

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK



CITY OF PORTLAND

BUILDING PERMIT

This is to certify that JOSEPH D WRIGHT

Located At 512 ISLAND AVE

Job ID: 2012-07-4428-ALTR

CBL: 090-AA-001-001

has permission to Construct parking area for trucks etc.

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of the buildings and structures, and of the application on file in the department.

Notification of inspection and written permission procured before this building or part thereof is lathed or otherwise closed-in. 48 HOUR NOTICE IS REQUIRED.

A final inspection must be completed by owner before this building or part thereof is occupied. If a certificate of occupancy is required, it must be

Fire Prevention Officer

Code Enforcement Officer / Plan Reviewer

THIS CARD MUST BE POSTED ON THE STREET SIDE OF THE PROPERTY
PENALTY FOR REMOVING THIS CARD

City of Portland, Maine - Building or Use Permit Application

389 Congress Street, 04101 Tel: (207) 874-8703, FAX: (207) 8716

Job No: 2012-07-4428-ALTR	Date Applied: 7/9/2012	CBL: 090-AA-001-001	
Location of Construction: 512 ISLAND AVE <i>PEAK Island</i>	Owner Name: JOSEPH D WRIGHT	Owner Address: 146 POND RD BRIDGTON, ME 04009	Phone:
Business Name:	Contractor Name: Keith D. Ivers	Contractor Address: 512 ISLAND AVE., PEAKS ISLAND, ME 04108	Phone: 749-5700
Lessee/Buyer's Name: Keith Ivers	Phone: 749-5700	Permit Type: Parking lot construction	Zone: I-B & IR-2
Past Use: Single family home with attached vacant lot	Proposed Use: Single family home with parking lot for seven vehicle/trucks as per approved site plan	Cost of Work: \$24,000.00	CEO District:
		Fire Dept: <i>MA</i>	Inspection: Use Group: <i>12-3</i> Type: <i>SB</i> <i>Land Use</i>
Proposed Project Description: Construct parking area for trucks etc.		Pedestrian Activities District (P.A.D.)	
Permit Taken By: Brad		Zoning Approval	

<p>1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.</p> <p>2. Building Permits do not include plumbing, septic or electrical work.</p> <p>3. Building permits are void if work is not started within six (6) months of the date of issuance. False informatin may invalidate a building permit and stop all work.</p>	<p>Special Zone or Reviews</p> <p><input type="checkbox"/> Shoreland <i>outside of 250'</i></p> <p><input type="checkbox"/> Wetlands</p> <p><input type="checkbox"/> Flood Zone <i>Panel 15 Zone C</i></p> <p><input type="checkbox"/> Subdivision</p> <p><input checked="" type="checkbox"/> Site Plan</p> <p><i>2011-277 site Act.</i></p> <p><input type="checkbox"/> Maj <input checked="" type="checkbox"/> Min <input type="checkbox"/> MM</p> <p>Date: <i>OK with conditions 7/14/12</i></p>	<p>Zoning Appeal</p> <p><input type="checkbox"/> Variance</p> <p><input type="checkbox"/> Miscellaneous</p> <p><input type="checkbox"/> Conditional Use</p> <p><input checked="" type="checkbox"/> Interpretation <i>on party lot use</i></p> <p><input checked="" type="checkbox"/> Approved <i>upheld zoning Admin</i></p> <p><input type="checkbox"/> Denied</p> <p>Date: <i>10/13/10</i></p>	<p>Historic Preservation</p> <p><input checked="" type="checkbox"/> Not in Dist or Landmark</p> <p><input type="checkbox"/> Does not Require Review</p> <p><input type="checkbox"/> Requires Review</p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Approved w/Conditions</p> <p><input type="checkbox"/> Denied</p> <p>Date: <i>S</i></p>
	CERTIFICATION		

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE

BUILDING PERMIT INSPECTION PROCEDURES

Please call 874-8703 or 874-8693 (ONLY)

or email: buildinginspections@portlandmaine.gov

With the issuance of this permit, the owner, builder or their designee is required to provide adequate notice to the city of Portland Inspections Services for the following inspections. Appointments must be requested 48 to 72 hours in advance of the required inspection. The inspection date will need to be confirmed by this office.

- **Please read the conditions of approval that is attached to this permit!! Contact this office if you have any questions.**
- **Permits expire in 6 months. If the project is not started or ceases for 6 months.**
- **If the inspection requirements are not followed as stated below additional fees may be incurred due to the issuance of a "Stop Work Order" and subsequent release to continue.**

Footings/Setbacks prior to pouring concrete

The project cannot move to the next phase prior to the required inspection and approval to continue, REGARDLESS OF THE NOTICE OF CIRCUMSTANCES.

IF THE PERMIT REQUIRES A CERTIFICATE OF OCCUPANCY, IT MUST BE PAID FOR AND ISSUED TO THE OWNER OR DESIGNEE BEFORE THE SPACE MAY BE OCCUPIED.



PORTLAND MAINE

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Director of Planning and Urban Development
Jeff Levine

Job ID: 2012-07-4428-ALTR

Located At: 512 ISLAND AVE

CBL: 090-AA-001-001

Conditions of Approval:

Zoning

1. This permit is being approved on the basis of plans submitted and approved site plans by Planning staff. Any deviations shall require a separate approval before starting that work.
2. Separate permits shall be required for any new signage.
3. This permit is for the parking lot only. The "future" shed shall be permitted separately.
4. Separate permits are required for any home occupations. Please see our front staff for applications in which to apply for a home occupation



General Building Permit Application

Entered 7/9/12 (8)

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

A 2012-07-4428-ALTR

Location/Address of Construction: 512 ISLAND AVE PEAKS ISLAND ME 04108		
Total Square Footage of Proposed Structure/Area 1060 SF	Square Footage of Lot .78 AC 34,171 SF	
Tax Assessor's Chart, Block & Lot Chart# Block# Lot# 090-AA-1,2:5	Applicant *must be owner, Lessee or Buyer* Name KEITH D. IVERS Address 512 ISLAND AVE City, State & Zip PEAKS ISLAND, ME 04108	Telephone: 207-749-5700
Lessee/DBA (If Applicable)	Owner (if different from Applicant) Name Address City, State & Zip	Cost Of Work: \$ 24,000.00 C of O Fee: \$ Total Fee: \$ 260.00
Current legal use (i.e. single family) SINGLE FAMILY If vacant, what was the previous use? Proposed Specific use: PARKING Is property part of a subdivision? NO If yes, please name Project description: PARKING AREA FOR TONKER TRUCKS AND SERVICE VEHICLES, PAVED ACCESS DRIVE TO LOT FROM ISLAND AVE PARKING AREA FOR TONKER TRUCKS IS TO BE OF CONCRETE AND CURBED DIKE FOR SPILL CONTAINMENT PER SPCC GUIDELINES Dept. of Building Inspections City of Portland Maine		
Contractor's name: KEITH D. IVERS		
Address: 512 ISLAND AVE		
City, State & Zip: PEAKS ISLAND, ME 04108		Telephone: 207-749-5700
Who should we contact when the permit is ready: KEITH D. IVERS		Telephone: 207-749-5700
Mailing address:		

Please submit all of the information outlined on the applicable Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature: Date: 6-6-12

This is not a permit; you may not commence ANY work until the permit is issue

Keith Ivens -

Applicant: PEAKS Island Fuel

Date: 6/7/11

Address: 512 Island AVE, P.I.

C-B-L: ~~90A-A-2-5~~

Tree FETHEN AVE

CHECK-LIST AGAINST ZONING ORDINANCE

90-AA-1,2,5

Date -

IR-2

Zone Location -

I-B

→ where pty is located. existing single family within the IR-2 zone

already on the lot

Interior or corner lot -

Proposed Use/Work -

Site Allocation for a parking lot for up to 7 vehicles

changed to PAD gravel

trucks fueled off site

Sewage Disposal -

10/13/11 - ZBA hearing. NO servicing of vehicles on the lot

Lot Street Frontage -

10/20/11 ZBA makes a final vote. upholds my determination

Front Yard -

Approves the findings of facts

Rear Yard -

N/A

Side Yard -

Projections -

Width of Lot -

Height -

Lot Area -

34,171 sq ft per Terradyn 6/9/11
per assessors 30,978 sq ft

Lot Coverage/ Impervious Surface -

50% max lot cov (not imperv) -

N/A

Area per Family -

Off-street Parking -

7 vehicles proposed - Any parking for the residence? 2

Loading Bays -

Site Plan - 2011-277

Shoreland Zoning/ Stream Protection -

250' comes into the property - Not where pty lot located AT 1st review

Flood Plains - Panel 15 - Zone C

Bill Austin - Surveyor



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Receipts Details:

Tender Information: Check , Check Number: 12828
Tender Amount: 260.00

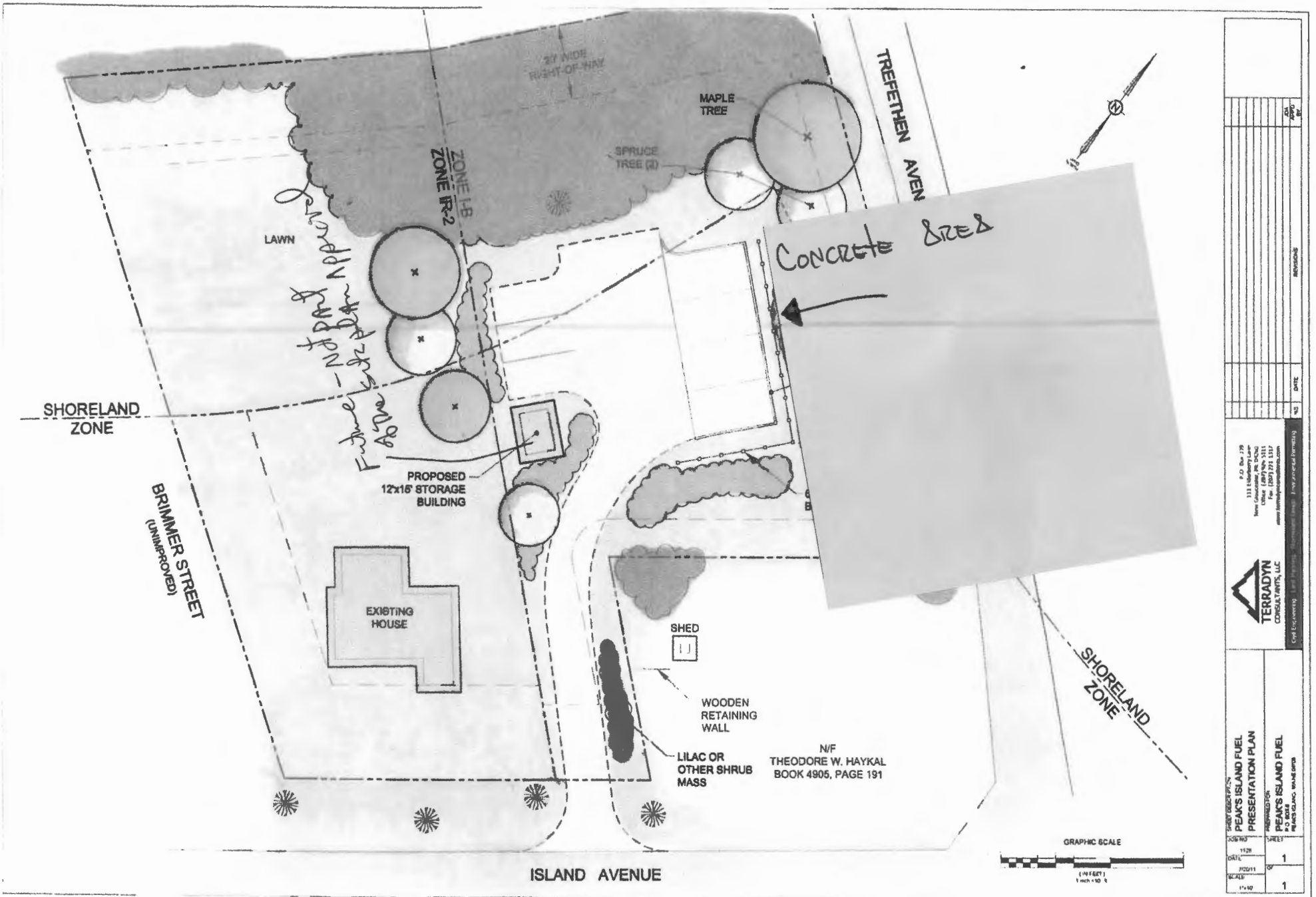
Receipt Header:

Cashier Id: bsaucier
Receipt Date: 7/9/2012
Receipt Number: 45795

Receipt Details:

Referance ID:	7201	Fee Type:	BP-Constr
Receipt Number:	0	Payment Date:	
Transaction Amount:	260.00	Charge Amount:	260.00
Job ID: Job ID: 2012-07-4428-ALTR - Construct parking area for trucks etc.			
Additional Comments: 512 Island Ave.			

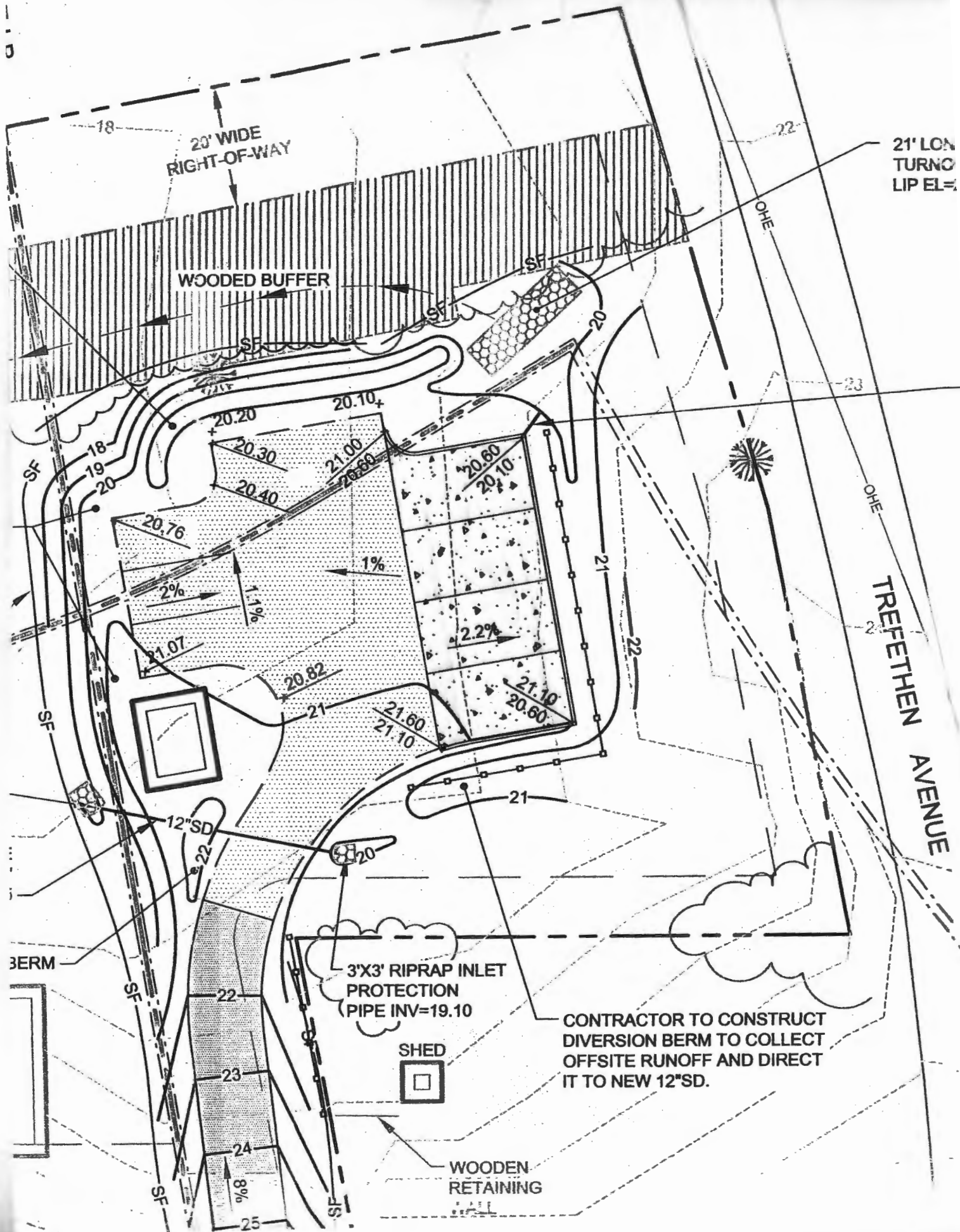
Thank You for your Payment!



SHEET DESCRIPTION		DATE	BY
PEAK'S ISLAND FUEL PRESENTATION PLAN			
DESIGNED BY	DRAWN BY	DATE	BY
THEODORE W. HAYKAL			
SCALE			
1" = 10'			

P.O. Box 278
 111 Main Street
 New Gloucester, ME 04060
 Tel: (207) 271-1317
 www.terradyn.com

TERRADYN
 CONSULTANTS, LLC
 Civil Engineering



21' LONG
TURNOUT
LIP

TREFETHEN AVENUE

3'X3' RIPRAP INLET
PROTECTION
PIPE INV=19.10

SHED

CONTRACTOR TO CONSTRUCT
DIVERSION BERM TO COLLECT
OFFSITE RUNOFF AND DIRECT
IT TO NEW 12"SD.

WOODEN
RETAINING
WALL

BERM

WOODED BUFFER

20' WIDE
RIGHT-OF-WAY

18

22

23

18

19

20

20.20

20.30

20.40

20.76

21.07

20.82

21

21.60

21.10

21.00

20.60

20.10

20.60

20.10

21.10

20.60

21.60

21.10

21

22

21

22

23

24

25

8%

OHE

OHE

SF

SF

12"SD

SF

SF

20

21

21

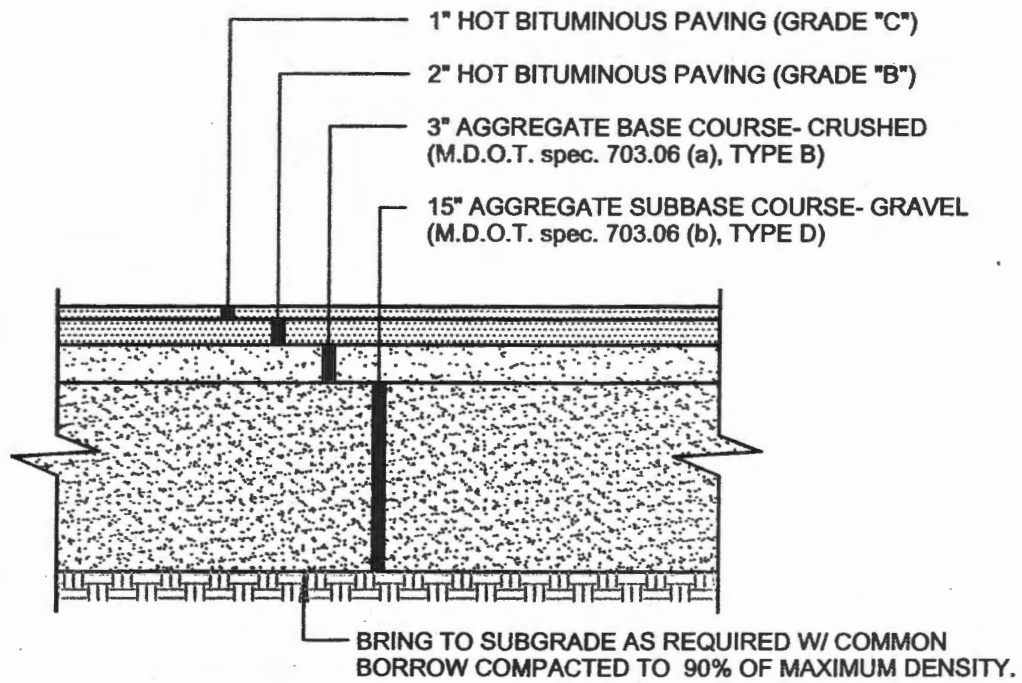
22

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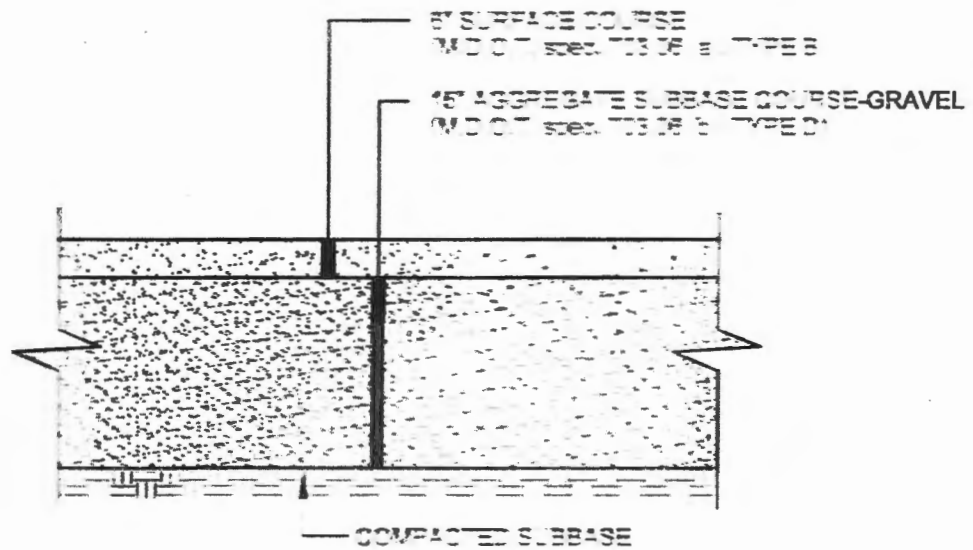


NOTES:

1. COMPACT GRAVEL SUBBASE COURSE TO 92% OF MAXIMUM DENSITY USING HEAVY ROLLER COMPACTION.
2. CONTRACTOR SHALL SET GRADE STAKES MARKING SUBBASE AND FINISH GRADE ELEVATIONS FOR CONSTRUCTION REFERENCE.

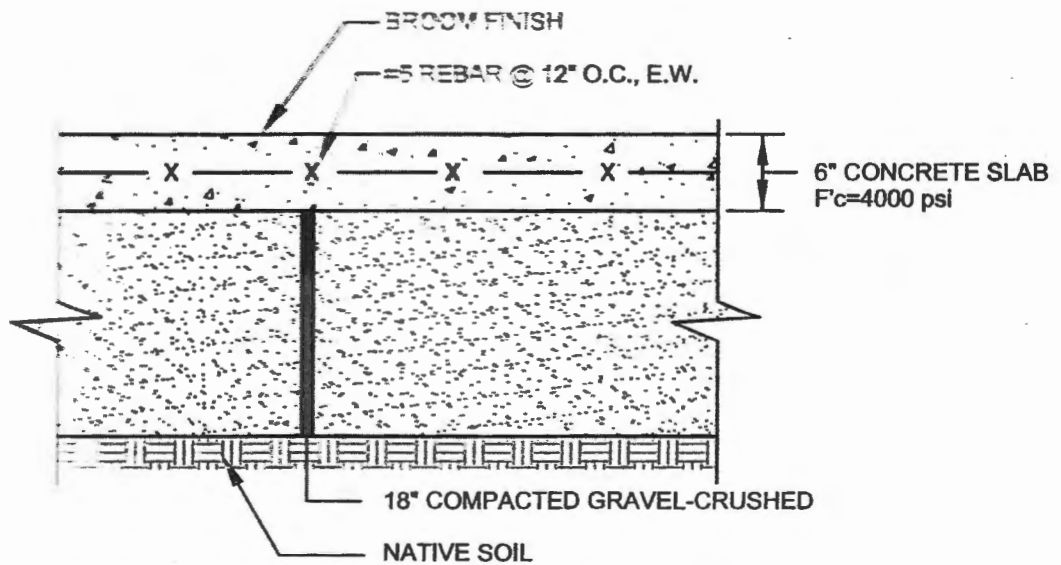
TYP. PAVED PARKING LOT SECTION

NOT TO SCALE



TYP. GRAVEL PARKING AREA

NOT TO SCALE



NOTE:

1. PROVIDE CONTRACTION CONTROL JOINTS EVERY 6' IN EACH DIRECTION

TYPICAL CONCRETE SLAB

7/7/11 - NO cover letter or files
 7/14/11 - ERICK e-mailed to me
 7/15/11 - initial comments
 7/21/11 - from erick - info from PIFuel concerning Parking Reg
 City of Portland
 Development Review Application
 Planning Division Transmittal form
 8/9/11 DAVID Laine letter
 8/9/11 - more info from owner (Jeff Amose Tenadyn Consultants) revised site plan
 Application Number: 2011-277 Application Date: 6/6/2011 12:00:00 AM
 CBL: 90AAA-1
 Project Name: Site Alteration
 Address: 512 Island Avenue, Peaks-Island, ME
 10/13/11 ZBA upholds my use Determination
 Project Description: Site Alteration
 10/20/11 ZBA Signs the funds of FACT's official vote Keith Ivers
 749 = 5700
 Other Reviews Required:
 Review Type: Level 1 Site Alteration

Distribution List:

<input type="checkbox"/> Planner	Erick Giles	<input type="checkbox"/> Parking	John Peverada
<input type="checkbox"/> Zoning Administrator	Marge Schmuckal	<input type="checkbox"/> Design Review	Alex Jaegerman
<input type="checkbox"/> Traffic	Tom Errico	<input type="checkbox"/> Corporation Counsel	Danielle West-Chuhta
<input type="checkbox"/> Stormwater	Dan Goyette	<input type="checkbox"/> Sanitary Sewer	John Emerson
<input type="checkbox"/> Fire Department	Keith Gautreau	<input type="checkbox"/> Inspections	Tammy Munson
<input type="checkbox"/> City Arborist	Jeff Tarling	<input type="checkbox"/> Historic Preservation	Deb Andrews
<input type="checkbox"/> Engineering	David Margolis-Pineo	<input type="checkbox"/> Outside Agency	
		<input type="checkbox"/> DRC Coordinator	Phil DiPierro

Preliminary Comments needed by: June 22, 2011

Final Comments needed by: June 29, 2011



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Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

DEPT.
CI
OCT 27 2011

October 27, 2011

Keith Ivers
Peaks Island Fuel
P.O. Box 6
Peaks Island, ME 04108

Jeff Amos, P.E.
Terradyn Constultants, LLC
P.O. Box 339
New Gloucester, ME 04260

Project Name:	Peaks Island Fuel	Project ID:	2011-277
Address:	512 Island Avenue	CBL:	090-AA-1, 2 and 5
Applicant:	Keith Ivers		
Planner:	Barbara Barhydt, Development Review Services Manager		

Dear Mr. Ivers and Mr. Amos

On October 27, 2011, the Planning Authority approved with conditions a Level I: Site Alteration site plan for a seven (7) vehicle parking lot, four (4) truck spaces and three (3) vehicle spaces, for Peaks Island Fuel at 512 Island Avenue, Peaks Island. The decision is based upon the application documents and plans as submitted by Keith Ivers and prepared by Jeff Amos, P.E with a revision date on the site plans of 9/16/11. In addition, the applicant submitted a copy of the Spill Prevention, Control and Countermeasures Plan that was reviewed by the MDEP, Bureau of Remediation and Waste Management, and approved by Butch Bowie, DEP Environmental Specialist, on August 23, 2011 (Attachment 3). The proposal was reviewed for conformance with the standards of Portland's site plan ordinance and shoreland zoning. The review comments from City Staff are included as Attachments 1a-1g) The Zoning Board of Appeals confirmed that the parking lot is permitted in the Island Business I-B zone with their October 20, 2011 decision (Attachment 3).

SITE PLAN STANDARD WAIVERS

The applicant requested two waivers from the technical standards. The Planning Authority waives the Technical Standards as follows:

1. **Bicycle Parking:** The applicant states that the parking lot is not for public use and there will be no vehicular or pedestrian traffic into the parking area except for employees of

Peak's Island Fuel. The site plan standard (Section 14-526 b. (i) (c) requires two bicycle spaces.

The Planning Authority waives the requirement for bicycle parking under the waiver criteria of 14-526 b. (ii) due to the facts that the parking area is for the Peaks Island Fuel vehicles, which is not open to the public, its active time of use will be during the winter months, and is located in an outlying area on the island.

2. **Driveway width:** The applicant is proposing a 12 foot wide driveway rather than the 20 foot minimum to the parking area. From a traffic engineering perspective, the reduced width is not expected to be problematic and low traffic volumes on Island Avenue. The narrower drive is proposed to better screen the parking by increasing the available buffer between the gravel surface and the abutting property. As stated in the request, Peak's Island Fuel has only one full time driver and one part-time driver, so there will not be opposing vehicles at any time. Also, the parking area is not open to the public. Finally, the Fire Department has concluded that the proposed driveway width is acceptable due to the fact the driveway into the parking lot is not to a building requiring fire apparatus access.

The Planning Authority waives the standard in the Technical Manual, Section 1, 1.7 Driveway Design to reduce the minimum two-way driveway width from 20 feet to 12 feet per the authority of Section 14-524 (a) 3.v (v)(h) and finds that the public interest is secured with a more prominent buffer, while maintaining a safe driveway, as described/approved by the Traffic Engineer and the Fire Department, and that the variation does not nullify the intent and purpose of the land development plan and regulations.

3. **Parking lot dimensions:** The applicant is proposing four larger parking stalls of 12 by 22 feet for the trucks with a travel aisle width of 28 feet. The rest of the parking spaces are proposed to be 9 x18 feet.

The Planning Authority supports the four larger parking spaces and the wider aisle width to accommodate the truck parking and circulation, which exceed the minimum dimensional standard of 9x18 feet for a parking space and twenty-four (24) feet for an aisle width as established in the Technical Manual, Section 1.14 and standard figure 1-27. The proposed parking dimensions and lay out allow the parking lot to function in a safe manner. The larger spaces and aisle width will not have the effect of nullifying the intent and purpose of the land development plan and the city regulations.

SITE PLAN REVIEW

The Planning Authority found the plan is in conformance with the Site Plan Ordinance (Article V) of the Land Use Code, subject to the following condition(s) of approval:

1. The future storage area shown on the site plan is not approved as part of this decision. Any proposed structure must be submitted for the applicable reviews and permits.
2. The applicant and all assigns, must comply with stormwater inspection and maintenance plan and housekeeping plan as included in the applicant's site plan documents and the post-construction stormwater management plan compliance requirements and annual reporting as specified in Chapter 32 of the City Code.
3. The Fire Department approves the driveway into the storage lot as it is not to a building requiring fire apparatus access. However, if a structure is built in this storage lot, a minimum of a 16' wide driveway may be required; and at the entryway it may need to be modified to meet the turning radius of fire apparatus. If a structure is built in the future, code may require a sprinkler system.

The approval is based on the submitted site plan and associated documentation. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

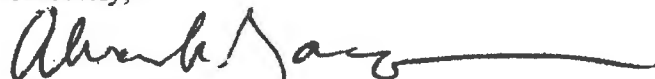
1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.

4. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
5. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
6. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
7. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
8. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Barbara Barhydt, Development Review Services Manager at (207) 874- 8699.

Sincerely,



Alexander Jaegerman
Planning Division Director

Attachments:

1. Staff Memorandums
 - a. Memorandum from Lauren Swett, P.E., Woodard and Curran, October 5, 2011
 - b. Thomas Errico, P.E, T.Y. Lin, October 19, 2011
 - c. Jeff Tarling, City Arborist, August 25, 2011
 - d. Jeff Tarling, City Arborist, October XXX
 - e. Captain Chris Pirone, Fire Department, October 18, 2011
 - f. Marge Schmuckal, review comments, July 15, 2011
 - g. Marge Schmuckal, Zoning Determination, August 18, 2011
 - h. Marge Schmuckal, Review Comments, October 25, 2011
2. Zoning Board of Appeals Decision, October 20, 2011
3. Butch Bowie, DEP, approval of spill prevention plan, August 23, 2011,
4. Chapter 32 – Storm Water
5. Performance Guarantee Packet

Electronic Distribution:

Penny St. Louis, Director of Planning and Urban Development Department
Alexander Jaegerman, Planning Division Director
Philip DiPierro, Development Review Coordinator, Planning
Marge Schmuckal, Zoning Administrator, Inspections Division
Tammy Munson, Inspection Division Director,
Lannie Dobson, Administration, Inspections Division
Michael Bobinsky, Director, Public Services
Katherine Earley, Engineering Services Mgr., Public Services
Bill Clark, Project Engineer, Public Services
David Margolis-Pineo, Deputy City Engineer, Public Services
Jane Ward, Administration, Public Services
Capt. Chris Pirone, Fire Department
Jeff Tarling, City Arborist, Public Services
Thomas Errico, P.E., T.Y. Lin Associates
David Senus, P.E., Woodard & Curran
Assessor's Office
Approval Letter File

Marge Schmuckal - 512 Island Ave, Peaks Island - Keith Ivers

From: Marge Schmuckal
To: Barbara Barhydt ; Philip DiPierro
Date: 7/11/2012 2:35 PM
Subject: 512 Island Ave, Peaks Island - Keith Ivers

Keith has just applied for his building permit to construct his parking lot - Let us know when we can issue the permit
Marge

Marge Schmuckal - Fwd: Need your help on Peaks Island Issue

From: Danielle West-Chuhta (Danielle West-Chuhta)
To: Barhydt, Barbara; Schmuckal, Marge
Date: 11/22/2011 12:22 PM
Subject: Fwd: Need your help on Peaks Island Issue

fyi.

>>> Carl Gustafson <carl_l_gustafson@yahoo.com> 11/21/2011 9:21 PM >>>

Dear Mayor Nicholas Mavodones and Portland City Council Members, I wanted to respectfully ask your help with a zoning permit that is coming up for a vote for Peaks Island. I have been coming to Portland and Peaks Island for the past 48 years. I grew up coming to Peaks, Portland and the surrounding islands and now I bring my family here each summer. I heard that Keith Ivers has applied for a permit to park 7 fuel trucks in a residential area. I could understand this being approved if this was 50 years ago when the Warf was located on this side of the island but not with the changes that have taken place since this time. This location is right next to the TEIA. My children take tennis lessons at the club and may times there may be 30 or more children there at one time. With all the children in one location I would view this similar to a school. I would not think approval would be given to park fuel trucks next to a school and likewise not next to the TEIA. There are also lots of children who come to the club for sailing lessons and lots of kids and families that ride by this intersection. So primarily this is a safety issue in not locating fuel trucks right next residential homes and an area that has a high concentration of children. I am not sure who make the mistake of not updating the zoning as the neighborhood changed but the important thing is do the right thing. I saw a letter that Ted Haykal wrote in Island times that suggested several other alternative sites that would be a win/win for everyone - a safe place to store the trucks while not endangering the neighborhood. Besides the safety issue it will pollute the neighborhood with air and noise pollution. It would be sad to see lots of diesel fumes as well as truck noise in a very quiet and pleasant neighborhood. What happens if there is a large fuel spillage in a neighborhood with lots of children's and families? Besides the safety and aesthetic issues it will also cause the City of Portland to lose more money. The property values of the surrounding houses will plummet and along with this the tax revenue from the decreased value of these properties. It may also cause some people not to visit the island or join the club which again will decrease revenue to the island and the city. Thank you for your consideration.

Sincerely,

Carl Gustafson
125 E. Webb Street
Sandwich, IL 60548
Carl_l_gustafson@yahoo.com

Marge Schmuckal - Parking and regulations for fuel business on islands

From: "Gary L. Smith" <gls101@myfairpoint.net>
To: "Mike Murray" <MSM@portlandmaine.gov>
Date: 11/15/2011 3:00 PM
Subject: Parking and regulations for fuel business on islands
CC: <mes@portlandmaine.gov>, <dwchuhta@portlandmaine.gov>

Mike,

In a recent newspaper article relating to the Peaks Island Fuel hearing before the Planning Board I seem to recall the issue of street parking was raised as it relates to fuel transport trucks. I can not remember the publication in which the article appeared so please excuse me if my recollections are incorrect. The response from either Zoning and Inspections or Corporation Counsel stated in effect that there was no problem with on-site street parking as long as the vehicle was not broken down and parked for an extended period of time. That answer seems contrary to state regulations as outlined several times below. There are many links within the links below. It is my understanding the City can adopt rules and regs that are more stringent than state regs, but they can not water down existing state law.

My concern is with the existing non-compliant fuel business on Great Diamond Island and the actions that will be necessary in order to bring this business into compliance. The level of compliance will be the same even if the business is housed on private property. I have copied and pasted portions of many different emails from the Maine State Police, MDEP, and the State Fire Marshall.

I just want to make sure that all the parties are aware of existing state and federal law.

Are my recollections correct as they relate to Planning Board hearing for peaks Island Fuel?

Gary

The following is what I anticipate will be needed to locate a fuel storage trucks at the public works site.

1. I too had some conversations with the State Fire Marshall's office when I was working on the original site plan for the fuel parking area for the City. Up until recently (within the past year or so), the MDEP and Fire Marshal's office did not have any specific requirements for parking these trucks on a site. However, a federal determination has been given that small fuel delivery trucks parked overnight are subject to the federal SPCC requirements. This means an SPCC plan will be required by the fuel delivery company including all necessary provisions to comply with federal law.
2. I also believe that gasoline/fuel oil is considered a hazardous material; therefore, the driver will need to have a hazardous materials certification and all vehicles must have appropriate MDOT certifications.
3. The fire marshals office also has regulations regarding the dispensing of fuel onsite that may be applicable depending on the operation. I believe the current fuel oil delivery company on the Island has a small trailer mounted 300 gallon gasoline tank to distribute fuel to Island vehicles, mowers, generators, etc. Would the plans also include a gasoline trailer mounted tank at the site? If so, there are restrictions surrounding the dispensing of gasoline.
4. A zone text amendment will also be required through the City of Portland to allow for the fuel storage use in the IR-1 zone.
5. Once a zone text amendment is in place, the project will require planning board approval most likely under the conditional use permit requirements.
6. A modification to the existing license agreement between Diamond Island Association and the City of Portland may also be required.

Hope this is helpful.

Thanks,

Owens (Sebago Technics)

Bulk Oil Transfers

Bulk oil transfers are transfers between storage containers and transportation modes such as tank trucks and tank cars.

- Oil handling areas where transfers occur must be provided with spill containment and control features. The extent of the features required depends on the nature of the transfer facilities.
- For transfers occurring across a loading/unloading rack, a fixed containment must be provided for the single largest compartment of any tank truck or car handled at that location. Contained oil from a spill event would be returned to storage, reclaimed or disposed by a licensed waste contractor.

§397.7 Parking.

[Interpretation]

(a) A motor vehicle which contains Division 1.1, 1.2, or 1.3 materials must not be parked under any of the following circumstances--

(a)(1) On or within 5 feet of the traveled portion of a public street or highway;

(a)(2) On private property (including premises of a fueling or eating facility) without the knowledge and consent of the person who is in charge of the property and who is aware of the nature of the hazardous materials the vehicle contains; or

(a)(3) Within 300 feet of a bridge, tunnel, dwelling, or place where people work, congregata, or assemble, except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

(b) A motor vehicle which contains hazardous materials other than Division 1.1, 1.2, or 1.3 materials must not be parked on or within five feet of the traveled portion of public street or highway except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

[59 FR 63928, Dec. 12, 1994]

§172.800 Purpose and applicability.

(a) Purpose. This subpart prescribes requirements for development and implementation of plans to address security risks related to the transportation of hazardous materials in commerce.

(b) Applicability. By September 25, 2003, each person who offers for transportation in commerce or transports in commerce one or more of the following hazardous materials must develop and adhere to a security plan for hazardous materials that conforms to the requirements of this subpart:

(b)(1) A highway route-controlled quantity of a Class 7 (radioactive) material, as defined in §173.403 of this subchapter, in a motor vehicle, rail car, or freight container;

(b)(2) More than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

(b)(3) More than one L (1.06 qt) per package of a material poisonous by inhalation, as defined in §171.8 of this subchapter, that meets the criteria for Hazard Zone A, as specified in §173.116(a) or 173.133(a) of this subchapter;

(b)(4) A shipment of a quantity of hazardous materials in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids;

(b)(5) A shipment in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class under the provisions of subpart F of this part;

(b)(6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR part 73 or, by April 1, 2007, a select agent or toxin regulated by the United States Department of Agriculture under 9 CFR part 121; or

(b)(7) A quantity of hazardous material that requires placarding under the provisions of subpart F of this part.

(c) Exceptions. Transportation activities of a farmer, who generates less than \$500,000 annually in gross receipts from the sale of agricultural commodities or products, are not subject to this subpart if such activities are:

(c)(1) Conducted by highway or rail;

(c)(2) In direct support of their farming operations; and

(c)(3) Conducted within a 150-mile radius of those operations.

Transportation of Flammable and Combustible liquids is regulated by:

US DOT Title 49 CFR

Maine Statutes:

<http://www.maine.gov/dot/html/transportation/250to2800/2481.html>

Rules of the Office of the State Fire Marshal:

http://www.maine.gov/sfm/oc/rule/1b_219_219c034.doc

These rules adopt National Fire Protection Association (NFPA) codes including:

NFPA 385 Standard for Tank Vehicles for Flammable and Combustible Liquids, 2007 Edition

NFPA 30 Flammable and Combustible Liquids Code, 2006 Edition

NFPA 30A Code for Motor Fuel Dispensing Facilities and Repair Garages, 2008 Edition

A permit is required for any fuel storage facility with a capacity of greater than 60 gallons. See http://www.maine.gov/ops/fmo/plans/storage_tanks.html for Guidelines for the installation of aboveground storage tanks.

Municipalities may adopt rules as restrictive or more restrictive than rules adopted by the US DOT or the Office of the State Fire Marshal.

Check with your municipality to see if they have any specific regulations.

NFPA 385 includes specifications for transport vehicles, both self-powered and trailers. It also has a chapter with requirements for vehicle operation and delivery operations.

NFPA 30 includes requirements for permanently installed storage tanks that may be used as bulk storage tanks or tanks for private fueling operations. (Setback table has been modified in Fire Marshal Rules, Chapter 34, follow link, above)

NFPA 30A includes regulations for fuel dispensing facilities, land and marina, for use by the public.

(Setback table has been modified in Fire Marshal Rules, Chapter 34, follow link, above)

A tank must be listed for the use, and used according to its listing. Therefore, a tank designed for use as a permanent, aboveground storage tank, can not be used as a transport tank, and a tank designed to be a transport tank can not be used as a permanent, aboveground storage tank.

Any changes in the use of, or modifications to the tank must be approved in writing by the manufacturer. [Whoever changes the use or modifies the tank without approval of the manufacturer assumes the liability of the manufacturer.]

Supports for an aboveground storage tanks are not designed to resist the vibrations that will be encountered when used as a transport tank.

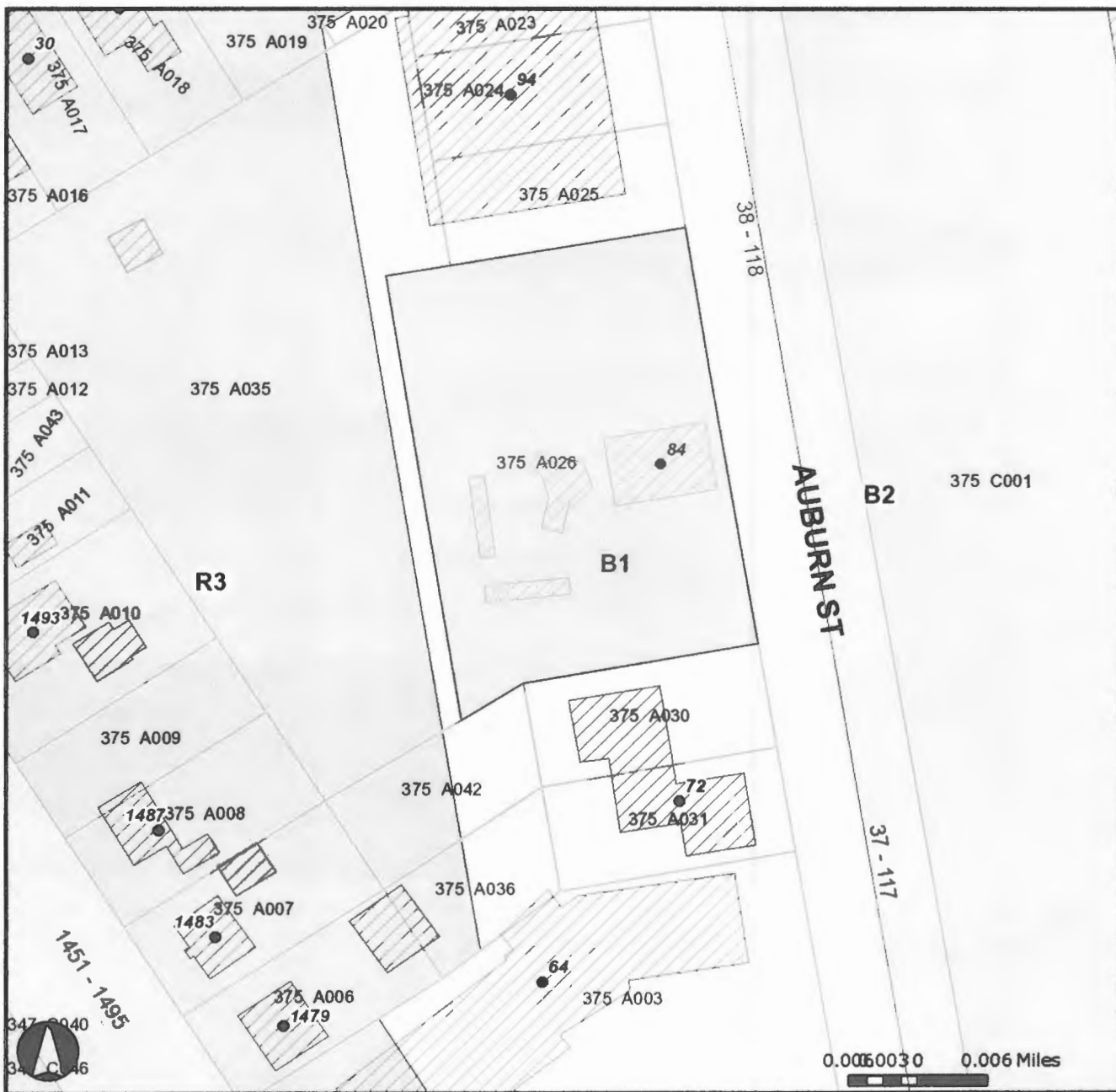
Appurtenances, such as fill opening, normal vent, emergency vent, gauges, and withdrawal piping, on a transport tank must be protected against damage in case of a rollover. A permanent tank is not subject to rollover, therefore does not require protection of the appurtenances.

The emergency vent of a transport tank must close in case of rollover. Emergency vents for permanent tanks will open and allow free flow of product from the tank in case of rollover.

A system of straps, chains, ropes, wire ropes, etc. used to secure a tank to a trailer may cause stresses in areas not intended by the manufacturer and may cause the tank to fail in these areas.

Welding of "tie down" points to a tank may adversely affect the strength of the tank in a manner not anticipated by the manufacturer, and may cause the tank to fail.

Map



Parcels	Stream Overlay Zone	Zoning (continued)	Zoning (continued)
<input type="checkbox"/> Parcel	<input checked="" type="checkbox"/> Stream_protection	<input type="checkbox"/> R2 Residential	<input type="checkbox"/> C25
Interstate	Island Zoning	<input type="checkbox"/> R3 Residential	<input type="checkbox"/> C26
<input type="checkbox"/> Interstate	<input type="checkbox"/> C43	<input type="checkbox"/> R4 Residential	<input type="checkbox"/> C27
Streets	<input type="checkbox"/> I-B	<input type="checkbox"/> R5 Residential	<input type="checkbox"/> C28
<input type="checkbox"/> Street	<input type="checkbox"/> I-TS	<input checked="" type="checkbox"/> R6 Residential	<input type="checkbox"/> C29
Buildings	<input type="checkbox"/> I-R1	<input checked="" type="checkbox"/> ROS Recreation Open	<input type="checkbox"/> C30
<input checked="" type="checkbox"/> Building	<input type="checkbox"/> I-R2	<input type="checkbox"/> Space	<input type="checkbox"/> C31
<input checked="" type="checkbox"/> Out Building			

Marge Schmuckal - 512 Island Ave - Keith Ivers parking lot

From: Marge Schmuckal
To: Danielle West-Chuhta; Gary Wood; Jim Katsiaficas
Date: 10/28/2011 10:28 AM
Subject: 512 Island Ave - Keith Ivers parking lot

I have been told that the DVD of the ZBA meeting on October 13, 2011 contains a visual recording only and not an audio recording. Apparently when MIS moved the recording equipment over from room 209, the audio was some how not connected.

IF there is an appeal, I am not sure how this would impact such an appeal. We do have the full audio and visual of the vote on the findings of fact for the October 20th ZBA held in room 209.

Sorry,
Marge

512 Island Avenue – Peaks Island – 90-AA-1, 2, 5

#2011-277

7/15/2011 This is a proposal to create a small, gravel parking lot for up to 7 vehicles . Currently there is a single family dwelling located along Island Avenue. The lot is consists of three separate parcels. The lot is divided by two separate zones: the IR-2 zone and the I-B zone. A portion of the outer edge of the 250' Shoreland Zone also extends into the property. The dwelling is located in the IR-2 zone and the proposed parking lot is located within the I-B zone.

Currently up to seven (7) vehicles are proposed to be parked upon the lot within the I-B zone. The applicant should review sections 14-339 and 14-340 and 14-341 to supply further information before I can make a final determination on zoning compliance. It is my understanding that there will be some refinements to the application.

Marge Schmuckal

Zoning Administrator



PORTLAND, MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

*Penny St. Louis - Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

512 Island Avenue, Peaks Island
90-AA-1, 2, 5 – IR-2/I-B Zone

August 18, 2011

The applicant, Mr. Ivers, is showing a vehicle parking lot for seven (7) vehicles located at 512 Island Avenue, Peaks Island. Currently a single family house is located on one portion of the lot. The proposed parking area will be located on another portion of the lot and has sufficient space to park four 2,800 gallon fuel trucks and three passenger-vehicle sized service vehicles. The vehicles are all to be actively used by Mr. Ivers in his heating and fuel oil business. The proposed parking area is shown entirely within the I-B zone.

Section 14-223(f) indicates that “off-street parking” is a permitted use in the I-B island business zone.

Section 14-331 defines “off-street parking” as parking “either by use of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended....”

The above sections do not limit the allowable “off-street parking” to any particular type of vehicle or only allow parking as an accessory use. Instead, the I-B zone allows off-street parking as a specific permitted use and the definition makes clear that the parking spaces can either be open-air or garage spaces that meet the standards in the City’s Technical Manual. The proposed parking area is meeting the standards in the City’s Technical Manual. As a result, I have determined that the parking lot described in Mr. Iver’s application is permitted under the City Code.

It is important to note that I have reviewed the definition for a truck terminal. A “truck terminal” is defined in the City’s Land Use Zoning Ordinance as:

“a building and premises devoted to handling and temporary warehousing of goods, which may include facilities for the maintenance and repair (except body repairs, frame straightening and painting), fueling and storage of trucks or tractor-trailer combinations”.

Mr. Iver’s proposed parking lot is not a truck terminal. This is because his trucks are not warehoused or stored on the site. The trucks are also not filled, fueled and no product will dispensed on the site. Instead, the trucks are just parked on this site for active use as needed in Mr. Ivers’ propane and oil delivery business. The other vehicles that will be parked on the site are also for active use with Mr. Ivers’ heating repair business. Mr. Ivers’ business has been active through four generations and has garnered many clients on Peaks Island.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty 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.

Very truly yours,

A handwritten signature in black ink that reads "Marge Schmuckal". The signature is fluid and cursive, with the first name "Marge" written in a larger, more prominent script than the last name "Schmuckal".

Marge Schmuckal
Zoning Administrator

Cc: Penny St. Louis, Director of Planning and Urban Development
Alex Jaegerman, Division Director of Planning
Barbara Barhydt, Development Review Service Manager
Erick Giles, Planning
Danielle West-Chuhta, Corporation Counsel
Mike Murray, Island/Neighborhood Liaison

512 Island Avenue – Peaks Island – 90-AA-1, 2, 5

#2011-277

10/25/2011 This project has been approved by Zoning for all the underlying I-B zone requirements and Shoreland Zoning requirements.

Separate permits are required by Inspection Services for the use and the parking lot.

It is also noted that the Zoning Board of Appeals approved the parking lot use at its hearing on 10/13/2011 and made a final vote and accepted the findings of fact on 10/20/2011.

Marge Schmuckal

Zoning Administrator

Marge Schmuckal - 512 Island Avenue, PI

From: Marge Schmuckal
To: ALEX JAEGERMAN; Barbara Barhydt ; Danielle West-Chuhta; Penny St. L...
Date: 9/19/2011 12:31 PM
Subject: 512 Island Avenue, PI

We did receive an interpretation appeal application from David Lourie. He has requested to be on the October 20th scheduled appeal date. He is on vacation for the October 6th appeal meeting. But I am on vacation the week of Oct.17 thru 21. I am thinking of calling a special meeting on either Thursday October 13th or October 27th. I don't want this item to be dragged out for a long time.

I will update you.
Marge

FAX



To: Keith Ivers
Fax Number: 766-2969
From: Marge Schmuckel
Fax Number:
Date: 9/19/11
Regarding:
Total Number Of Pages Including Cover: 10
Phone Number For Follow-Up: 874-8695

Comments:

Keith -
The entire submittal includes your application for the site plan review. The application is 1/2" thick. I am sending you the "meat" of the appeal. I will make full copies as soon as I can.

Marge

City Of Portland, Maine
Inspections Division Services
389 Congress St Room 315 Portland Me 04101-3509
Phone: (207) 874-8703 or (207) 874-8693
Fax: (207) 874-8716
<http://www.portlandmaine.gov/>

FAX



To: *Kath Ivers*
Fax Number: *766-2969*
From: *MARGE Schmuckel, Emily*
Fax Number:
Date: *8/18/11*
Regarding:
Total Number Of Pages Including Cover: *3*
Phone Number For Follow-Up: *874-8695*

Comments:

*Kath,
I have put the original in
the mail to you.*

*MARGE
call me if you have any questions.*

City Of Portland, Maine
Inspections Division Services
389 Congress St Room 315 Portland Me 04101-3509
Phone: (207) 874-8703 or (207)874-8693
Fax: (207) 874-8716
<http://www.portlandmaine.gov/>

Marge Schmuckal - 512 Island Ave

From: Marge Schmuckal
To: Eric Giles
Date: 7/15/2011 12:35 PM
Subject: 512 Island Ave
CC: Barbara Barhydt

my comments are in the system

7/14/11



PEAKS ISLAND FUEL

P.O. BOX 104

PEAKS ISLAND, ME 04108

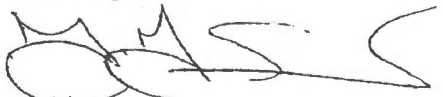
207-766-5700 OFFICE

207-766-2969 FAX

To whom it may concern;

This letter is to describe the proposed project for 516 Island ave on Peaks Island, ME 04108. The current site is relatively flat with a slightly sloping terrain. Aside from two small pieces of vegetation it is all grass at the moment. The plan is to slightly raise a small portion of the yard and form a small parking area for up to seven service vehicles. This will include having two driveways put in for access to the property, one from Island ave and the other coming in from Trefethen ave. The lots height will begin close to the original grade of the lot towards Trefethen ave and carry appropriate pitch towards Brimmer st for approx 82' and towards the northwest of the property for approx 50'. The total disturbed area will be around 4,200 square feet. The top soil will be removed and appropriate fill brought in to form a suitable sub base for the lot. Remaining fill will be composed of crushed stone and topped off with gravel for a parking surface. Culverts will be put in place at each location were there would be a possibility for water to catch so it can continue on its natural path. The proposed are has been surveyed and a plan has been provided to show its location in the Commercial zone portion of the lot and that it is designed for minimal disruption of the area. The main objective of the project is to consolidate my business to one area instead of renting three different areas . It will give my family's business a permanent foundation so we can continue the business for many years to come. Thank you.

Best Regards,



Keith Ivers

Owner/ President Peaks Island Fuel

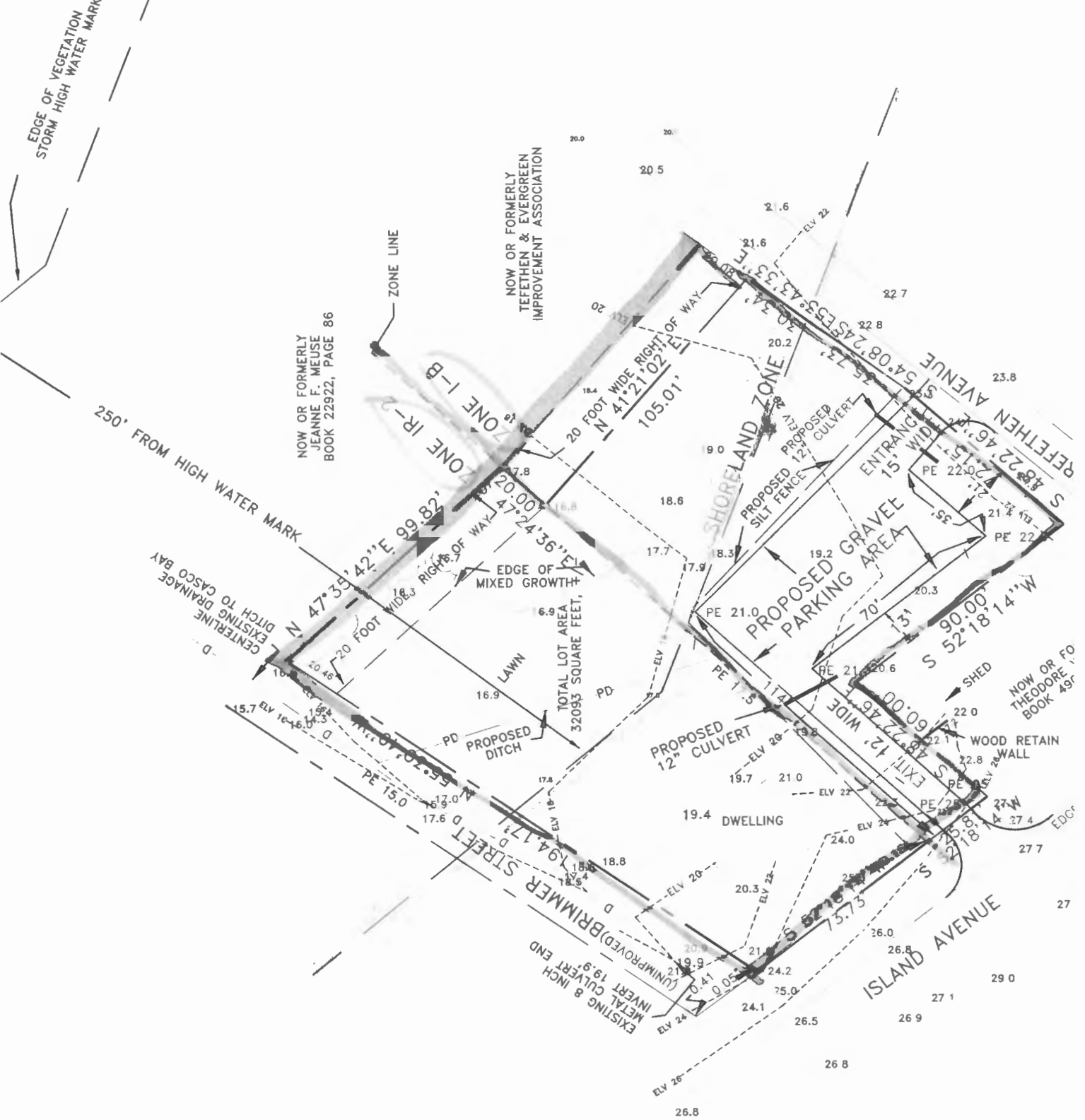
EDGE OF VEGETATION
STORM HIGH WATER MARK

250' FROM HIGH WATER MARK

NOW OR FORMERLY
JEANNE F. MEUSE
BOOK 22922, PAGE 86

NOW OR FORMERLY
TEFETHEN & EVERGREEN
IMPROVEMENT ASSOCIATION

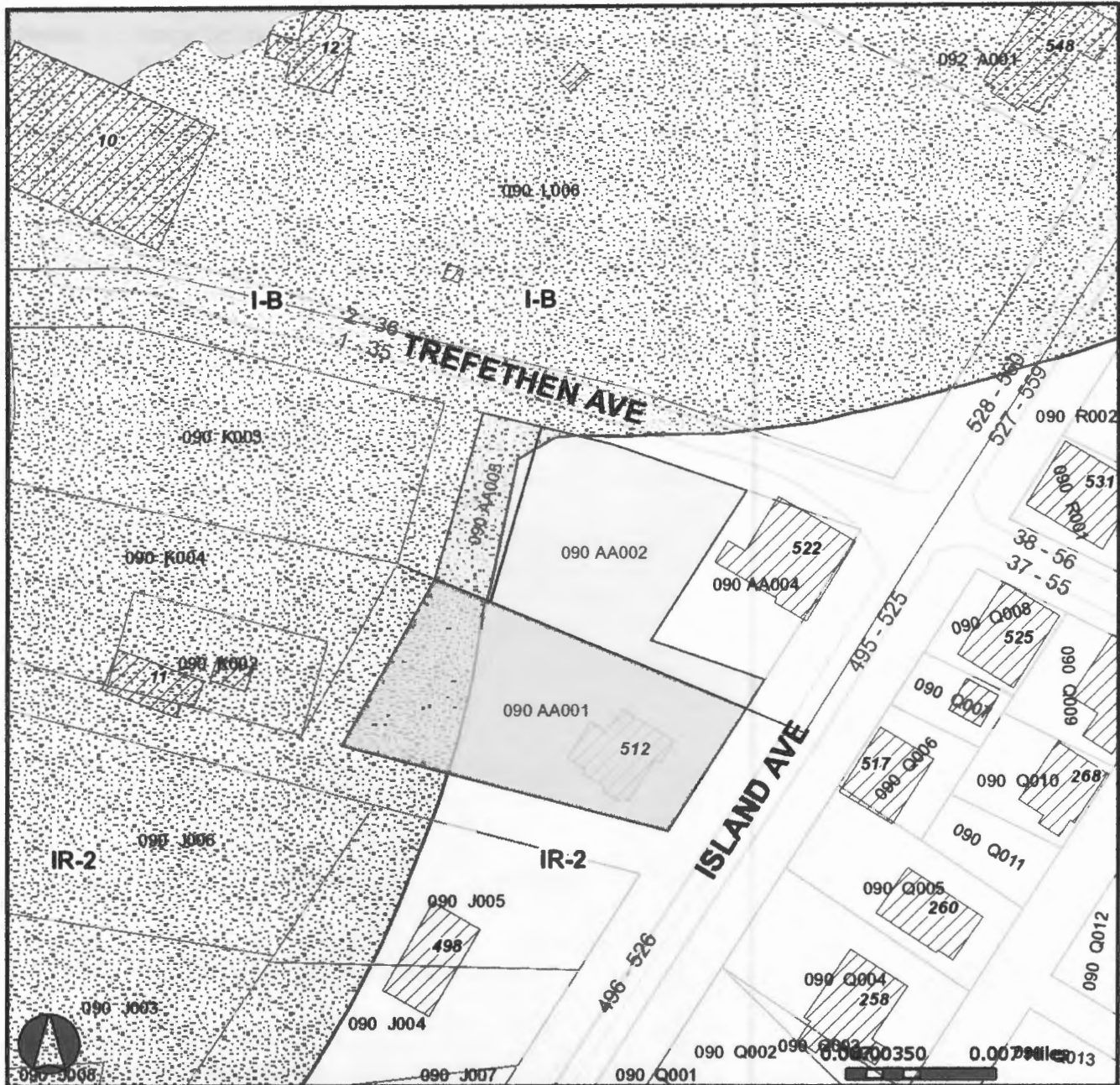
NOW OR FORMERLY
THEODORE
BOOK 49



27 1

28 2

Map



Parcels	Stream Overlay Zone	Zoning (continued)	Zoning (continued)
<input type="checkbox"/> Parcel	<input checked="" type="checkbox"/> Stream_protection	<input type="checkbox"/> R2 Residential	<input type="checkbox"/> C25
Interstate	Island Zoning	<input type="checkbox"/> R3 Residential	<input type="checkbox"/> C26
<input type="checkbox"/> Interstate	<input type="checkbox"/> C43	<input checked="" type="checkbox"/> R4 Residential	<input type="checkbox"/> C27
Streets	<input type="checkbox"/> I-B	<input type="checkbox"/> R5 Residential	<input type="checkbox"/> C28
<input type="checkbox"/> Street	<input type="checkbox"/> I-TS	<input checked="" type="checkbox"/> R6 Residential	<input type="checkbox"/> C29
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<input checked="" type="checkbox"/> Building	<input type="checkbox"/> I-R2	<input type="checkbox"/> Space	<input type="checkbox"/> C31
<input checked="" type="checkbox"/> Out Building			

continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).

- (c) *Vibration*: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.
- (d) *Heat*: Heat shall be imperceptible without instruments at lot boundaries. Heating elements which are intended to melt snow and ice shall be placed within sidewalk paving only when approved by the department of parks and public works.
- (e) *Glare, radiation or fumes*: Glare, radiation or fumes shall be imperceptible without instruments at lot boundaries.
- (f) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (g) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers and in accordance with section 14-221(d). Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 241-91, 3-11-91; Ord. No. 46-97, § 6, 8-4-97)

DIVISION 12.1. I-B ISLAND BUSINESS ZONE

Sec. 14-222. Purpose.

The purpose of the I-B island business zone is to provide limited areas on the islands for retail and service establishments that serve primarily the needs of the local island market area.

(Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-223. Permitted uses.

The following uses are permitted in the I-B island business zone:

- (a) Single-family detached dwellings;

- b) Retail or service establishments, excluding those listed below:
 - 1. Automobile service stations;
 - 2. Inns;
- (c) Marinas and yacht clubs;
- (d) Lodging houses, with more than two (2) but not more than nine (9) lodging rooms;
- (e) Wharves, piers, docks, or landing ramps;
- (f) Off-street parking;
- (g) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article including but not limited to home occupations;
- (h) Handicapped family unit, as defined in section 14-47, for handicapped persons plus staff.
- (i) Peaks Island only: Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
- (j) Studios for artists and craftspeople, provided that the area of such studios does not exceed one thousand (1,000) square feet for each studio space.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 33-91, § 13, 1-23-91; Ord. No. 125-97, § 8, 3-3-97; Ord. No. 164-97, § 3, 12-1-97; Ord. No. 10-10/11, 8-2-10)

Sec. 14-224. 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) Two-, three- or four-family dwelling, provided that:
 - 1. No open outside stairways or fire escapes above ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;

a residence zone, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(b) Notwithstanding the provisions of subsection (a) of this section, parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.H; Ord. No. 231-90, § 2, 3-5-90)

Sec. 14-339. When located adjacent to a street or a residential use.

*lot in
Business
Zones*

Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:

- (a) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that bumpers of vehicles cannot project beyond its face toward the street line involved either above or below the impact surface.

- (b) Where such off-street parking shall abut a lot in a residence zone or a lot in residential use, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(Code 1968, § 602.14.1)

Sec. 14-340. Construction requirements when more than six vehicles parked.

6+

Where off-street parking for more than six (6) vehicles is

LAW OF THE LAND

A blog on land use law and zoning

- About this Blog
- About the Author
- Links of Interest
- Upcoming Conferences

Posted by: **Patty Salkin** | July 14, 2008

Indiana Supreme Court Determines that Proposed Solid Waste Transfer Station Meets Definition of “Motor Truck Terminal”

The applicable zoning allowed for a “motor truck terminal” as of right, and the owner wished to build a “solid waste transfer station” and recycling facility on the land, where trucks would unload materials for temporary storage before being re-loaded onto larger trucks to be taken to incinerators, landfills or recycling facilities, the Indiana Supreme Court held that such use constitutes a “motor truck terminal” and that the owner need not apply for a special use permit as had been instructed by the Department of Metropolitan Development (DMD).

The owner, 600 Land, had initially followed the instructions of the DMD and filed for the special use permit which was denied by the zoning board of appeals. On appeal to the trial court, 600 Land argued that the zoning ordinance did not require it to apply for a special use permit because its proposed use qualified as a “motor truck terminal.” Both the trial court and the appeals court ruled that a special use permit was required, but the Supreme Court reversed. The appeals court did rule, however, that the zoning board’s denial of the special use permit should be reversed since its findings were unsupported by evidence.

In concluding that the proposed use qualified as a “motor truck terminal,” the Court looked at the definition of the use in the zoning ordinance which provides that it is: “[a] building or area in which truck, including tractor or trailer units are parked, stored, or serviced, including the transfer, loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transport.” The DMD argued that “waste” does not constitute “goods.” The Court found that 600 Land easily met the definition in the first sentence since the trucks would be parked, stored and serviced at the facility. The Court next turned to the question of whether waste constitutes “loads” and/or “goods.” The Court concluded that neither was actually required since the ordinance uses the word “including” preceding this, which, said the court, is meant to be descriptive and not a requirement. The Court did not find persuasive the argument that 600 Land’s use fit more squarely under the zoning ordinance’s definition of a “scrap metal, junk or salvage storage or operation...” which does require a special use permit.

600 Land, Inc. v. Metropolitan Board of Zoning Appeals of Marion County, 2008 WL 2580837 (Ind. 6/30/2008).

The opinion can be accessed at: <http://www.in.gov/judiciary/opinions/pdf/06300801fsj.pdf>

The oral argument can be viewed at:

http://realvideo.ind.net:8080/ramgen/real/SupremeCourt/12202007_0945am.rm

Search Zoning Ordinance:

Blaine, Minnesota

Search Results for *truck terminal*

[Return to Zoning Ordinance](#) |

- [Truck Terminal](#)

A building or area in which freight brought by motor truck is assembled, stored, and/or transferred for routing in intrastate or interstate shipment by motor truck. (4-20-89. Ord. 89 1135)



**Level I – Site Alteration
Development Review Application
Portland, Maine**

Planning and Urban Development Department
Planning Division

7/14/11
3:05 PM

Portland's Planning and Urban Development Department coordinates the development review process for site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Level I: Site Alteration site plan.

Level I: Site Alteration Development includes:

- Alteration of a watercourse or wetland as defined in Section 14-47 of the City Code.
- Alteration of a site. The disturbance of land areas of less than one (1) acre that are stripped, graded, grubbed, filled or excavated. The Planning Authority shall exempt from review the loam and seeding of lawns and the cumulative placement of less than fifteen (15) cubic yards of fill on any lot provided such loaming or placement does not alter a drainage course, swale, wetland or redirect water onto adjoining property and does not violate any other provision of the Portland City Code or state or federal law. "Disturbed area" does not include routine maintenance, but does include re-development and new impervious areas.
- The construction of any temporary or permanent parking area, paving of existing unpaved surface parking areas between 1,000 and 7,500 square feet, or creation of other impervious surface areas between 1,000 and 7,500 square feet.
- The rehabilitation or reconstruction, but not new construction, of piers, docks, wharves, bridges, retaining walls, and other structures located within the shoreland zone.
- A site alteration in which vehicle access is proposed from more than one (1) street;

The Land Use Code (including Article V), the Technical Manual, and the Design Manual are available on the City's web site at <http://www.portlandmaine.gov/planning/default.asp> or copies may be purchased at the Planning Division Office.

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

7/14/11

PROJECT NAME: PEAKS ISLAND FUEL

PROPOSED DEVELOPMENT ADDRESS:
512 ISLAND AVE, PEAKS ISLAND, ME 04108

PROJECT DESCRIPTION:
UTILIZE COMMERCIAL PROPERTY FOR PARKING OF DELIVERY AND SERVICE TRUCKS, FILL IN SITE AND ADD TWO DRIVEWAYS

CHART/BLOCK/LOT: MAP 90, BLOCK AA, LOTS 1, 2 AND 5

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: KEITH IVERS Business Name, if applicable: PEAKS ISLAND FUEL Address: BOX G City/State: PEAKS ISLAND, ME Zip Code: 04108	Applicant Contact Information Work # 207-749-5700 Home# 207-749-5700 Cell # 207-749-5700 Fax# 207-766-2969 e-mail: VAS92@AOL.COM
Owner – (if different from Applicant) Name: Address: City/State : Zip Code:	Owner Contact Information Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Address: City/State : Zip Code:	Agent/Representative Contact information Work # Cell # e-mail:
Billing Information Name: KEITH IVERS Address: BOX G City/State: PEAKS ISLAND, ME Zip Code 04108	Billing Information Work # 207-749-5700 Cell # Fax# 207-766-2969 e-mail: VAS92@AOL.COM

7/14/11

Engineer Name: Address: City/State : Zip Code:	Engineer Contact Information Work # Cell # Fax# e-mail:
Surveyor Name: BILL AUSTIN Address: 82 ELDERBERRY LANE City/State: NEW BRUNSWICK, ME Zip Code: 04260	Surveyor Contact Information Work # Cell # 207-632-2959 Fax# e-mail: ALS2174@GMAIL.COM

APPLICATION FEES:

Check all reviews that apply. Payment may be made by Check or Cash addressed to the City of Portland.

e-plan Contact

Level I Site Alteration Site Plan <input checked="" type="checkbox"/> Application Fee (\$200.00) The City invoices separately for the following: <ul style="list-style-type: none"> • Notices (\$.75 each) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.	Fees Paid (office use) —
Performance Guarantee: A performance guarantee is required to cover all public and private site improvements.	Required
Inspection Fee: An inspection fee of 2% of the performance guarantee is due prior to the release of permits	2% of the performance guarantee

Application Check List

Refer to the application checklist for a detailed list of submittal requirements.


As of December 1, 2010, all site plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521).

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

7/14/11

This application is for a Site Plan review only, a Performance Guarantee, Inspection Fee, Building Permit Application and associated fees will be required prior to construction.

Signature of Applicant: 	Date: 5 - - 2011
---	----------------------------

Please refer to Article V, Site Plan of the City of Portland Land Use Code for detailed information concerning the City's site plan review process, thresholds and standards. Should you have any questions regarding the submittal requirements or any other aspect of the site plan review process, please contact the Planning Division.

PROJECT DATA

The following information is required where applicable, in order complete the application

Total Site Area	39093 total	22310 permeable	sq. ft.
Proposed Total Disturbed Area of the Site		4200-4500	sq. ft.
IMPERVIOUS SURFACE AREA			
• Proposed Total Paved Area	GRAVEL	4200	sq. ft.
• Existing Total Impervious Area		0	sq. ft.
• Proposed Total Impervious Area		4200	sq. ft.
• Proposed Impervious Net Change		4200	sq. ft.
PARKING SPACES			
• Existing Number of Parking Spaces			0
• Proposed Number of Parking Spaces			7
TOTAL Number of Parking Spaces			7

General Submittal Requirements – Level I Site Alteration

Applicant Checklist	Planner Checklist	Number of Paper Copies	Submittal Requirement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Completed application form.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Application fees.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Written description of project.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Evidence of right, title and interest.
<input type="checkbox"/>	<input type="checkbox"/>	1	Copies of required state and/or federal permits.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Written assessment of zoning.
<input type="checkbox"/>	<input type="checkbox"/>	1	Written description of existing and proposed easements or other burdens.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Written requests for waivers from individual site plan and/or technical standards.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Evidence of financial and technical capacity.

7/4/11

Site Plans and Boundary Survey Requirements – Level I Site Alteration

Applicant Checklist	Planner Checklist	Number of Copies	Submittal Requirement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Boundary Survey meeting the requirements of Section 13 of the City of Portland Technical Manual.
<input type="checkbox"/>	<input type="checkbox"/>	1	Site Plan Including the following:
<input type="checkbox"/>	<input checked="" type="checkbox"/>		▪ Existing structures with distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone)
<input type="checkbox"/>	<input checked="" type="checkbox"/>		▪ Location and dimension of existing and proposed paved areas.
<input type="checkbox"/>	<input checked="" type="checkbox"/>		▪ Location and details of proposed infrastructure improvements (e.g. - curb and sidewalk improvements, utility connections, roadway improvements).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Identification of and proposed protection measures for any significant natural features on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b)1. of the Land Use Code.
<input type="checkbox"/>	<input type="checkbox"/> NA		▪ Details of proposed pier rehabilitation (Shoreland areas only).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing utilities.
<input type="checkbox"/>	<input checked="" type="checkbox"/>		▪ Existing and proposed grading and contours.
<input type="checkbox"/>	<input checked="" type="checkbox"/>		▪ Proposed stormwater management and erosion controls.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Total area and limits of proposed land disturbance.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing vegetation to be preserved and proposed site landscaping.
<input type="checkbox"/>	<input checked="" type="checkbox"/>		▪ Existing and proposed easements or public or private rights of way.

Site Plan Standards for Review of Level I: Site Alteration

Level I: Site alteration plans shall only be subject to the following site plan standards, as applicable, as contained in section 14-526:

- (a) Transportation standards
- 1, 2, and 4.
- (b) Environmental quality standards
- 1. and 3.
- (c) Public infrastructure and community safety standards.
- 1.
- (d) Site design standards
- 5, 6, 8 and 9.

7/14/11

Except as provided in article III, or to conditions imposed under section 14-526(e) only, or to those submission requirements set forth in section 14-527 as relate solely thereto.



PORTLAND FIRE DEPARTMENT SITE REVIEW FIRE DEPARTMENT CHECKLIST



A separate drawing[s] shall be provided to the Portland Fire Department for all site plan reviews.

1. Name, address, telephone number of applicant.
2. Name address, telephone number of architect
3. Proposed uses of any structures [NFPA and IBC classification]
4. Square footage of all structures [total and per story]
5. Elevation of all structures
6. Proposed fire protection of all structures
 - **As of September 16, 2010 all new construction of one and two family homes are required to be sprinkled in compliance with NFPA 13D. This is required by City Code. (NFPA 101 2009 ed.)**
7. Hydrant locations



2320 Congress Street, Suite C, Portland, ME 04102 Ph: (207) 775-4200 Toll Free: (888) 775-4200

7/14/11

TO: Whom it may concern
DATE: 06/09/2011

FROM: John Pearson
RE: Keith Ivers

Please be advised that the above mentioned borrower has made application with
RELIANT MORTGAGE COMPANY for the purchase of, 512 Island Avenue, Peaks
Island, Maine.

Sincerely,

John Pearson
Loan Officer

ATTN: BARBRA

7/14/11

Exhibit A - Property Description

Certain lots or parcels of land, situated on Peaks Island in Portland, County of Cumberland and State of Maine, on the northwesterly side of Island Avenue, and bounded and described as follows:

Beginning at a point on the northwest sideline of Island Avenue, which point is ninety (90) feet southwest of the intersection of Island Avenue and Trefethen Avenue; thence northwest along land now or formerly of Donald S. Webber, a distance of sixty (60) feet to a point; thence northeast along said Webber land, a distance of ninety (90) feet, to an iron monument set in the ground on the southwest sideline of Trefethen Avenue. Said iron monument being sixty (60) feet northwest of the intersection formed by the northwest sideline of Island Avenue and Trefethen Avenue; thence northwest along the southwest sideline of Trefethen Avenue, a distance of one hundred and fifty-eight (158) feet, to a point; thence turning and running southwest along land now or formerly of Lawrence Burke, a distance of one hundred two and seven-tenths (102.7) feet, to a point; thence South 45° 47' West, along land now or formerly of Edgar B. Allen, a distance of one hundred and sixteen hundredths (100.16) feet, to a point on the north sideline of Brimmer Street; thence South 57° 23' East, along said sideline of Brimmer Street a distance of one hundred ninety-four and seventy-three hundredths (194.73) feet, to a point, which point is the intersection of the northeast corner of Brimmer Street and the northwest side of Island Avenue; thence North 50° 20' East, along the northwest sideline of Island Avenue, a distance of ninety-nine and forty-four hundredths (99.44) feet, to the point of beginning.

Meaning and intending to convey by this deed the lot numbered 1 on a plan by Raymond J. Mercer for Wendell P. Wright dated June 2, 1964, and recorded in the Cumberland County Registry of Deeds in Plan Book 69, Page 16, to which plan reference is hereby made for a more accurate description.

Reference may also be made to a deed from Howard to Wright, dated March 31, 1964, in said Registry of Deeds in Book 2812, Page 161. This deed herein conveyed also includes land conveyed to Grantors from D. Webber, said deed dated July 12, 1978, in said Registry of Deeds in Book 4259, Page 76.

1557 DEC 31 AM 9:42

SECURITY
J. R. ...



7/14/11

**Offer to Purchase Real Estate
THIS OFFER TO PURCHASE REAL ESTATE dated this 9th day of May, 2011
IS MADE BY:**

**Keith Ivers/ Peaks Island Fuel Co.
OF THE FIRST PART
TO
Nancy L. Wright and Joseph D. Wright
OF THE SECOND PART**

BACKGROUND

The Buyer wishes to submit an offer to purchase a certain completed home from the Seller under the terms stated below.

IN CONSIDERATION OF and as a condition of the Seller selling the Property and the Buyer purchasing the Property (collectively the "Parties") and other valuable consideration the receipt of which is hereby acknowledged, the Parties to this Offer to Purchase Real Estate agree as follows:

Real Property

1. The legal description of the Property is as follows: City of Portland Real Estate Assessed Property Description 90-AA-1-2-5

Recorded at the Cumberland County Registry of Deeds

Deed Number 75916
Book 11103
Page 239

Certain lots or parcels of land situated at Peaks Island in Portland Maine on the Northwesterly side of Island Avenue and bounded and described as follows: Beginning at a point on the northwest sideline of Island Avenue, which point is NINETY (90) Feet Southwest of the intersection of Island Avenue and Trefesthen Avenue; thence Northwest along land now or formally of Donald S. Webber, a distance of SIXTY (60) Feet, to a point; thence Northeast along said Webber land a distance of NINETY (90) Feet to an iron monument set in the ground on the Southwest sideline of Trefethen Avenue. Said iron monument being SIXTY (60) Feet Northwest of the intersection formed by the Northwest sideline of Island Avenue and Trefethen Avenue; thence Northwest along the Southwest sideline of Trevethen Avenue a distance of ONE HUNDRED and FIFTY-EIGHT (158) Feet, to a point; thence turning and running Southwest along land now or formerly of Lawrence Burke a distance of ONE HYNDRED TWO and SEVEN-TENTHS (102.7) Feet, to a point; thence South 45 Degrees 47 Degrees West along land now or formerly

7/14/11

of Edgar B. Allen, a distance of ONE HUNDRED and SIXTEEN-HUNDRETHS (100.16) Feet, to a point on the North Sideline of Brimmer Street a distance of ONE HUNDRED NINETY-FOUR and SEVENTY-THREE HUNDRETHS (194.3) Feet, to a point, which point is the intersection of the Northeast corner of Brimmer Street and the Northwest side of Island Avenue; thence North 50 Degrees 20 Degrees East along the Northwest sideline of Island Avenue a distance of NINET-NINE and FOURTY-FOUR HUNDRETHS (99.44) Feet, to the point of beginning.

Sales Price

2. The total purchase price of \$280,000.00 (the "Purchase Price") that is to be paid for the Property by the Buyer is payable as follows:
 - a. The initial earnest money deposit (the "Deposit") accompanying this offer is \$5,000.00. The Deposit will be paid by cash on or before June 1, 2011. The Deposit will not be held in escrow and is nonrefundable after June 1st, 2011. The deposit will be credited to the Buyer.
 - b. The balance of the Purchase Price will be paid in cash or equivalent in financing at closing unless otherwise provided in this Offer. The balance will be subject to adjustments.

Closing & Possession

3. The Closing Date will be on or be prior to August 31, 2011, at which point the Buyer will take possession of the Property.

Conditions

4. The Buyer's obligation to purchase the Property is contingent upon: The Buyer obtaining third party financing. The application for this loan will be completed with a lender acceptable to the Buyer within 30 days of the acceptance of this Offer.

Waiver

5. All contingencies under the header entitled "Conditions" in this Offer may be waived if the Parties sign a written waiver indicating their intention.

Notices

6. All notices pursuant to this Offer must be written and signed by the respective party or its agent and all such correspondence will be effective upon it being mailed, delivered, or transmitted by facsimile as follows:

Buyer

Address: 512 Island Avenue Peaks Island, Maine 04108

Seller

Address: 146 Pond Road Bridgton, Maine 04009

Severability

7. If any terms or provision of this Offer will, to any extent, be determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Offer will not be affected and each unaffected term and provision of this Offer will remain valid and be enforceable to the fullest extent permitted by law.

Interpretation

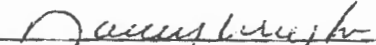
8. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Offer. Words in the singular mean and include the plural and vice versa. Words in the masculine gender mean and include the feminine gender and vice versa. Words importing persons include firms and corporations and vice versa.

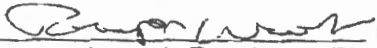
Time of Essence


9. Time is of the essence in this Offer. Every calendar day except Saturday, Sunday or US national holiday will be deemed a business day and all relevant time periods in this Offer will be calculated in business days. Performance will be due the next business day, if any deadline falls on a Saturday, Sunday or US national holiday. A business day ends at 5 p.m. local time in the time zone in which the Property is situated.

Buyer's Offer

10. This is an offer to purchase the Property on the above terms and conditions. The Seller has the right to continue to offer the Property for sale and to accept any other offer at any time

Seller:  Date: 5/17/11
Seller's Name: Nancy L. Wright Phone: (207) 650-6457
Address: 146 Pond Road Bridgton, Maine 04009
Marital status: Single Married Separated Divorced Co-ownership
Social security #: 2028

Seller:  Date: 5/17/11
Seller's Name: Joseph D. Wright Phone: (207) 766-2773
Address: 498 Island Avenue Peaks Island, Maine 04108
Marital status: Single Married Separated Divorced Co-ownership
Social security #: 3528

Buyer(s):  Date: 5/19/11
Buyer's Name: Keith Ivers
Address: 512 Island Avenue Peaks Island, Maine 04108

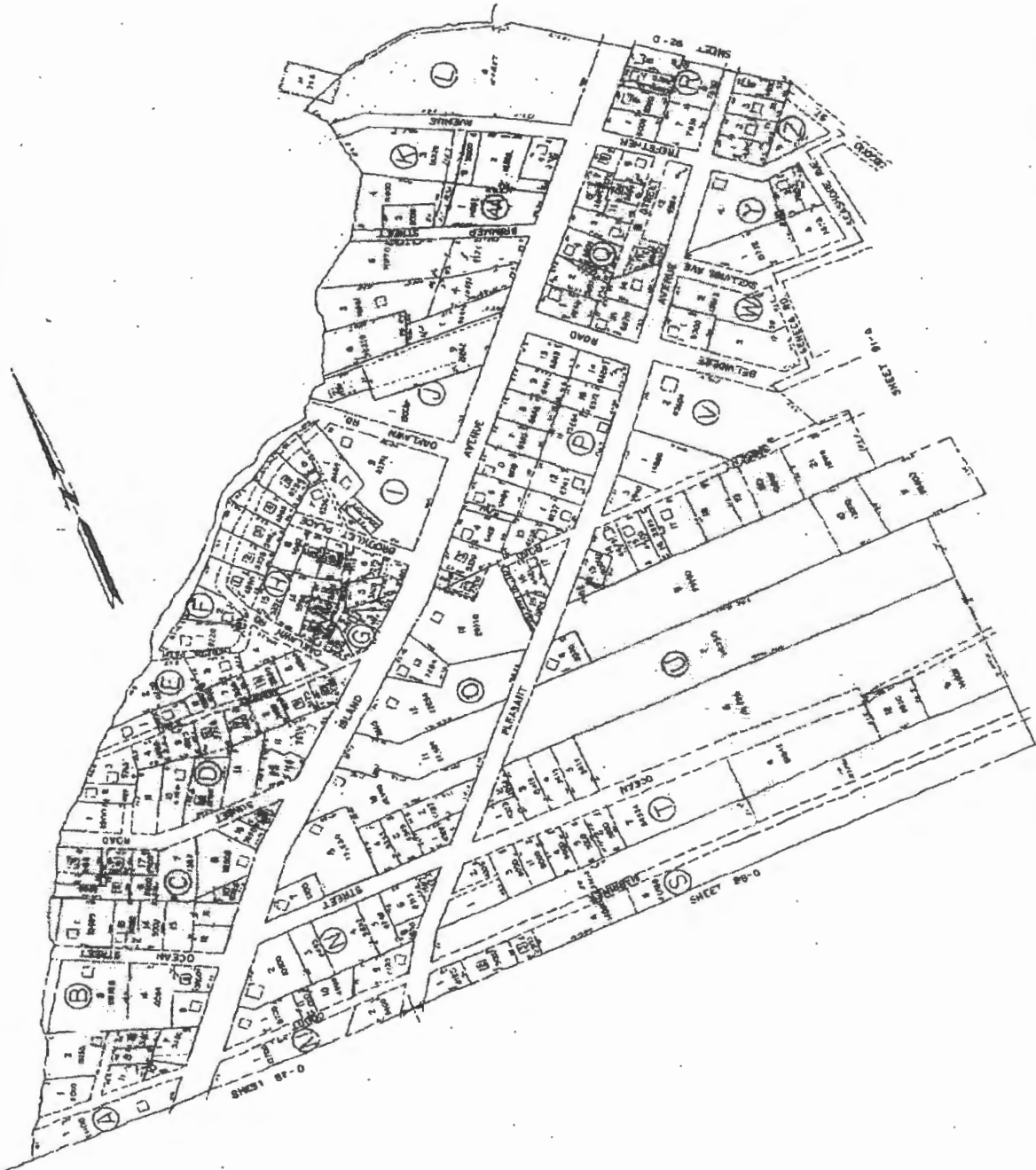
Marital status: Single Married Separated Divorced Co-ownership

Social security #: 007-76-4094

7/14/11

No 90
PEAKS ISLAND

CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 100'
REURAMBY 0-76



0-18 168NS

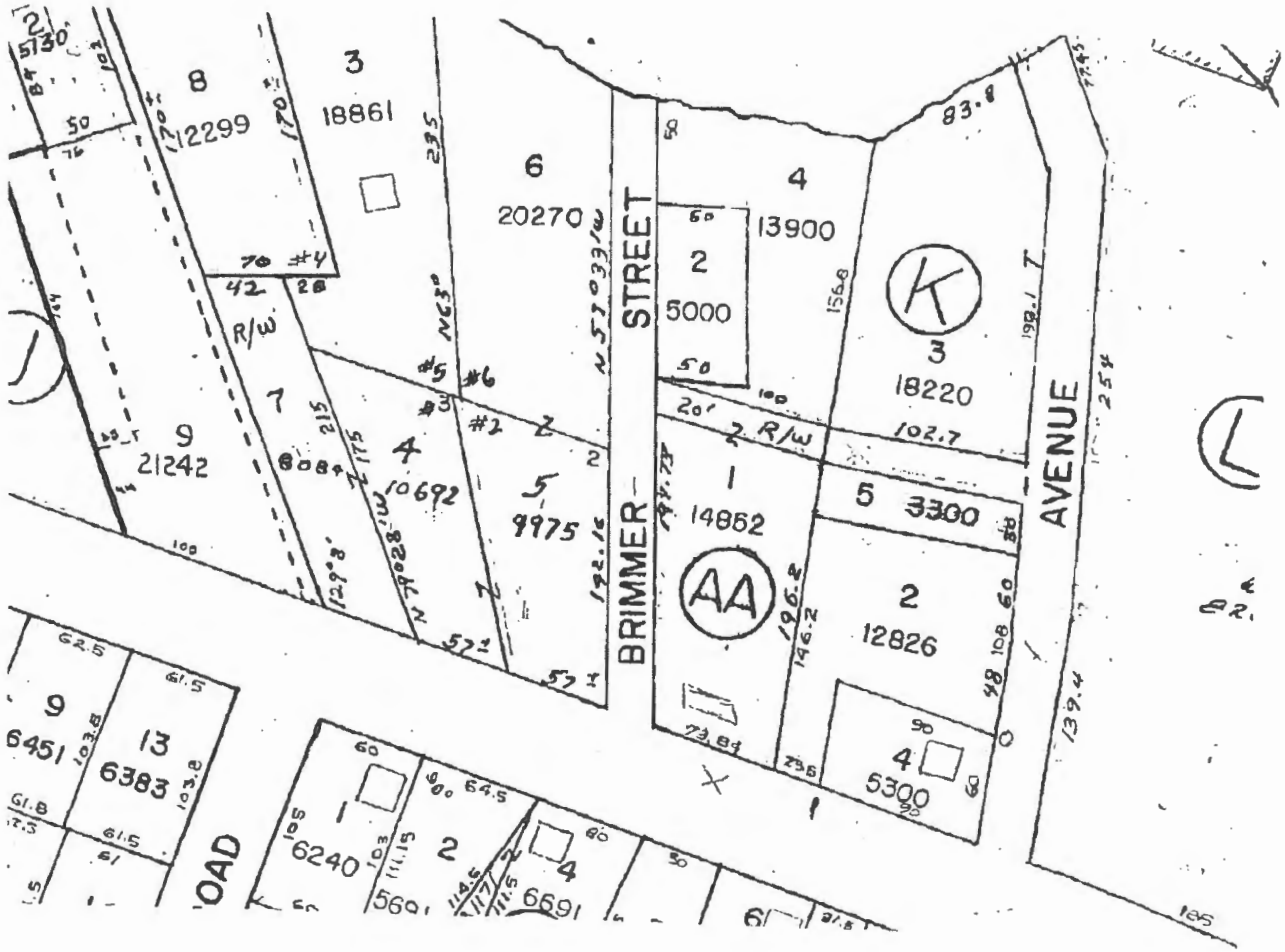
0-88 137NS

SHEET 91-0

SHEET 92-0

MRP 090

7/14/11



Marge Schmuckal - 512 Island Avenue PI

From: Marge Schmuckal
To: Barbara Barhydt ; Eric Giles
Date: 8/8/2011 11:04 AM
Subject: 512 Island Avenue PI
CC: Penny St. Louis

Just a heads up.

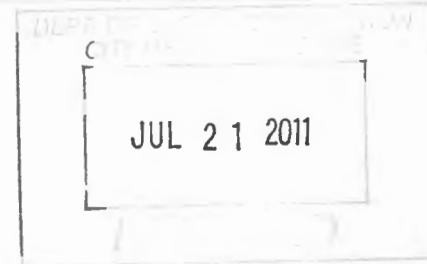
This morning I received an eleven page letter from David Lourie who is representing opponents to Keith Ivers parking lot. I will distribute copies to everyone. One key information point. I have not yet made a specific determination on the use yet. I was waiting for revised plans from the applicant. I am not aware that those plans have come in yet. It is interesting that David L. is already arguing his case about the use.

Marge

Marge Schmuckal - 512 Island Ave. Zoning Letter to Marge

From: Eric Giles
To: Barhydt, Barbara; Schmuckal, Marge
Date: 7/21/2011 12:35 PM
Subject: 512 Island Ave. Zoning Letter to Marge

>>> <vas92@aol.com> 7/21/2011 10:06 AM >>>

**PEAKS ISLAND FUEL**

P.O. BOX 104 PEAKS ISLAND, ME 04108

207-766-5700

Dear Marge,

I have read and reviewed sections 14-339, 14-340 and 14-341 in order to supply you with further information on the use of the proposed parking area at 512 Island Ave.

In regards to section 14-339, since the proposed lot is for (7) spaces but does not allow for any of the vehicles to be parked within ten (10) feet of any street line in any direction. The parking lot itself will not abut a residential zone or a lot in residential use but the I-B zone that the proposed lot will be on does on the South side of the lot where it abuts my residence and on the East side where it abuts Mr. Haykals lot. As shown on the plans a sapling fence will extend between the proposed parking area and the abutting lots. The sapling fence will be no less than forty-eight inches in height and well maintained by Peaks Island Fuel. I have a very reputable and local landscape architect who has prepared the landscape plans for me.

In regards to section 14-340, since the proposed parking area is for seven (7) spaces I have taken into consideration for the following: there are no public sidewalks that will need to be crossed. The plans show the appropriate area that the lot will allow for maneuvering the vehicles on the proposed lot and where the driveway from the lot to the street will be. No artificial lighting will be installed on the lot. And the surface of the lot and its construction are all detailed on the refined engineering plans which also show the landscaping additions.

In regards to section 14-341, since the proposed parking area is for seven (7) spaces the aisle area for access to these spaces will be from one side and in excess of the total vehicle length to be parked there. These dimensions can be seen on the engineering plan as well.

I hope this answers your questions so you can make a determination on zoning compliance for the proposed lot. This lot is strictly for private use by my business and I hope that if you have any further questions you will let me know. I have provided you with answers that were carefully thought out and researched as my families home is on the line for this project. Thank you again for all your help and understanding on this project.

Best regards,

Keith Ivers

Marge Schmuckal - Fwd: Neighborhood Contact Re: 512 Island Avenue Level 1 Alteration

From: Alex Jaegerman
To: Penny St. Louis
Date: 7/8/2011 2:49 PM
Subject: Fwd: Neighborhood Contact Re: 512 Island Avenue Level 1 Alteration
CC: Barbara Barhydt; Danielle West-Chuhta; Eric Giles; Marge Schmuckal; ...

Penny:

The ad hoc group of islanders offered to coordinate their communications with the Planning Office, which they have agreed to do via Fred O'Keefe. We will also take contact information from anyone else who requests to be kept informed.

We are intending to keep the islanders informed of progress as the review unfolds, including the zoning determination by Marge, availability of subsequent submissions, and decisions on the site plan.

Alex.

>>> "Fred O'Keefe" <fokeefe@fsog-llc.com> 7/5/2011 10:17 AM >>>

Dear Alex,

First, I want to thank you for your patience during your visit to Peaks Island last Friday. As you saw over 50 neighbors and islander were there, a few in support of the application but mostly neighbors who received the City notice that are against the planned usage of the property.

You suggested that a central point of contact be established. I am that person. So, if you would be so kind as to keep me informed as to your progress as much as you can do so I will pass this information on to the neighbors and property abutters.

My email is: fokeefe@fsog-llc.com

My address is: 512 Pleasant Avenue.

My telephone is: 766-2300

Thank you again,

Fred O'Keefe

Marge Schmuckal - Re: DEP Defined "parking versus storage"; Ref: 512 Island Ave, Peaks Island Application

From: Alex Jaegerman
To: Barbara Barhydt; Eric Giles; Fred O'Keefe
Date: 7/25/2011 9:17 AM
Subject: Re: DEP Defined "parking versus storage"; Ref: 512 Island Ave, Peaks Island Application
CC: John Funk; jgullive@maine.rr.com

Thanks, Fred.

I'll pass this information along to Marge Schmuckal for her consideration in the zoning determination.

Alex.

Alexander Jaegerman, AICP
 Planning Division Director
 389 Congress Street, Suite 400
 Portland, ME 04101

Phone: (207)874-8724

>>> "Fred O'Keefe" <fokeefe@fsog-llc.com> 7/25/2011 9:03 AM >>>

Alex,

I recently received a email from W. David McCaskill, P.E., Senior Environmental Engineer, Division of Technical Services, Bureau of Remediation and Waste Management, Maine Department of Environmental Protection. Here is a quite from that email.

quote
 "Butch (Bowie) also spoke with Keith Ivers, the owner of the proposed facility on Peak's Island on 7/7/2011. They discussed the federal requirement for an SPCC Plan and spill prevention features for his facility if he is to store oil in excess of 1,320 gallons in storage tanks or in his delivery trucks if they are to be parked at the site overnight or longer with product in them."

The reason I am making reference to this email statement is to draw your attention specifically to that portion of the statement where he states; "if he is to store oil in excess of 1,320 gallons in storage tanks or in his delivery trucks if they are to be parked at the site overnight or longer with product in them."

Yes, the definition is specific to a requirement for completing the SPCC Plan but it does also specifically refer to the "storage of oil". Does this not change the intended use from "off street parking" to "terminal parking".

Island Business zoning requirements are not clear about the parking and storage of fuel oil but City industrial zoning does make reference. Since the fuel trucks, specifically the fuel oil delivery trucks, range from 2,500 to 3,000 gallons does this not beg the clarification and intent of off street parking as defined in Island Business Zoning versus terminal parking as defined in City Industrial zoning requirements?

If you would be kind enough to consider this during your review of the Site Alteration request it would be appreciated.

Thank you,

Fred O'Keefe

Marge Schmuckal - Fwd: Peaks Island Commercial/Industrial Parking

From: Barbara Barhydt
To: Giles, Eric; Schmuckal, Marge
Date: 7/21/2011 12:55 PM
Subject: Fwd: Peaks Island Commercial/Industrial Parking

fyi

>>> "Fred O'Keefe" <fokeefe@fsog-llc.com> Thursday, July 21, 2011 11:56 AM >>>
Dear Rob,

It was a pleasure to meet you the other evening following Philip Conklings very interesting and enjoyable lecture on the cultural history of the islands of Maine.

I was pleased, and agree, with your statement that the zoning on Peaks Island is "antiquated". The serious problem we now face is one of major concern in the Trefethern neighborhood which, if approved by the City of Portland, would allow the parking of oil and propane fuel truck as well as associated service vehicles. The zoning on Peaks Island falls into two categories, residential and business only. Although the 4,200 sf of proposed parking is currently in an "antiquated" business zone (one that has not been used for any type of business for over 30 years) should Portland allow the construction of the parking facility it will caused the neighborhood to change forever not only culturally but eventually will have a contaminated runoff effect on the environment and the nearby waters of Casco Bay.

I can understand your position of not involving the Island Institute in this specific current island political position. However, part of the resolution to this problem lies directly in the zoning on Peaks Island and what it does and does not allow. Peaks Island is constantly changing and as such so goes the cultural, environmental and yes, business impacts on the island. This particular situation may, I truly hope, be a catalyst for change. Younger families want to move, raise families and live in true island neighborhoods that don't have commercial vehicles parked on the street or in areas that are not conducive to neighborhood living. They do want to start business on the Island but are hampered by issues such as our zoning laws permit and as such are sometimes being forced by zoning to locate their business in areas of the island that are simply not conducive and out of place. Consequently things like property values, safety and environmental issues all contribute to the cultural impact which is the concern of the Island Institute.

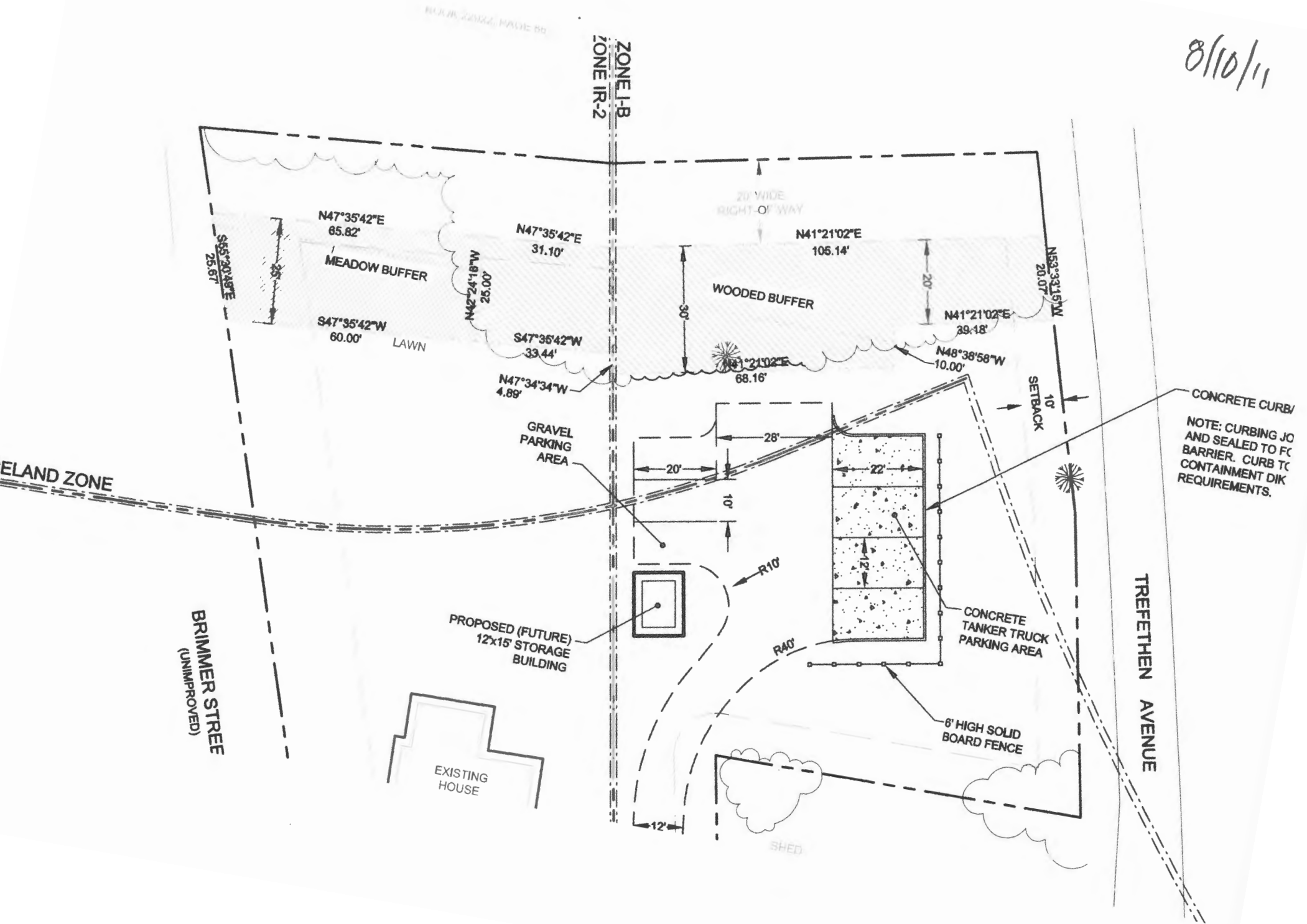
In this instance, if there were a part of the island that would allow for the proper parking and storage of oil/propane vehicles and other commercial island businesses it would be a tremendous advantage in solving not only this particular situation but other commercial businesses that also have no place to park their vehicles.

I would be interested in knowing how and what the Island Institute can do to assist in solving this extremely important and time sensitive issue. I am also hoping that the City of Portland Planning Department is open to the changes that are necessary now and will be in the future and that further issues such as this can be avoided. I use to tell me companies sales staff, "When you have a willing buyer and a willing seller, everything is possible". I hope this is the case.

Again, it was a pleasure meeting you and I hope to hear from you soon.

Fred O'Keefe

8/10/11



8/10/11

STORMWATER MANAGEMENT PLAN

Peak's Island Fuel Peak's Island, Maine

The following Stormwater Management Plan has been prepared for Peak's Island Fuel to evaluate stormwater runoff and erosion control for the proposed parking lot and future storage building to be located off Island Avenue in Peak's Island, Maine.

Site Calculations

Total Property Area	0.78 Ac (+/-) (34,171 SF)
Total New Impervious Area	0.11 Ac (4,907 SF)
Total Disturbed Area	0.28 Ac (12,500 SF)

Existing Conditions

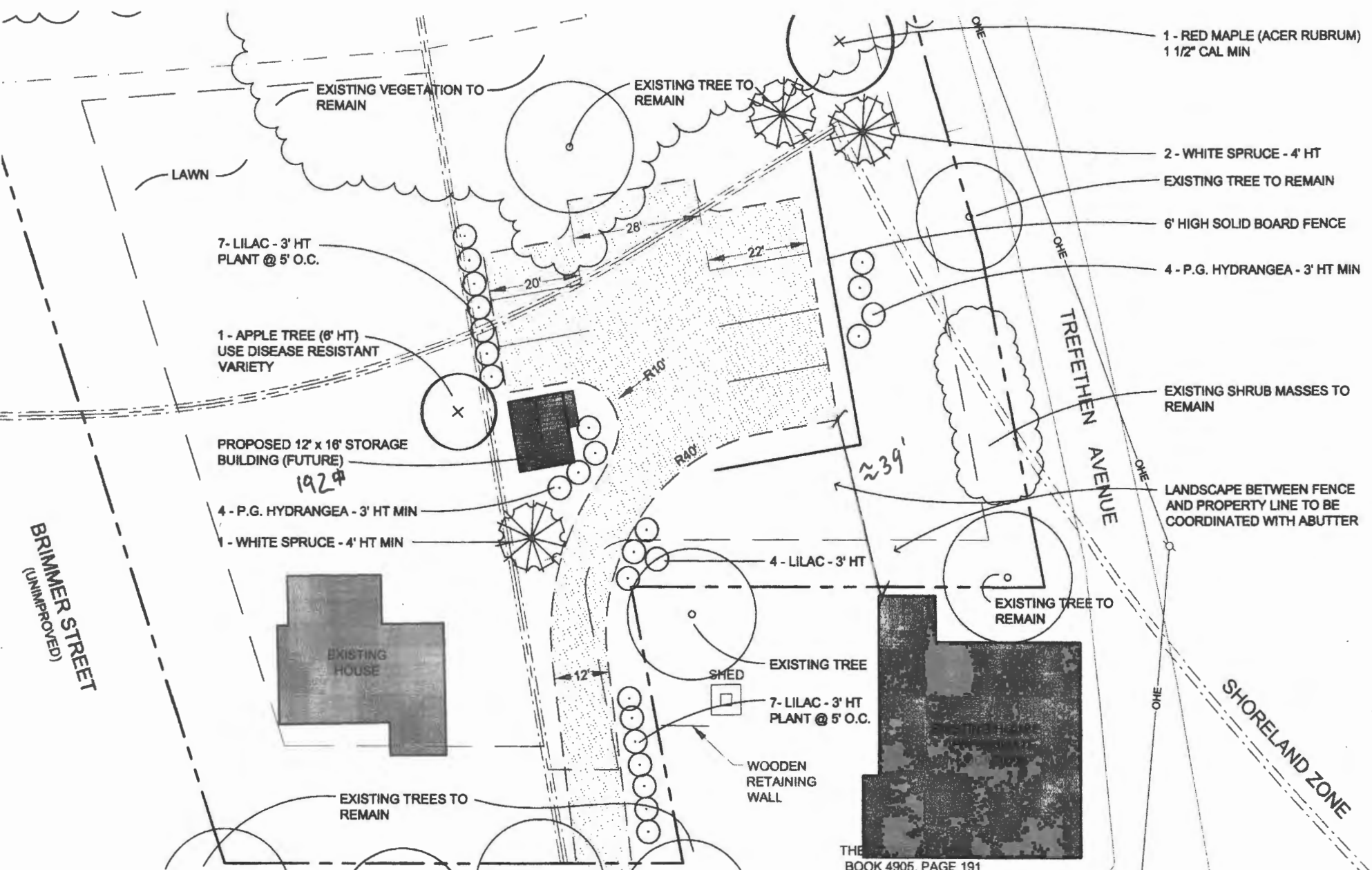
The development property is approximately 0.78 AC and contains a single family home, a lawn and is wooded in the rear of the property. The lower end of the site is between 150'-200' away from Casco Bay and has frontage on the north side of Island Avenue, the west side of Trefethen Avenue and the east side of the unimproved Brimmer Street right-of-way. The property surrounds a small single family house lot that is located on the northwest corner of the Island Avenue/Trefethen Avenue intersection.

The property generally drains from a high point at the Island Avenue/Trefethen Avenue intersection to the lowpoint in the northwest corner of the lot. The top half of the lot contains slopes that are generally between 8%-10%. The lower half is generally between 3%-5%. The property drains to a ditch that runs down the Brimmer Street right-of-way and flows into Casco Bay. A copy of the U.S.G.S. Quadrangle Map (Portland East) is attached to this submittal.

Proposed Development

Peak's Island Fuel is proposing to add a parking lot, gravel access drive, future storage building and landscaping to the property. The new parking lot will be able to fit 4 - 2,800 gallon fuel trucks as well as 3 passenger-car-sized service vehicles. The drive aisle has been sized to allow for easy maneuverability. The fuel trucks will be parked on a curb-lined concrete pad. The curbing joints will be grouted to provide a watertight seal and the pad will serve as secondary containment dike for any potential fuel leaks. The containment area will be drained via a threaded 2" pvc pipe. The containment dike offers enough storage to fully contain all small storm events. The gravel parking area and access drive will drain to a new ditch turnout level spreader/buffer area. The runoff from the neighboring residence as well as portions of Island Avenue will be intercepted

17 vehicles



1 - RED MAPLE (ACER RUBRUM)
1 1/2" CAL MIN

2 - WHITE SPRUCE - 4' HT

EXISTING TREE TO REMAIN

6' HIGH SOLID BOARD FENCE

4 - P.G. HYDRANGEA - 3' HT MIN

EXISTING SHRUB MASSES TO REMAIN

LANDSCAPE BETWEEN FENCE AND PROPERTY LINE TO BE COORDINATED WITH ABUTTER

EXISTING TREE TO REMAIN

EXISTING TREE

7 - LILAC - 3' HT PLANT @ 5' O.C.

WOODEN RETAINING WALL

EXISTING VEGETATION TO REMAIN

EXISTING TREE TO REMAIN

7 - LILAC - 3' HT PLANT @ 5' O.C.

1 - APPLE TREE (6' HT) USE DISEASE RESISTANT VARIETY

PROPOSED 12' x 16' STORAGE BUILDING (FUTURE)

4 - P.G. HYDRANGEA - 3' HT MIN

1 - WHITE SPRUCE - 4' HT MIN

EXISTING HOUSE

EXISTING TREES TO REMAIN

BRIMMER STREET
(UNIMPROVED)

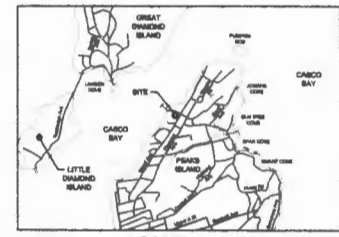
TREFETHEN AVENUE

SHORELAND ZONE

LEGEND

- EXISTING PROPERTY LINE
- - - - PROPOSED PROPERTY LINE
- - - - EXISTING SETBACK LINE
- - - - EXISTING SUBSEMENT
- - - - PROPOSED SUBSEMENT
- - - - EXISTING EDGE OF PAVEMENT
- - - - EXISTING EDGE OF GRAVEL
- - - - PROPOSED EDGE OF GRAVEL
- - - - EDGE OF WATER
- - - - EXISTING TREE LINE
- - - - PROPOSED TREE LINE
- ===== 4" HIGH FENCE
- ===== 2" HIGH FENCE
- ===== 1" HIGH FENCE
- ===== EXISTING BUILDING
- ===== PROPOSED BUILDING
- ===== PROPOSED GRAVEL
- ===== PROPOSED CONCRETE PAD
- ===== MEADOW BUFFER
- ===== WOODED BUFFER

CASCO BAY



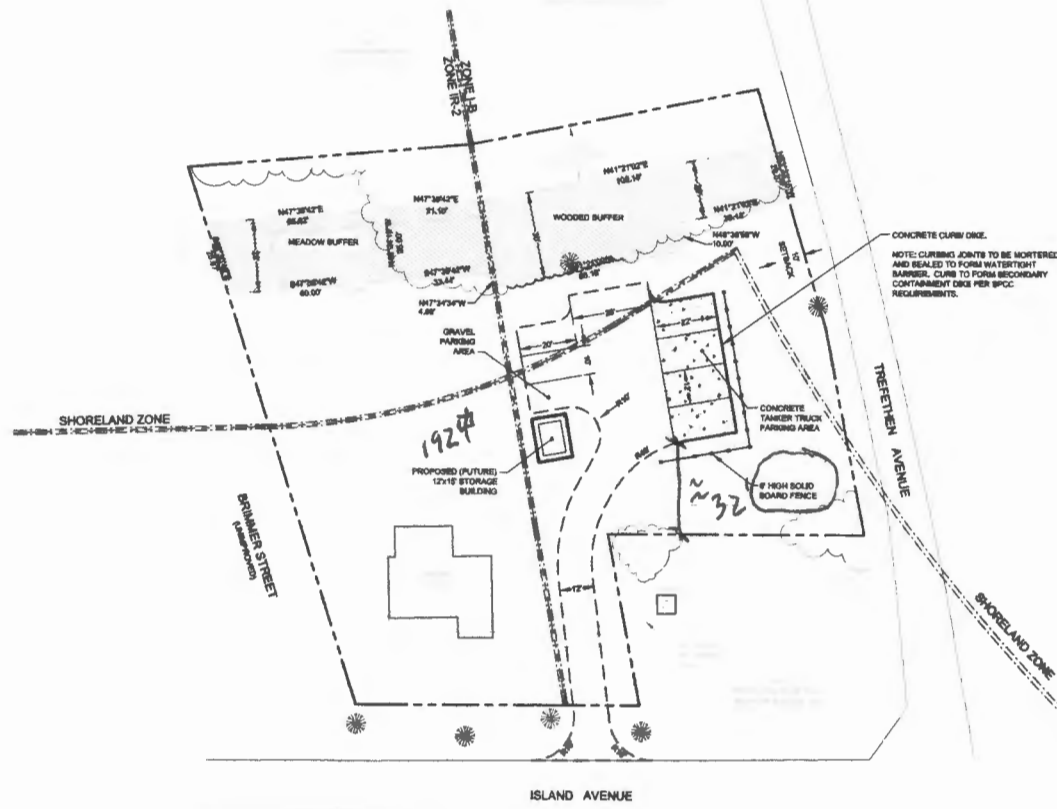
LOCATION MAP

BUFFER RESTRICTIONS:

- Restrictions on Paved Buffer Area.** The Restricted Buffer Area must remain unpaved and in perpetuity. To maintain the utility of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Stormwater Management Law, the use of the Restricted Buffer Area is hereinafter defined as follows:
 - No soil, loam, sand, gravel, concrete, rock or other material substances, refuse, trash, vehicles, trailers or parts, rubbish, debris, junk waste, pollutants or other fill material may be placed, stored or dumped on the Restricted Buffer Area, nor may the topography of the area be altered or manipulated in any way.
 - Any removal of trees or other vegetation within the Restricted Buffer Area shall be limited to the following:

Diameter of tree at 4 1/2 feet above ground level (inches)	Quantity
2 - 4 inches	1
4 - 6 inches	1
6 - 8 inches	1
8 - 12 inches	1
12 - 18 inches	1

 When existing trees and other vegetation shall be removed, the removal shall be limited to the following:
 - No woody stems, ground cover vegetation, leaf litter, canopy, shell layers or material will be allowed except that one walking path, that is no wider than six feet and that does not provide a through driveway or ramp, is allowed through the area.
 - No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area, except for a sign, utility pole or tower.
 - No trucks, cars, off-highway vehicles, bulldozers, backhoes, or other vehicles or equipment may be used on the Restricted Buffer Area.
 - Any level of compaction exceeding two feet in the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.
- Restrictions on Meadow Buffer Area.** The use of the Restricted Buffer Area is hereinafter defined as follows:
 - No soil, loam, sand, gravel, concrete, rock or other material substances, refuse, trash, vehicles, trailers or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Restricted Buffer Area, nor may the topography or the natural undisturbed soil of the area be altered or manipulated in any way.
 - A three centimeter grassy vegetation must be maintained over the Restricted Buffer Area, except that refuse, trash and other woody vegetation may also be placed or allowed to grow in the area. The Restricted Buffer Area may not be maintained as a lawn or used as a garden. If vegetation in the Restricted Buffer Area is mowed, it may be done no more than two times per year.
 - No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area, except for a sign, utility pole or tower.
 - No trucks, cars, off-highway vehicles, bulldozers, backhoes, or other vehicles or equipment may be used on the Restricted Buffer Area, except for vehicles used in mowing.
 - Any level of compaction exceeding two feet in the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.
- Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these restrictions is prohibited.** Any future alterations or changes to use of the Restricted Buffer Area must receive prior approval in writing from the City of Portland. The City may approve such alterations and changes to use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.



NOTE: CURBING JOINTS TO BE MONITORED AND SEALED TO FORM WATER-TIGHT BARRIER. CURBS TO FORM SECONDARY CONTAINMENT ONE PER SPEC. REQUIREMENTS.

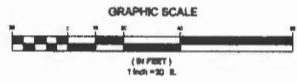
GENERAL NOTES:

- BOUNDARY & TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED UPON A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY BY AUSTIN LAND SURVEYING ENTITLED "PLAN SHOWING A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY MADE FOR KEITH IVINS", DATED APRIL 25, 2011.
- SEE THE PLAN REFERENCED IN NOTE #1 FOR THE RECORD OWNER INFORMATION.
- THE PROPERTY IS SHOWN AS LOTS 1, 2 & 3 (BLOCK AA) ON THE CITY OF PORTLAND TAX MAP 80 AND IS LOCATED IN THE ISLAND RESIDENTIAL 2 & ISLAND BUSINESS DISTRICTS.
- BOUNDARY & TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED UPON A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY BY AUSTIN LAND SURVEYING ENTITLED "PLAN SHOWING A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY MADE FOR KEITH IVINS", DATED APRIL 25, 2011.
- SPACE AND RULE INFORMATION

ISLAND RESIDENTIAL-2Z	
MIN. LOT SIZE:	MIN. LOT OF RECORD
MIN. STREET FRONTAGE:	MIN. LOT OF RECORD
MIN. FRONT SETBACK:	30 FT
MIN. SIDE SETBACK:	30 FT
MIN. SIDE SETBACK ON SIDE STREET:	20 FT
MIN. REAR SETBACK:	20 FT
MAX. LOT COVERAGE:	20%
MAX. BUILDING HEIGHT (ACCESSORY DETACHED):	10 FT

ISLAND BUSINESS-2B:	
MIN. LOT SIZE:	MIN. LOT OF RECORD
MIN. STREET FRONTAGE:	MIN. LOT OF RECORD
MIN. FRONT SETBACK:	30 FT
MIN. SIDE SETBACK:	10 FT
MIN. SIDE SETBACK ON SIDE STREET:	10 FT
MIN. REAR SETBACK:	10 FT
MAX. LOT COVERAGE:	80%
MAX. BUILDING HEIGHT (ACCESSORY DETACHED):	10 FT

6. PARKING CALCULATION:
 REQUIRED PARKING SPACES (1400 SF) = 4.6 SPACES
 PROPOSED PARKING SPACES = 7 SPACES



STATE OF MAINE
 COUNTY 88 REGISTRY OF DEEDS
 RECEIVED _____ 2011
 AT _____ M. AND RECORDED IN
 PLAIN BOOK _____ PAGE _____
 ATTORNEY _____ REGISTRAR _____



REV.	DATE	DESCRIPTION

F.O. No. 239
 111 E. 11th St.
 Portland, ME 04102
 Phone: (207) 532-5111
 Fax: (207) 532-5112
 www.terradynt.com



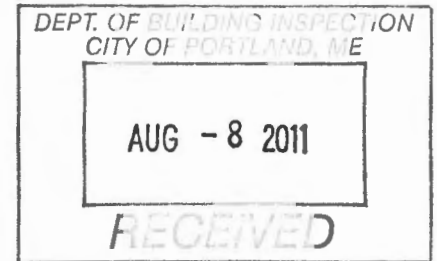
PROJECT DESCRIPTION	PEAKS ISLAND FUEL
PREPARED FOR	PEAKS ISLAND FUEL
DATE	11/28/11
SCALE	1"=20'
JOB NO.	1128
SHEET	1
TOTAL SHEETS	4

LAW OFFICES OF DAVID A. LOURIE
189 Spurwink Avenue
Cape Elizabeth ME 04107
and
97 India Street, Portland ME 04101
(207) 799-4922 * fax 221-1688
david@lourielaw.com

Advance copy via e-mail
August 7, 2011



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



Re: Prohibited Use - Keith Ivers - Peaks Island Fuel CBL:112-H-1

Dear Marge:

I am following up on our brief discussion last week concerning the Ivers proposal to store seven (7) trucks carrying fuel on property in the Island Business (I-B) district. I have since been retained by abutters and neighbors who oppose this use at this location. I am limiting this letter to the threshold issue of consistency of the proposed use with the zoning restrictions applicable to the location.

Since discussing the project with you, I reviewed the site plan file at the planning office. In reviewing your memo (identifying various zoning sections applicable to the site planning issues) I noted the absence of any discussion as to whether the fuel truck storage use (a fuel truck terminal) was permitted in the I-B zone. Perhaps this was intentional, as you indicated that you had not made any zoning determinations when we spoke, and it is not yet clear exactly what kinds of fuel are involved, and what activities "accessory to" the storage of the trucks are contemplated. Hopefully, Mr. Ivers will make these uses clear in subsequent submissions if that is necessary for you to make a decision as to whether the fuel truck storage activity qualifies as "off-street parking" or not. I am writing to briefly raise the zoning "use" issue at this time, as my clients feel strongly that a fuel truck terminal was not intended as a permitted use in the I-B Zone. Looking at the ordinance as a whole,¹ I believe them to be correct, and that an early decision on

¹ If this change of use is approved, the City must condition its approval upon storage only, and should expressly prohibit related activities presently occurring at Mr. Ivers' various locations. (I

Marge Schmuckal, Zoning Administrator

Re: Prohibited Use - Keith Ivers - Peaks Island Fuel CBL:112-H-1

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this critical issue would be beneficial to all concerned.

The first point to be considered is that the proposed truck storage activity is almost certainly comprehended within the defined term “truck terminal” in §14-47 of the Ordinance. If the proposal were to establish this use in an industrial zone, I am certain that it would be allowed as a truck terminal. The same treatment must apply where the use is proposed in an I-B zone. Since that activity is within a defined use category, and that category is not listed as a permitted or conditional use in the I-B district, it is prohibited in that district. This result would be consistent with the Ordinance as a whole, which clearly relegates truck terminals to the city’s industrial zones, which this is not, and with other provisions and case law discussed below.

There is no definition of “parking,” or of “off-street parking,” in the definition section of the Portland Zoning Ordinance. The only definition of “off-street parking” appearing in the Ordinance is in Division 20. This definition is NOT supportive of a fuel truck terminal being “off-street parking.” “Off-street parking” is described as consisting of “open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual.² The only standards that I could find in the Manual were standards for the parking of passenger vehicles. I did not find any standards for parking spaces that were designed for the types of vehicles proposed to be stored on the property by Mr. Ivers.

Moreover, there is a definition of “truck terminal” in §14-47. The Zoning Administrator, the ZBA, and any reviewing court must interpret each of these words, in the context of the Ordinance as a whole, and in a manner which furthers the stated purposes of the ordinance - the protection of the public welfare, health, and safety. The use described by Mr. Ivers must be found to be within the definition of “truck terminal” under the rules of statutory construction.

understand that this has included the dispensing of propane, the washing of vehicles, and other activities relating to the maintenance of the trucks and a fuel business.)

² “DIVISION 20. OFF-STREET PARKING. **Sec. 14-331. Defined.** Off-street parking, either by means of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended, in addition to being a permitted use in certain zones, shall be considered as an accessory use when required or provided to serve conforming uses in any zone.”

Marge Schmuckal, Zoning Administrator

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Perhaps the most telling point *against* the proposed use (the storage of commercial vehicles for delivery of fuel off premises) being permitted as “off-street parking” is the fact that all other parking required or permitted under the ordinance is for the service, benefit, or convenience to the property where the parking occurs. Here the fuel trucks are *stored* rather than *parked*, since there is no use nexus between the placement of the trucks and the property upon which they will be placed. Your attention is directed to St. Louis County v. Taggert, 866 S.W.2d 181, 184 (Mo.App. E.D. 1993), which distinguishes between the storage of defendants' dump trucks (used in their gravel hauling business for delivery of goods and services to other locations), and the parking of vehicles for the purpose of serving the lot upon which the vehicles are parked. (This fundamental difference caused the Court to conclude *as a matter of law*, that the parking of such trucks could not be a use which served to further the successful utilization of the primary residential use. As a result, the storage of the vehicles was not an accessory use within the county's zoning ordinance.³) Although the issue here may not be whether the use is an accessory use, the distinction between *parking* to serve the premises upon which the parking occurs, and the storage of fuel trucks to serve *other* premises on Peaks Island is a crucial distinction in determining whether the placement of fuel trucks is *parking* or *storage*. If the placement is *storage* of vehicles for use elsewhere, rather than for use on the premises, the placement of the trucks cannot qualify as the “off-street parking” listed as a permitted use in the I-B zoning district. A copy of the Decision in St. Louis County v. Taggert is submitted herewith.

It is evident that the drafters of the Portland Zoning Ordinance intended the provisions concerning “off-street parking” to apply to the parking of passenger and other vehicles of persons frequenting the premises. It is unlikely that the Council intended “off-street parking” to authorize the use of property for the storage of trucks serving *other* properties. Nearly all of the provisions of the zoning ordinance referring to off-street parking are written as *requirements* that owners provide off-street parking for personal vehicles resulting from the use of the property

³ Accord, 83 Am. Jur. 2d Zoning and Planning §170, also citing City of Cuyahoga Falls v. Kobulnicky, 2002 Ohio 3742 (Ohio.App.9.Dist.Summit.Co,2002) (involving a box truck); and Wolfe v. Board of Zoning Appeals of Fairfax County, 260 Va. 7, 532 S.E.2d 621 (2000) (involving a dump truck, roll-off vehicle, stake body truck, and flatbed trailer).

Marge Schmuckal, Zoning Administrator

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where the parking is to appear. The absence of any conditional use requirement regulating “off-street parking” of truck parking as a principal use outside of the industrial zones reinforces the conclusion that the parking or storage of such trucks serving other properties (under the rubric of “off-street parking”) was neither contemplated nor intended. This conclusion is reinforced by recent regulations requiring bicycle parking on the same basis as passenger vehicles. See, Section 14-332.3 (“In all zones where off-street motor vehicle parking is required, minimum off-street bicycle parking requirements shall be provided and maintained . . .”) This provision, and the Ordinance as a whole, consistently shows that the Council thought it was dealing with the parking off-street of vehicles customarily used by the general population to visit the property where the parking occurs. (Trucks delivering goods to a property are dealt with under the “Vehicle Loading” provisions of Division 21.) There is no support in the Ordinance for the conclusion that the Council intended to allow the storage of trucks delivering goods to *other* premises where it allowed or required off-street parking. The very idea that all motor vehicles licensed by the State of Maine, regardless of type, size, weight, number can be placed on any property where “off-street parking” is permitted, including I-B zones is absurd. The Council could not reasonably have intended to make the storage of trucks to *always* be an appropriate activity in the I-B district, especially in light of the fragile environment of Portland’s islands documented in the Gerber Report on groundwater resources that formed the basis for the rezoning of the Portland Islands.

Maine zoning decisions concerning comparable land uses, such as gasoline stations, provide guidance in dealing with the claim of that a fuel truck terminal is permitted in the I-B zone as “off-street parking.” These cases hold that uses specifically defined, regulated, or prohibited in other districts in a zoning ordinance cannot be allowed as an unregulated use in a different zone.

“When a term of a zoning ordinance is ambiguous or uncertain, the court should construe that term reasonably “with regard both to the objects sought to be obtained and to the general structure of the ordinance as a whole . . . It is through consideration of the whole ordinance that the legislative intent can be ascertained . . . Our examination of the Bangor zoning ordinance convinces us that the sale of gasoline was not intended as a permitted use in a C-1 zone. The ordinance is

Marge Schmuckal, Zoning Administrator

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highly restrictive in its treatment of gasoline service stations, permitting them only as special exceptions in the heavier C-2, C-3 and C-4 commercial zones, when the applicant can demonstrate, among other things, that the health, safety, welfare and property values of the neighborhood will not be affected. Since many of the same dangers necessitating restrictions on gasoline service stations are inherent in the self-service sale of gasoline, it would be unreasonable to conclude that the sale of gasoline was intended either as the primary business of, or as a use accessory to, a grocery/superette. Otherwise, a use considered undesirable for many reasons even in heavy commercial zones would be permitted without restriction in a neighborhood commercial zone.” See, Singal v. City of Bangor, 440 A.2d 1048 (Me. 1982)⁴

The activity proposed necessarily involves the storage of fuel as well as the trucks it which it is stored and carried. The storage and dispensing of fuel is a heavily regulated business. Under the Portland Zoning Ordinance it usually occurs within the definition of “[major or minor] auto service stations” in §14-47, or at marine terminals, and is a permitted use only where expressly listed as a permitted or conditional use. Thus, both the discussion in *Singal* of the volatile nature of such storage, as well as of the overall scheme of the ordinance are precisely on point.

Moreover, the activity proposed by Mr. Ivers fits within the definition of “truck terminal” in §14-47⁵, as it includes the storage of trucks. Since this activity is clearly within the “truck terminal” use defined by the Ordinance, it is permitted only where that use is listed as a permitted use. It is not listed as “permitted” in the I-B zone. A use specifically defined by a zoning ordinance, and not listed as a permitted use in a certain zoning district cannot be found to be permitted under a *different* use listed in that district, whether as an accessory use, or as “off-street parking.” See, Cumberland Farms, Inc. v. Town of Scarborough, 1997 ME 11, 688 A.2d 914, 915. (Affirming the denial of gasoline sales as “accessory” to sales of other retail goods at Cumberland Farm’s convenience store where the zoning ordinance expressly permitted gasoline

⁴ *Singal* was overruled only on grounds of standing in Norris Family Associates, LLC v. Town of Phippsburg, 2005 ME 102, 879 A.2d 1007. The holdings quoted above are still valid.

⁵ “A building and premises devoted to handling and temporary warehousing of goods, **which may include** facilities for the maintenance and repair (except body repairs, frame straightening and painting), fueling and **storage of trucks** or tractor-trailer combinations.” (Emphasis added.)

Marge Schmuckal, Zoning Administrator

Re: Prohibited Use - Keith Ivers - Peaks Island Fuel CBL:112-H-1

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filling stations in *other* districts as a conditional use, and provided that “Any use not specifically allowed . . . shall be considered prohibited . . .,” in language nearly identical to that found in nearly every Portland zoning district regulation. The combination of the two provisions was held fatal, even though most convenience stores now sell gas as an accessory activity.) As in *Singal*, the *Cumberland Farms* Court cited the familiar rule that individual provisions must be interpreted in harmony with the overall scheme of a zoning ordinance, and to aid in the purpose of zoning to protect the public health, safety, and welfare.

The use characteristics and dangers inherent in storing fuel trucks are not comparable to the characteristics and dangers in the parking of passenger vehicles. Even if no fuel is ever dispensed, ignited, or discharged on the premises, the various risks inherent in fuel truck storage far exceed the risk to the public in parking the kind of motor vehicles usually associated with “off-street parking” of vehicles frequenting a property, whether to service a permitted or conditionally permitted residential or commercial use. It is therefore unlikely that the City Council intended to permit storage of fuel trucks in the I-B zone as an *unconditional* right. The risk to the fragile environment of Peaks Island, particularly for an area located on the edge of the shoreland zone, is too great to assume that the Council intended to allow a use relegated to industrial zones on the mainland as a “permitted use” in the I-B zoning district merely because fuel trucks are motor vehicles capable of being parked off of the city-owned street.

Any interpretation of the undefined term “off-street parking” allowing a fuel truck terminal (serving other properties on Peaks Island) would literally have Mr. Ivers driving his seven (7) trucks through an unintended loophole in the Zoning Ordinance to the detriment of public health, safety and welfare, which are among its stated purposes.

In closing, I urge you to promptly rule that the proposed use for fuel truck storage is not “off-street parking,” and that it is not a permitted use in the I-B zoning district. An early determination on the threshold zoning issue will avoid further unnecessary staff time on a proposal that cannot be approved. It will also avoid further expense to Mr. Ivers, and to the neighborhood opponents that I represent. Mr. Ivers can then concentrate his efforts on finding a conforming location for his project, or to engage in the political process (of petitioning for a zone

Marge Schmuckal, Zoning Administrator

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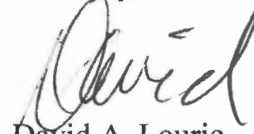
August 7, 2011

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change to conform the Ordinance to his proposed use), if he intends to pursue the project at this location.

Please advise if you have any questions concerning the above.

Sincerely,

A handwritten signature in black ink, appearing to read "David", written in a cursive style.

David A. Lourie

attachment

cc: clients

ST. LOUIS COUNTY, Missouri,
Plaintiff/Appellant,

v.

Alma Johnson TAGGERT and Michael
Taggert, Defendants/Respondents.

No. 63894.

Missouri Court of Appeals,
Eastern District,
Division One.

Dec. 7, 1993.

County sued to enjoin property owners from conduct allegedly prohibited by zoning ordinance. The Circuit Court, St. Louis County, Melvyn W. Wiesman, J., directed verdict in favor of defendants, and county appealed. The Court of Appeals, Reinhard, J., held that parking of dump trucks used in property owners' gravel hauling business on property which was zoned residential was not impliedly permitted, as use accessory to the primarily residential use of property.

Reversed and remanded.

1. Zoning and Planning ⇌231

Determination of what uses are permitted under zoning ordinance must be made based on wording of particular ordinance and context in which it occurs.

2. Statutes ⇌181(1)

Basic rule of statutory construction is to seek intention of legislators and, if possible, to effectuate that intention.

3. Statutes ⇌181(2), 188, 206

Legislative intent must be ascertained by giving words of statute an ordinary, plain and natural meaning, by considering entire act and its purposes, and by seeking to avoid unjust, absurd, unreasonable or oppressive result.

4. Zoning and Planning ⇌232

Zoning ordinances, being in derogation of common-law property rights, are to be strictly construed in favor of property owner and against zoning authority.

5. Zoning and Planning ⇌233

When term in zoning ordinance is susceptible of more than one interpretation, court is to give weight to that interpretation which, while still within confines of term, is the least restrictive upon rights of property owner to use land as he or she wishes.

6. Zoning and Planning ⇌605

Interpretation placed on zoning ordinance by body in charge of its enactment and application is entitled to great weight.

7. Zoning and Planning ⇌271

Permissive zoning ordinance is drawn to specify those uses which are permitted for particular district, and any use which is not expressly permitted in given zone or district is thereby excluded from it.

8. Zoning and Planning ⇌271

Permitted uses may be explicitly expressed in zoning ordinance, or may belong to a group of uses in generically expressed categories.

9. Zoning and Planning ⇌301

In determining whether proposed use is permissible as accessory or incidental to primary use, court must make its decision based on particular zoning ordinance at issue and context in which it occurs.

10. Zoning and Planning ⇌304.1

Parking of dump trucks used in property owners' gravel hauling business on property which was zoned residential was not impliedly permitted, as use accessory to the primary residential use of property; accordingly, where such use was not expressly permitted under permissive zoning ordinance, it had to be deemed prohibited.

Donald Jay Cohen, Asst. County Counselor, St. Louis County, Clayton, for plaintiff/appellant.

Aaron Stuart Dubin, Vines, Ross, Kraner & Rubin, P.C., Clayton, for defendants/respondents.

REINHARD, Judge.

This is an action to enforce St. Louis County's zoning ordinance. Plaintiff sought to

enjoin defendants from conduct alleged to be prohibited in a district zoned "Residential R-4". Plaintiff filed a four count petition alleging defendants had violated the county zoning ordinance by: (I) parking and/or storing commercial vehicles on the residential property; (II) storing commercial equipment and supplies on their property; (III) failing to keep their property free of litter; and (IV) using unpaved areas of their land for parking. The trial court directed verdicts in defendants' favor on counts I, III and IV, and entered judgment for plaintiff on count II. Plaintiff appeals the court's ruling on count I only. We reverse, and remand with instructions.

Defendants own and reside on property in St. Louis County zoned "Residential R-4". Don Dickey, a "Zoning and Minimum Housing Inspector" with the County, testified that he conducted three inspections of defendants' residence. Each time, Dickey saw, *inter alia*, one or two diesel tandem dump trucks parked on defendants' residential land. One truck was maroon and the other blue, and each bore the logo "Taggart Hauling". Dickey testified that on one occasion, Michael Taggart told him the trucks were used for hauling gravel.

This case involves a separate county enforcement action from our previous holding involving these parties. See *St. Louis County v. Taggart*, 809 S.W.2d 476 (Mo.App.1991). There, plaintiff sought to enjoin the defendants from storing commercial vehicles on their residential property. The trial court found no evidence that the commercial vehicles were being stored, and refused to allow plaintiff, at the close of the its case, to amend its petition to allege improper "parking" instead of improper "storing".¹ We affirmed, holding, *inter alia*, that plaintiff was not entitled to amend its petition in order to conform to evidence that the vehicles had been parked, rather than stored, in violation of the zoning ordinance. The instant case, as noted, involves a separate enforcement action and evidence gathered postdates the previous action.

1. There is a legal distinction between storage and parking: parking connotes transience, while storage denotes a certain degree of permanency.

The issue in this case is whether defendants' parking of their dump trucks is an accessory use within the County's zoning ordinance. The trial court concluded that there was no evidence that the trucks were being used other than for transportation, and that such parking was permissible because the zoning ordinance did not "bar[] the parking of commercial vehicles on the premises." Plaintiff asserts the trial court misconstrued the zoning ordinance. We agree.

[1-6] The principles of construction we use in interpreting a zoning regulation are as follows:

- (1) The determination of what uses are permitted under a zoning ordinance must be made on the basis of the wording of a particular ordinance and the context in which it occurs;
- (2) The basic rule of statutory construction is to seek the intention of the legislators and, if possible, to effectuate that intention;
- (3) Legislative intent must be ascertained by giving the word an ordinary, plain and natural meaning, by considering the entire act and its purposes and by seeking to avoid an unjust, absurd, unreasonable or oppressive result;
- (4) Zoning ordinances, being in derogation of common law property rights, are to be strictly construed in favor of the property owner against the zoning authority;
- (5) Where a term in a zoning ordinance is susceptible of more than one interpretation, the courts are to give weight to the interpretation that, while still within the confines of the term, is least restrictive upon the rights of the property owner to use his land as he wishes;
- (6) The interpretation placed upon a zoning ordinance by the body in charge of its enactment and application is entitled to great weight.

Cunningham v. Bd. of Alderman of Overland, 691 S.W.2d 464, 467-68 (Mo.App.1985).

St. Louis County v. Taggart, 809 S.W.2d 476, 478 (Mo.App.1991).

The zoning ordinance in the instant case is an example of permissive zoning. *See, e.g., St. Charles County v. McPeak*, 730 S.W.2d 611, 612 (Mo.App.1987). It provides: "[t]he use and development of land and structures within any zoning district are limited to those developments set forth in those sections of this Chapter applicable to such district." § 1003.050.²

[7, 8] A permissive zoning ordinance is drawn to show those uses which are permitted for a particular district, and any use which is not expressly permitted in a given zone or district is thereby excluded from it. *State ex rel. Barnett v. Sappington*, 266 S.W.2d 774, 777 (Mo.App.1954). Permitted uses may be explicitly expressed or may belong to a group of uses in generically expressed categories. *State ex rel. St. Charles County v. Samuelson*, 730 S.W.2d 607, 609 (Mo.App.1987). Section 1003.117.2 identifies ten permitted land uses in a "Residential R-4" district: (1) Churches; (2) Day care homes; (3) Single family dwellings; (4) Home occupations; (5) Libraries; (6) Local public facilities; (7) Parks, parkways and playgrounds; (8) Police and fire stations; (9) Schools; and (10) Schools on tracts of land of at least five acres. Defendants concede that commercial vehicle parking is not expressly permitted in the ordinance but contend that such use is accessory to the residential use.

[9] In determining whether use is accessory or incidental to a primary use, the decision must be made on the basis of the particular zoning ordinance and the context in which it occurs. *Schaefer v. Neumann*, 561 S.W.2d 416, 424 (Mo.App.1978). Section 1003.117.4 governs accessory uses in districts zoned "Residential R-4". It provides, in relevant part:

Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a rea-

sonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use.... (Emphasis added).

[10] Plaintiff states that "[n]owhere in [St. Louis County's zoning ordinance] is parking and/or storing commercial vehicles [in R-4 residential districts] approved." Thus, plaintiff argues, as St. Louis County is a permissive zoning jurisdiction, such an activity must be deemed prohibited. Defendants rely on the absence of an express provision relating to parking as a permitted use in § 1003.117.2, reasoning that all parking is an accessory land use. Thus, they assert, given the vagueness of the regulation, accessory use of the property in regard to parking must be broadly construed in favor of the land owner.

We note that though parking is not specifically listed among the permissible uses in an R-4 district, its permissibility can be easily implied in the R-4 zoning scheme from § 1003.117.8, which states: "Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 1003.165 Off-Street Parking and Loading Requirements."

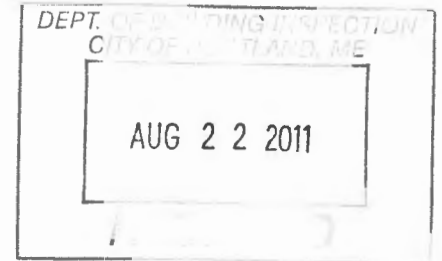
We have found no Missouri case on this point. However, there is substantial authority from non-Missouri sources that the parking of vehicles such as those owned by defendants here is not accessory to the primary residential use of property. "The parking of a commercial vehicle on residential property, including the driveway of a home, is not a permissible accessory use,..." 101A C.J.S. Zoning and Land Planning § 150, p. 469 (1979). In *Potts v. City of Hugo*, 416 N.W.2d 465 (Minn.App.1987), Arthur Potts brought a declaratory judgment action seeking a determination, *inter alia*, of whether the parking and zoning ordinances of the City of Hugo prohibited Gene and Lisa Sampson from parking their semi-truck and trailer at their home. The Sampsons owned a home in a subdivision in an agriculturally zoned district of the City of Hugo. Subdivision restrictive

2. All ordinance citations are SLCRO (1991) un-

less otherwise noted.

LAW OFFICES OF DAVID A. LOURIE
189 Spurwink Avenue
Cape Elizabeth ME 04107
and
97 India Street, Portland ME 04101
(207) 799-4922 * fax 221-1688
david@lourielaw.com

August 19, 2011



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

Re: Prohibited Use - Keith Ivers - Peaks Island Fuel CBL:112-H-1

Dear Marge:

This will acknowledge receipt of your determination dated August 18, 2011. My clients and I are disappointed in your response, so I expect that we will file a seasonal appeal.

The purpose of this letter is to call your attention to an additional issue not identified earlier, and not addressed in your determination of August 18. I recall you frequently insisting that there can only be ONE principal use allowed on a lot. (I particularly recall you telling this to the ZBA in the Willansky "synagogue" appeal case, where you asserted that Willansky's prayers could not be an accessory use *because* there could be only one principal use of a lot.) What will be the principal use of the lot (which is apparently merged for zoning purposes) after the "off-street parking is established, as the residential use is proposed to be continued? Does any of this change your opinion as to the lawfulness of the change of use to allow the storage of trucks as "off-street parking?"

Also, please elaborate as to *where* in the Technical Manual there is any description of either "open air spaces" or "garage spaces" for oil trucks? As I noted originally, I have not located such a description. Since you relied upon this "definition" in your decision that the storage of oil trucks was within that definition of "off-street parking", can you enlighten me as to where such spaces are described in the Manual?

Please advise promptly as to the issues identified above, so that my clients may consider whether to include them as additional points of appeal to the Board of Appeals, in the event that



**City of Portland, Maine
 Department of Planning and Urban Development
 Zoning Board of Appeals
 Interpretation Appeal Application**

Applicant Information:

Ted Haykal and others listed in attached narrative
Name
 opposed to Ivers' Truck Storage Project (See Attached)
Business Name
 c/o Law Offices of David A. Lourie
Address
 189 Spurwink Ave. Cape Eliz. ME 04107
 207-799-4922 207-221-1688
Telephone Fax

Subject Property Information:

512 Island Avenue, Peaks Island
Property Address
 90-AA-1, 2, 5 or 112-H-1
Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

KEITH IVERS
Name
 BOX 6 PEAKS ISLAND ME 04108
Address

Applicant's Right, Title or Interest in Subject Property
 Owners of Abutting and Nearby Properties
 (e.g. owner, purchaser, etc.):

Telephone Fax

Current Zoning Designation: IR-2/I-B Zone

Disputed Provisions from Section 14 - 14-223(f)/331

Existing Use of Property:
 Residential

Order, decision, determination, or interpretation under dispute:

AUGUST 18, 2011 DETERMINATION THAT

PROPOSED STORAGE OF FUEL TRUCKS AND OTHER TRUCKS

IS PERMITTED IN I-B ZONE, AS "OFF-STREET PARKING"

Type of Relief Requested:

REVERSAL OF DECISION

RECEIVED

SEP 19 2011

**Dept. of Building Inspections
 City of Portland Maine**

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for the relief above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

David A. Pucci, Agent

 Signature of Applicant

9/16/11

 Date

LAW OFFICES OF DAVID A. LOURIE
189 Spurwink Avenue
Cape Elizabeth ME 04107
and
97 India Street, Portland ME 04101
(207) 799-4922 * fax 221-1688
david@lourielaw.com

September 15, 2011

Board of Appeals
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: Appeal of Ted Haykal, Abutters, and Neighbors of August 18, 2011 Determination of Zoning Administrator that Storage of 2,800 Gallon Fuel trucks and other commercial Vehicles is Permitted as "off street parking."

To the Chair and members of the Board:

This narrative supplements the Appeal form to which it is attached. The persons taking this appeal are as follows:

1. Ted Haykal, 522 Island Avenue
2. Chuck Muse, 11 Trefethen Ave
3. Jeanne Muse, 11 Trefethen Ave
4. The Trefethen Evergreen Improvement Association ("TEIA") 10 Trefethen Ave;
5. Beth Brown, 517 Island Ave
6. Jonathan Brown, 517 Island Ave
7. Joanne MacIsaac, 499 Island Ave
8. Ron DeLucia, 499 Island Ave
9. Wesley Gustafson, 525 Island Avenue
10. Shiela Gustafson, 525 Island Avenue
11. Frederick O'Keefe, 268 Pleasant Ave
12. Phyllis MacIsaac, 268 Pleasant Ave
13. Mildred MacIsaac, 49 Trefethen Ave
14. Linda Pryblo, 49 Trefethen Ave
15. Nancy Beebe, 582 Island Ave
16. Michael Beebe, 582 Island Ave
17. Charles Hitt, Oak lawn Road
18. Karen Hitt, Oak lawn Road
19. Elizabeth Stout, 439 Island Avenue
20. Monica Stevenson, 548 Island Ave

21. John Freeman 548 Island Ave
22. Christie MacLeod, 531 Island Ave
23. John MacLeod, 539 Island Ave
24. Sarah MacLeod, 539 Island Ave
25. Elizabeth Stout, 549 Island Ave
26. John Gulliver, 8 Diamond Path
27. Jean Gulliver, 8 Diamond Path

I. INTRODUCTION:

Keith Ivers, doing business as Peaks Island Fuel, filed a site plan application for change of use to allow the storage of fuel and other trucks used for the delivery of fuel and services (off of the premises on which they are to be parked or stored.) When the lawfulness of the proposed use at the proposed site was questioned by neighbors, the Zoning Administrator issued a written determination on August 18, 2011 that the proposed use was a permitted use in the Island Business ("I-B") Zoning District, as "off-street parking." This Appeal seeks to reverse the decision of the Zoning Administrator. The Decision appealed from is attached as Exhibit "A."

II. Statement of Fact

The Ivers site plan application proposes consolidating Peaks Island Fuel operations at this location, and depicts parking on the site by seven (7) trucks. A copy of the Ivers site plan application is attached as Exhibit "B-1" and "B-2." This shows "parking spaces" as long as 22', and as wide as 12', where typical parking spaces shown in the Technical Manual are only 19' in length and only 8½' or 9' in width. Photographs of the vehicles proposed for storage on the premises at their present location are attached as Exhibit "C."

While the proposed activities will be significantly different from the passenger required or permitted as *off-street parking*, and although the use was within the definition of "truck terminal" in §14-47 of the Ordinance (and NOT listed as a permitted use in the I-B district), the

Zoning Administrator concluded that the proposed use was permitted due to the listing of “off-street parking” as a permitted use in the I-B island business zone, and the “definition” of “off-street parking” in §14-331 (which incorporates the Technical Manual by reference.¹)

III. ARGUMENT

A. SUMMARY OF ARGUMENT:

The Decision was in error for several reasons, and at several levels:

- The Technical Manual relied upon in the Decision describes only parking spaces for passenger cars and motorcycles! Nowhere in the Technical Manual are the trucks to be parked on *these* premises referenced. The spaces shown on the Ivers site plan are as long as 22', and as wide as 12', where the parking spaces depicted in the Technical Manual are only 19' in length and only 8½ or 9' in width.
- The supporting materials filed with the 1989 Amendment to §14-331 show that the intent of the City Council (in incorporating the Technical Manual by reference) was simply to allow compact car parking, and not to include large trucks to be parked wherever off-street parking was permitted by the zoning ordinance.
- The trucks parked on the premises are to be stored there, for use in delivering fuel and services elsewhere on the island. The *storage of trucks* is within the definition of “truck terminals” in §14-47.² A truck terminal is not listed as a permitted or conditional use in

¹ “Section 14-223(f) indicates that “off-street parking” is a permitted use in the I-B island business zone. Section 14-331 defines “off-street parking” as parking “either by use of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended....” The above sections do not limit the allowable “off-street parking” to any particular type of vehicle or only allow parking as an accessory use. Instead, the I-B zone allows off-street parking as a specific permitted use and the definition makes clear that the parking spaces can either be open-air or garage spaces that meet the standards in the City’s Technical Manual. The proposed parking area is meeting the standards in the City’s Technical Manual. As a result, I have determined that the parking lot described in Mr. Iver’s application is permitted under the City Code. “

² “*Truck terminal*: A building and premises devoted to handling and temporary warehousing of goods, which may include facilities for the maintenance and repair (except body repairs, frame straightening and painting), fueling and storage of trucks or tractor-trailer combinations.”

the I-B district, and is therefore a prohibited use.

- The Decision was made without sufficient regard to the direction of §14-46, that the Portland Zoning Ordinance is intended to promote “the health, safety, convenience and general welfare of the citizens of the city”, and “made with reasonable consideration . . . to the character of each zone and its peculiar suitability for particular uses.”³ The proposed use will be detrimental to those purposes.

B. THE PROPOSED VEHICLE STORAGE IS NOT WITHIN THE DEFINITION OF OFF-STREET PARKING.

§14-331 defines “off-street parking” as “either by use of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended . . .”⁴

The present version of §14-331 replaced a provision defining parking spaces. The prior ordinance required them to always be 9' x 18'. The amendment was adopted as an “emergency” to validate the practice of the planning board in allowing smaller spaces for compact cars, particularly in private parking garages. *See*, Memorandum of Joseph Gray, Planning Director, dated March 8, 1989, and Order #389 (both attached as Exhibit D.) The only reason given for

³ §14-46. Purpose. This article, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city. This article is made with reasonable consideration, among other things, to the character of each zone and its peculiar suitability for particular uses and with a view to conserving and stabilizing the value of property and encouraging the most appropriate use of land throughout the community.

⁴ “DIVISION 20. OFF-STREET PARKING. **Sec. 14-331. Defined.** Off-street parking, either by means of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended, in addition to being a permitted use in certain zones, shall be considered as an accessory use when required or provided to serve conforming uses in any zone.”

the change was to provide more flexible standards for the sizing of parking spaces for the parking for passenger vehicles for persons residing at, or visiting various premises. There is no reason to conclude that the City Council intended to include the storage of the large trucks proposed by Ivers when it incorporated the Technical Manual into §14-331.

Most important, and fatal to the decision of the Zoning Administrator (who relied upon the incorporation of the Technical Manual into §14-331), is the fact that *nowhere* in the Technical Manual is there is any reference to, or description of, large truck parking, whether by “open air spaces” or “garage spaces!”⁵ In fact, Technical Manual §1.14 describes only parking spaces for passenger vehicles and motorcycles, while the only other depictions in the Technical Manual are Figures I-27 thru I-31. These show only parking configurations for standard passenger vehicles (minimum space 9'x19'); for compact cars (8'x15'); for motorcycles, BUT NOT CONFIGURATIONS FOR TRUCKS! Finally, the “parking spaces” shown on the Ivers site plan are not those depicted in the Manual. The Ivers spaces are all much longer and much wider. A full copy of the Manual is attached as Exhibit “E.”

Any comparison of the “parking spaces” depicted in the Ivers site plan and those depicted

⁵ Technical Manual §1.14. *PARKING LOT AND PARKING SPACE DESIGN* states: Refer to Division 20 of the City Land Use Code (Sections 14-331 to 14-350) for zoning ordinance requirements concerning the number of parking spaces required for off-street parking. Parking spaces shall meet the following dimensional requirements:

- Standard parking space: 9 feet wide by 18 feet long.
 - Compact parking space: 8 feet wide by 15 feet long.
 - Motorcycle/motorized scooter parking space: 4 feet wide by 8 feet long.
- Any parking lot with 10 or fewer spaces shall contain standard sized parking spaces. Parking lots with greater than 10 spaces may be comprised of up to 20% compact parking spaces.

Parking lot layout shall conform to Figures I-28 thru I-32.

Vehicular access shall be provided by one or more aisles. Minimum widths of aisles are illustrated in Figures I-28 thru I-31.”

in the Technical Manual demonstrates that the reliance of the Zoning Administrator (upon the incorporation of the Technical Manual into §14-331) to support her Decision was wholly misplaced, and must be reversed.

Finally, §14-223(f) (allowing off-street parking as a principal use in the I-B zone) must be read in harmony with other provisions of the I-B zoning district.

Compounding the errors in interpreting the Zoning Ordinance identified above, was the failure to recognize the difference between the *parking* of a motor vehicle associated with the premises, and the *storage* of an unrelated truck intended for use elsewhere. That difference is recognized by the Portland Zoning Ordinance in the inclusion of the *storage* of trucks within the definition of “truck terminal” in §14-47. Since *storage of trucks* for use elsewhere on the island is what is proposed, the use is only allowed where truck terminals are allowed as either a permitted or conditional use. (*See, infra.*)

C. The Proposed Use Is Within the Definition of “Truck Terminal”, and is therefore a Prohibited Use in the I-B Zoning District.

§14-225 states that “Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited [in the I-B district.]” As noted above, Ivers’ proposed truck storage is within a use defined by §14-47, as a *truck terminal* (“A building and premises which **may include ... storage of trucks** or tractor-trailer combinations.”) Since a truck terminal is NOT listed as either a permitted use or a conditional use in §§14-223 or 224, it is prohibited by §14-225.

Reinforcing the conclusion that truck storage is a use prohibited by §14-225 are the differing use characteristics (and resultant danger) inherent in truck storage compared to the

parking of passenger vehicles. These dangers are exacerbated by the risks inherent in the fragile environment of island zoning. Wells and septic systems are far less forgiving than the waterlines and sewer lines in mainland districts. One would expect more restrictive zoning for the I-B zone, but the Decision does not consider this either. Moreover, the unattended storage of fuel trucks, as opposed to *parking* of ordinary cars and trucks presents additional risks of vandalism or leakage of the large amounts of volatile fuel contained in these vehicles.

The entire scheme of the Ordinance militates against allowing a defined and undesirable use (*truck terminal*) allowable as of right as *off-street parking*. See, Singal v. City of Bangor, 440 A.2d 1048 (Me. 1982)

“When a term of a zoning ordinance is ambiguous or uncertain, the court should construe that term reasonably “with regard both to the objects sought to be obtained and to the general structure of the ordinance as a whole. ... It is through consideration of the whole ordinance that the legislative intent can be ascertained. ... Our examination of the Bangor zoning ordinance convinces us that the sale of gasoline was not intended as a permitted use in a C-1 zone. The ordinance is highly restrictive in its treatment of gasoline service stations, permitting them only as special exceptions in the heavier C-2, C-3 and C-4 commercial zones, when the applicant can demonstrate, among other things, that the health, safety, welfare and property values of the neighborhood will not be affected. Since many of the same dangers necessitating restrictions on gasoline service stations are inherent in the self-service sale of gasoline, it would be unreasonable to conclude that the sale of gasoline was intended either as the primary business of, or as a use accessory to, a grocery/superette. **Otherwise, a use considered undesirable for many reasons even in heavy commercial zones would be permitted without restriction in a neighborhood commercial zone.**” See, Singal v. City of Bangor, 440 A.2d 1048 (Me. 1982)

As in *Singal*, the effect of the Decision is to make an undesirable land use considered otherwise restricted to industrial zones a permitted without restriction this neighborhood


commercial zone.⁶ Had the City Council intended to allow truck storage as *off-street parking*, it would have at least made truck storage a conditional use, as was done with the open-ended permission for *municipal uses* in the I-B Zone. (This provision allows comparable public works trucks to be stored at this location “provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.” *See*, §224(f).) The fact that *off-street parking* by DPW trucks is allowed only with safeguards, tends to negate the conclusion that Ivers trucks could be permitted without those safeguards. It also, reinforces the conclusion that §14-223(f) was intended to allow only the off-street parking of passenger vehicles.

CONCLUSION

The Decision of the Zoning Administrator interpreting the term “off-street parking” to include a fuel truck terminal in an I-B zone is contrary to the letter and to the spirit of the Portland Zoning Ordinance.

The Decision is detrimental to the public health, safety and welfare, which the Ordinance is supposed to protect. The decision of the Zoning Administrator must be reversed.

Respectfully submitted,



David A. Lourie

⁶ *Singal* was overruled only on grounds of standing in Norris Family Associates, LLC v. Town of Phippsburg, 2005 ME 102, 879 A.2d 1007. The holdings quoted above are still valid.

Marge Schmuckal - ZBA Appeal

From: Marge Schmuckal
To: David Lourie
Date: 9/21/2011 3:36 PM
Subject: ZBA Appeal

David,
I have poled our ZBA members and have zeroed in on Oct. 13, 2011 at 6:30 pm in the City Council Chambers for our appeal date. Please mark your calendar.
Marge

Marge Schmuckal - RE: RE: advising the ZBA

From: <jkatsiaficas@perkinsthompson.com>
To: <GARY@portlandmaine.gov>
Date: 9/21/2011 3:37 PM
Subject: RE: RE: advising the ZBA
CC: <DWCHUHTA@portlandmaine.gov>, <MEC@portlandmaine.gov>, <MES@portlandmaine.gov>

Gary:

Because of my training , I've usually used the Bill Dale approach and tried to craft a decision the night of the meeting which the Board can adopt that night, or if not, , ask the Board to reconvene in a week to adopt a decision which I would have written and sent to them (and to the other parties) to review (but not to discuss until the meeting). I'll be glad to talk to David about the process and timing of a decision to reasonably reach agreement.

Jim

From: Gary Wood [mailto:GARY@portlandmaine.gov]
Sent: Wednesday, September 21, 2011 2:22 PM
To: James N. Katsiaficas
Cc: Danielle West-Chuhta; Mary Costigan; Marge Schmuckal
Subject: RE: RE: advising the ZBA

good

one thing I think that you should do before the hearing is see if you can get on the same page with David about the Board's final decision and when and how it will be rendered in light of the ROMA discussions and the MSC's floating decisions on that issue.....if he belabors the issue then forget it. I don't want to spend a lot of time and money on that question

my suggestion is that you agree that as the Board's lawyer the process be that the Board members each state whether they find the city's argument or David's convincing and why and that if a majority clearly goes one way that you draft a written decision containing findings of fact(which really should not be an issue) and an analysis and conclusion that the will be sent to each board member in advance of the next meeting for them to review and then make their own by vote at the next meeting with or without such changes as a majority thinks are needed ..by agreement that will be the date and time of their official decision.

David gets a copy but doesn't get to make changes unless you agree with him.

If David getss antsy about possibly losing time off his 80 B filing period then we can agree to not raise it on appeal,or extend his time for filing if we can do that, and if that isn't good enough,because of the risk of the court raising a late filing on its own, we can usually get the board in fairly quickly for just that task but you would need to set it up with them on the night of the hearing as to what day they will come back

or

if you are comfortable with the Bill Dale right it in a break procedure that's fine as long as the break isn't too long because this item is their only item that night and I suspect it will take a while before the Board gets the case to talk about and decide

I would not go out and come back with a long laundry list of factual findings and legal conclusions and have the board move and vote on each of them.....Mary Kahl did that in one complicated case ,starting at about 11pm and it drove everyone nuts

>>> <jkatsiaficas@perkinsthompson.com> 9/21/2011 1:54 PM >>>

Gary, Danielle:

I'm good to go on the conflict check, so I am able to represent the City's ZBA in this matter. One caveat – ZBA member Sara Moppin is an associate here at Perkins Thompson. I don't see any problem in her participating as a Board member, as I am a neutral adviser to an impartial Board, and I don't see this as any different from when I was the City's Planning Board attorney while at Jensen Baird (under contract with the City) and Ken Cole was on the Board (and David Lourie was Corporation Counsel). It would be good for me to explain this to all parties at the outset, and if anyone screams about a due process issue, Sara would recuse herself, but right now, I don't see this as an issue. Please let me know when this is scheduled. Thanks.

Jim

From: Danielle West-Chuhta [mailto:DWCHUHTA@portlandmaine.gov]
Sent: Tuesday, September 20, 2011 12:07 PM
To: James N. Katsiaficas; Gary Wood
Cc: Mary Costigan; Marge Schmuckal
Subject: Fwd: RE: advising the ZBA

Jim:

The person who owns the property, fuel trucks and fuel truck business is Keith Ivers (Box 6 Peaks Island). The property address is 512 Island Avenue, Peaks Island. There are numerous abutters who have appealed Marge S.'s decision. They are as follows: Ted Haykal, Chuck Muse, Jeanne Muse, The Trefethen Evergreen Improvement Association, Beth Brown, Jonathan Brown, Joanne MacIsaac, Ron Delucia, Wesley Gustafson, Sheila Gustafson, Frederick O'Keefe, Phyllis MacIsaac, Mildred MacIssac, Linda Pryblo, Nancy Beebe, Michael Beebe, Charles Hitt, KarenHitt, Elizabeth Stout, Moncia Stevenson, John Freeman, Christie Macleod, John MacLeod, Sarah MacLeod, Elizabeth Stout (another one), John Gulliver and Jean Gulliver. They are all represented by David Lourie.

Thanks a lot,

Danielle

Danielle P. West-Chuhta
 Associate Corporation Counsel
 City of Portland, Maine
 (207) 874-8480

>>> Gary Wood 9/20/2011 11:43 AM >>>
 please follow up with Jim

>>> <jkatsiaficas@perkinsthompson.com> 9/20/2011 10:52 AM >>>

Hi Gary:

Thanks-! I'm free both evenings, and my hourly rate would be \$175. However, before I say yes, though, I need to run a conflict check. Who owns the property and any business on the property, and whose fuel trucks (person or business entity) are these? If you can provide me this information, I'll run a conflict check and can respond tomorrow am with a yes or no. Thanks again!

Jim

From: Gary Wood [mailto:GARY@portlandmaine.gov]
Sent: Tuesday, September 20, 2011 10:40 AM
To: James N. Katsiaficas
Subject: advising the ZBA

on either OCT 13th or 27th...at 6:30..are you available?
 Danielle will be helping Marge defend a zoning interpretation that allows fuel trucks to be parked on a lot on Peaks
 David L is on the other side
 if yes please call me or e-mail me re your fee

my copy



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Penny St. Louis - Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator

TO: CHAIR AND ZONING BOARD MEMBERS
FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR
SUBJECT: 512 ISLAND AVE, PEAKS ISLAND - I-B ZONE
DATE: OCTOBER 13, 2011

The focus of the Zoning Board concerns the existing I-B Island Business zone and its listed permitted uses, especially the listed permitted use of "off-street parking". I understand that many islanders are focusing on the notion that the I-B zone should not be in the location of 512 Island Avenue. There is a process in the City to change a zone. It begins with the Planning Board and ends with the City Council. The Zoning Board's purview is limited to what is currently on the City zoning maps and within the Land Use Zoning Ordinance text.

I will also affirm before the Zoning Board that the zoning ordinance is *not* ambiguous or uncertain. The ordinance is very simple and straight forward in regard to use and parking.

The I-B Island Business zone specifically lists as a principal use, as opposed to accessory, that of "off-street parking". I interpret that to mean that off-street parking is allowed as a principal use. I then use Division 20 of the Land Use Ordinance for further guidance. Division 20 is the Parking section of the ordinance that regulates parking and its uses throughout the City - i.e. - how many parking spaces are required for specific uses - where those parking spaces maybe located on the lot - and other specific parking restrictions that may apply.

Section 14-332.2 *defines* off-street parking. It states:

Sec. 14-331. Defined.

Off-street parking, either by means of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended, in addition to being a permitted use in certain zones, shall be considered as an accessory use when required or provided to serve conforming uses in any zone.

The project meets both the Zoning Ordinance and the City's Technical Manual. The Technical Manual does not restrict parking spaces to passenger vehicles only. It is Division 20 that is relied upon to limit off-street parking spaces. Tom Errico, the City's Traffic Engineer, is here to speak in more depth regarding the enforcement of the Technical Design Manual.

It is technical standards not zoning standards

In response to comments by Attorney Lourie regarding types of vehicle parking spaces, what further shows me that I have made the correct interpretation is that other sections of the Land Use Code specially restrict parking in certain instances.

For example, section 14-332.2 concerning home occupations [14-410(a)10] restricts parking. It states that no motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.

home occupations are allowed in all residential zones

Further, section 14-335 specifically restricts off-street parking in several residential and business zones. But no restrictions in the I-B zone.

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;
- (b) More than six (6) commercial motor vehicles in any B-2 zone;
- (c) Loading, sales, dead storage, repair, or servicing of any kind, except when customarily incidental or accessory to a conforming principal building or use when located in an I-2, I-2b, I-3 zone and I-3b zone;
- (d) Except in the case of a car dealer, more than one (1) unregistered motor vehicle stored outside for a period in excess of thirty (30) days in any residence zone, the R-P zone or any business zone;
- (e) Notwithstanding (1) above, any truck body, commercial trailer or similar commercial vehicles in any residence zone or the R-P zone.

All his vehicles are registered and not in violation of that req.

Finally, section 14-344 allows either the Board of Appeals or the Planning Board to authorize parking in certain residence zones. It states "In R-3 through R-5 zones, the Board of Appeals may permit off-street parking **for passenger cars only** (emphasis added) accessory to a use located in and conforming with the provisions of a nearby business or industrial zone (except B-1 zones) if the lot on which the use is proposed is located wholly within three hundred (300) feet, measured along lines of public access, of the principal building of the use to which the proposed use would be accessory...".

Because of the listed restrictions, I know that all types of parking spaces are allowed elsewhere. As I stated before, the I-B zone does not have any of these restrictions. So clearly this use is permitted in this zone.

Mr. IVERS

Thank you



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*Penny St. Louis - Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

512 Island Avenue, Peaks Island
90-AA-1, 2, 5 – IR-2/I-B Zone

August 18, 2011

The applicant, Mr. Ivers, is showing a vehicle parking lot for seven (7) vehicles located at 512 Island Avenue, Peaks Island. Currently a single family house is located on one portion of the lot. The proposed parking area will be located on another portion of the lot and has sufficient space to park four 2,800 gallon fuel trucks and three passenger-vehicle sized service vehicles. The vehicles are all to be actively used by Mr. Ivers in his heating and fuel oil business. The proposed parking area is shown entirely within the I-B zone.

Section 14-223(f) indicates that “off-street parking” is a permitted use in the I-B island business zone.

Section 14-331 defines “off-street parking” as parking “either by use of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended....”

The above sections do not limit the allowable “off-street parking” to any particular type of vehicle or only allow parking as an accessory use. Instead, the I-B zone allows off-street parking as a specific permitted use and the definition makes clear that the parking spaces can either be open-air or garage spaces that meet the standards in the City’s Technical Manual. The proposed parking area is meeting the standards in the City’s Technical Manual. As a result, I have determined that the parking lot described in Mr. Iver’s application is permitted under the City Code.

It is important to note that I have reviewed the definition for a truck terminal. A “truck terminal” is defined in the City’s Land Use Zoning Ordinance as:

“a building and premises devoted to handling and temporary warehousing of goods, which may include facilities for the maintenance and repair (except body repairs, frame straightening and painting), fueling and storage of trucks or tractor-trailer combinations”.

Mr. Iver’s proposed parking lot is not a truck terminal. This is because his trucks are not warehoused or stored on the site. The trucks are also not filled, fueled and no product will be dispensed on the site. Instead, the trucks are just parked on this site for active use as needed in Mr. Ivers’ propane and oil delivery business. The other vehicles that will be parked on the site are also for active use with Mr. Ivers’ heating repair business. Mr. Ivers’ business has been active through four generations and has garnered many clients on Peaks Island.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty 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.

Very truly yours,

Marge Schmuckal
Zoning Administrator

Cc: Penny St. Louis, Director of Planning and Urban Development
Alex Jaegerman, Division Director of Planning
Barbara Barhydt, Development Review Service Manager
Erick Giles, Planning
Danielle West-Chuhta, Corporation Counsel
Mike Murray, Island/Neighborhood Liaison



**City of Portland, Maine
 Department of Planning and Urban Development
 Zoning Board of Appeals
 Interpretation Appeal Application**

Applicant Information:

Ted Haykal and others listed in attached narrative
 Name
 opposed to Ivers' Truck Storage Project (See Attached)
 Business Name
 c/o Law Offices of David A. Lourie
 Address
 189 Spurwink Ave. Cape Eliz. ME 04107
 Telephone 207-799-4922 Fax 207-221-1688

Subject Property Information:

512 Island Avenue, Peaks Island
 Property Address
 90-AA-1, 2, 5 or 112-H-1
 Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

KEITH IVERS
 Name
 BOX 6 PEAKS ISLAND ME 04108
 Address

**Applicant's Right, Title or Interest in Subject Property
 Owners of Abutting and Nearby Properties**
 (e.g. owner, purchaser, etc.):

Telephone Fax

Current Zoning Designation: IR-2/I-B Zone

Disputed Provisions from Section 14 - 14-223(f)/331

Existing Use of Property:
 Residential

**Order, decision, determination, or interpretation under
 dispute:**

AUGUST 18, 2011 DETERMINATION THAT

PROPOSED STORAGE OF FUEL TRUCKS AND OTHER TRUCKS
 IS PERMITTED IN I-B ZONE, AS "OFF-STREET PARKING"

Type of Relief Requested:

REVERSAL OF DECISION

RECEIVED

SEP 19 2011

**Dept. of Building Inspections
 City of Portland Maine**

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for the relief above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

David A. Puce, Agent
 Signature of Applicant

9/16/11
 Date

LAW OFFICES OF DAVID A. LOURIE
189 Spurwink Avenue
Cape Elizabeth ME 04107
and
97 India Street, Portland ME 04101
(207) 799-4922 * fax 221-1688
david@lourielaw.com

September 15, 2011

Board of Appeals
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: Appeal of Ted Haykal, Abutters, and Neighbors of August 18, 2011 Determination of Zoning Administrator that Storage of 2,800 Gallon Fuel trucks and other commercial Vehicles is Permitted as "off street parking."

To the Chair and members of the Board:

This narrative supplements the Appeal form to which it is attached. The persons taking this appeal are as follows:

1. Ted Haykal, 522 Island Avenue
2. Chuck Muse, 11 Trefethen Ave
3. Jeanne Muse, 11 Trefethen Ave
4. The Trefethen Evergreen Improvement Association ("TEIA") 10 Trefethen Ave;
5. Beth Brown, 517 Island Ave
6. Jonathan Brown, 517 Island Ave
7. Joanne MacIsaac, 499 Island Ave
8. Ron DeLucia, 499 Island Ave
9. Wesley Gustafson, 525 Island Avenue
10. Shiela Gustafson, 525 Island Avenue
11. Frederick O'Keefe, 268 Pleasant Ave
12. Phyllis MacIsaac, 268 Pleasant Ave
13. Mildred MacIsaac, 49 Trefethen Ave
14. Linda Pryblo, 49 Trefethen Ave
15. Nancy Beebe, 582 Island Ave
16. Michael Beebe, 582 Island Ave
17. Charles Hitt, Oak lawn Road
18. Karen Hitt, Oak lawn Road
19. Elizabeth Stout, 439 Island Avenue
20. Monica Stevenson, 548 Island Ave

21. John Freeman 548 Island Ave
22. Christie MacLeod, 531 Island Ave
23. John MacLeod, 539 Island Ave
24. Sarah MacLeod, 539 Island Ave
25. Elizabeth Stout, 549 Island Ave
26. John Gulliver, 8 Diamond Path
27. Jean Gulliver, 8 Diamond Path

I. INTRODUCTION:

Keith Ivers, doing business as Peaks Island Fuel, filed a site plan application for change of use to allow the storage of fuel and other trucks used for the delivery of fuel and services (off of the premises on which they are to be parked or stored.) When the lawfulness of the proposed use at the proposed site was questioned by neighbors, the Zoning Administrator issued a written determination on August 18, 2011 that the proposed use was a permitted use in the Island Business ("I-B") Zoning District, as "off-street parking." This Appeal seeks to reverse the decision of the Zoning Administrator. The Decision appealed from is attached as Exhibit "A."

II. Statement of Fact

The Ivers site plan application proposes consolidating Peaks Island Fuel operations at this location, and depicts parking on the site by seven (7) trucks. A copy of the Ivers site plan application is attached as Exhibit "B-1" and "B-2." This shows "parking spaces" as long as 22', and as wide as 12', where typical parking spaces shown in the Technical Manual are only 19' in length and only 8½' or 9' in width. Photographs of the vehicles proposed for storage on the premises at their present location are attached as Exhibit "C."

While the proposed activities will be significantly different from the passenger required or permitted as *off-street parking*, and although the use was within the definition of "truck terminal" in §14-47 of the Ordinance (and NOT listed as a permitted use in the I-B district), the

Zoning Administrator concluded that the proposed use was permitted due to the listing of “off-street parking” as a permitted use in the I-B island business zone, and the “definition” of “off-street parking” in §14-331 (which incorporates the Technical Manual by reference.¹)

III. ARGUMENT

A. SUMMARY OF ARGUMENT:

The Decision was in error for several reasons, and at several levels:

- The Technical Manual relied upon in the Decision describes only parking spaces for passenger cars and motorcycles! Nowhere in the Technical Manual are the trucks to be parked on *these* premises referenced. The spaces shown on the Ivers site plan are as long as 22', and as wide as 12', where the parking spaces depicted in the Technical Manual are only 19' in length and only 8½ or 9' in width.
- The supporting materials filed with the 1989 Amendment to §14-331 show that the intent of the City Council (in incorporating the Technical Manual by reference) was simply to allow compact car parking, and not to include large trucks to be parked wherever off-street parking was permitted by the zoning ordinance.
- The trucks parked on the premises are to be stored there, for use in delivering fuel and services elsewhere on the island. The *storage of trucks* is within the definition of “truck terminals” in §14-47.² A truck terminal is not listed as a permitted or conditional use in

¹ “Section 14-223(f) indicates that “off-street parking” is a permitted use in the I-B island business zone. Section 14-331 defines “off-street parking” as parking “either by use of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended...” The above sections do not limit the allowable “off-street parking” to any particular type of vehicle or only allow parking as an accessory use. Instead, the I-B zone allows off-street parking as a specific permitted use and the definition makes clear that the parking spaces can either be open-air or garage spaces that meet the standards in the City’s Technical Manual. The proposed parking area is meeting the standards in the City’s Technical Manual. As a result, I have determined that the parking lot described in Mr. Iver’s application is permitted under the City Code. “

² “*Truck terminal*: A building and premises devoted to handling and temporary warehousing of goods, which may include facilities for the maintenance and repair (except body repairs, frame straightening and painting), fueling and storage of trucks or tractor-trailer combinations.”

the I-B district, and is therefore a prohibited use.

- The Decision was made without sufficient regard to the direction of §14-46, that the Portland Zoning Ordinance is intended to promote “the health, safety, convenience and general welfare of the citizens of the city”, and “made with reasonable consideration . . . to the character of each zone and its peculiar suitability for particular uses.”³ The proposed use will be detrimental to those purposes.

B. THE PROPOSED VEHICLE STORAGE IS NOT WITHIN THE DEFINITION OF OFF-STREET PARKING.

§14-331 defines “off-street parking” as “either by use of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended . . .”⁴

The present version of §14-331 replaced a provision defining parking spaces. The prior ordinance required them to always be 9' x 18'. The amendment was adopted as an “emergency” to validate the practice of the planning board in allowing smaller spaces for compact cars, particularly in private parking garages. *See*, Memorandum of Joseph Gray, Planning Director, dated March 8, 1989, and Order #389 (both attached as Exhibit D.) The only reason given for

³ §14-46. Purpose. This article, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city. This article is made with reasonable consideration, among other things, to the character of each zone and its peculiar suitability for particular uses and with a view to conserving and stabilizing the value of property and encouraging the most appropriate use of land throughout the community.

⁴ “DIVISION 20. OFF-STREET PARKING. **Sec. 14-331. Defined.** Off-street parking, either by means of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended, in addition to being a permitted use in certain zones, shall be considered as an accessory use when required or provided to serve conforming uses in any zone.”

the change was to provide more flexible standards for the sizing of parking spaces for the parking for passenger vehicles for persons residing at, or visiting various premises. There is no reason to conclude that the City Council intended to include the storage of the large trucks proposed by Ivers when it incorporated the Technical Manual into §14-331.

Most important, and fatal to the decision of the Zoning Administrator (who relied upon the incorporation of the Technical Manual into §14-331), is the fact that *nowhere* in the Technical Manual is there is any reference to, or description of, large truck parking, whether by “open air spaces” or “garage spaces!”⁵ In fact, Technical Manual §1.14 describes only parking spaces for passenger vehicles and motorcycles, while the only other depictions in the Technical Manual are Figures I-27 thru I-31. These show only parking configurations for standard passenger vehicles (minimum space 9'x19'); for compact cars (8'x15'); for motorcycles, BUT NOT CONFIGURATIONS FOR TRUCKS! Finally, the “parking spaces” shown on the Ivers site plan are not those depicted in the Manual. The Ivers spaces are all much longer and much wider. A full copy of the Manual is attached as Exhibit “E.”

Any comparison of the “parking spaces” depicted in the Ivers site plan and those depicted

⁵ Technical Manual §1.14. *PARKING LOT AND PARKING SPACE DESIGN* states: Refer to Division 20 of the City Land Use Code (Sections 14-331 to 14-350) for zoning ordinance requirements concerning the number of parking spaces required for off-street parking. Parking spaces shall meet the following dimensional requirements:

- Standard parking space: 9 feet wide by 18 feet long.
 - Compact parking space: 8 feet wide by 15 feet long.
 - Motorcycle/motorized scooter parking space: 4 feet wide by 8 feet long.
- Any parking lot with 10 or fewer spaces shall contain standard sized parking spaces. Parking lots with greater than 10 spaces may be comprised of up to 20% compact parking spaces.
Parking lot layout shall conform to Figures I-28 thru I-32.
Vehicular access shall be provided by one or more aisles. Minimum widths of aisles are illustrated in Figures I-28 thru I-31.”

in the Technical Manual demonstrates that the reliance of the Zoning Administrator (upon the incorporation of the Technical Manual into §14-331) to support her Decision was wholly misplaced, and must be reversed.

Finally, §14-223(f) (allowing off-street parking as a principal use in the I-B zone) must be read in harmony with other provisions of the I-B zoning district.

Compounding the errors in interpreting the Zoning Ordinance identified above, was the failure to recognize the difference between the *parking* of a motor vehicle associated with the premises, and the *storage* of an unrelated truck intended for use elsewhere. That difference is recognized by the Portland Zoning Ordinance in the inclusion of the *storage* of trucks within the definition of “truck terminal” in §14-47. Since *storage of trucks* for use elsewhere on the island is what is proposed, the use is only allowed where truck terminals are allowed as either a permitted or conditional use. (*See, infra.*)

C. The Proposed Use Is Within the Definition of “Truck Terminal”, and is therefore a Prohibited Use in the I-B Zoning District.

§14-225 states that “Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited [in the I-B district.]” As noted above, Ivers’ proposed truck storage is within a use defined by §14-47, as a *truck terminal* (“A building and premises which **may include ... storage of trucks** or tractor-trailer combinations.”) Since a truck terminal is NOT listed as either a permitted use or a conditional use in §§14-223 or 224, it is prohibited by §14-225.

Reinforcing the conclusion that truck storage is a use prohibited by §14-225 are the differing use characteristics (and resultant danger) inherent in truck storage compared to the

parking of passenger vehicles. These dangers are exacerbated by the risks inherent in the fragile environment of island zoning. Wells and septic systems are far less forgiving than the waterlines and sewer lines in mainland districts. One would expect more restrictive zoning for the I-B zone, but the Decision does not consider this either. Moreover, the unattended storage of fuel trucks, as opposed to *parking* of ordinary cars and trucks presents additional risks of vandalism or leakage of the large amounts of volatile fuel contained in these vehicles.

The entire scheme of the Ordinance militates against allowing a defined and undesirable use (*truck terminal*) allowable as of right as *off-street parking*. See, Singal v. City of Bangor, 440 A.2d 1048 (Me. 1982)

“When a term of a zoning ordinance is ambiguous or uncertain, the court should construe that term reasonably “with regard both to the objects sought to be obtained and to the general structure of the ordinance as a whole. ... It is through consideration of the whole ordinance that the legislative intent can be ascertained. ... Our examination of the Bangor zoning ordinance convinces us that the sale of gasoline was not intended as a permitted use in a C-1 zone. The ordinance is highly restrictive in its treatment of gasoline service stations, permitting them only as special exceptions in the heavier C-2, C-3 and C-4 commercial zones, when the applicant can demonstrate, among other things, that the health, safety, welfare and property values of the neighborhood will not be affected. Since many of the same dangers necessitating restrictions on gasoline service stations are inherent in the self-service sale of gasoline, it would be unreasonable to conclude that the sale of gasoline was intended either as the primary business of, or as a use accessory to, a grocery/superette. **Otherwise, a use considered undesirable for many reasons even in heavy commercial zones would be permitted without restriction in a neighborhood commercial zone.**” See, Singal v. City of Bangor, 440 A.2d 1048 (Me. 1982)

As in *Singal*, the effect of the Decision is to make an undesirable land use considered otherwise restricted to industrial zones a permitted without restriction this neighborhood

commercial zone.⁶ Had the City Council intended to allow truck storage as *off-street parking*, it would have at least made truck storage a conditional use, as was done with the open-ended permission for *municipal uses* in the I-B Zone. (This provision allows comparable public works trucks to be stored at this location “provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.” See, §224(f).) The fact that *off-street parking* by DPW trucks is allowed only with safeguards, tends to negate the conclusion that Ivers trucks could be permitted without those safeguards. It also, reinforces the conclusion that §14-223(f) was intended to allow only the off-street parking of passenger vehicles. NO

CONCLUSION

The Decision of the Zoning Administrator interpreting the term “off-street parking” to include a fuel truck terminal in an I-B zone is contrary to the letter and to the spirit of the Portland Zoning Ordinance.

The Decision is detrimental to the public health, safety and welfare, which the Ordinance is supposed to protect. The decision of the Zoning Administrator must be reversed.

Respectfully submitted,



David A. Lourie

⁶ *Singal* was overruled only on grounds of standing in Norris Family Associates, LLC v. Town of Phippsburg, 2005 ME 102, 879 A.2d 1007. The holdings quoted above are still valid.

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vehicle [vee-i-kuhl or, sometimes, vee-hi-] ? [Origin](#)

GMC Vehicle Official Site
Find Pricing and Current Offers on the EPA
Est 32 MPG Hwy GMC Terrain.
www.gmc.com/Vehicle

Official Chevrolet Site
Come See Chevrolet's Lineup of
Vehicles and Build Your Own Now.
www.chevrolet.com/Vehicles

Van
The New 2011 Sienna Van is Here! See
Features, Pics, & Video Online.
www.toyota.com/Sienna

ve-hi-ckl [vee-i-kuhl or, sometimes, vee-hi-] ? [Show IPA](#)

noun

1. any means in or by which someone travels or something is carried or conveyed; a means of conveyance or transport: *a motor vehicle; space vehicles.*
2. a conveyance moving on wheels, runners, tracks, or the like, as a cart, sled, automobile, or tractor.
3. a means of transmission or passage: *Air is the vehicle of sound.*
4. a carrier, as of infection.
5. a medium of communication, expression, or display: *The novel is a fitting vehicle for his talents. Language is the vehicle of thought.*

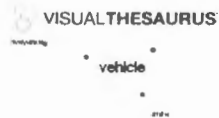
EXPAND

Origin:
1605-15; < Latin *vehiculum*, equivalent to *veh* (*ere*) to convey + *-i-* *-i-* + *-culum* *-cle*²

Pronunciation note
Because the primary stress in *vehicle* is on the first syllable, the [h] ? [Show IPA](#) in the second syllable tends to disappear: [vee-i-kuhl]. A pronunciation with primary stress on the second syllable and a fully pronounced [h] is usually considered nonstandard: [vee-hik-uhl]. In the adjective *vehicular*, where the primary stress is normally on the second syllable, the [h] is always pronounced.

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Related Words for : **vehicle**
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FAVORITES RECENT **storage**

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World English Dictionary

Collins

vehicle ('vi:ɪkəl) ?— *n*

1. any conveyance in or by which people or objects are transported, esp one fitted with wheels
2. a medium for the expression, communication, or achievement of ideas, information, power, etc
3. *pharmacol* a therapeutically inactive substance mixed with the active ingredient to give bulk to a medicine
4. Also called: **base** a painting medium, such as oil, in which pigments are suspended
5. (in the performing arts) a play, musical composition, etc, that enables a particular performer to display his talents
6. a rocket excluding its payload

[C17: from Latin *vehiculum*, from *vehere* to carry]**vehicular**— *adj*

Collins English Dictionary - Complete & Unabridged 10th Edition
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Publishers 1998 2000 2003 2005 2006 2007 2009

[Cite This Source](#)

Word Origin & History

Etymology

vehicle

1612, "a medium through which a drug or medicine is administered," 1615 in the sense of "any means of conveying or transmitting," from Fr. *véhicule*, from L. *vehiculum* "means of transport, a vehicle," from *vehere* "to carry," from PIE **wegh-* "to go, transport in a vehicle" (cf. O.E. *wegan* "to carry;";

EXPAND

Online Etymology Dictionary © 2010 Douglas Harper

[Cite This Source](#)

Medical Dictionary

Merriam-Webster

ve-hi-cle definition

Pronunciation: /'vē-(h)ɪk-əl, 'vē-ə-kəl/

Function: *n*

1 : an inert medium in which a medicinally active agent is administered

2 : an agent of transmission *vehicle* of infection >

Merriam-Webster's Medical Dictionary © 2007 Merriam-Webster, Inc

[Cite This Source](#)**vehicle** *ve-hi-cle* (vē'ī-kəl)

American Heritage

n.

A substance of no therapeutic value that is used to convey an active medicine for administration.

The American Heritage® Stedman's Medical Dictionary
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[Cite This Source](#)

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TERMS & CON

FAVORITES RECENT

storage

garlic, radish, cucumber, artichoke, eggplant, beet, scallion, pepper, okra, kohlrabi, parsley, chard, rhubarb, cauliflower, Brussels sprouts, broccoli, endive, Chinese cabbage, (water) cress, rutabaga.

vegetate, *v.* 1. [To germinate] sprout, bud, blossom; see bloom, grow 1. 2. [To stagnate] hibernate, stagnate, languish; see weaken 1.

vegetation, *n.* plants, plant growth, trees, shrubs, saplings, flowers, wild flowers, grasses, herbage, herbs, pasture, weeds, vegetables, crops.

vehicle, *n.* Vehicles include the following—carriage, buggy, wagon, sleigh, cart, motor car, jeep, rover, automobile, truck, van, motorcycle, taxicab, railroad car, cab, hack, taxi.

veil, *n.* 1. [A thin fabric] scarf, kerchief, mask; see web. 2. [A curtain] screen, cover, shade; see curtain.

vein, *n.* 1. [A fissure] cleft, aperture, opening, channel, cavity, crack, cranny, rift, chink, break, breach, slit, crevice, flaw, rupture. 2. [A persistent quality] strain, humor, mood, temper, tang, spice, dash; see also characteristic, temperament. 3. [A blood duct leading to the heart] Important veins include the following—jugular, pulmonary, subclavian, portal, iliac, hepatic, renal.

velocity, *n.* quickness, rapidity, impetus; see speed.

velvet, *a.* silken, shining, plushy; see also soft 2.

velvet, *n.* cotton velvet, rayon, corduroy; see goods.

vener, *n.* surface, exterior, covering; see cover 1.

venerable, *a.* revered, old, aged, ancient, hoary, revered, honored, honorable, noble, august, grand, esteemed, respected, dignified, imposing, grave, serious, sage, wise, philosophical, experienced.—*Ant.* inexperienced, callow, raw.

venerate, *v.* revere, reverence, adore; see love 1, worship.

eneration, *n.* respect, adoration, awe; see reverence, worship 1.

vengeance, *n.* retribution, return, retaliation; see revenge 1.

vengeful, *a.* spiteful, revengeful, rancorous; see cruel.

venom, *n.* poison, virus, toxin, bane, microbe, contagion, infection.

vent, *n.* ventilator, vent hole, venting hole, ventiduct, liquid-vent, vent faucet, molding, touchhole, drain, smoke hole, flue, aperture.

vent, *v.* let out, drive out, discharge; see free.

ventilate, *v.* freshen, let in fresh air, circulate fresh air, vent, air cool, air out, free, oxygenate; see also air.

ventilated, *a.* aired (out), having (adequate) ventilation, not close or closed (up); see air 1, cool 1, open 1.

ventilation, *n.* airing, purifying, oxygenating, freshening, opening windows, changing air, circulating air, air-conditioning.

venture, *n.* adventure, risk, hazard, peril, stake, chance, speculation, dare, experiment, trial, attempt, test, gamble, undertaking, enterprise, investment, leap in the dark, *plunge, *flyer, *crack, *fling.

venture, *v.* attempt, experiment, try out; see try 1.

ventured, *a.* risked, chanced, dared; see done 1.

verb, *n.* Verbs include the following—finite, active, neuter, passive, transitive, intransitive, media, modal, auxiliary, linking, reciprocal, copulative, reflexive, strong, weak, regular, irregular.

verbal, *a.* told, unwritten, lingual; see oral, spoken.

verbal, *n.* Verbals in English include the following—infinite, gerund, participle, gerundive, verbal noun, present participle, verbal adjective, past participle, verbal phrase, absolute or independent construction.

verbally, *a.* orally, by word of mouth, person-to-person; see spoken.

verbatim, *a.* exactly, literatim, to the letter; see literally.

verdict, *n.* judgment, finding, decision, answer, opinion, sentence, determination, decree, conclusion, deduction, adjudication, arbitrament.

verge, *n.* edge, brink, terminus; see boundary.

verge, *v.* end, edge, touch; see approach 2.

verification, *n.* verifying, attestation, affirmation; see confirmation 1.

verify, *v.* establish, substantiate, authenticate, prove, check, test, validate, settle, corroborate, confirm.

veritable, *a.* authentic, true, real; see genuine 1.

vermin, *n.* flea, louse, mite; see also insect.

versatile, *a.* many-sided, adaptable, versatile, varied, ready, clever, handy, talented, gifted, adroit, resourceful, ingenious, accomplished; see able.

versatility, *a.* flexibility, utility, adjustability; see adaptability.

verse, *n.* 1. [Composition in poetic form] poetry, metrical composition; versification, stanza, rhyme, lyric, sonnet, ode, heroic verse, dramatic poetry, blank verse, free verse. 2. [A unit of verse, sense 1] line, verse, stanza, strophe, antistrophe, hemistich, distich, quatrain.

version, *n.* 1. [One of various accounts] report, account, tale; see story. 2. [A translation] paraphrase, redaction, transcription; see translation.

vertebrae, *n.* spine, spinal column, backbone, chine. Parts of the vertebra include the following—atlas, axis, cervical, thoracic, lumbar, caudal, disk, spinous process, neural arch, anterior and posterior zygapophysis, transverse process.

vertical, *a.* perpendicular, upright, on end; see straight 1.

very, *a.* extremely, exceedingly, greatly, acutely, indispensably, just so, surprisingly, astonishingly, incredibly, wonderfully, particularly, certainly, positively, emphatically, really, truly, pretty, decidedly, pressingly, notably, uncommonly, extraordinarily, prodigiously, highly, substantially, dearly, amply, vastly, extensively, noticeably, conspicuously, largely, considerably, hugely, excessively, imperatively, markedly, enormously, sizeably, materially, immensely, tremendously, superlatively, remarkably, unusually, immoderately, quite, indeed, somewhat, rather, simply, intensely, urgently, exceptionally, severely, seriously, in a great measure, to a great degree, beyond compare, on a large scale, ever so, beyond measure, by far, in the extreme, in a marked degree, to a great extent, without restraint, more or less, in part, infinitely, very much, *real, right, pretty, *awfully, *good and, *powerful, *powerfully, *hell of a, *precious, *so, to a fault, a bit of, *no end.

vessel, *n.* 1. [A container] pitcher, urn, kettle; see container. 2. [A ship] boat, craft, bark; see ship. 3. [A duct; especially for blood] blood vessel, artery, capillary; see vein 2.

vest, *n.* waistcoat, jacket, garment; see clothes.

vestige, *n.* trace, remains, scrap; see remainder.

veteran, *n.* 1. [An experienced person] master, one long in service, old hand, one of the old guard, *old bird, *old dog, *old timer.—*Ant.* amateur, new man, youngster. 2. [An experienced soldier] ex-soldier, seasoned campaigner, ex-service man, re-enlisted man, old soldier, *war horse, vet, *ex-G.I.

veterinarian, *n.* animal specialist, vet, animal doctor; see doctor.

veto, *n.* prohibition, declination, negative; see denial, refusal.

veto, *v.* interdict, prohibit, decline; see deny, refuse.

vetted, *a.* declined, rejected, disapproved; see no, refused.

via, *prep.* by way of, by the route passing through, on the way to, through

the medium of; see also by 2, through 4.

vibrant, *a.* energetic, vigorous, lively; see active 1.

vibrate, *v.* 1. [To quiver] fluctuate, flutter, waver; see wave 3. 2. [To sound] echo, resound, reverberate; see sound 1.

vibration, *n.* quake, wavering, vacillation, fluctuation, oscillation, quiver, shake; see also wave 3.

vice, *n.* corruption, iniquity, wickedness; see evil 1.

vice versa, *a.* conversely, in reverse, the other way round, turn about, about face, in opposite manner, far from it, on the contrary, in reverse.

vicinity, *n.* proximity, nearness, neighborhood; see environment, region 1.

vicious, *a.* bad, debased, base, impious, profligate, demoralized, faulty, vile, foul, impure, lewd, indecent, licentious, libidinous; see also bad 1.—*Ant.* noble, pure, virtuous.

vicious circle, *n.* chain of events, cause and effect, interrelated problems; see difficulty 1. 2.

viciously, *a.* cruelly, spitefully, harmfully; see brutally, wrongly.

victim, *n.* prey, sacrifice, immolation, suffering, wretch, quarry, game, hunted, offering, scapegoat, martyr.

victimize, *v.* cheat, swindle, dupe, trick, fool; see deceive.

victor, *n.* conqueror, champion, prize winner; see winner.

victorious, *a.* winning, triumphant, mastering; see successful.

victory, *n.* conquest, mastery, subjugation, overcoming, overthrow, master stroke, lucky stroke, winning, gaining, defeating, subduing, destruction, killing, knockout, pushover.

vie, *v.* contend, strive, rival; see compete.

view, *n.* glimpse, look, panorama, aspect, show, appearance, prospect, distance, opening, stretch, outlook, way, extended view, long view, avenue, contour, outline, scene, spectacle.—*in view*, visible, in sight, not out of sight, perceptible, perceivable; see obvious 1.—*on view*, displayed, on display, exposed; see shown 1.—*with a view to*, in order that or to, so that, anticipating; see to 4.

view, *v.* observe, survey, inspect; see see 1.

viewer, *n.* spectator, watcher, onlooker; see observer.

viewpoint, *n.* point of view, perspective, standpoint, angle, slant, position, stand, aspect, light, respect, attitude, ground, point of observation, outlook.

vigor, *n.* 1. [Activity] exercise, action,

var'let (văr'let; -lēt), n. [OF., var. of vassel, valet, servant, young man, young noble, dim. fr. source of vassel.] 1. Obs. An attendant; esp., Hist., a knight's page. 2. A scoundrel; a knave.

var'let-ry (-rī), n. Varieties, collectively; hence, rabble.

var'ment (văr'mēnt), var'mint (-mīnt), n. Dial. var. of VERMIN.

var'nish (văr'nish), v. t. [OF. vernis, vernissier, fr. the n., OF. vernis, v. t. To cover with varnish. 2. To coat over with something likened to varnish, as giving a fair or glossy appearance. 3. To furbish or polish up. — n. 1. A liquid preparation which, when spread upon a surface, dries forming a hard, lustrous coating. Oil varnishes are essentially solutions of resins (natural or artificial) or of asphalt in drying oils, esp. linseed oil and tung oil. Spirit varnishes are solutions of resins (natural or artificial), asphalt, cellulose esters (as pyroxilin), etc., in volatile solvents, as alcohol, spirits of turpentine, or amyl acetate. 2. The covering or glaze given by the application of varnish (sense 1). 3. That which suggests varnish by its gloss. 4. Outside show; gloss. — var'nish-er, n. var'nish tree. Any of various trees yielding a milky juice from which some cases varnish or lacquer is prepared; esp., the Japanese varnish tree (Rhus verniciflua).

var'i-ty (văr'ī-tī), n. A colloquial short form of UNIVERSITY, as, the varsity crew, baseball team.

Var'u-nā (văr'ū-nā; vūr'-), n. [Skr. Varuṇa.] Hinduism. The supreme cosmic deity, creator and ruler, and especially guardian of cosmic order.

var'us (văr'ūs; ō), n. [NL., fr. L. varus bent, grown inward] Med. A deformity in which the foot is turned inward.

var'y (văr'y; ō), v. t.; VAR'IED (-īd); VAR'y-ING. [OF. varier, fr. L. variare, fr. varius various, etc.] 1. To alter in form, appearance, substance, position, etc.; to modify. 2. To make different or change from one another. 3. To diversify; as, to vary one's diet. 4. Music. To present under new aspects, as of rhythm, interval, harmonic treatment, etc. — v. i. 1. To alter, or be altered, in any manner; to change. 2. To differ; to be diverse; as, the laws of France vary from those of England. 3. To deviate; swerve. 4. To alter or change in succession; to alternate; as, one mathematical quantity may vary inversely as another. 5. Biol. To exhibit or undergo variation.

vas (vās), n.; pl. VASA (vā'sā). [L., a vessel. See VASE.] Anat. A vessel; a duct.

vas- = VASO-

vas'cu-lar (vās'kū-lăr), adj. [L. vasculum a small vessel, dim. of vas vessel.] 1. Biol., Med., etc. Of or pertaining to a vessel or vessels for the conveyance of a fluid, esp. (in animals) a nutritive fluid, as blood or lymph, or (in plants) the sap; designating, or pertaining to, the system of vessels having this function. 2. Supplied with, or containing, vessels or ducts, esp. blood vessels. 2. Hence, hot-blooded; high-spirited. — vas'cu-lar'i-ty (-lăr'tī-tī), n.

vascular bundle. Bot. See BUNDLE, n. 3.

vascular tissue. Bot. Any conductive tissue in plants, esp. the specialized tissue found in the higher plants, forming a continuous system (vascular system) throughout the plant body.

vas'cu-lose (vās'kū-lōs), adj. Also vas'cu-lous (-lūs). Vascular.

vas'cu-lum (-lūm), n.; pl. -LA (-lā). [L., a small vessel.] A tin box used in collecting plants.

vas de'fe-rens (vās dĕf'ĕ-rĕns); pl. VASA DEFERENTIA (vās dĕf'ĕ-rĕn-ti-ā). [L. deferens carrying down.] Anat. & Zool. The excretory duct of a testicle; a spermatic duct, which is, in man, a small but thick-walled tube about two feet long, greatly convoluted in its proximal portion.

vase (vās; vāz; or, esp. Brit., vāz, vōz), n. [F., fr. L. vas, also vasum.] A vessel, usually rounded and of greater depth than width, commonly decorative though adapted for various domestic purposes, and used anciently in sacrifices.

vas-eo-to-my (vās-ĕ-tō-tō-mī), n. [vas + -ectomy.] Surg. Resection or removal of the vas deferens.

vas'e-line (vās'ĕ-lĕn; -līn), n. [Irreg. fr. G. wasser water + Gr. elaton olive oil.] A trade-mark for petrolatum and certain other petroleum products; hence [sometimes not cap.], petrolatum.

vas'ō- (vās'ō-), vas-. [From vas.] Biol. & Physiol. A combining form used to signify: a The blood vessels, as in vasomotor. b Surg. The vas deferens, as in vas/o-lig/ature, va-sot/o-my. See LIGATURE, -TOMY, C/VASO-motor, as in: vas'o-stim'u-lant.

vas'o-con-strict'or (-kōn-strīk'tĕr), adj. [vaso + con-strictor.] Physiol. Causing constriction of the blood vessels.

vas'o-di-la'tor (-dī-lĕ-tĕr; -dī-), adj. [vaso + dilator.] Physiol. Causing dilatation or relaxation of the blood vessels.

vas'o-mo'tor (vās'ō-mō-tĕr), adj. [vaso + motor.] Physiol.

& Anat. Pertaining to the nerves or centers controlling the size of the blood vessels.

vas'sal (vās'āl), n. [OF., fr. ML. vassallus, fr. LL. vasus, of Celt. origin.] 1. Early Law. One who has placed himself under the protection of another as his lord and has vowed homage and fealty; later, a feudal tenant; a feudatory. 2. A subject; dependent; servant; sometimes, a bondman; slave. — adj. Like a vassal; servile; subservient.

vas'sal-age (-jī), n. 1. State of being a vassal; homage, fealty, or services due from the vassal. 2. Servitude; esp., political dependence. 3. A territory held in vassalage.

vast (vās't; ō), adj. [L. vastus empty, waste, immense.] 1. Obs. Waste; desert. 2. Of great extent; also, huge in bulk; immense. 3. Very great in numbers, quantity, or amount. 4. Very great in degree, intensity, range, or the like. — Syn. Huge, great, mighty. See ENORMOUS. — Ant. Small, scant, little, meager. — n. 1. A waste; immensity. 2. Dial. Eng. A great quantity. — vast'y, adv. — vast'ness, n.

vas'ti-tude (vās'tī-tūd), n. Vastness.

vas'ti-ty (-tī), n.; pl. -TIES (-tīz). [F. or L.; V. vastiti, fr. L. vastitas.] Rare. Vastness; a vast.

vast'y (vās'tī), adv. [From VAST.] Vast; immense.

vate (vāt), n. [Dial. for fat, fr. ME. fat, fr. AS. fæ.] 1. A large vessel, cistern, tub, or barrel, esp. for holding liquors in an immature state, preparations for dyeing or tanning, etc. 2. A liquor containing a dye which has been converted into a soluble, nondyeing form. When textile material steeped in the liquor is exposed to the air, the dye is reformed and precipitated in the fiber. Dyes so used are called vat dyes. — v. t.; VAT'ED (-ĕd; -īd); VAT'ING. To put into, or treat in, a vat.

vate'ic (vāt'ĭk), vat'i-cal (-ĭ-kāl), adj. [L. vates a prophet, etc.] Of or pertaining to a prophet; prophetic.

Vat'i-can (vāt'ī-kān), n. [L. Vaticanus (sc. mons, or collis), the Vatican hill, in Rome, on the western bank of the Tiber.] 1. The Pope's palace, an assemblage of buildings at Rome, beside the Church of St. Peter, including museums, art galleries, library, the Sistine Chapel, etc. Here was held the Vatican Council (1869-70), which promulgated the dogma of papal infallibility. 2. The papal authority or government. See VATICAN CITY, n.

Vat'i-can-ism (-īz'm), n. The doctrine of absolute papal supremacy; — used opprobriously.

va-tio'nal (vā-tī'ō-nāl), adj. Prophetic.

va-tio'ni-ate (-nĭt), v. t. & t. [L. vaticinatus, past part. of vaticinari to prophesy, fr. vates a prophet.] To prophesy; foretell. — vat'i-ci-na'tion (vāt'ī-sī-nā'shĭn), n. — vat'i-ci-na'tor, n.

vaude'ville (vōd'vīl; vō'dĕ-vīl), n. [F., fr. Vau-de-Vire, lit., valley of Viro (a village in Normandy), where such songs were composed.] 1. A popular song, often satirical; a topical song. 2. Loosely, and now commonly, a variety show.

Vau-doi's (vō-dwā'), n. sing. & pl. [F.] An inhabitant of the Swiss canton of Vaud; also, the dialect spoken there.

Vau-doi's, n. pl. [F., fr. ML. Waldenses.] The Waldenses; vault (vōlt), n. [OF. vaulte, vaultie, vault, fr. L. volutus, past part. of volvere to roll, to turn about.] 1. An arched structure of masonry, usually forming a ceiling, or roof, but sometimes carrying a separate roof, a floor, staircase, or the like. 2. A room. Vaults, 1. 1 Barrel; 2 Cylindrical, intersecting, or Cross.

vault over, v. t. & i. [F. voler, prop., a turn, fr. It. volta turn, arch.] See 1st VAULT. 1. A leap or bound; specif.: a A leap over upon something, made by aid of the hands, or of a pole, b A manege. The bound or leap of a horse; a circuit. — v. i. 1. To leap; bound; spring. 2. Specif., to execute a vault (which see) or leap. — v. t. To leap over, esp. by aid of the hands or a pole; as, to vault a fence; also, to leap on, or the back of a horse; to mount with a leap.

vault'ed, adj. 1. Built as a vault; arched. 2. Having a vault or vaults.

vault'er (vōlt'ĕr), n. One who vaults.

vault'ing, n. Act, practice, or art, of building vaults; also, vaulted construction.

vault'ing, adj. 1. That overlies; also, overweening; as, vaulting ambition. 2. That is used in vaulting, as in gymnastic exercises.

vaunt (vōnt; vānt), v. t. [OF. vanter, fr. LL. vanitare, fr. L. vanus vain.] To talk vaingloriously; to brag; boast. — v. t. To boast of; to make a vainglorious display of. — Syn. See BOAST. — Ant. Belittle, decry. — n. A vain-

glorious display of one's, or has, or has done; ostentatious; brag. — vaunt'er, n. — vaunt'ing-ly, adv.

vaunt'-cour'ier (vānt'kōr'ĭ-ĕr; vōnt'ĭ-), n. [F. avant-courrier.] 1. Obs. One sent in advance, as of troops. 2. Hence, a precursor; forerunner.

vau'ty (vōnt'ī), adj. Scot. Proud; boastful; vain.

va'u/a-sor, va'u/a-sour (vāv'ā-sōr, -sōr), n. [OF. vavassor, vavassour, fr. LL. vassus vassorum vassal of vassals.] Feud. Law. Any of a certain class of feudal lords in rank to a knight banneret.

va'ward' (vāv'wōrd'), n. [From avantward, fr. ONF. avant-wards; See VANGUARD.] Archæol. Vanguard, as of troops; hence, the forefront; vanguard.

Ve'a-dar' (vē'ā-dār'; vā-), n. [Heb. vā-Adhār, lit., and Adar, i. e., the second Adar.] See JEWISH CALENDAR.

veal (vēl), n. [OF. veel (F. veau), fr. L. vitellus, dim. of vitulus a calf.] 1. Obs. Ezc. Dial. A calf. 2. The flesh of a calf used for food.

veal'er (-ĕr), n. Cant. A calf suitable for veal.

vec'tion' (vēk'tshĭn), n. [L. vectio, fr. vehere, vectum, to carry.] Med. Transference of disease germs from an infected to a well person.

vec'tor (vēk'tĕr), n. [L., a bearer, carrier, fr. vehere, vectum, to carry.] 1. Astron. = RADIUS VECTOR, n. 2. Biol. An organism, usually an insect, which carries and transmits disease-causing microorganisms. 3. Math. A complex entity representative of a directed magnitude, as of a force or a velocity, and represented by any of a system of equal and parallel line segments. — vec-to-ri-al (vēk'tō-rī-āl; ō), adj.

Ve'dā (vē'dā; vē'dā), n. [Skr. veda knowledge, sacred lore.] The most ancient sacred literature of the Hindus, comprising more than one hundred extant books; specif. (singular or collective); pl. VEDAS [-dās], one or all of the four canonical collections of hymns, prayers, and liturgical formulas which are the foundation of Vedic literature and religion; viz., Rig-Veda the oldest and most important, comprising over a thousand hymns; the Yajur-Veda, Sama-Veda, and Atharva-Veda. — Ve'dā-ic (vē'dā-ĭk; vē-), adj. — Ve'dā-ism (vē'dā-īz'm; vē'dā-ĭ), n.

Ve'dā-ic (vē'dā-ĭk; vē-), adj. [Skr. Vedānta, fr. Veda Veda Veda, -ānta end.] Hinduism. A system of monistic or pantheistic philosophy, based on the Upanishads; — primarily so called as being an investigation of the latter part of the Vedas, afterwards interpreted as embodying the ultimate aim or end of the Vedas. — Ve-dan'tism (-īz'm), n. — Ve-dan'tist (-tīst), n.

Ve-dan'tic (-tĭk), adj. Of or pertaining to the Vedānta philosophy; also, of or pertaining to the Vedas; Vedic.

Ved'da, Ved'dah (vēd'dā), n. [Sinhalese vedda a hunter.] One of an aboriginal people of Ceylon.

ve-dette' (vē-dĕt'), n. [F., fr. It. vedetta (after vedere to see), fr. veletta, fr. Sp. vela, fr. L. vigilare to keep watch.] A Mil. A mounted sentinel stationed in advance of the pickets. b Nav. A small vessel used to watch an enemy; — usually called vedette boat.

ve'dio (vē'dīk; vē'dīk), adj. Of or pertaining to the Vedas.

vee (vē), n.; pl. VEES (vēz). 1. The letter V, v. 2. Anything having the shape of the letter V. 3. A five-dollar bill (= V, n., 4). — adj. V-shaped.

veer (vē), v. t. [F. virer.] 1. To change direction; shift, as from one direction, condition, position, etc., to another. 2. Meteorol. To shift in a clockwise direction, as the wind. Opposed to back. 3. Naut. To wear ship; to alter the course by turning away from the direction of the wind. — v. i. To direct to a different course; to shift; a change in course, direction, etc.; a swerve. — n. veer, v. t. [MD. vieren to slacken.] Naut. To let or pay out as a rope, anchor chain, etc.

vee'ry (-rī), n.; pl. vee'ries (-rīz). [Prob. imitative of one of its notes.] A thrush (Hylocichla fuscescens) of the eastern United States. Called also Wilson's thrush.

Ve'ga (vē'gā), n. [ML., fr. Ar. al-Nasr al-Waqi' the falling (vulture).] Astron. A brilliant star of the first magnitude, the brightest in the constellation Lyra; Alpha (α) Lyrae.

veg'e-ta-ble (vēj'ĕ-tā-b'l; 58), adj. [See VEGETABLE, n.] 1. Of or pertaining to plants; having the nature of, or produced by, plants; growing in the manner of a plant; as, a vegetable nature; vegetable growths, juices, etc.; consisting of plants; as, the vegetable kingdom. 2. Made from vegetables or their substance; as, vegetable silk, butter, pigments. — n. [OF., fr. vegeter to vegetate, fr. MIt., vegetare, fr. L. vegetus lively, active, fr. vegere to be active.] A plant; specif., in common usage, a herbaceous plant cultivated for food, as the cabbage, potato, bean, etc.; also, the edible part or parts of such plants, as prepared for market or table.

vegetable butter. Any fixed vegetable oil that is solid at ordinary temperatures, as cacao butter.

vegetable ivory. A See IVORY NUT. b The shell of the coquilla nut.

vegetable kingdom. The primary division of living things which includes all plants. See PLANT, n. 2.

vegetable marrow. a An egg-shaped gourd (a form of

Cucurbita pepo) commonly eight to ten inches long. It is tender, and is a favorite vegetable in England. b The flesh of this gourd, prepared for the table.

vegetable silk. A cottonlike fibrous material obtained from the coating of the seeds of a Brazilian tree (Chorisia speciosa, family Bombacaceae). It is used for stuffing cushions, etc.

vegetable tallow. Any fatty tallowlike substance obtained from plants, used in soap and candles, for burning, etc.

vegetable wax. Any waxy product secreted by various plants, commonly in thin flakes by the walls of the epidermal cells of leaves, fruits, etc.

veg'e-ta-bly (vēj'ĕ-tā-blī), adv. In the manner of or like a vegetable.

veg'e-tal (-tāl; -t'l), adj. 1. Pertaining to vegetables, or the vegetable kingdom; of the nature of a vegetable. 2. Being, resembling, or suggesting, a vegetable in lack of sense responses and reasoning power. 3. Biol. Pertaining to vegetation; vegetative.

veg'e-tant (-tānt), adj. [LL. & ML. vegetans, -antis, pres. part.] A inspiring growth and vigor; invigorating. b Of the nature of vegetation, in lack of sense response and power of reason; vegetative.

veg'e-tar'i-an (vēj'ĕ-tār'ĭ-ān; 6), n. One who believes that plants afford the only proper food for man. Strict vegetarians eat no butter, eggs, or milk. — adj. Of or pertaining to vegetarianism; also, consisting wholly of vegetables; as, a vegetarian diet.

veg'e-tar'i-an-ism (-īz'm), n. The theory or practice of living solely upon vegetables and fruits.

veg'e-tate (vēj'ĕ-tāt), v. i. [ML. vegetatus, past part. of vegetare. See VEGETABLE, n. 1.] To grow after the fashion of plants. 2. Hence, to lead a passive existence; to do little but eat and grow. 3. Med. To grow exuberantly; to produce fleshy or warty outgrowths; as, a vegetating papule.

veg'e-ta'tion (-tā'shĭn), n. 1. Act or process of vegetating; vegetable growth, development, or activity. 2. Hence, inert existence; dull and stagnant living. 3. The sum of vegetable life; plants in general. 4. Med. A morbid outgrowth upon any part. — veg'e-ta'tion-al (-āl), adj.

veg'e-ta'tive (vēj'ĕ-tā'tīv), adj. 1. Growing, or having the power of growing, as plants; designating functions (as the maintenance of life; — often, esp. in Bot., in specif. sense opposed to reproductive; as, vegetative stage. 2. Having the power to produce growth in plants; fertile; productive; as, the vegetative properties of soil. 3. Designating the division of nature which includes the vegetable kingdom. 4. Leading a passive existence; plantlike; as, he led a vegetative life. — veg'e-ta'tive-ly, adv. — veg'e-ta'tive-ness, n.

veg'e-tism (vēj'ĕ-tīz'm), n. Vegetal state or characteristic.

veg'e-tive (-tīv), adj. Vegetable; vegetative.

veg'e-men-ce (vēj'ĕ-mĕns; vē'ĕ-; vē'ĕ-), n. Also, Rare, ve'he-men-ty (-mĕn-tī). Quality or state of being vehement; as, an impetuous force; fury. b Violent ardor; fervor.

veg'e-ment (-mĕnt), adj. [F. véhément, fr. L. vehemens, furious; impetuous. 1. Acting with great force; impetuous. 2. Deeply felt; as, a vehement suspicion. 3. Very ardent; very eager or urgent; passionate; as, a vehement protest. — Syn. See IMPETUOUS. — Ant. Listless, indifferent. — ve'he-men-ty, adv.

ve'hic-le (vē'hī-k'l; vē'hī-), n. [F. véhicule, fr. L. vehiculum, fr. vehere to carry.] 1. That in or on which a person or thing is or may be carried; any moving support or container for the conveyance of bulky objects. 2. That which is used as the instrument of conveyance or communication; as, matter is the vehicle of energy. 3. An art form or device used to convey an effect. 4. A painting. b Paints. The liquid portion, as oil, of a paint or the like. 4. Pharm. A medium in which medicine is administered, as a sirup.

ve'hic'u-lar (vē'hī-k'ū-lăr), adj. Of or pertaining to a vehicle; also, serving as a vehicle.

Vehm'ge-richt (fām'gĕ-rīkt), n.; pl. -GERICHTE (-rĭk'tŭ) [G. vehme, fehme, feme, criminal tribunal + gericht common in Germany, chiefly in Westphalia. They met in secret and usurped many functions of government.

vell (vāl), n. [ONF. veile (OF. & F. voile), fr. L. vela, pl. of velum a sail, curtain, veil.] 1. A fabric hung up, or spread out, to intercept the view, and hide an object; or a curtain; esp., a piece of stuff usually diaphanous, worn to hide or protect the face. 2. Hence, a cover; disguise; mask; — in phrases, as veil of silence, veil of darkness, etc. 3. The state accepted or the vows made by a nun when she assumes the white veil of a novice or hence the black cloistered life; as, to take the black veil; to renounce the veil. 4. Anat. A caul; as, born with a veil. 5. Bot. 6. As with a veil. — v. t. 1. To throw a veil over; to cover.

veil'ing, n. 1. Act of covering with a veil. 2. A veil; also, rauzy material, as for veils.

vein (vān), n. [OF. veine, fr. L. vena.] 1. A fissure or cavity, as in any substance.

vein'ed (-ĕd), adj. [F. veiné, fr. L. vena.] 1. A fissure or cavity, as in any substance.

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stop/cook (stɒp'kʊk'), *n.* A cock or valve for stopping or regulating the flow through a pipe, etc.

stop (stɒp), *n.* **Mining.** An excavation underground for the removal of ore, formed by mining the ore from a block of ground. — *v. t. & i.* **Mining.** To extract (ore) from a stope.

stop/gap (stɒp'gæp'), *n.* That which closes or fills up an opening or gap; hence, a temporary expedient.

stop/loss, *adj.* Designed to prevent further loss.

stop order. Also **stop-loss order.** *Exchanges.* A limited order which becomes an order to sell or buy at the market whenever a designated quotation is reached.

stop/over (stɒp'ɒvər), *n.* A stop at an intermediate point in one's journey; a place so stopped at.

stop/page (stɒp'peɪʃ), *n.* Act of stopping, or arresting motion, progress, or action; also, state of being stopped.

stop payment. *Banking.* A depositor's order to a bank to refuse to honor a specified check drawn by him.

stopped (stɒpt), *adj.* 1. Closed; obstructed. 2. Checked; barred. 3. Formed with a stop. 4. *Music.* A of an organ pipe, closed at the top and producing thereby a pitch approximately an octave lower than that of an open pipe of the same length. 5. Obtained by stopping a string, pipe, finger hole, etc., of an instrument.

stopper (stɒpər), *n.* One that stops or closes, as a cork, plug, etc. — *v. t.* To close or secure with a stopper.

stopple (stɒpəl), *n.* [ME. *stoppele*.] A stopper. — *v. t.*; -PLED (-lɪd); -PLING (-lɪŋg). To stopper.

stop watch. A watch having a hand or hands that can be started or stopped at will, for exact timing, as of a race.

storage (stɒrɪʃ), *n.* 1. Act of storing, or state of being stored; specif., the safe keeping of goods in a warehouse or other depository. 2. Space, or a place, for the safekeeping of goods. 3. The price charged for keeping goods in a storehouse. 4. *Elec.* The production, by means of electric energy, of certain chemical reactions which, when allowed to reverse themselves, generate electricity again without serious loss.

storage battery. *Elec.* A connected group of electrochemical cells for the generation of electrical energy in which the cells after being discharged may be restored to a charged condition by passing a current through them in a direction opposite to the flow of current on discharge.

storax (stɒr'æks; 70), *n.* [L. *storax*, *styrax*, fr. Gr. *styrax*.] 1. A resin derived from various styracaceous trees (see *Styrax officinalis*). 2. A fragrant balsam obtained from the bark of an Asiatic tree (*Liquidambar orientalis*) used as an expectorant and in perfumery.

store (stɔː; 70), *v. t.* [OF. *estore* to construct, restore, store, fr. L. *instaurare* to renew, restore.] 1. To furnish; provide, esp. for a future time or need. 2. To accumulate; to lay away. 3. To deposit in a store, warehouse, etc., for preservation. — *n.* 1. Orig., that which is stored for future use; now, *pl.*, articles, esp. of food, accumulated for some specific object; supplies, as of provisions, arms, etc. 2. That which is accumulated; a source from which supplies may be drawn; a reserve fund. 3. An abundance; a great quantity. 4. A storehouse; warehouse. 5. *U. S., Can., etc.* Any place where goods are kept for sale; a shop.

store/house ('həʊs'), *n.* A building for storing goods, esp. provisions; magazine; warehouse; storehouse.

store/keeper ('keɪpər), *n.* 1. One in charge of stores, esp. military stores. 2. One who keeps a store, or shop.

store/room ('ru:m), *n.* A room for storing supplies.

storey (stɔːri), *n.* Var. of **story** of a building.

storied (stɔːrɪd; 70), *adj.* 1. Adorned with designs representing scenes from story or history. 2. Having a history; celebrated in story or history.

storied, adj. Having stories; — often in combination, as in **two-storied**.

sto'ri-ette ('stɔːri-ɛt; 70), *n.* [story + -ette.] A brief story or tale.

stork (stɔːrk), *n.* [AS. *storc*.] Any of various large, mostly Old World, wading birds (family Ciconiidae) having a long, stout bill, allied to the ibises and herons. The common European **white stork** (*Ciconia ciconia*) is white with black wing quills and greater coverts.

stork's-bill (stɔːrk's'bɪl), *n.* A Any of a genus (*Peltarionium*) of plants; — from the beaklike prolongation of the axis of the receptacle. b A plant of a related genus (*Erodium*).

storm (stɔːm), *n.* [AS. 1. A disturbance of the atmosphere, attended by wind, rain, snow, hail, sleet, or thunder and lightning; hence, often, a heavy fall of rain, snow, or hail. 2. A shower or furious flight of objects, esp. of missiles violently thrown; as, a **storm** of arrows. 3. A civil, political, economic, social, or domestic, commotion or tumult; violence. 4. A vehement outburst, as of passion, excitement, etc. 5. *Mil.* A determined assault on a fortified place. 6. *Naut.* On 'one (Beaufort) wind scale, a wind of velocity between 64 and 75 miles per hour. — *Syn.* Tempest, eruption, upheaval, agitation, calamity. — *Ant.* Peace, tranquillity. — *v. t.* 1. To blow with violence; also, to rain, hail, snow, etc. 2. To rage; to be angry. 3. To rush about or move impetuously, violently, etc.; as, the mob **stormed** through the streets. — *v. i.* 1. To attack, disturb, trouble, as with a storm. 2. *Mil.*, to attack, and attempt to take, by sudden assault. — *stormy ('stɔːmli), *adj.*; **stormy-er** ('mi-ɛr); **stormy-est** ('mi-ɛst). 1. Characterized by, or pertaining to, a storm; tempestuous. 2. Turbulent; violent. — **stormily** ('stɔːmli), *adv.*; **storminess**, *n.**

stormy petrel. A Any of certain small petrels (esp. *Hydrobates pelagicus*), a small sooty-black bird marked with white on wing coverts and tail coverts) which frequent the north Atlantic and Mediterranean. b A harbinger of trouble, from the belief that the petrel is active before a storm.

Stor'ing, Stor'ing ('stɔːrɪŋ; 70), *n.* [Nor. *storing*, fr. *stor* great + *ing* assembly, court.] The Parliament of Norway.

stor'y (stɔːri), *n.*; *pl.* -RIES (-ri:z). [Appar. same as **STORY**; perh. orig. applied to a tier of pointed windows or sculptures.] A set of rooms on the same floor on one level, or the habitable space between two floors. Also, the horizontal division of a building's exterior; not necessarily corresponding exactly with the stories within. — **stor'ing** ('stɔːrɪŋ), *n.* [OF. *estorie*, fr. L. *historia*.] See **story**.

story, *n.* [OF. *estorie*, fr. L. *historia*.] See **story**.

story, *n.* 1. A connected narration of past events; a history. 2. A An account of some incident. 3. A report or statement. c An anecdote, esp. an amusing one. 4. A piece of literature; a A narrative in either prose or verse. b The plot of a narrative. 4. *Colloq.* A fib; a lie. — *stor'ing* ('stɔːrɪŋ), *n.* Any news article. — *Syn.* Story, tale, anecdote. — *Story* is the general and formal word; tale is often elevated or poetical, and frequently connotes more than story; an anecdote is a short account of a single incident.

story-teller ('tɛl-ɪər), *n.* A teller of story or stories.

story-telling, *adj. & n.*

stoss (stɔːs; G. stōs), *adj.* [G. a thrust.] *Geol.* Facing toward the direction from which an overriding glacier is impinged; — said of the side of a hill or a rock.

sto-tin'ka (stɔːtɪŋ'kɑ), *n.*; *pl.* -KI (-ki). [Bulg.] A coin denomination of Bulgaria, equal to 10 lev.

stound (stound; stōnd), *n.* [AS. *stund*.] 1. *Archaic.* *Dial.* A time, esp. a short time; instant. 2. *Obs.* *Dial.* A heavy blow; a twinge; pang; thrill. 3. *Obs.* To be in pain; throbb; ache.

stoup (stōp), *n.* [From Scand. and LG.; cf. ON. *staupe*.] 1. A vessel for liquids; specif.: a *Scot.* A bucket, pail, or small cask. b A drinking vessel. 2. *Ecc.* A basin at the entrance of a Roman Catholic church for holy water.

stour (stōr), *n.* [OF. *estour*, *estor*, tumult combat.] *Archaic & Dial.* a Conflict. b Tumult. c A storm; a stiff breeze. d Dust, esp. in the air; chaff; also, spray; fog.

stout (stout), *adj.* [OF. *estout* bold, strong, proud, foolish, of Teut. origin.] 1. Strong of character; specif.: a Brave; bold. b Firm; uncompromising. 2. Physically or materially strong; specif.: a Sturdy; robust. b Firm; staunch; enduring. c Solid; substantial. Forceful; as, a **stout** attack; sometimes, violent; as, a **stout** wind. 4. Having a bulky body; thickset. — *Syn.* Fortible, hardy, powerful; fat, fleshy, bulky. — *Stout*, *n.* corpulent, obese, burly. **Stout** implies a thickset, bulky build; portly adds to **stout** the implication of a more or less distended and imposing appearance; corpulent (in present usage) and imply a disfiguring excess of flesh. **Burly** adds to **stout** the implication of sturdiness or bluffness. See **strong**. — *Ant.* Craven, feeble, weak, sickly; fragile, delicate.

— *n.* 1. A stout person; also, in garment trade, a dress suit designed for a stout figure. 2. A malt liquor brewed with malt and roasted malt.

stout/hearted ('hɑːrtɪd; -tɪd; 2), *adj.* Having a hearty or spirited; brave. — **stout/hearted-ly**, *adv.*

stout/ly ('stoutli), *adv.* In stout manner.

stoutness ('nɛs; -nɪs), *n.* Quality or state of being stout.

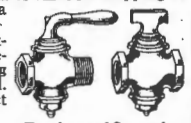
stove (stɔːv), *n.* [MD. or MLG.; akin to AS. *stōf* a room for a warm bath.] 1. A furnace for generating or retaining heat for warming a room, for culinary purposes, or heating tools, etc. 2. A kiln, as for firing pottery. 3. A drying room or box used in various manufactures.

stove/maker, *n.*

stove (stɔːv), *past & past part.* of STAVE.

stove/pipe ('pi:p), *n.* 1. Pipe, or a pipe, of sheet iron used as a stove chimney. 2. *Colloq., U. S.* Short **stovepipe hat**, the common tall silk hat.

stove/pipe hat, *n.* [ME. See **STOVEPIPERS**.] A *Norw.* Eng. Fodder, esp. for winter, as straw or stubble, mature cured stalks of grain, from which the ears have been removed, used as feed for livestock.



European White Stork. (1/2s)

stow (stəʊ), *v. t.* [ME. *stowen*, fr. *stowe* a place, fr. AS. *stowian*.] 1. To place or arrange in a compact mass; pack; to stow freight. 2. To hide; lodge. 3. To arrange something compactly in; as, to stow a box. 4. To hold; to stow in a room, etc. 5. *Slang.* To put aside; cease. — *stow-er ('stəʊ-ər), *n.* 1. Act or method of stowing; also, a stowage. 2. State of being stowed; capacity for holding things. 3. Money paid for stowing goods. — **stow-er-way** ('stəʊ-ər-weɪ), *n.* One who conceals himself on a vessel, train, ship, etc., to obtain a passage. — **stow-er-ward** ('stəʊ-ər-wɑːd), *adv.* *Scot.* By stealth.*

stow-er-way ('stəʊ-ər-weɪ), *n.* [NL. fr. Gr. *strobilos*, to rotate.] *Med.* A visual disorder marked by a spasm of the muscles of the eyeballs. — **stow-er-way** ('stəʊ-ər-weɪ), *adj.*

stow-er-way ('stəʊ-ər-weɪ), *n.* *Surg.* The operation of cutting out the superior eye muscle to cure strabismus.

stow-er-way ('stəʊ-ər-weɪ), *v. i.*; -DLED (-lɪd). — **stow-er-way** ('stəʊ-ər-weɪ), *v. i.*; -DLED (-lɪd). — **stow-er-way** ('stəʊ-ər-weɪ), *v. i.*; -DLED (-lɪd). — **stow-er-way** ('stəʊ-ər-weɪ), *v. i.*; -DLED (-lɪd). — **stow-er-way** ('stəʊ-ər-weɪ), *v. i.*; -DLED (-lɪd).

straddle ('strædl), *n.* 1. To stand, sit, or walk, with the feet wide apart; esp., to sit astride. 2. Hence, loosely, to be between two things; to be in a dilemma. 3. *Colloq.* To be noncommittal, or to favor or seem to favor two apparently opposite sides. 4. *Exchanges.* To buy in one market and sell short in another. — **strad'dler** ('strædl-ɪər), *n.* 1. To stand, sit, or be, astride of. 2. *Colloq.* To be noncommittal in regard to, or to favor, or seem to favor, two sides of an issue; as, to straddle an issue. — *n.* 1. Act or position of one who straddles. 2. The distance between the feet or legs of one straddling. 3. *Colloq.* A noncommittal or equivocal position. 4. *Exchanges.* An option on the holder the double privilege of a put and a call. — **strad'dling** ('strædlɪŋ), *adv.* The state of being long in one market and short in another. — **strad'dler** ('strædl-ɪər), *n.* — **strad'dling-ly**, *adv.*

strad'dler ('strædl-ɪər), *n.* A violin made by Antonio Stradivari (prob. 1644-1737) of Cremona.

strafe ('strɑːf; strāf), *v. t.* [From G. phrase *Gott strafe* God punish God punish England (1914).] *Slang.* To punish or bombard fiercely. — **strafe**, *n.* — **straf'er** ('strɑːf-ɪər), *n.*

straggler ('strægl-ɪər), *v. i.*; -GLED (-lɪd); -GLING (-lɪŋg). 1. To wander from the direct course; rove; stray. 2. To differ from others of its kind. — **strag'gler** ('strægl-ɪər), *adj.* Spread out irregularly.

straight ('streɪt), *adj.* [ME. *streight*, *strecht*, prop. past part. of *strechen* to stretch, AS. *streht*, past part. of *streahan* (Newnomb); lying evenly throughout its extent (*stret*); — said of a line. 2. Having the general characteristics of a straight line; — opposed to curved, crooked, etc. 3. Direct; uninterrupted; unbroken; specif.: a Straight course or method; as, **straight** thinking. b *Colloq.* Straightforward; as, **straight** to the point. c *Colloq.* Properly ordered or arranged; correct. 6. Unmixed; undiluted; unmodified; as, **whisky straight**. 7. *Polit. Cant., U. S.* Making no exceptions in one's support of principle, party, etc.; as, a **straight** Republican. 8. *Slang.* U. S. Having a fixed price for each regardless of the number sold; as, cigars ten cents **straight**. 9. *Card Playing.* Composed of cards in a regular sequence, as the ace, two, three, jack, and ten. 10. *Mech.* Having the cylinders arranged in a single straight line; — of a type of internal-combustion engine. — *adv.* In a straight manner; straight line. b *Slang.* A true statement. 2. In various games or other contests, a sequence of shots, strokes, or results in a perfect score. 3. *Poker, etc.* A straight between the last turn and the winning post. — *v. t.* 1. To straighten. — **straighten**, *v. t.* — **straight-ly**, *adv.* — **straight-ness**, *n.*

straight-arm, *v. t.* *Amer. Football.* To ward off (an opponent) with the arm held straight.

straight-ly ('streɪtli), *adv.* Straightforward; continuing in direction; proceeding in a straight line. — *n.* A straight course, or straight part of a course.

straight-edge ('streɪt-ɛdʒ), *n.* A bar or slip, as of wood or metal, with a straight edge for testing straight lines and surfaces; drawing straight lines, etc.

straight-en ('streɪt-ən), *v. t. & i.* To make or become straight.

straight-en-er ('streɪt-ən-ɪər), *n.*

straight-faced ('streɪt-ɪsɪd; 'fæsɪd; 2), *adj.* Straightforward manner. — **straight-ly** ('streɪtli), *adv.* Also **straight-wards** ('wɛːrds). In a straightforward manner.

straight-ward ('streɪt-wɔːrd; 2), *adv.* Proceeding in a straight course or manner; hence, honest; frank. — **straight-ward-ly**, *adv.* — **straight-ward-ness**, *n.*

straight-line, *adj.* 1. *Mech.* Designating a linkage or equivalent device (called **straight-line motion**) designed to produce or copy motion in a straight line. 2. *Mech.* Having the principal parts arranged in a straight line, as the steam and air cylinders of a compressor.

strains ('streɪnz; then, thin; nature, verdūre (118); x = ch in G. ich, ach; bon; yet; zh = z in azure. Numbers refer to §4 in Guide to Pronunciation. Explanations of Abbreviations, etc., precede Vocabulary. | Foreign Word.

straight ('streɪt; 2), *adj.* *Colloq., U. S.* Act without concealment; hence, thoroughgoing.

straight-way ('wɑː; 2), *adv.* Immediately.

strait (streɪt), *n.* [AS. *strōn*, *strion*, gain, acquisitive besetting.] 1. Orig., besetting; hence, race; stock; i. *Strait*. 2. Hereditary character or disposition. b A *tra* mals, those which have a common lineage but not distinguishing characters sufficient to constitute a breed. A sustained note or movement; a passage or flight, as of imagination. 6. A The tenor, burden, tone, manner, style of a song, poem, speech, book, etc., or of a course of act or conduct; as, he spoke in a noble **strait**. b Mood; temper. 7. *Hort.* A group of plants differing little in any morphology, yet physiologically distinct, with some additional quality, esp. a desirable one, as greater yield or vigor. 8. *Music.* A tune or air. — *Syn.* Dash, shade, touch, *v.* strain, *v. t.* [OF. *estraindre*, *estraindre*, fr. L. *stringere* to draw tight.] 1. To draw tight; to stretch. 2. To exert to the utmost; as, to strain every nerve in running. 3. To press closely; to hug; — now in phrase to **strain to one's breast**. 4. To filter. b To remove by filtration or to like. 5. To stretch beyond its proper limit; as, to **strain** the law. 6. To injure by overexertion; to sprain; as, to **strain** the wrist. 7. To injure by drawing, stretching, the exertion of force; as, to **strain** the timbers of the ship; also, to overtax (one's) strength, emotions, etc. 8. *Obs.* To force; constrain. 9. *Mech.* To cause a change of form or size by the application of external force. — *v.* 1. To make violent efforts; to strive. 2. To sustain strain, wrench, or distortion. 3. To be filtered; to percolate. 4. To make great difficulty; to balk; as, to **strain** at a gnat. — *Syn.* Strain, sprain agree in the idea of injury from overstretching or overexertion. But strains is of general application; sprain apply only to muscles or ligaments.

— *n.* 1. Act of straining, or state of being strained; specif. a Excessive tension. b Excessive exertion. c A sprain or wrench. 2. *Mech.* A Deformation or distortion due to stress or force. b Sometimes, stress, thrust, or force, generally **strain'er** ('strɛn-ɪər), *n.* One who or that which strains; as, a screen, sieve, filter, etc. b Any of various devices for stretching or tightening something.

strain'ing piece or beam. A short piece of timber in truss, used to hold in place the ends of struts or rafters.

strait ('streɪt), *adj.* [OF. *estreit*, fr. L. *strictus* drawn together, close, tight.] 1. *Archaic.* a Narrow. b Restricted. c Tight; close; constricted. 2. *Archaic.* Strict scrupulous; rigid. 3. a Distressful. b Straitened; limited as to resources. — *n.* 1. *Archaic.* A narrow passage 2. A (comparatively) narrow passageway connecting two large bodies of water; — often in *pl.* with *sing.* sense. 3. *Rare.* A neck of land; isthmus. 4. A situation of perplexity or distress; — often in *pl.*; as, reduced to great **straits** — **strait'ly**, *adv.* — **strait'ness**, *n.*

strait'en ('streɪt-ən), *v. t.* 1. To make strait, or narrow; hence, to contract; confine. 2. *Rare.* To restrict; hamper. b To distress or embarrass; — chiefly in the *past part.*; as, a man **straitened** in his circumstances.

strait jacket. A strong tight coat for restraining the violently insane or delirious criminals, etc.

strait-laced ('streɪt-læst; 2), *adj.* 1. A Laced tightly, as stays. b Wearing, or bound with, tight stays. 2. Excessively strict in manners, morals, or opinion.

Straits dollar ('streɪts), *n.* See **DOLLAR**, 6.

strake ('stræk), *n.* *Shipbuilding.* One breadth of planks or plates along the bottom or sides of a vessel, reaching from the stem to the stern.

stram-mash ('stræm-mæʃ; strām'æʃ), *n.* *Scot.* Disturbance.

stram-in'e-ous ('stræm-ɪn-ɪ-ə-s), *adj.* [L. *stramineus*, fr. *stramen* straw.] Of or like straw; also, straw-colored.

stram-mo'ni-um ('stræm-mo-ni-əm), *n.* Also **stram'o'ny** ('stræm'o-ni). [NL.] 1. The thorn apple (*Datura*); esp. the Jimson weed. 2. *Pharm.* The dried leaves of the latter, used in medicine, esp. in asthma.

strand ('strænd), *n.* [AS.] A shore, esp. of the ocean, a sea, or an arm of the ocean. — *Syn.* See **SHORE**.

strand, *v. t. & i.* 1. To run, drift, or drive (a ship) on a strand, or aground. 2. To place in a position, esp. an unfavorable position, which one cannot leave; also, in passive, to be left alone and destitute.

strand, *n.* [OF. *estran*, of Teut. origin.] 1. Any of the fibers, as of yarn, twisted into a ropelike mass; also, the rope, cable, etc., thus made. 2. A Any of two or more wires twisted together into a single ropelike cable. b Hence, any twisted or plaited ropelike structure; as, a **strand** of pearls.

strand, *v. t.* To break a strand of (a rope).

strand line. *Geol.* A shore line or beach; esp., one above the present water level.

strange ('streɪŋ; 46), *adj.*; **STRANG'ER** ('streɪŋ-ɪər); **STRANG'EST**. [OF. *estrang*, fr. L. *extraneus* external, foreign, fr. *extra* on the outside.] 1. *Archaic.* Of another country; foreign; alien. 2. Of or pert. to some other kind, character, or place. 3. Extraordinary, as in size, quantity, etc.; hence, unnatural; queer. 4. Not before known, heard, or seen; new; unfamiliar. 5. Reserved; shy. 6. Unaccus-

āle, chāotic, cāre, ādd, āccount, ārm, āsk, sofā; ēve, hēre (27), ēvent, ēnd, silēnt, makē; ice, charity; ōid, ōbey, ōrb, ōdd, ōft, cōnnect; fōöd, fōöt; out, oil; cūbe, fūnite, fūn, ūp, cūrcūl, mā


Parking games
 Parallel parking ...
 Parking mania
 Parking lot game
 Parking perfectio...
 Free online parki...
 Fun parking games
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Nearby Words

parjanya
 parjigitate
 parji
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 park ave.
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Synonyms

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 deposit
 station
 meadow
 square
 estate
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parking [par-king] ? 

[Origin](#)

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park-ing  [par-king] ? [Show IPA](#)

noun

1. the act of a person or thing that **park**s, especially a vehicle.
2. space in which to **park** vehicles, as at a place of business or a public event: *There's plenty of free parking at the stadium.*
3. permission to **park** vehicles: *Is there parking on this side of the street?*
4. the activity or occupation of a person who operates or works in a **parking lot**, garage, or the like.
5. **parking strip**.



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adjective

7. of, pertaining to, used for, or engaged in parking, especially of vehicles: *parking regulations; a parking ticket; a parking space; a parking attendant.*

Parking is always a great word to know.
 So is **ninnyhammer**. Does it mean:

-  **a fool or simpleton; ninny.**
-  **a children's mummer's parade, as on the Fourth of July, with prizes for the best costumes.**

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Origin:
 1520-30; **park** + **-ing**¹, **-ing**²

Related forms
un-park-ing, **adjective**

The Hot Word



"Liver tea and just us? Why is when you misinterpret words or lyrics called a mondegreen?"
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Related Words

motel	Tarmac
parking meter	ticket
parking lot	apron
parking strip	blacktop
stall	breach
stork parking	car park

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Matching Quote

"**the parking** lot of the dead."

James Dickey

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World English Dictionary

Collins

store (stɔː) ?

- vb

1. (*tr*) to keep, set aside, or accumulate for future use
 2. (*tr*) to place in a warehouse, depository, etc, for safekeeping
 3. (*tr*) to supply, provide, or stock
 4. (*intr*) to be put into storage
- computing* to enter or retain (information) in a storage device

DECK
TO
HOO

in establishment for the retail sale of goods and services

in combination): storefront

| large supply or stock kept for future use

as modifier): store ship

rt for department store

| storage place such as a warehouse or depository

in combination): storemanstate of being stored (esp in the phrase **in store**)

rge amount or quantity

WIN
tionary.com
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computing another name for **memory**| called: **store pig** a pig that has not yet been weaned and
ghs less than 40 kg*in animal bought lean to be fattened up for market**as modifier*): store cattle**store** forthcoming or imminent**store by** , **put store by** , **set store by** to value or reckon
mportantfrom Old French *estor*, from *estorer* to restore, from Latin*stare* to refresh; related to Greek *stauros* stake]

ble

Now

Collins English Dictionary - Complete & Unabridged 10th Edition
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Publishers 1998 2000 2003 2005 2006 2007 2009
[Cite This Source](#)

Word Origin & History

Etymonline

store

1264, "to supply or stock," from O.Fr. *estorer* "erect, furnish, store," from L. *instaurare* "restore," from in- "in" + *-staurare*, from a noun cognate with Gk. *stauros* "pole, stake" (see **steer** (v.)). The meaning "to keep in store for future use" (1552) probably is a back-formation

EXPAND

Online Etymology Dictionary © 2010 Douglas Harper
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Computing Dictionary

FOLDOC

store definition

jargon

In some varieties of Commonwealth hackish, the preferred synonym for **core**. Thus, "bringing a program into store" means that a program is being **swapped** in from **backing store** to **main store**.

[Jargon File]
(2006-12-06)

FAVORITES

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Diction
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MAKE A
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smart

START

TERMS & CON

August 8, 2011

City of Portland Maine Planning Department
c/o Mr. Erick Giles, Planner
389 Congress Street
Portland, ME 04101-3509

**Site Alteration Application – Peaks Island Fuel
Island Avenue, Peak’s Island, Maine**

On behalf of Peaks Island Fuel, we are pleased to submit information pertaining to the Site Alteration Application for their new parking lot. The property is shown as Lots 1, 2 & 5 on the City of Portland Tax Map 90 and is located in the Island Residential 2 (IR2) & Island Business (IB) Districts. The proposed parking area and storage building are located entirely within the IB district. ↓ shed

The proposed improvements consist of an access drive, parking area and potential future 180 SF storage building. The 12’ wide access drive will provide a single point of access from Island Ave. to the parking area. The parking area has space to park 4 - 2,800 gallon fuel trucks and three passenger-vehicle-sized service vehicles. The access drive and service vehicle parking will be gravel. The fuel trucks will be parked on a concrete pad.

This project does require a Spill Prevention, Control and Countermeasures Plan. We are working directly with the MDEP – Bureau of Remediation and Waste Management to finalize the details of that plan. We will forward the approved SPCC Plan under a separate cover. The influence of the SPCC Plan regulations can be readily seen on the site plan. As previously mentioned, the oil delivery trucks will be parked on a concrete pad. The pad will be surrounded on three sides by a water-tight curb dike. The Dike will serve as secondary containment for any spills or leaks from the oil trucks. Secondary containment measures need to be sized to contain a volume equal to the largest likely spill volume. In this case, where there is no transfer of materials from one tank to another – the most likely spills would be caused either from a leaky valve or from a leak in the delivery truck’s engine. The secondary containment provides a storage volume well in excess of the required amount.

Mohr & Seregin, Landscape Architects provided the landscaping plan. They also made key contributions to the site plan that will result in a more attractive site. Some key elements of their plan are as follows:

- A curved entrance drive will allow for trees and shrubs (to be planted on the inside of the curve) to block the view of the fuel trucks from Island Avenue.
- The storage building has been placed to block the view of the service vehicles from Island Ave. as well as partially blocking the view of the fuel trucks from those viewing the site from the south and west.

- A 6' high wooden fence will be added around the south and east sides of the delivery truck parking area.
- New trees, bushes and shrubs will be added to the site to beautify and screen the site from neighboring properties.
- Existing vegetation will be preserved as much as possible to provide mature screening. The lower end of the site will be preserved as a wooded buffer. This buffer will be used to filter storm-water runoff.

The applicant is not proposing any signage or lighting at this time.

The site plan standards call for a permanent paved service that is not subject to ponding. The access drive and service vehicle parking area are proposed to be gravel. Water will flow to a swale at the lower corner of the drive aisle that will drain to a ditch turnout buffer. Water will not pond in this portion of the parking area. The oil & propane delivery trucks will be parked on a curb-dike lined concrete pad as part of the site specific SPCC Plan. The pad has been designed to drain toward the 6"-7" high curb-dike. The dike will cause the water to pond to the full depth of the dike. The water within the dike will be inspected prior to release to ensure that no petroleum leakage has occurred. The dike/parking area will be drained via a threaded and capped PVC pipe. Both surfaces are stable and compact and will ultimately drain to a wooded buffer in the rear of the site. A paved parking lot would not provide any additional benefit in terms of functionality or quality of storm-water runoff.

We request a waiver of the following items:

- Bicycle parking – The parking lot is not for public use. There will be no vehicular or pedestrian traffic into the parking area except for employees of Peak's Island Fuel
- Typical driveway width – We are proposing a 12' wide access drive into the parking area. The smaller access drive is a key component of our efforts to better screen the parking area from the surrounding area. Additionally, a narrower entrance drive will help to increase the available buffer between the gravel surface and the adjacent abutter. At this time, Peak's Island Fuel only has one full time driver and one part time driver. There will not be opposing vehicles on the access drive at any time.

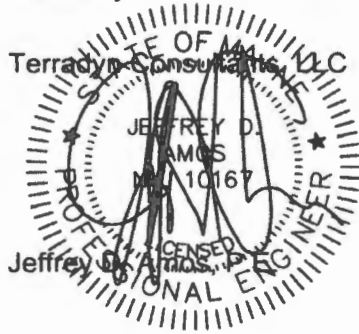
The following items are attached to this submittal:

- Civil Plan Set (including Site Plan, Grading & Erosion Control Plan and Construction Details)
- Landscaping Plan prepared by Mohr & Seredin, Landscape Architects
- Stormwater Management Report
- Agenda from the July 28th Peak's Island Council meeting where public meeting was held to discuss the project.
- Letters from Keith Ivers outlining both the public hearing process; specifics about the Peaks Island Fuel operations; as well as a waiver request and a further information on the use of the proposed parking area.

We hope that you find the enclosed information to be helpful in your review of this project. Please call me if you have any questions as you review the enclosed plans and information.

Sincerely,

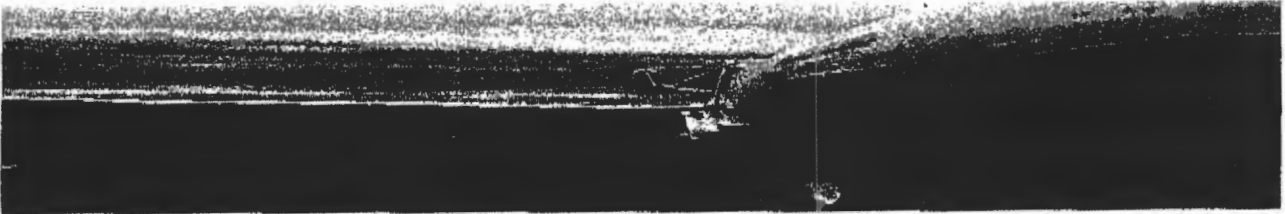
Terradyn Consultants, LLC
JEFFREY D. AMOS
MA 10167
PROFESSIONAL ENGINEER
Jeffrey D. Amos, P.E.



PEAKS ISLAND FUEL

P.O. BOX 104 PEAKS ISLAND, ME 04108

207-766-6700



Mr. Giles,

This letter is to inform you of last weeks open meeting that was held at the Peaks Island Community Center. A public announcement was sent out through an email list that a large number of the Islanders are part of, it is also the same mailing list that has been used to circulate peoples opinions about my proposed site plan. This email list is what has been used by myself and the opposition since the very first day of the site review plan and that is why it was used to invite everyone to this public meeting.

The meeting was held on July 28th at 6:30 pm and it was put on by the Peaks Island Council. I have enclosed a copy of the email as it was sent out. I made one hundred (100) copies of the revised site plan and handed them out to everyone in the room and then I proceeded to the front of the room to explain in detail my ideas. I spent about half an hour explaining the plan and my situation in great detail to the packed room of sixty (60) plus people, after which the room was open to questions. Eighteen (18) people raised there hands and seventeen (17) were in support for the site plan. One person wasn't against it but would still like to see it elsewhere but had nothing other than asthetic concerns. A show of unanomouse support followed with applause and cheers and even a few tears. The council was unanimous in their support and made the comment that this was the largest crowd they had seen since the secession movement.

I am not a confrontational person by nature but that night I put my fears aside with hopes that certain neighbors, who have plagued my with opposition in every shape and form, would have questions loaded and I would be able to address them. Especially Fred O'Keefe who has said I haven't addressed all of my neighbors. At 6:15 pm he drove past me as I was leaving to head down to the meeting and I thought that he to was on his way, then another couple who has been brought up in opposition drove by as well. Not one of them or anyone else that has sent emails in opposition showed up that night. The council even stated that Mr. O'Keefe usually attends every council meeting. I was a little discouraged especially when I found out that playing cards at the local pub was more important to him than the concern he has for the neighborhood and his property values. But not to single him out, I was discouraged because the council was nice enough to change their agenda and to host this meeting and not one person that has shown opposition, aside from Mr. Haykal, thought the meeting was worth attending. I will give Mr. Haykal credit for showing up and speaking up and I'm glad he did. He has always been a good friend and I don't want to jepordize that but I have to look out for my family and what's right. I feel I have been

more than accomodating towards him and have spent over a thousand dollars having the plans changed over and over again in trying to make him happy but the plan we have now I feel is absolutly brilliant. Mr. Haykal is coming over for diner tonight and a resolution that works for us both will be reached.

My Engineer has worked around the clock on this and he has done a fantastic job to say the least. The final touches were added by the generous donation from my fellow islanders of Mohr & Seredin Landscape Architects, Inc., along with a lot of input from neighbors and other islanders.

If you have any further questions about this public meeting please contact me. Thank you.

Best Regards,

A handwritten signature in black ink, appearing to read 'Keith Ivers', with a stylized flourish at the end.

Keith Ivers

Marge Schmuckal - Fwd: Peak's Island Fuel

From: Alex Jaegerman
To: Marge Schmuckal
Date: 8/9/2011 6:56 PM
Subject: Fwd: Peak's Island Fuel
Attachments: Peaks Island Fuel 8_9_11 Submittal.pdf

Here you go, Marge.

>>> Eric Giles 8/9/2011 3:17 PM >>>
See attached revision.

>>> "Jeff Amos" <jeff@terradyconsultants.com> 8/9/2011 10:42 AM >>>
Eric,

Attached is a .pdf of our submittal. We will bring a paper copy of the submittal to your office later today. As I mentioned yesterday, I will forward the SPCC Plan to you once MDEP has signed off.

Let me know if you have any questions or need additional information.

Also, please acknowledge receipt of this file.

Thanks.

Jeff Amos, P.E. | President
Terradyn Consultants, LLC
Civil Engineering – Land Planning – Stormwater Design

office: (207) 926-5111
cell: (207) 272-7571
fax: (207) 221-1317
111 Elderberry Lane
P.O. Box 339
New Gloucester, ME 04260

jeff@terradyconsultants.com
www.terradyconsultants.com

This message may contain information which is private, privileged or confidential and is intended solely for the use of the individual or entity to whom/which it is addressed. If you are not the intended recipient, please reply to the sender and delete the message(s) and any and all attachments. Thank you.

Truck terminal: A building and premises devoted to handling and temporary warehousing of goods, which may include facilities for the maintenance and repair (except body repairs, frame straightening and painting), fueling and storage of trucks or tractor-trailer combinations.

Upland edge of a wetland: the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation but such vegetation is dominated by woody stems that are six (6) meters approximately.

Use: The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Utility substation: Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a public utility.

Vegetation: All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and one-half (4 1/2) feet above ground level.

Warehousing: The storage of goods, wares and merchandise in a warehouse.

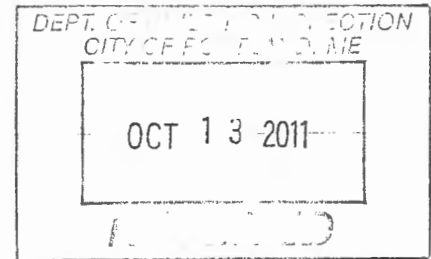
Water body: Any river or stream.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, swale, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, or which has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Water-dependent uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters.

Marge Schmuckal - Fwd: Application of Peaks Island Fuel (Keith Ivers)

From: Danielle West-Chuhta (Danielle West-Chuhta)
To: Schmuckal, Marge
Date: 10/13/2011 2:21 PM
Subject: Fwd: Application of Peaks Island Fuel (Keith Ivers)



>>> Barbara Barhydt 10/13/2011 2:21 PM >>>

>>> "John S. Whitman" <JWhitman@rwl.com> Thursday, October 13, 2011 2:11 PM >>>

I am writing on behalf of myself and my wife, Anne Whitman, in strong support of the application of Keith Ivers of Peaks Island Fuel for permission to park his oil trucks on his property at 512 Island Avenue on Peaks Island.

I have lived on Peaks Island since 1976, year round, and Anne has lived there since 1984. We heat our house at 162 Island Avenue primarily with oil. I have been a customer of Peaks Island Fuel since it was first established over 20 years ago. Like many others on the island, Anne and I regard it as very important that there be more than one fuel oil company on the island, because a healthy competition benefits all consumers and oil is expensive on an island.

The property on which Keith Ivers proposes to park his trucks has been zoned I-B as long as I've been on the island. Off-street parking is a specifically permitted use in the I-B zone. The trucks will not be taking on or discharging oil on the premises. There is no environmental issue, nor any legitimate zoning issue.

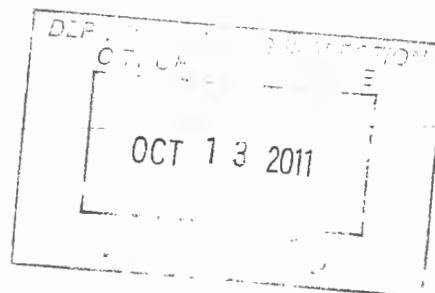
A small minority of disgruntled property owners has hired a lawyer to oppose the granting of this permit. Many of them are summer residents who are even not on the island during the nine months of the heating season. Their only opposition to the permit is apparently on aesthetic grounds (the trucks might be visible from the tennis courts of the Trefethen Club, of which many are members). In fact, the trucks will be well screened from view.

The vast majority of islanders---particularly those who, like us, live there year round and heat with oil--are in favor of this application.

John S. Whitman and Anne E. Whitman
 162 Island Avenue
 Peaks Island

Marge Schmuckal - Fwd: In support of Peaks Island Fuel

From: Danielle West-Chuhta (Danielle West-Chuhta)
To: Schmuckal, Marge
Date: 10/13/2011 2:21 PM
Subject: Fwd: In support of Peaks Island Fuel



>>> Barbara Barhydt 10/13/2011 2:21 PM >>>

>>> Tom Morse <tom@woodburymorse.com> Thursday, October 13, 2011 11:39 AM >>>

Barbara,

I am writing to ask that the appeal filed by some Peaks Island residents against Peaks Island Fuel be denied.

I have lived on Peaks Island for 28 years, and the idea that a few of my neighbors want to make it harder for my fuel company to keep me safe and warm in my home during the winter is outrageous and clearly one more example of the haves lording it over the have-nots.

While Keith plans to make extreme and unrequired efforts at his own expense to minimize how visible his essential and lawfully registered delivery trucks would be to a few who somehow find their presence disturbing, this group's demand that the City force Keith to find another place to park his trucks suggests, quite disturbingly, that some other Peaks Island homeowners are somehow better suited to have these trucks parked in their immediate neighborhood than are the wealthy at the water's edge.

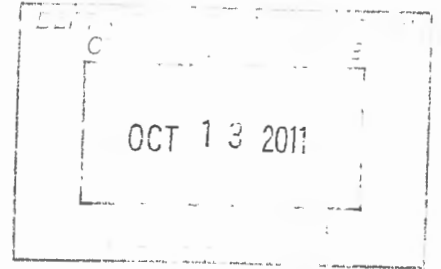
Because Keith Ivers's home is zoned for I-B (Island Business) which allows "off-street parking" as a specific permitted use, and because there is no environmental concern as no fuel will be transferred there, it is only right that this appeal be denied.

Thank you very much for considering this issue fairly.

Tom Morse
154 New Island Ave
Peaks Island, ME

Bruce and Lori Hochman
61 Island Avenue
Peaks Island, Maine 04108
lmhochman@gmail.com

October 13, 2011



Philip Saucier, Chair
Board of Appeals (Zoning)
Portland City Hall
Portland, ME

VIA HAND DELIVERY

Re: Interpretation Appeal/512 Island Ave

Dear Mr. Saucier:

My wife and I are unable to attend the hearing tonight, October 13, 2011, in regard to the above referenced matter. In case the board is willing to provide public comment before or after the arguments on the appeal, I wanted to write and indicate that we support the Zoning Administrator's decision and Keith Ivers' plans as proposed. We would encourage the Board to adopt the Administrator's decision and allow this plan to proceed. We strongly believe that keeping Peaks Island Fuel competitive and operating is in the best interest of all island residents.

Thank you for your time and consideration.

Very Truly Yours,

A handwritten signature in black ink, appearing to be "Bruce B. Hochman". The signature is stylized and cursive.

Bruce B. Hochman

cc: Keith Ivers (via email)
David Lourie, Esq. (via email)