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Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator

August 16, 2012

Brenda Buchanan
Warren Currier & Buchanan
57 Exchange Street
Portland, Maine 04101-5020

RE: Peaks Island – John S. Bunton Properties – IR-1 with City water
89-A-1 & 4 – “Rockrest”
89-A-5 – “Camelot”
89-C-3 – undeveloped
89-C-4, 6 & 7 - undeveloped
89-C-5 - undeveloped
89-D-8 – undeveloped

Dear Brenda,

I am in receipt of your request for a determination concerning the reconfiguration of properties as denoted above. I have been given a preliminary survey (called Exhibit A) performed by Northeastern Land Surveying. I have also been given follow-up information on August 8, 2012 concerning the 16' right-of-way and a sketch reconfiguration of “Rockrest” showing a lot size of 40,000 square feet. All the land is located in a IR-1, Island Residence One, Zone. All the land has City water availability.

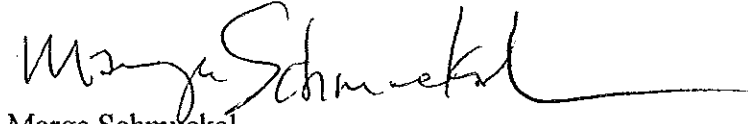
Based upon all the submitted information, I have determined that the reconfiguration shown on the revised sketch that I received on August 8, 2012, is not in violation of the Land Use Zoning Ordinance. The reconfigured lot for “Camelot” was enlarged and is legally nonconforming for the minimum lot size. The reconfigured lot for “Rockrest” is meeting the minimum lot size for the IR-1 zone. The other two vacant lots called “A” and “B” are meeting the minimum lot size requirement of 40,000 square feet. The somewhat triangular portion deeded to an adjoining developed lot does not jeopardize the reconfiguration and enhances the lot size of the adjoining lot.

The reconfiguration does not trigger any subdivision reviews as required under the planning division. No new lots were created.

I have also reviewed the 16' right-of-way and consider such right-of-way to meet the requirements of section 14-145.5(b) for the “Rockrest” lot.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Marge Schmuckal", with a long horizontal flourish extending to the right.

Marge Schmuckal
Zoning Administrator

WARREN & CURRIER & BUCHANAN

Limited Liability Company, P.A.

Carol Godfrey Warren
David E. Currier
Brenda M. Buchanan

July 3, 2012

Marge Schmuckal
Zoning Administrator
City of Portland
389 Congress Street
Portland, Maine 04101

RE: Request for Zoning Determination

Dear Marge,

I am writing to follow up on our discussions regarding property located at Tolman Heights on Peaks Island that is owned by the Estate of John S. Bunton. I am enclosing a check in the amount of \$150 in payment of the fee for a zoning determination.

The parcels that are the subject of this letter are all on tax Map 89, in the IR-1 zone. They are designated by the assessor¹ as follows:

- (1) 89-A-1 & 4, an improved 16,000 SF parcel (which the family calls "Rockrest");
- (2) 89-A-5, an improved 4,400 SF parcel (which the family calls "Camelot");
- (3) 89-C-3, an unimproved 43,952 SF parcel;
- (4) 89-C-4, 6 & 7, an unimproved 15,604 SF parcel;
- (5) 89-C-5, an unimproved 3,200 SF parcel, and
- (6) 89-D-8, an unimproved 63,186 SF parcel.

We understand that some of the undersized parcels may have merged with abutting parcels for zoning purposes, but those are the separate accounts shown on the assessor's records at this time.

I have enclosed two sketches with this letter. Exhibit A² is a preliminary boundary survey by Northeastern Land Surveying that showing the current configuration of the various lots

¹ The square footage noted in this section is what the assessor shows. The square footage differs on the plan attached as Exhibit A, in part because the surveyor combined some parcels that the assessor shows as separate tax lots and in part because his measurements are more precise.

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JUL 03 2012

Dept. of Building Inspections
City of Portland Maine

and also the 10' right-of-way that is more fully discussed below. Exhibit B is a sketch by architect Will Winkelman using Exhibit A as a base, showing the lot configuration proposed by the Bunton family. I also have attached a copy of the tax map with the lots highlighted, marked as Exhibit C.

As we have discussed on two occasions at your office, the Bunton family's goal is to divide this property into four parcels of roughly equal value. Rockrest and Camelot are already improved. The idea is to create two other buildable lots from the balance of the land.

The Rockrest parcel historically has been accessed via the 10' wide right of way shown on the plan. In the past year, the history of fee title in that strip has been a topic of much research and discussion. After months of work, we have resolved the questions to the satisfaction of the title insurance company, so the Buntons now have insurable title to that land as well as the lots identified above, so it is merged with the surrounding Bunton land.

Clearing the title cloud on that 10' strip will allow the Buntons to create an alternate means of access to Rockrest, which in turn will make it possible to configure the parcels as shown on Exhibit B.

The determination the Buntons are asking you to make is that this configuration would be permissible under the zoning code. We believe it renders the existing grandfathered non-conforming parcels (Rockrest and Camelot) more conforming as to both size and frontage and also creates two fully conforming unimproved lots (marked "A" and "B" on Exhibit B) as to both size and frontage.

We believe the configuration shown on Exhibit B satisfies Section 14-145.5 (d), which says lots of record as described in Section 14-433 (a definition clearly met by Rockrest) need not have street frontage if access is available by means of a permanent easement or right of way with a minimum width of 16 feet and a minimum travel width of 8 feet. As you can see from Exhibit B, the easement the Buntons propose to create in a more easterly location will be 16' wide. It will provide access to an existing single-family dwelling on a lot that will be expanded in size from 16,000 to 39,500 SF.

Under the new configuration, the size of the Camelot parcel will increase to 17,500 SF and its frontage will increase as well, putting it over the 100' required in the zone.

Excepting the 1,700 SF triangle on the easterly end of the parcel,³ the remaining land will be divided into two lots, both larger than the 40,000 SF required for lots with public water

² Though marked as preliminary, this survey is accurate as to the current configuration of the lots. It has not been finalized only because the surveyor's task is to (eventually) show the property as divided among the Bunton heirs.

³ The Buntons plan to convey the 1,700 triangle on the easterly side of their land to the owner of 89-C-1 (French & Fisher).

Marge Schmuckal
July 3, 2012


Page 3

in the IR-1 zone. *See* 14-145-5 (a). Lot A has adequate frontage on Lyndon Avenue; Lot B would have its frontage on Frederick Avenue, which bisects it.

If you have questions about this request, please let me know. My clients do not plan to distribute the property out of Mr. Bunton's Estate to the various family members until you have made your determination.

Thank you for your ongoing assistance with this matter, Marge.

Best regards,



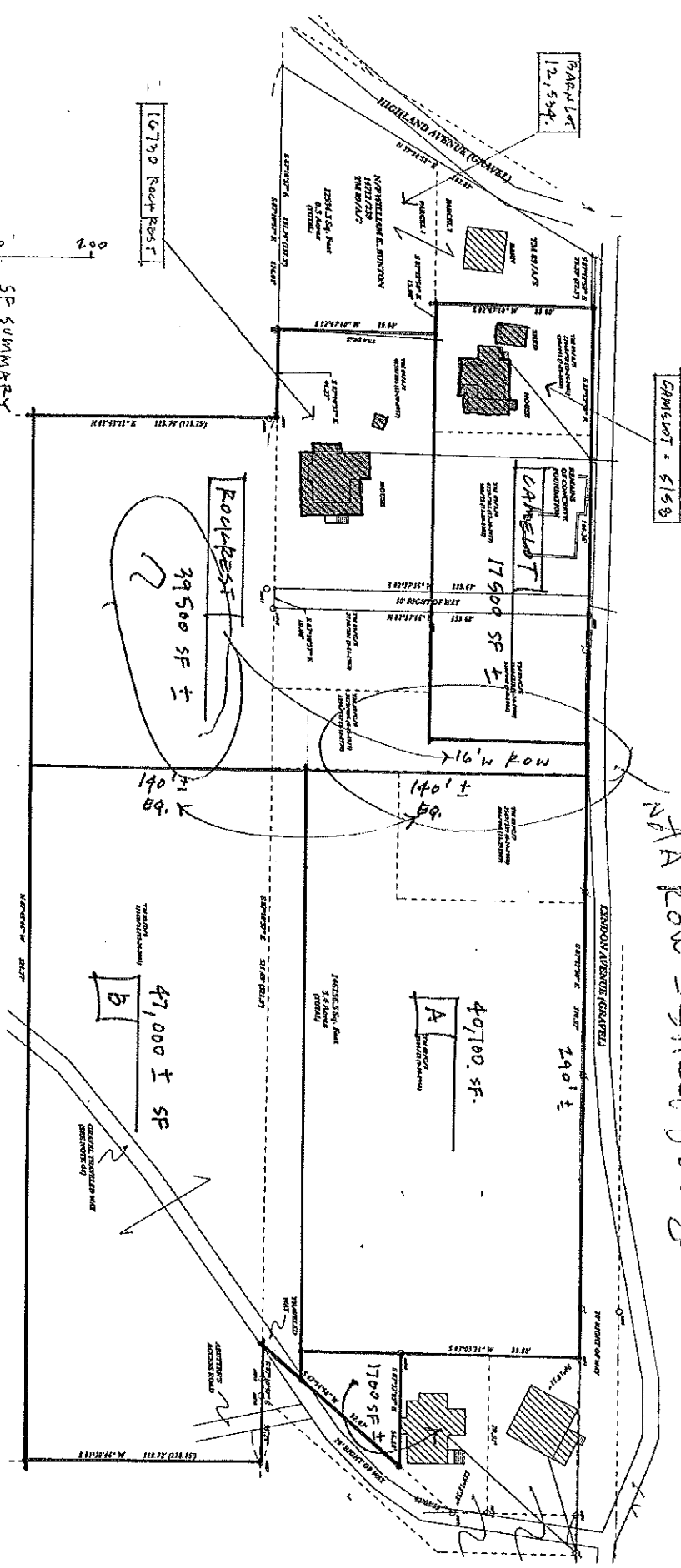
Brenda M. Buchanan

Cc: Rob Bunton
Will Winkelman

Exhibit B

Proposed

16' A ROW - Street frontage



SF SUMMARY

146156
+ 1590
147746 - Total

10 x 154 Row

ST Proposed

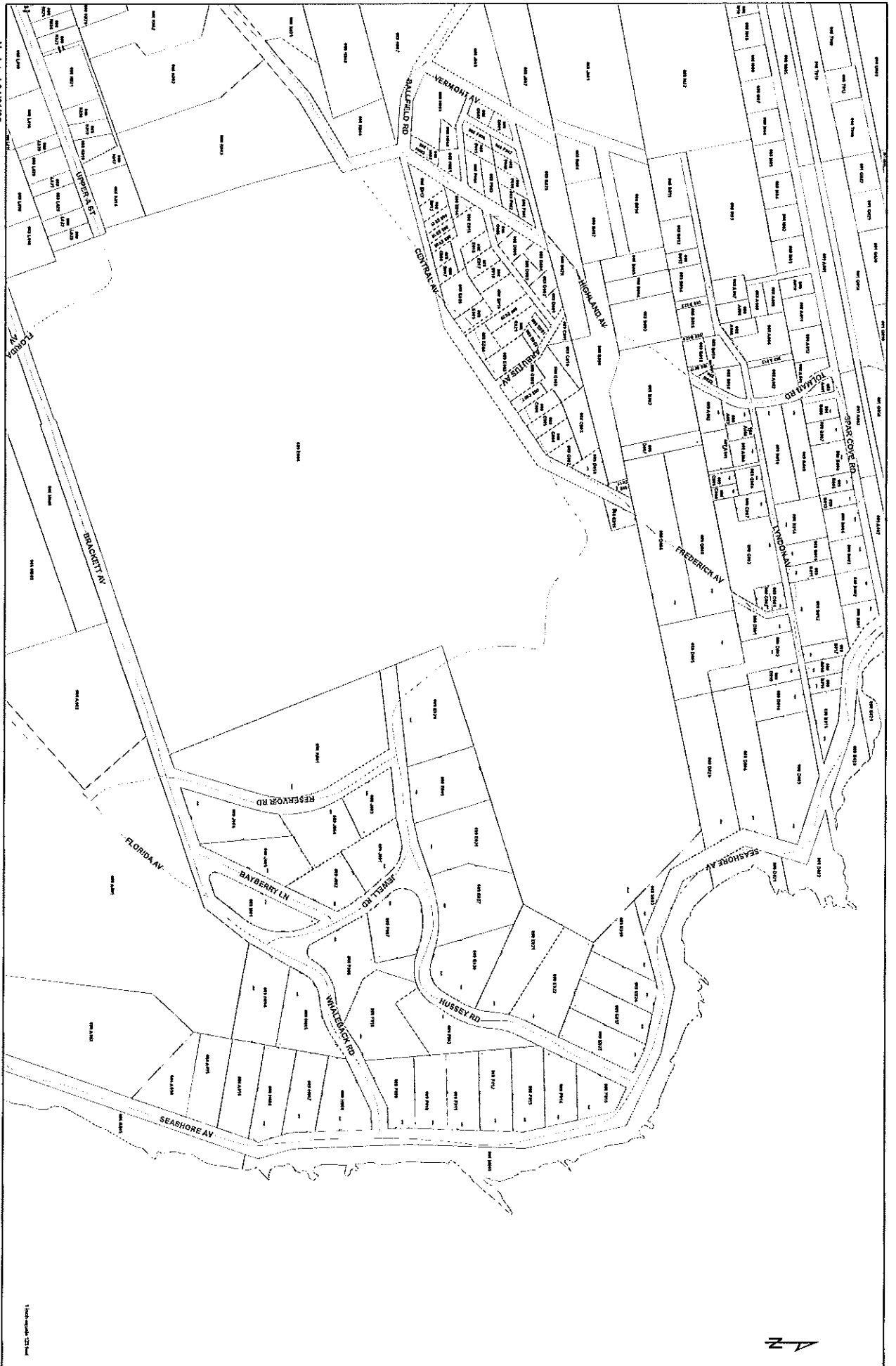


Exhibit C

Updated 04/01/08

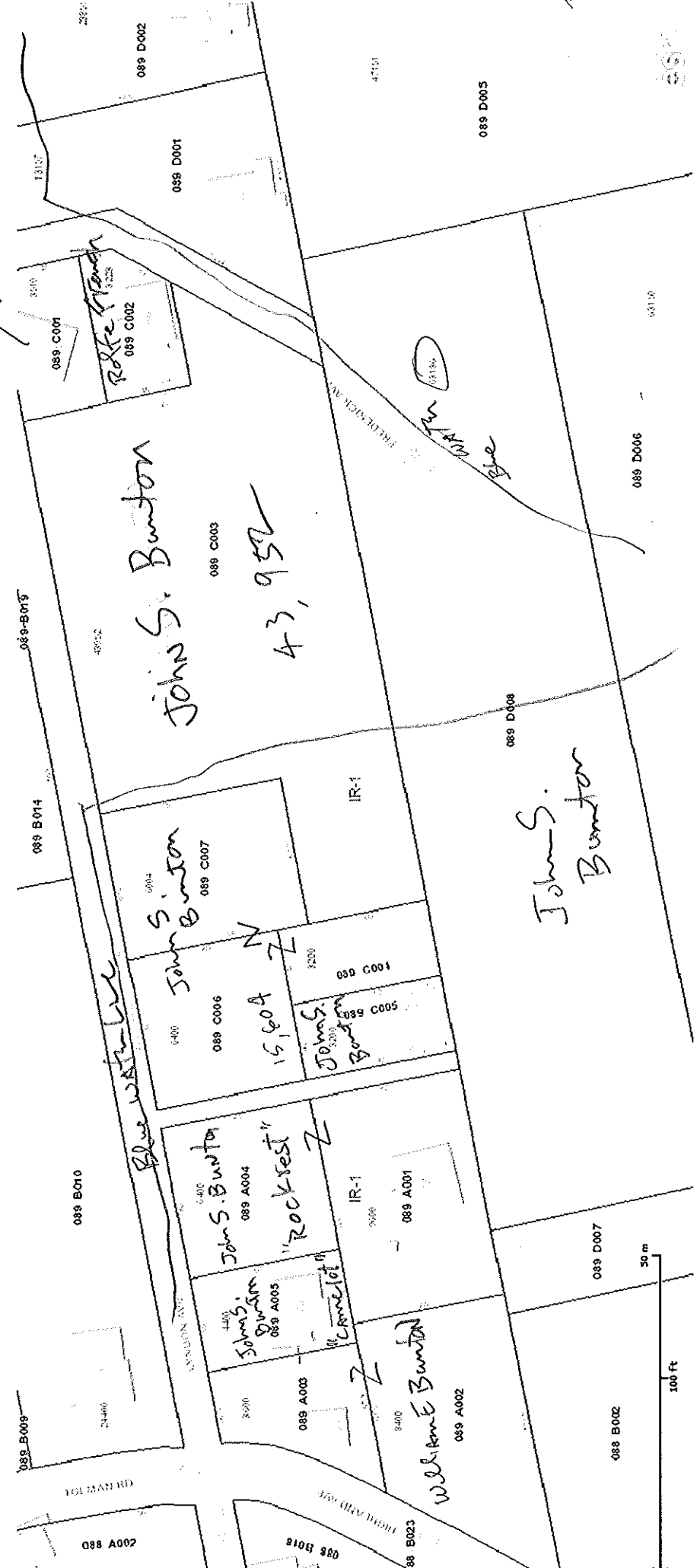
Assessor's Chart - 08

1 inch equals 200 feet

IR-1



Andry Dik
Van Dyk



John S. Buntan

43,952

15,604 N

Rockest Z

John S. Buntan

John S. Buntan

William E Buntan

John S. Buntan

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corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

Nothing in this section shall be construed to allow an owner of a currently existing and developed lot to convey or permit a portion of that lot to be used to fulfill the requirements of this section if such conveyance would render the existing lot nonconforming under the terms of this chapter. The lot upon which a building is to be constructed shall meet the minimum lot size requirements of section 14-433.

8. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the applicable requirements of CMR 241 Section 2-E. The land area requirements in subsection g. of this section shall not apply to such a replacement system.

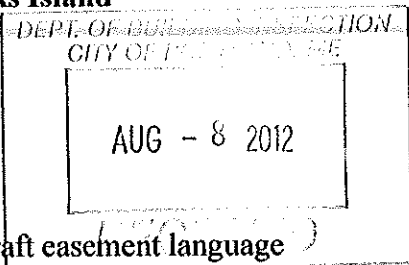
For purposes of this subsection, the mean high tide mark shall be considered to be the shoreline lot line.

(b) *Minimum street frontage:*

One hundred (100) feet, except that a lot of record as described in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and lots created after July 15, 1985, which are not part of a subdivision need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of July 15, 1985. Such easement or right-of-way shall have a minimum width of sixteen (16) feet and a minimum travel width of eight (8) feet except that an easement or right-of-way providing access for three (3) or more lots or providing the only means of access to a parcel or parcels of three (3) acres or more, shall conform to the requirements contained

Marge Schmuckal - Bunton Estate property - Tolman Heights, Peaks Island

From: Brenda Buchanan <Brenda@wacubu.com>
To: Marge Schmuckal <MES@portlandmaine.gov>
Date: 8/8/2012 12:52 PM
Subject: Bunton Estate property - Tolman Heights, Peaks Island
Attachments: Bunton Estate Lot division plan revised 080212.pdf; Draft easement language for Camelot and Rockrest deeds 080212 (3).doc



Hello Marge,

IR-1 zone

Following up on our meeting on July 19 about the proposed division of property owned by the Estate of John S. Bunton into four parcels to be conveyed out to his children, please find attached a revised sketch that incorporates your suggestions.

This sketch increases the size of the Rockrest parcel from 39,500 sf to 40,000 sf. This was accomplished by moving the easterly line toward the shore, at an angle. As compared to the initial sketch, this reduces the size of Lot B on the Plan to 45,220 sf, rather than 47,000, but that still is well more than the minimum required in the zone.

This revision will result in three of the four parcels meeting or exceeding the 40,000 sf minimum lot size, and the existing non-conforming as to size parcel (Camelot) increasing in size from 5,158 sf to 18,780 sf.

The drawing I submitted to you on July 3 showed the 16' strip as part of Rockrest. As we discussed, the frontage requirement in 14-145.5(d) talks in terms of a right-of-way, not panhandle access. This revised drawing shows a 16' right-of-way passing over the Camelot parcel. As compared to the initial sketch, this version increases the size of the Camelot parcel from 17,500 sf to 18,780 sf by adding the 1280 sf (16 x 80) that will be encumbered by the right-of-way. The adjustment in the easterly line of Rockrest adds a total of 1,780 sf to account for the 1,280 sf under the right of way previously calculated as part of Rockrest and the 500 sf it was short on the first configuration.

I have attached the language I will use in the deeds conveying Rockrest and Camelot out of the estate, showing that this is a right-of-way, burdening the Camelot parcel and benefiting the Rockrest parcel. We will be recording the Plan, where the right-of-way also is shown, so reference is made in these descriptions to the Plan.

Please note that this new sketch also makes it clear the 1,700 sf triangle on the SE side of Lot A will be conveyed out to the abutters at the time these lots are divided up. It is of no practical use to leave it as part of Lot A and it will increase the size of the abutters' parcel.

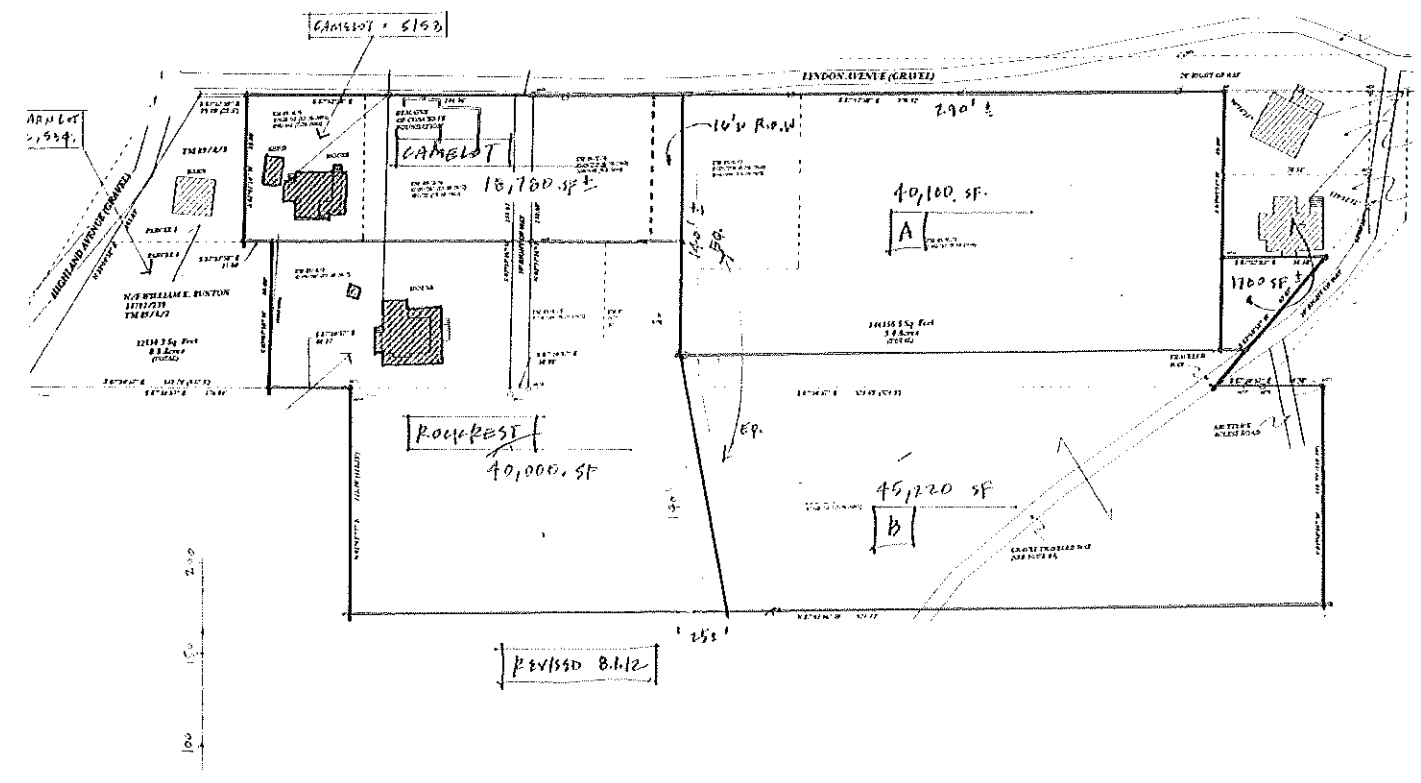
It is my hope that this sketch and this proposed deed language will be sufficient for you to provide a zoning determination letter permitting the division of the lots as shown on this sketch. If you need additional materials from me, please let me know and I will get it over to you promptly.

Many thanks,

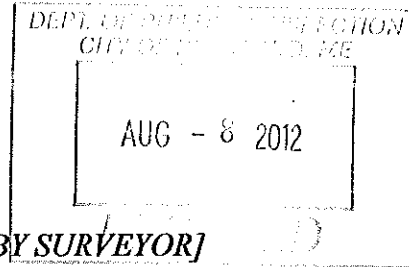
Brenda

final sketch
meeting I Per 1 mm,
lot sizes

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CITY OF PORTLAND, ME
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1. Easement language to be included in the CAMELOT deed:



[LEGAL DESCRIPTION OF CAMELOT TO BE PREPARED BY SURVEYOR]

This conveyance is SUBJECT TO a right-of-way for pedestrian and vehicular access and installation of above-ground or underground utilities over and under a portion of the above-described parcel, which right-of-way shall benefit exclusively the parcel known as "Rockrest," located southerly of and appurtenant to the above-described parcel. Said right-of-way is more particularly described as follows:

Beginning at a point on the sideline of Lyndon Avenue that marks the northeasterly corner of the above-described parcel; thence southerly along the easterly line of the above-described parcel a distance of eight feet (80') to the southeasterly corner of the above-described parcel and the northeasterly corner of the parcel designated as "Rockrest" on the Plan; thence westerly at a 90° angle, running along the northerly line of the Rockrest Parcel a distance of sixteen feet (16') to a point; thence northerly at a 90° angle to the previously described line a distance of eighty feet (80') to the sideline of Lyndon Avenue; thence easterly long the sideline of Lyndon Avenue a distance of sixteen feet (16') to the point of beginning.

Meaning and intending to describe a strip of land 16 feet wide and 80 feet in length, running along the easterly boundary of the above-described parcel, which strip is designated on the Plan as "16' Right-of-Way."

2. Easement language to be included in the ROCKREST deed:

[LEGAL DESCRIPTION OF ROCKREST TO BE PREPARED BY SURVEYOR]

ALSO CONVEYING a right-of-way for pedestrian and vehicular access and installation of above-ground or underground utilities over and under a portion of the parcel known as "Camelot," located immediately northerly of the above-described parcel. Said right-of-way is more particularly described as follows:

Beginning at a point on the sideline of Lyndon Avenue that marks the northeasterly corner of the parcel designated as "Camelot" on the Plan; thence southerly along the easterly line of the Camelot Parcel a distance of eight feet (80') to the southeasterly corner of the Camelot Parcel and the northeasterly corner of the above-described parcel; thence westerly at a 90° angle, running along the northerly line of the above-described parcel a distance of sixteen feet (16') to a point; thence northerly at a 90° angle to the previously described line a distance of eighty feet (80') to the sideline of Lyndon Avenue; thence easterly long the sideline of Lyndon Avenue a distance of sixteen feet (16') to the point of beginning.

Meaning and intending to describe a strip of land 16 feet wide and 80 feet in length, running along the easterly boundary of the Camelot Parcel, which strip is designated on the Plan as "16' Right-of-Way."



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Receipts Details:

Tender Information: Check , Check Number: 10052

Tender Amount: 150.00

Receipt Header:

Cashier Id: bsaucier

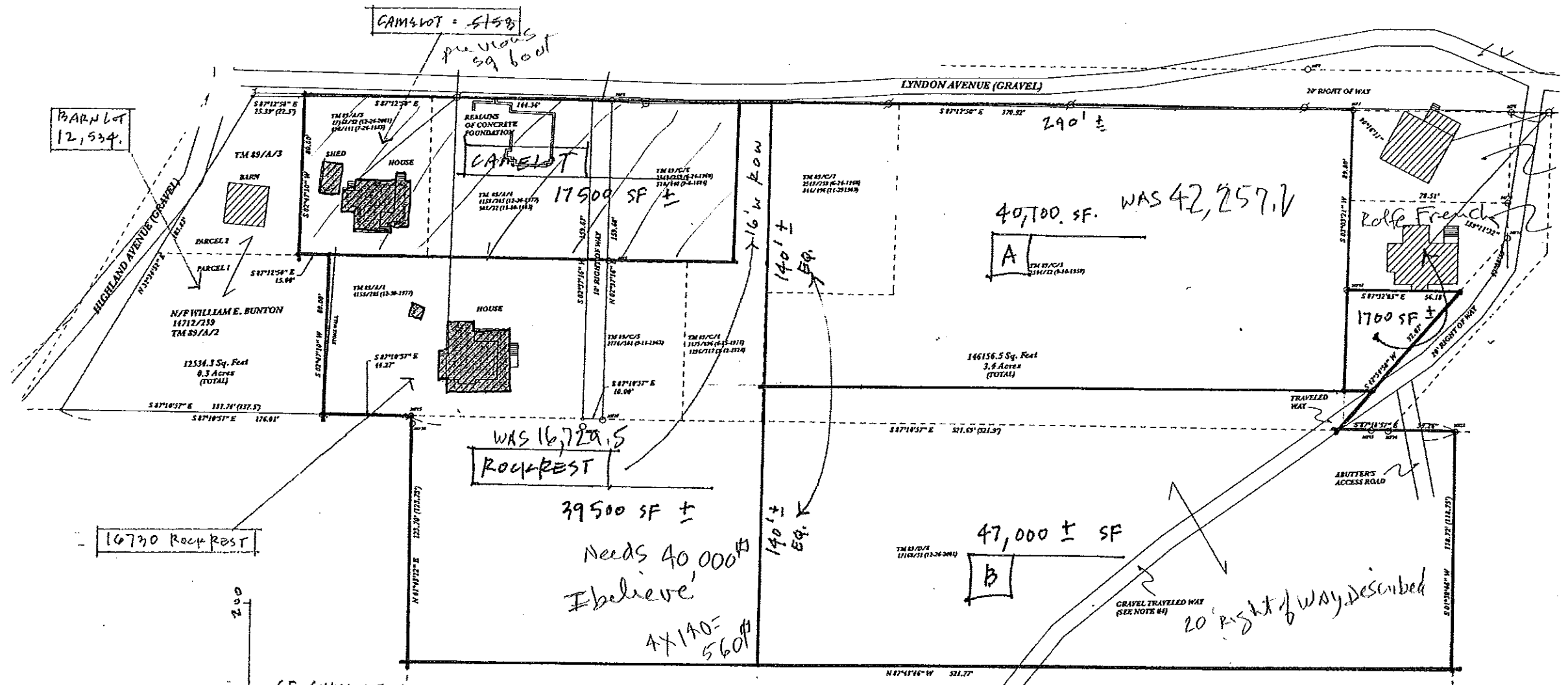
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Receipt Number: 45656

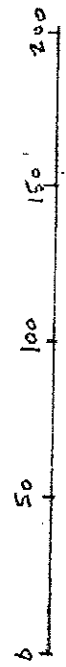
Receipt Details:

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Receipt Number:	0	Payment Date:	
Transaction Amount:	150.00	Charge Amount:	150.00
Job ID: Miscellaneous charges			
Additional Comments: Tolman Heights			

Thank You for your Payment!



16730 Rock Rest



SP SUMMARY

146156
 + 1590 10x159 Row
 = 147,746 TOTAL

WAS 16,729.5
 ROCK REST

39500 SF ±
 Needs 40,000 sq ft
 I believe
 4x140 = 560 sq ft

47,000 ± SF

GRAVEL TRAVELED WAY
 (SEE NOTE #4)
 20' Right of Way Described