

Jacquelyn M. Kurz
Pierce Atwood
One Monument Square
Portland, ME 04101

October 10, 2000

RE: Battery Craven, Whaleback Road, Peaks Island – 89-F-2 - IR-1 zone

Dear Jackie,

Pursuant to our conversation this morning, I am writing in re gard to the proposed sale of a portion of the lot known as Battery Craven on Peaks Island currently owned by Peaks Island Company, LLC and Karlson Management Associates, Inc. I understand that the buyer intends to use the existing bunker at Battery Craven as the foundation for a new residence. At present, however, the location of the lot line dividing the proposed lots A-1 and A-2 would be in violation of § 14-422 of the Portland Zoning Ordinance, and therefore the lot is not a buildable lot.

I have reviewed the photographs identified as Photographs 1 and 2 included in Appendix A to the “Phase I Environmental Site Assessment Report,” performed on the subject property by Environmental Engineering & Remediation, Inc., and dated September 18, 2000. Those photographs depict both a concrete pad for a gun turret and a concrete wall with a door to the entrance of the Battery. The concrete wall with the door is located above ground and is of significant size. It is clearly constructed or erected of more than one member, and requires a fixed location on the ground. As a result, it is a structure within the definition provided in § 14-47 of the Ordinance.

Furthermore, the proposed lot line dividing lots A-1 and A-2 is located less than twenty feet from the Battery structure, and therefore would violate the prohibition in § 14-422 that “no lot shall be so reduced that yards . . . shall be less than the minimum required.” In this location, § 14 -145.5.3 provides that the required side yard must provide a setback of twenty feet between the structure and the boundary line. Because the proposed lot line would reduce the yard to less than twenty feet, the lot is not buildable and I would not issue a building permit for the construction of a residence. The concrete pad for the gun turret, however, is not a structure within the meaning of the Ordinance, and therefore does not present an issue for calculation of the side yard.

In conclusion, unless the proposed lot line is redrawn to conform to the minimum requirement of a twenty foot setback from any vertical portion of the Battery, the City will not issue a building permit for construction of a residence at this site.

Yours truly,

Marge Schmuckal
Zoning Administrator

Cc: File