
087 I005001	MARCUM VERNON W	46 CARLETON ST PORTLAND, ME 04102	112 PLEASANT AVE PI	1
087 J002001	PROULX NORMAN J & JANE BANQUER	95 CITY POINT RD PEAKS ISLAND, ME 04108	78 PLEASANT AVE PI	1
087 K001001	BOHAN THOMAS L & RHONDA B BERG JTS	54 PLEASANT AVE PEAKS ISLAND, ME 04108	54 PLEASANT AVE PI	1
087 K025001	PROULX NORMAN J & JANE BANQUER	95 CITY POINT RD PEAKS ISLAND, ME 04108	95 CITY POINT RD	1
088 A006001	BURNS VIRGINIA	7 HUMBOLDT ST CAMBRIDGE, MA 02140	38 LYNDON AVE	1
088 A008001	FAISON JOHN B & MARILYN K JTS	30 WEST 15TH ST APT 5S NEW YORK, NY 10011	36 LYNDON AVE	1
088 B002001	CLARK HARRIET R TRUSTEE	107 SYCAMORE DR PROSPECT, CT 06712	100 HIGHLAND AVE	1
088 B006001	BELLON CHRISTINE P & STEVEN F BELLON TRUSTEES	14 GREENLAWN AVE WELLESLEY, MA 02481	59 HIGHLAND AVE	1
088 B007001	WEBSTER TIMOTHY D	1 BEACH RD VINEYARDHAVEN, MA 02568	VERMONT AVE	1
088 B011001	FAISON JOHN & MARILYN JTS	30 W 15TH ST # 5S NEW YORK, NY 10011	9 LYNDON AVE	1
088 B012001	FAISON JOHN B & MARILYN K JTS	30 W 15TH ST # 5S NEW YORK, NY 10011	21 LYNDON AVE	1
088 B013001	FAISON JOHN B & MARILYN K JTS	30 W 15TH ST # 5S NEW YORK, NY 10011	27 LYNDON AVE	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
088 B014001	STANKOWICZ ALEXANDER D & DEBORAH P JORDAN JTS	33 LYNDON AVE PEAKS ISLAND, ME 04108	33 LYNDON AVE	1
088 B015001	FAISON JOHN B	30 W 15TH ST # 5S NEW YORK, NY 10011	51 LYNDON AVE	1
088 B025001	WEBSTER TIMOTHY D	1 BEACH RD VINEYARDHAVEN , MA 02568	30 HIGHLAND AVE	1
088 B026001	RICHARDSON PHILLIP M & JUDITH E RICHARDSON JTS	747 LAST ARROW DR HOUSTON, TX 77079	HIGHLAND AVE	1
088 E005001	RICHARDSON JUDITH E & PHILLIP M JTS	747 LAST ARROW HOUSTON, TX 77079	300 CENTRAL AVE	1
088 E007001	KOSSUTH JAMES & JENNIFER KOSSUTH	8 B ACADEMY AVE SACO , ME 04072	CENTRAL AVE	1
088 E009001	PAYNE DOUGLAS J	PO BOX 989 BRUNSWICK , ME 04011	HIGHLAND AVE	1
088 E011001	CASCO BAY HEALTH CENTER	26 STERLING ST PEAKS ISLAND, ME 04108	CENTRAL AVE	1
088 E012001	CHERNJAWSKI MARY	19 ROBERTS DR PUTNAM VALLEY, NY 10579	11 HIGHLAND AVE	1
088 E016001	RICHARDSON JUDITH E & PHILLIP M RICHARDSON JTS	747 LAST ARROW DR HOUSTON , TX 77079	MOSS KNOLL AVE	1
088 E017001	RICHARDSON PHILLIP M & JUDITH E RICHARDSON JTS	747 LAST ARROW DR HOUSTON, TX 77079	MOSS KNOLL AVE	1
088 E019001	PAYNE DOUGLAS J	PO BOX 989 BRUNSWICK, ME 04011	CENTRAL AVE	1
088 F001001	WASKLEWICZ HEATHER & HARVEY S JOHNSON	28 HIGHLAND AVE PEAKS ISLAND, ME 04108	28 HIGHLAND AVE	1
088 G001001	JOHNSON T COVINGTON & LAURIE JEAN JTS	PLEASANT AVE PEAKS ISLAND, ME 04108	VERMONT AVE	1
088 H001001	ISLAND BAY SERVICES	PO BOX 48 PEAKS ISLAND , ME 04108	12 HIGHLAND AVE	1
088 H002001	BUSBY JOSEPH H HRS	100 STATE ST APT 128 PORTLAND, ME 04101	8 HIGHLAND AVE	1
088 H003001	HERBERT FRANCIS W	4 HIGHLAND AVE PEAKS ISLAND, ME 04108	4 HIGHLAND AVE	1
088 H005001	JOHNSON T COVINGTON & LAURIE JEAN JTS	PLEASANT AVE PEAKS ISLAND, ME 04108	9 VERMONT AVE	1
088 I001001	FAISON JOHN & MARILYN JTS	30 W 15TH ST # 5S NEW YORK, NY 10011	MARRINER CT	1
088 I006001	JOHNSON THOMAS COVINGTON	PLEASANT AVE PEAKS ISLAND, ME 04108	37 BALLFIELD RD	1
088 I012001	JOHNSON THOMAS COVINGTON	PLEASANT AVE PEAKS ISLAND, ME 04108	PLEASANT AVE PI	1
088 I017001	MCCLAIN JOHN B	26 GREENOUGH ST BROOKLINE, MA 02445	PLEASANT AVE PI	1
088 I019001	BEDKER PATRICIA A	121 PLEASANT AVE PEAKS ISLAND , ME 04108	121 PLEASANT AVE PI	1
088 I023001	WEISBERG JULIE A & PETER C GORSKI JTS	1677 31ST AVE SAN FRANCISCO , CA 94122	PLEASANT AVE PI	1
088 I024001	IOVINO ROSA WID WWII VET	111 PLEASANT AVE PEAKS ISLAND , ME 04108	111 PLEASANT AVE PI	1
088 J006001	ISLAND BAY SERVICES	PO BOX 48 PEAKS ISLAND, ME 04108	90 BALLFIELD RD	1
088 K003001	MNTUYEDWA NOMAKHOSI MARGARET ROSE	209 CENTRAL AVE PEAKS ISLAND , ME 04108	209 CENTRAL AVE	1
088 K035001	GRANT RICHARD D & AUDREY E GRANT JTS	39 MYRTLE ST MILLIS , MA 02054	188 CENTRAL AVE	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
088 K036001	PEARSON ARN H & MARY LOU WENDELL JTS	95 WELCH ST PEAKS ISLAND, ME 04108	146 LEDGEWOOD ST	1
088 K044001	PURTELL GEORGE J & MARY J PURTELL JTS	10 TENNEY RD WESTFORD, MA 01886	76 CENTRAL AVE	1
090 M001001	CHERUBINI JULIA B	359 ISLAND AVE PEAKS ISLAND, ME 04108	359 ISLAND AVE	1
090 M002001	WEBSTER SUSAN H	51 OCEAN ST PEAKS ISLAND, ME 04108	130 PLEASANT AVE PI	1
090 N001001	MURRAY JOHN B JR	208 LONGHILL ST SPRINGFIELD, MA 01108	367 ISLAND AVE	1
090 N002001	DAVIS CRAIG & SAMANTHA DAVIS JTS	379 ISLAND AVE PEAKS ISLAND, ME 04108	379 ISLAND AVE	1
090 N004001	WEBSTER SUSAN H	51 OCEAN ST PEAKS ISLAND, ME 04108	51 OCEAN ST	1
090 N006001	SITKIN ANN G TRUSTEE	126 OXFORD ST # 1 CAMBRIDGE, MA 02140	55 OCEAN ST	1
090 O001001	ADAMS DAVID L JR & PAMELA J ADAMS JTS	60 ROGERS RD YARMOUTH, ME 04096	159 PLEASANT AVE PI	1
090 O007001	MYERS MICHAEL B & CANDACE M MYERS JTS	4 COTTAGE ST FREEPORT, ME 04032	387 ISLAND AVE	1
090 O008001	NONACS RUTA M & STEVEN C SCHLOZMAN JTS	10 CHENERY TER BELMONT, MA 02478	397 ISLAND AVE	1
090 O010001	DROMGOOLE THOMAS P	7 WAVE AVE SAVIN HILL, MA 02125	415 ISLAND AVE	1
090 O011001	HEINEMANN LYNN S	417 ISLAND AVE PEAKS ISLAND, ME 04108	417 ISLAND AVE	1
090 S001001	MCCLAIN JOHN	26 GREENOUGH ST BROOKLINE, MA 02445	131 PLEASANT AVE PI	1
090 S003001	DICKSON ANDREA TRUSTEE	150 W JEFFERSON AVE SUITE 900 DETROIT, MI 48226	133 PLEASANT AVE PI	1
090 S004001	MCCLAIN JOHN	26 GREENOUGH ST BROOKLINE, MA 02445	MARRINER CT	1
090 S005001	FAISON JOHN B & MARILYN K JTS	30 WEST 15TH ST APT 5S NEW YORK CITY, NY 10011	MARRINER CT	1
090 T001001	HOMESTART INC	PO BOX 174 PEAKS ISLAND, ME 04108	143 PLEASANT AVE PI	1
090 T002001	MAY KATHLEEN A	26 GREENOUGH ST BROOKLINE, MA 02445	151 PLEASANT AVE PI	1
090 T007001	MAY KATHLEEN A	26 GREENOUGH ST BROOKLINE, MA 02445	95 OCEAN ST	1
090 T008001	FAISON JOHN B ETAL	30 W 15TH ST # 5S NEW YORK, NY 10011	115 OCEAN ST	1
090 T009001	MAY KATHLEEN A	26 GREENOUGH ST BROOKLINE, MA 02445	147 OCEAN ST	1
090 T012001	ADAMS DAVID L JR & PAMELA J ADAMS JTS	60 ROGERS RD YARMOUTH, ME 04096	137 OCEAN ST	1
090 T020001	MCCLAIN JOHN	26 GREENOUGH ST BROOKLINE, MA 02445	137 PLEASANT AVE PI	1
090 U001001	MAY KATHLEEN A	26 GREENOUGH ST BROOKLINE, MA 02445	161 PLEASANT AVE PI	1
090 U007001	LATHAM EDWARD A & THERESA L JTS	103 SARGENT RD PEAKS ISLAND, ME 04108	105 SARGENT RD	1
091 G024001	PEAKS ISLAND LAND PRESERVE	PO BOX 99 PEAKS ISLAND, ME 04108	TOLMAN RD	1

