



PORTLAND MAINE

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

November 14, 2012

Curtis Thaxter Attorneys at Law
One Canal Plaza, Suite 1000
PO Box 7320
Portland, Maine 04112-7320
Attn: Sidney St. F. Thaxter Esq.

RE: Meserve Conservation Easement –Ottawa Avenue - Cushing Island 106A-C-023
& 106A-A-012

Dear Attorney Thaxter,

I am in receipt of your request for a determination in regard to a conservation easement concerning two properties on Ottawa Avenue, Cushing Island described by tax map #106A-C-023 (owned by Meserve) and 106A-A-012 (owned by Shuck). I have made my determination based upon 2 surveys performed by John C. Schwanda of Owen Haskell, Inc. The properties are both located in the IR-1 zone which requires a minimum lot size of 40,000 square foot of land area for properties with public water. Public Services has confirmed a water line in Ottawa Avenue that extends to the Meserve property (106A-C-023).

Section 14-145.5(a)7 allows for the merging of two lots on the same island in order to meet the minimum lot size requirement of the IR-1 Zone. Such noncontiguous merging is accomplished by means of a Conservation Easement granted to the City as outlined within Section 14-145.5(a)7.

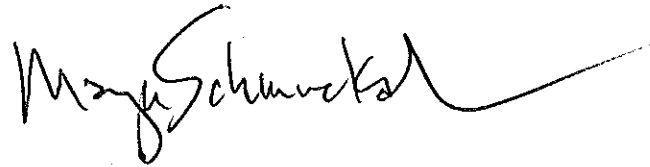
Per the submitted survey, the Meserve property (106A-C-023) is 38,438 square foot in size. The “merged” property to be conveyed from the Shuck property at 106A-A-012 and to be used in conjunction with the Meserve property is 1,626 square foot in size. Therefore the total “merged” property is a total of 40,064 square foot in size and meets the minimum lot size of 40,000 square foot. I have also reviewed the Shuck property for compliance with the Land Use Ordinance after the conveyance of 1,626 square feet. The Shuck property will remain in compliance with the Land Use Ordinance

I have also reviewed the submitted Conservation Easement language. Such conservation easement is meeting the requirements of 14-145.5(a)7. The transfer of the parcel subject to the easement from Shuck to Meserve is sufficient to enable the Meserves to apply for a building permit.

Please note that this determination is not an approval to build. The Meserve property is also encumbered by a Shoreland Overlay Zone. All IR-1 and Shoreland Overlay zone requirements shall be met at the time of a building permit and site plan application submission. At the time of the submission all Ordinance requirements shall be reviewed and approved prior to a building permit issuance. At the time of submission, copies of the transfer of land and the executed Conservation Easement shall be included.

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

Very truly yours,

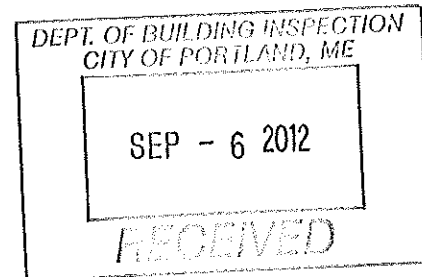
A handwritten signature in black ink, appearing to read "Marge Schmuckal", with a long horizontal flourish extending to the right.

Marge Schmuckal

Zoning Administrator

September 4, 2012

Marge Schmuckal
Zoning Administrator
City of Portland
389 Congress St.
Portland, ME 04101



RE: Meserve Conservation Easement

Dear Marge:

As shown by the enclosed plot plan survey conducted by Owen Haskell, Inc., Richard and Martha Meserve own a lot on Cushings Island of 38,438 square feet. In order to have a buildable lot, they plan to acquire land from their neighbor, Shelby Schuck, which will provide them with the necessary 40,000 square feet. The land that is proposed to be transferred is also shown on the Owen Haskell plot.

In order to accomplish this transaction, Ms. Schuck intends to establish a conservation easement pursuant to City of Portland Ordinance Section 14-145.5 on the parcel that the Meserves will acquire. The proposed conservation easement is also enclosed. Ms. Schuck will then transfer the parcel subject to the easement to the Meserves.

Before proceeding with this transaction, the Meserves and Ms. Schuck would like written confirmation from you that the easement is satisfactory and that the transfer of the parcel subject to the easement to the Meserves will be sufficient to enable the Meserves to obtain a building permit.

I appreciate your assistance. Please feel free to contact me if you need further information.

Sincerely,

Sidney St. F. Thaxter

Enclosures

cc: Richard and Martha Meserve
Shelby Schuck



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

October 12, 2012

Sidney St. F. Thaxter Esq.
Curtis Thaxter
One Canal Plaza, Suite 1000
PO Box 7320
Portland, ME 04112-7320

RE: Meserve Conservation Easement – Cushing Island 106A-C-023 & 106A- A-012

Dear Attorney Thaxter,

I am in receipt of your request for a determination in regards to a conservation easement concerning two properties on Cushing Island described by tax map #106A-C-023 & 106A-A-012. I have made my initial review of your request. I will need a little bit more information before I can finalize my determination.

Because the conservation easement results in the transfer of land from the Schuck property, I will need to see a survey to confirm that the transfer of land will not in some way put the Schuck property in jeopardy with the Land Use Zoning Ordinance. It appears that total land area will not be jeopardized. However, the submitted survey does not delineate any structures on the Schuck property. The Assessor's information indicated that there are structures on this property. Please submit a scaled survey locating all the existing structures so I can confirm that the proposed transfer of land will not violate any of the IR-1 zone dimensional requirements.

If you have any questions concerning this request, please contact me at (207) 874-8695.

Very truly yours,

Marge Schmuckal
Zoning Administrator

Marge Schmuckal - Cushings Island - conservation easement

From: Marge Schmuckal
To: sthaxter@curtisthaxter.com
Date: 9/6/2012 3:59 PM
Subject: Cushings Island - conservation easement

Hi Attorney Thaxter,
I am in receipt of a determination request from you. Such requests are subject to a \$150 fee to the City of Portland before I can begin assessing your request.

As soon as this office receives the required determination fee, the request will be put in our pipeline for review. Such reviews normally take 10 business days to complete. If I need any more information, I would be contacting you immediately.

Marge Schmuckal
Zoning Administrator

pd 9/13/12

Marge Schmuckal - Re: Cushing Island - 106A-C-023

From: William Clark
To: Marge Schmuckal
Date: 10/12/2012 12:52 PM
Subject: Re: Cushing Island - 106A-C-023
CC: Benjamin Ouellette

Hi Marge,

I believe the lot you're looking at is on the northerly side Ottawa Ave opposite #3, at the corner of Shore Rd and Ottawa Ave. The blue line is PWD water which Ben got from the Water District. See image below.

The Water District Customer Service number is 761-8310. They would be able to connect you with someone who deals with Island Services who can verify if it is a summer service or not.

I hope this helps.

Bill



>>> Marge Schmuckal October 12, 2012 12:00 PM >>>

Hi Bill,

I hope I got the right person to answer a utilities question, if not please appropriately forward this request. I am trying to confirm that there is City water available (perhaps summer only) for a property on Cushing Island - lot #106A-C-023. On the GIS maps, when I toggle the utilities mode, I do see a blue line ending at this property. I just want to confirm that it is a water line.

Thank you,
Marge

Assessor's Office | 369 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

[City](#) [Home](#) [Departments](#) [City Council](#) [E-Services](#) [Calendar](#) [Jobs](#)

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information:

Services

[Applications](#)

[Doing Business](#)

[Maps](#)

[Tax Relief](#)

[Tax Roll](#)

[Q & A](#)

CBL 106A A012001
Land Use Type SEASONAL
Property Location 21 OTTAWA AVE
Owner Information SCHUCK SHELBY
 4125 E HAWKS WING DR
 TUCSON AZ 85718
Book and Page
Legal Description 106A-A-12
 OTTAWA AVE 17-21
 CUSHING ISLAND
 57922 SF
Acres 1.3297

Current Assessed Valuation:

[browse city services a-z](#)

[browse facts and links a-z](#)

TAX ACCT NO. 15298 **OWNER OF RECORD AS OF APRIL 2012**
 SCHUCK SHELBY
LAND VALUE \$264,900.00 4125 E HAWKS WING DR
BUILDING VALUE \$95,700.00 TUCSON AZ 85718
NET TAXABLE - REAL ESTATE \$360,600.00
TAX AMOUNT \$6,786.50

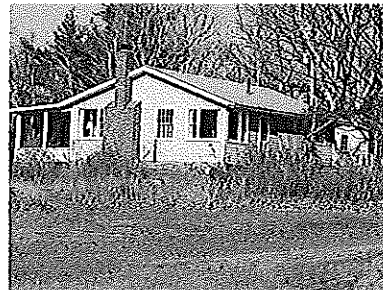
Any information concerning tax payments should be directed to the Treasury office at 874-8490 or e-mailed.



Building Information:

Best viewed at 800x600, with Internet Explorer

Building 1
Year Built 1953
Style/Structure Type RANCH
Stories 1
Units 1
Bedrooms 3
Full Baths 1
Total Rooms 5
Attic NONE
Basement FULL
Square Feet 858



[View Sketch](#) [View Map](#) [View Picture](#)

Sales Information:

Sale Date	Type	Price	Book/Page
11/14/1989	LAND + BUILDING	\$0.00	8991/94

[New Search!](#)

Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

City Home Departments City Council E-Services Calendar Jobs

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information:

Services

Applications

Doing Business

Maps

Tax Relief

Tax Roll

Q & A

browse city services a-z

browse facts and links a-z

CBL 106A C023001
Land Use Type VACANT LAND
Property Location 0 OTTAWA AVE
Owner Information MESERVE RICHARD A & MARTHA R MESERVE
 708 BERRY ST
 FALLS CHURCH VA 22042
Book and Page 27974/028
Legal Description 106A-C-23
 SHORE RD OTTAWA AVE
 CUSHINGS ISLAND
~~32940-6F~~
Acres 0.7562 *per survey 38, 438th*

IR-1

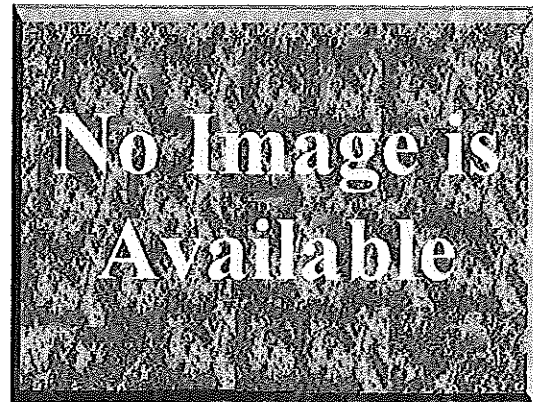
Current Assessed Valuation:

TAX ACCT NO.	15346	OWNER OF RECORD AS OF APRIL 2012
		MESERVE RICHARD A &
		MARTHA R MESERVE
		708 BERRY ST
		FALLS CHURCH VA 22042
LAND VALUE	\$56,300.00	
BUILDING VALUE	\$0.00	
NET TAXABLE - REAL ESTATE	\$56,300.00	
TAX AMOUNT	\$1,059.58	

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).



Best viewed at 800x600, with Internet Explorer



[View Map](#)

Sales Information:

Sale Date	Type	Price	Book/Page
8/6/2010	LAND	\$156,250.00	27974/028
11/21/2002	LAND + BUILDING	\$0.00	18423/194
11/21/2002	LAND + BUILDING	\$0.00	18423/198

[New Search!](#)

Marge Schmuckal - Cushing Island - 106A-C-023

From: Marge Schmuckal
To: William Clark
Date: 10/12/2012 12:00 PM
Subject: Cushing Island - 106A-C-023

Hi Bill,
I hope I got the right person to answer a utilities question, if not please appropriately forward this request. I am trying to confirm that there is City water available (perhaps summer only) for a property on Cushing Island - lot #106A-C-023. On the GIS maps, when I toggle the utilities mode, I do see a blue line ending at this property. I just want to confirm that it is a water line.

Thank you,
Marge

Marge Schmuckal - Proposed conservation easement for Cushing Island

From: Marge Schmuckal
To: Danielle West-Chuhta
Date: 10/12/2012 12:29 PM
Subject: Proposed conservation easement for Cushing Island

Hi Danielle,

I am working with Sidney St. F. Thaxter (Pete) of Curtis Thaxter on a determination request concerning a conservation easement that is allowed under the IR-1 zone. It appears to meet what is intended in the Zoning Ordinance, but I need legal eyes to review the rest for legal "stuff". I have some other questions prior to making my final determination, so I am not in a real rush. But I would appreciate some review of it by legal.

If you need any more information from me, please let me know. We could sit down and go over the entire package.

Thank you,
Marge

CONSERVATION EASEMENT

SHELBY SCHUCK of Tucson, Arizona (hereinafter referred to as the "Grantor"), hereby conveys to the CITY OF PORTLAND, a municipal corporation organized and existing under the laws of the State of Maine, with a mailing address of 389 Congress Street, Portland, Maine (hereinafter referred to as the "Holder"), a Conservation Easement as described below.

WHEREAS, this Conservation Easement is created pursuant to Title 33 M.R.S.A. §§ 476 through 479-C; and

WHEREAS, the Holder is a municipality as defined by Title 33 M.R.S.A. §476(2)(A), that is: a municipality authorized to accept lands, easements and buildings for the purpose of preserving and protecting natural, scenic and open space values of real property; and

WHEREAS, the Grantor holds title to certain real property situated on Cushings Island, Portland, Maine, being a portion of Tax Map 106A, Block A, Lot 12, which is described in deed dated December 6, 1979 and recorded in the Cumberland County Registry of Deeds in Book 4539, Page 88 (the "Protected Property"); and

WHEREAS the Protected Property, which is defined in Exhibit A, remains in a substantially undisturbed natural state and has significant aesthetic and ecological value; and

WHEREAS the Grantor and Holder, recognizing the value of the Protected Property as a scenic and aesthetic and wildlife area, have the common purpose of conserving the natural values of the Protected Property by the conveyance of a Conservation Easement on, over and across the Protected Property, which easement shall benefit, protect and conserve the natural values of the Protected Property, conserve and protect the indigenous animal and plant populations, and prevent the use or development of the Protected Property for any purpose or in any manner that would conflict with its natural, scenic condition; and

WHEREAS Section 14-145.5 of the Portland City Code requires the granting of this Conservation Easement in order for a building permit to issue for the construction of a structure on certain real property situated on Cushings Island, Portland, ME, being a portion of Tax Map 106A, Block C, Lot 23, owned by RICHARD A. MESERVE and MARTHA R. MESERVE described in deed dated August 6, 2010 and recorded in the Cumberland County Registry of Deeds in Book 27974, Page 28 (the "Meserve Lot"); and

NOW THEREFORE, in consideration of the foregoing and the covenants herein contained, the Grantor hereby grants to the Holder, its successors and assigns, as an absolute and unconditional gift, forever and in perpetuity, a conservation easement in gross as described hereinbelow on and over the Protected Property as set forth herein (the "Conservation Easement"):

1. Purpose.

This conservation easement is intended to benefit the Meserve Lot in order to add additional land for purposes of computing lot size pursuant to §14-145.5 of the Portland Zoning Ordinance. The property over which the Conservation Easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

- a. No structure shall be permitted on this protected property.
- b. No parking or storage of vehicles or machinery shall be permitted on this protected property at any time.
- c. No area of this protected property shall be paved.
- d. No exterior storage for commercial use shall be permitted on this property.

2. Conservation Easement.

The affirmative rights conveyed by this Conservation Easement, subject always to the reserved rights of the Grantor, are the following:

- a. The right of the Holder to identify, to preserve and to protect in perpetuity the natural space and aesthetic features of the Protected Property;
- b. The right of the Holder to require that the Protected Property be kept free of any taint, corruption or pollution of whatever character arising from any use of the Protected Property not permitted hereunder;
- c. The right of the Holder upon reasonable prior notice to the Grantor, to enter the Protected Property and inspect the Protected Property at any time, in any manner that will not unreasonably interfere with the permitted uses being made of the Protected Property;
- d. The right of the Holder to enforce by proceedings at law or in equity the covenants and restrictions herein set forth, including the right to restore the Protected Property, at the cost of Grantor, to its condition prior to any breach hereof.

3. Use of the Protected Property.

The Protected Property shall be used for passive recreational and conservational purposes only. No commercial, industrial, quarrying or mining activities shall be permitted on the Protected Property. Notwithstanding the above, use of the Protected Property for agricultural or forestry purposes is permitted. No structures presently exist on the Protected Property. No structures or facilities of any kind whatsoever shall be constructed on the Protected Property. Provided, however, the following rights are expressly reserved and retained by the Grantor:

- a. The right of Grantor, their families, guests, employees and invitees, to use the Protected

Property for recreational purposes which may include hiking, picnicking, bird watching, camping, tenting and any use that is not expressly prohibited above or destructive to the natural values to be conserved herein.

- b. The right to post the Protected Property, to control and prohibit unauthorized use, hunting and fires, and to notify the public of limitations on use of the Protected Property. Any use of the Protected Property which is destructive to the natural values to be conserved by this Conservation Easement, or to the reasonable quiet use and enjoyment of private property by the owners of the Protected Property or by owners of land in the vicinity of the Protected Property, shall be presumed to be an unauthorized use.
- c. The right to advertise the Protected Property for sale or rent and to convey the Protected Property, always subject to the terms of this conservation Easement.
- d. Except as expressly limited herein, Grantor reserves for itself all rights as owner of the Protected Property, including the right to use the Protected Property for all purposes not inconsistent with this Conservation Easement.

4. Monitoring Rights of Holder.

The Holder shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Holder shall make periodic inspections of the Protected Property, and for such inspection and enforcement purposes, the Holder shall have the right of access to the Protected Property at a reasonable time and in a reasonable manner, provided that the time and manner of such entry does not unreasonably interfere with the uses of the Protected Property permitted hereunder. Notwithstanding the above, failure or inability of the Holder to make such periodic inspections shall in no way affect the continuing validity of this Conservation Easement.

5. Enforcement Rights of Holder.

In the event the Holder becomes aware of an event or circumstance of noncompliance with the terms and conditions set forth herein, Holder shall give notice to Grantor of such event or circumstance of noncompliance via certified mail, return receipt requested, and demand corrective action sufficient to abate such event or circumstance of noncompliance and to restore the Protected Property to its condition prior to such breach. Failure by the Grantor with reasonable dispatch to cause discontinuance, abatement or such other corrective action as may be demanded by Holder shall entitle Holder to take such action reasonably necessary to effect such correction, to bring a civil action in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to obtain injunctive relief and to recover any damages arising from such noncompliance. If such court determines that Grantor has failed to comply with this Conservation Easement, Grantor shall reimburse Holder for any reasonable costs of restoration, corrective action and enforcement, including court costs, reasonable attorney's fees, and other payments ordered by such court.

6. Grant in Perpetuity.

This conservation Easement shall be recorded at the Cumberland County Registry of

Deeds. The terms hereof shall constitute real covenants running with the land; the terms shall be a burden upon and shall run with the Protected Property in perpetuity and shall bind the Grantor, its heirs, successors and assigns forever. A copy of the restrictions contained in this Conservation Easement or an incorporation by reference of this indenture shall be included in any subsequent deed or legal instrument by which the Grantor conveys any interest, including a leasehold, in the Protected Property. Failure to include the foregoing shall not affect the validity of any future conveyance, but said conveyance shall be nonetheless subject to the terms of this Conservation Easement.

Furthermore, both parties to this Easement agree that it shall not be released or modified without the express written consent of the owner of the Meserve Lot as described in Section 1 and shown on Tax Map 106A, Block C, Lot 23.

7. Subsequent Transferees.

By acceptance of this Conservation Easement, the Holder covenants and agrees, as real covenants running with the land in perpetuity, and not as conditions to this Conservation Easement or as restraints on alienability,

- a. that it will hold this Conservation Easement in perpetuity for conservation purposes;
- b. that it will not transfer said Conservation Easement except to any entity which, as a condition precedent to such transfer, gives the Holder assurances that it is willing and able to enforce the rights granted in this Conservation Easement, which entity shall also have purposes which encompass the purposes set forth in this Conservation Easement; and
- c. that any such transferee shall satisfy the requirements of Title 33 M.R.S.A §476(2) (or successor provisions thereof).

8. Miscellaneous.

a. The terms "Grantor" and "Holder", wherever used herein, and any pronouns used in place thereof, shall mean and include respectively, the above named Grantors and their heirs, successors and assigns, and the above-named Holder and its representatives, successors and assigns. Notwithstanding the foregoing, a person shall have no obligation by virtue of this Conservation Easement, if and when such person shall cease to have any present, partial, contingent, collateral or future interest in the Protected Property or any portion thereof by reason of a transfer of the Protected Property.

b. The fact that any of the uses prohibited herein, or other uses not mentioned, may become greatly more economically valuable than permitted uses, or that neighboring properties may in the future be put entirely to non permitted uses, has been considered by Grantor in granting this perpetual easement. It is the intent of the Grantor and the Holder that any such changes shall not be deemed to be changed conditions permitting termination of this Conservation Easement.

c. The inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Conservation Easement or be considered grounds to terminate it or alter its terms.

d. If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, the remainder of the provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those found to be invalid shall not be affected thereby.

9. Construction.

If uncertainty should arise in the interpretation of this Conservation Easement, judgment should be made in favor of conserving the Protected Property in its natural, traditional and open scenic state. Nothing in this Conservation Easement shall be construed to permit any activity otherwise prohibited by the valid laws and regulations of any federal, state or local government or governmental agency having competent jurisdiction over the Protected Property.

SHELBY SCHUCK has executed this Easement this _____ day of August, 2012.

Shelby Schuck

State of Maine
County of Cumberland

August ____, 2012

Personally appeared the above named Shelby Schuck and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public

Print name: _____

My commission expires: _____

EXHIBIT A

A certain parcel of land situated on the southwesterly side of Ottawa Avenue, on Cushing Island, in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a point on the assumed southwesterly sideline of Ottawa Avenue at the northeast corner of the land now or formerly of Christopher A. and Lynda J.R. Bond (see Book 8492, Page 281) as shown on "Boundary Survey on Ottawa Avenue Cushing Island – Portland, Maine made for Martha R. & Richard A. Meserve & John E. Meserve, Richard A. Meserve & Jeanne M. Meserve August 15, 2012 Owen Haskell, Inc. Job No. 2012-038 P";

Thence, S 52° 50' 44" E by Ottawa Avenue 16.33 feet;

Thence, S 48° 38' 46" W by the remaining land of Schuck 103.25 feet;

Thence, N 41° 21' 14" W by the remaining land of Schuck 16.00 feet to the land of Bond;

Thence, N 48° 38' 46" E by the land of Bond 100.00 feet to the point of beginning.

Said parcel contains 1,626 square feet and is shown on the above mentioned plan.

Sec. 14-145.5. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the IR-1 zone shall meet the following minimum requirements:

(a) *Minimum lot size*

1. Residential: Forty thousand (40,000) square feet for lots with public water; sixty thousand (60,000) square feet for lots without public water; except as provided in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and section 14-145.3(a)1 of this article.

2. Schools and other educational facilities: Forty thousand (40,000) square feet.


3. Places of assembly:

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

4. Seasonal camps and campgrounds: Ten (10) acres.

5. Animal raising: Three (3) acres.

6. In issuing any permit for new development, the building or planning authority shall require that any lot located in the IR-1 zone shall be at least forty thousand (40,000) square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, except those lots which are located in a subdivision approved by the Planning Board after June 8, 1968, and excluding Peaks Island.

- 
7. Excluding Peaks Island from this subsection h., any property owner whose lot does not meet the minimum lot size requirements outlined in subsection g. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements.

Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The building authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the building authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

- a. No structure shall be permitted on this property.
- b. No parking or storage of vehicles or machinery shall be permitted on this property at any time.
- c. No area of this property shall be paved.
- d. No exterior storage for commercial use shall be permitted on this property.
- e. The easement deed shall reference the lot which is benefited by this conservation easement. No conservation easement shall be used to benefit more than one (1) lot.

Conservation easements shall only be granted over lots which conform either to the provisions of section 14-433 or to the minimum lot sizes set forth in (a)1 of this section. Conservation easements shall not be granted over any lot which is encumbered by any other easement which prohibits all construction on that lot. A conservation easement may also name as a holder or grant a third-party right of enforcement to a nonprofit

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

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

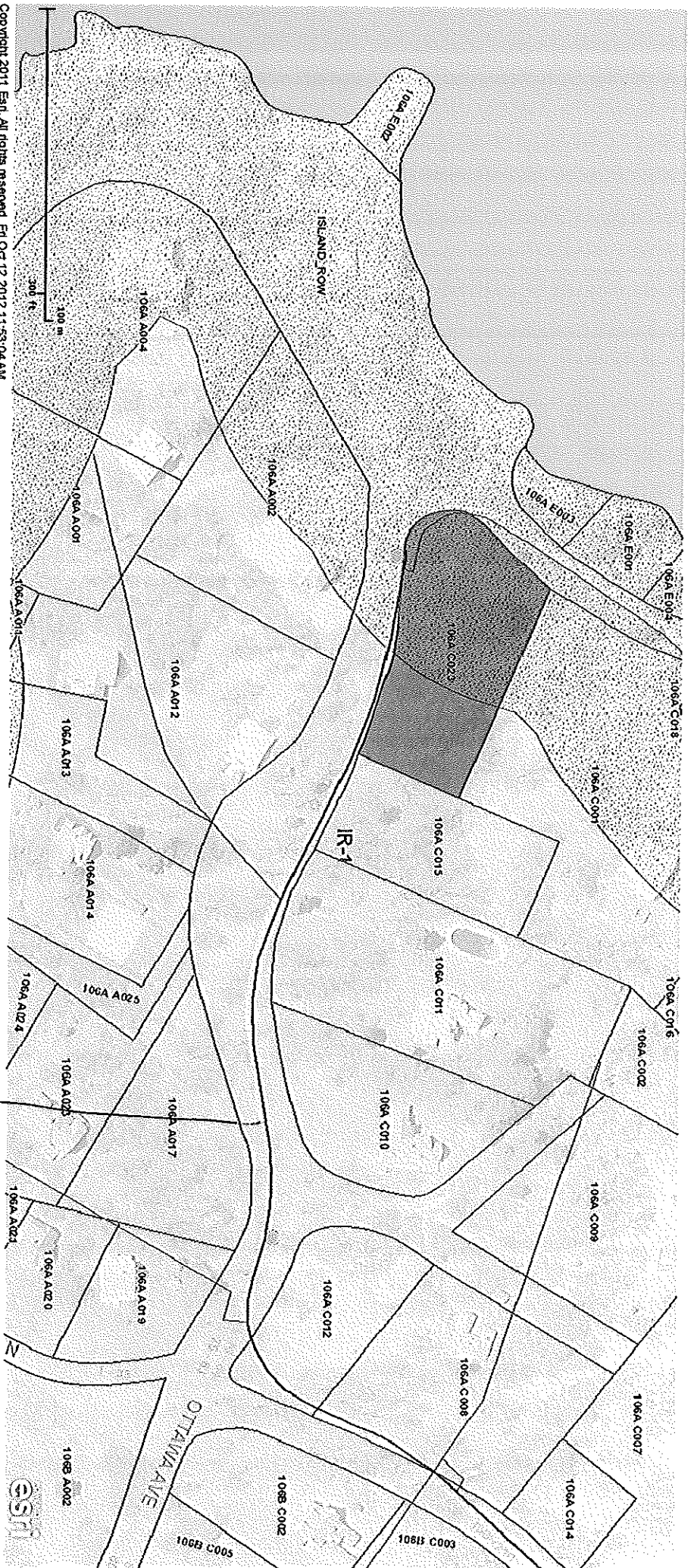
8. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the applicable requirements of CMR 241 Section 2-E. The land area requirements in subsection g. of this section shall not apply to such a replacement system.

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

(b) *Minimum street frontage:*

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

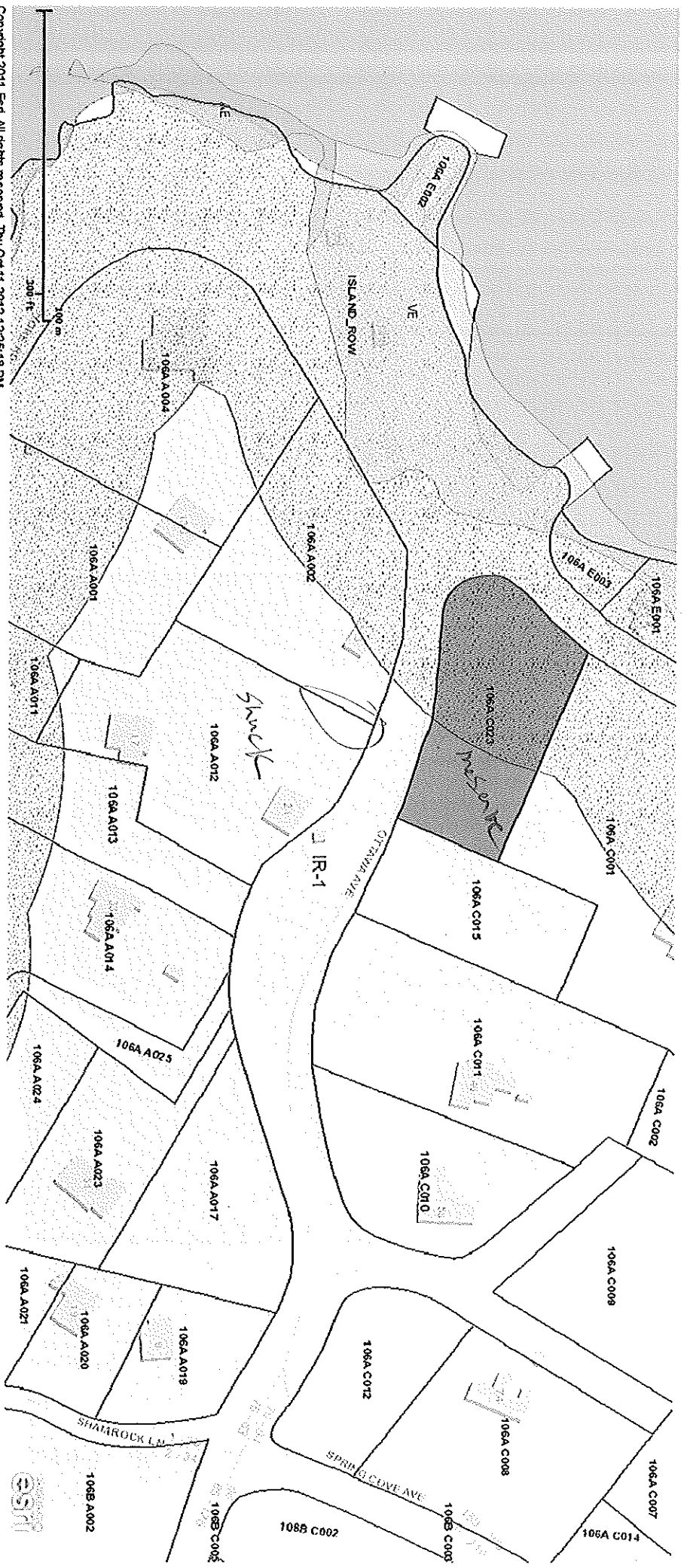
106A-C-023



within line?
utilitas fringed
yes - see Bill Clark
e-mail

Cushing Island

IR-1 Zone



Marge Schmuckal - RE: Cushing Island request

From: Pete Thaxter <PThaxter@curtisthaxter.com>
To: 'Marge Schmuckal' <MES@portlandmaine.gov>
Date: 11/6/2012 1:46 PM
Subject: RE: Cushing Island request
CC: Rebecca Robinson <RRobinson@curtisthaxter.com>
Attachments: Meserve - Cushings.pdf

Marge:

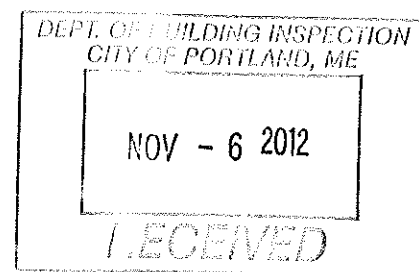
Please see attached. I hope this survey answers your questions, but if you have any questions let me know. Pete

Pete

Sidney St. F. Thaxter, Esq.
sthaxter@curtisthaxter.com

CURTIS THAXTER
ATTORNEYS AT LAW

One Canal Plaza, Suite 1000, Portland, ME 04101
P.O. Box 7320, Portland, ME 04112-7320
TEL: 207-774-9000, Ext. 222
FAX: 207-775-0612
www.curtisthaxter.com



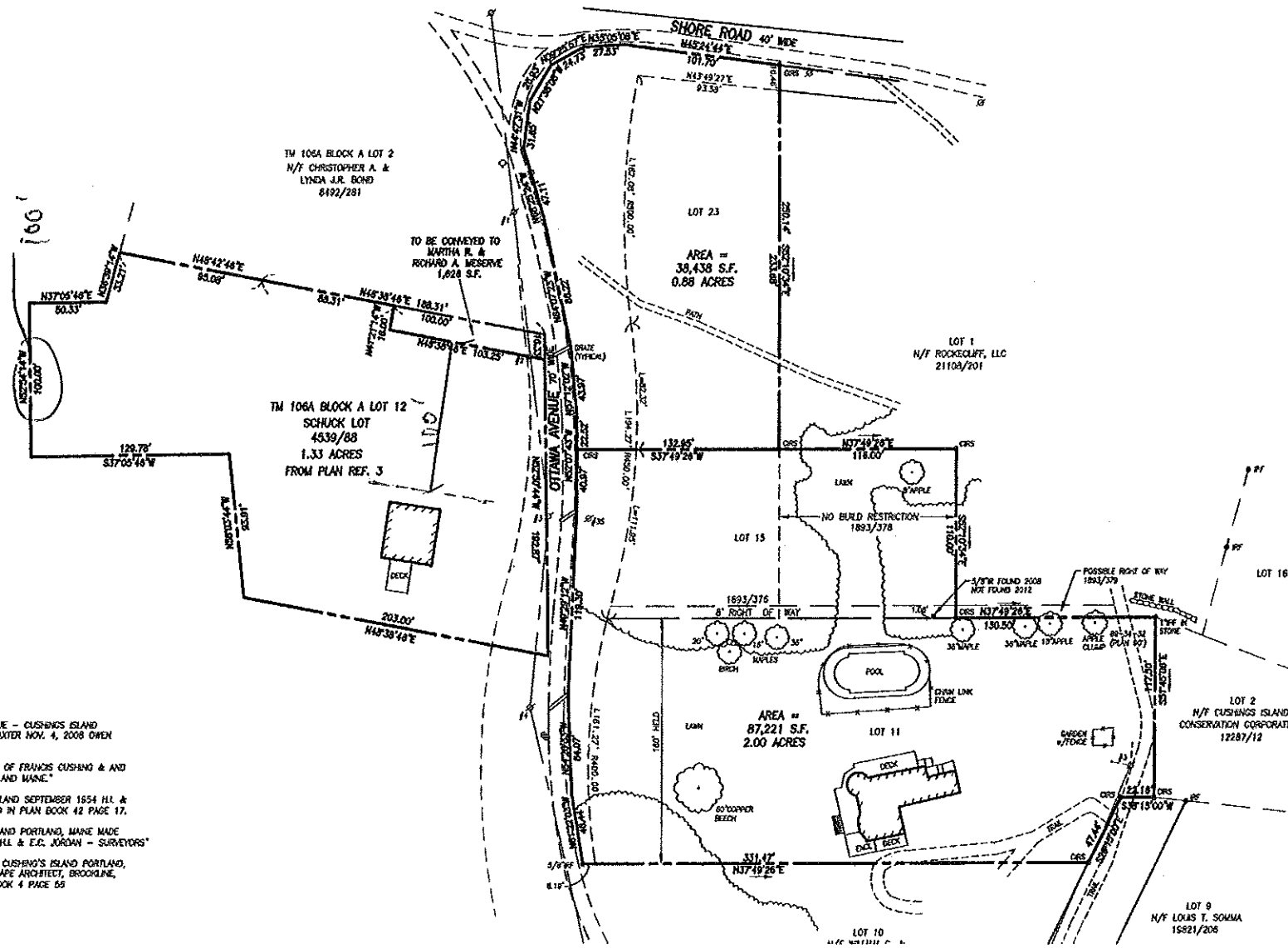
From: Marge Schmuckal [<mailto:MES@portlandmaine.gov>]
Sent: Friday, October 12, 2012 1:13 PM
To: Pete Thaxter
Subject: Cushing Island request

Hi Attorney Thaxter,
Please see attached. I will need a little more information concerning your request.
thank you,
Marge Schmuckal
Zoning Administrator

DEPT. OF BUILDING INSPECTION
CITY OF PORTLAND, ME

NOV - 6 2012

RECEIVED



1. ENUE - CUSHING'S ISLAND TRAXTER NOV. 4, 2008 OPEN

2. CITY OF FRANCIS CUSHING & AND ORTLAND MAINE.

3. ISLAND SEPTEMBER 1854 H.L. & S.D. IN PLAN BOOK 42 PAGE 17.

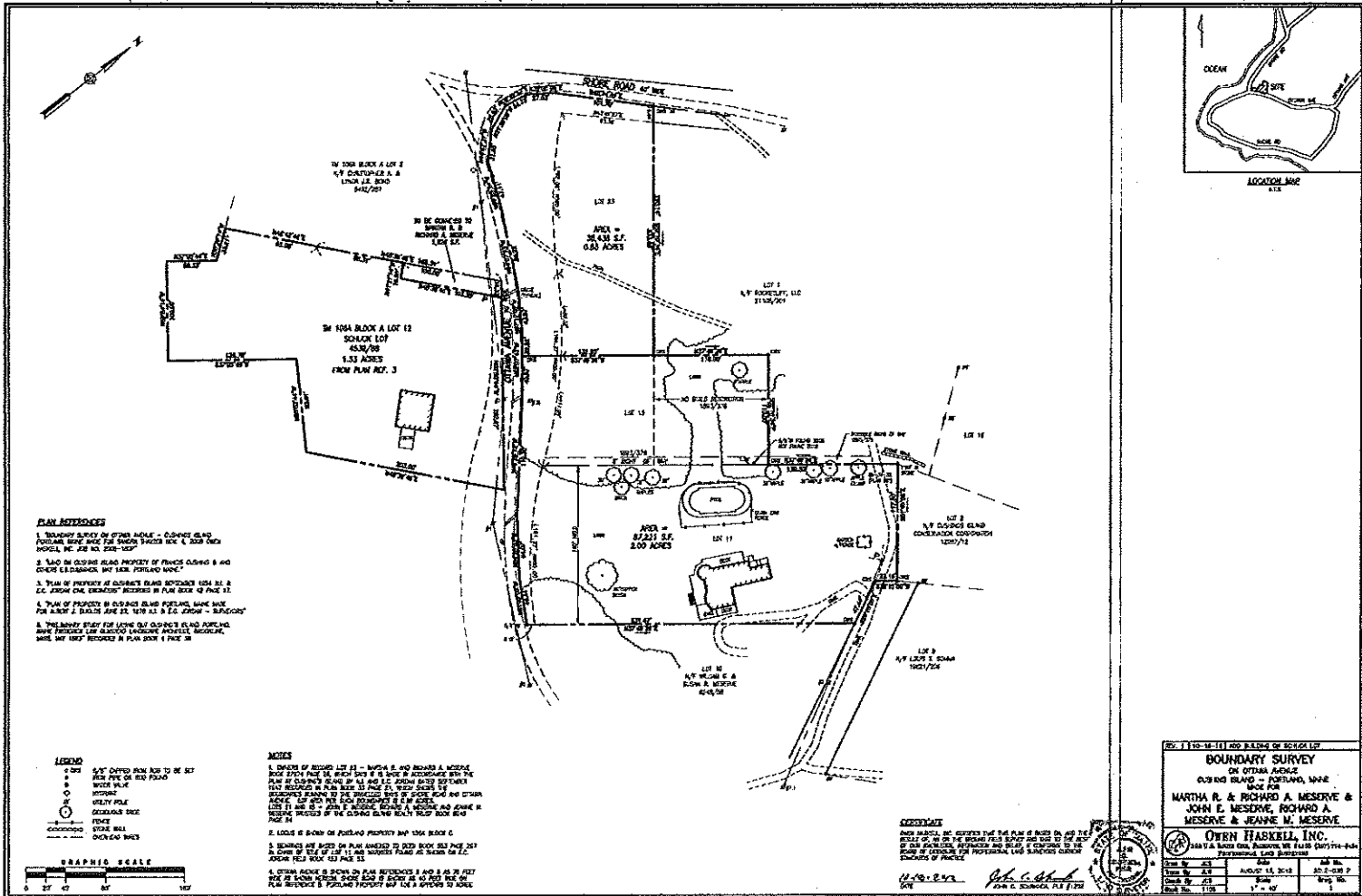
4. ISLAND PORTLAND, MAINE MADE 178 H.L. & E.C. JORDAN - SURVEYORS

5. OUT CUSHING'S ISLAND PORTLAND, 1900 ARCHITECT, BROOKLINE, V BOOK 4 PAGE 55

DEPT. OF BUILDINGS INSPECTION
CITY OF PORTLAND, ME

NOV - 6 2012

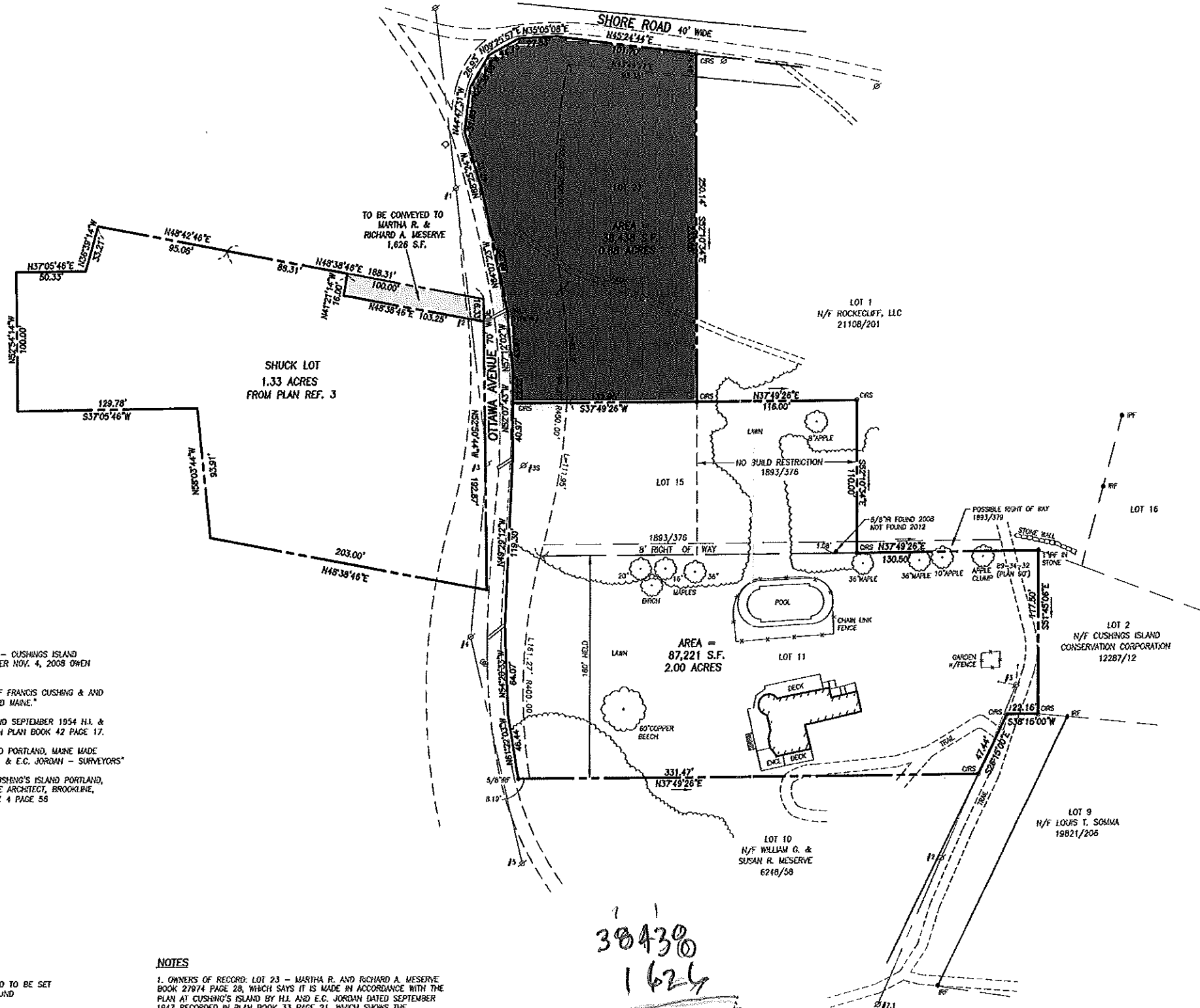
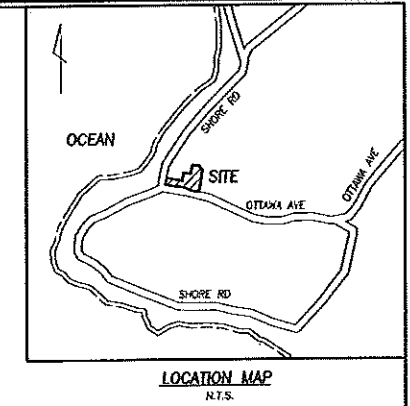
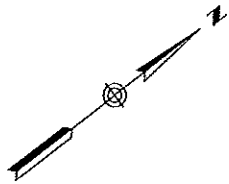
RECEIVED



Marge Schmuckal - Cushing Island request

From: Marge Schmuckal
To: sthaxter@curtisthaxter.com
Date: 10/12/2012 1:13 PM
Subject: Cushing Island request
Attachments: further information request.doc

Hi Attorney Thaxter,
Please see attached. I will need a little more information concerning your request.
thank you,
Marge Schmuckal
Zoning Administrator



PLAN REFERENCES

1. "BOUNDARY SURVEY ON OTTAWA AVENUE - CUSHING ISLAND PORTLAND, MAINE MADE FOR SANDRA THAXTER NOV. 4, 2008 OWEN HASKELL, INC. JOB NO. 2008-180P"
2. "LAND ON CUSHING ISLAND PROPERTY OF FRANCIS CUSHING & AND OTHERS E.B.CUMMINGS, MAY 1909, PORTLAND MAINE."
3. "PLAN OF PROPERTY AT CUSHING'S ISLAND SEPTEMBER 1954 H.L. & E.C. JORDAN CIVIL ENGINEERS" RECORDED IN PLAN BOOK 42 PAGE 17.
4. "PLAN OF PROPERTY IN CUSHING'S ISLAND PORTLAND, MAINE MADE FOR ALBERT J. DUCLOS JUNE 27, 1978 H.L. & E.C. JORDAN - SURVEYORS"
5. "PRELIMINARY STUDY FOR LAYING OUT CUSHING'S ISLAND PORTLAND, MAINE FREDERICK LAW OLMSTEAD LANDSCAPE ARCHITECT, BROOKLINE, MASS. MAY 1883" RECORDED IN PLAN BOOK 4 PAGE 56

NOTES

1. OWNERS OF RECORD: LOT 23 - MARTHA R. AND RICHARD A. MESERVE BOOK 27974 PAGE 28, WHICH SAYS IT IS MADE IN ACCORDANCE WITH THE PLAN AT CUSHING'S ISLAND BY H.L. AND E.C. JORDAN DATED SEPTEMBER 1947 RECORDED IN PLAN BOOK 33 PAGE 21, WHICH SHOWS THE BOUNDARIES RUNNING TO THE TRAVELLED WAYS OF SHORE ROAD AND OTTAWA AVENUE. LOT AREA PER SUCH BOUNDARIES IS 0.85 ACRES. LOTS 11 AND 15 - JOHN E. MESERVE, RICHARD A. MESERVE AND JEANNE M. MESERVE TRUSTEES OF THE CUSHING ISLAND REALTY TRUST BOOK 9846 PAGE 54
2. LOCUS IS SHOWN ON PORTLAND PROPERTY MAP 106A BLOCK C.
3. BEARINGS ARE BASED ON PLAN ANNEXED TO DEED BOOK 553 PAGE 297 IN CHAIN OF TITLE OF LOT 11 AND MARKERS FOUND AS SHOWN ON E.C. JORDAN FIELD BOOK 153 PAGE 53.
4. OTTAWA AVENUE IS SHOWN ON PLAN REFERENCES 2 AND 5 AS 70 FEET WIDE AS SHOWN HEREON. SHORE ROAD IS SHOWN AS 40 FEET WIDE ON PLAN REFERENCE 5. PORTLAND PROPERTY MAP 106 A APPEARS TO AGREE.

38430
1626
40,064

CERTIFICATE

OWEN HASKELL, INC. CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

DATE _____ JOHN C. SCHWANDA, PLS #1252

- LEGEND**
- CRS 5/8" CAPPED IRON ROD TO BE SET
 - IRON PIPE OR ROD FOUND
 - WATER VALVE
 - HYDRANT
 - UTILITY POLE
 - DECIDUOUS TREE
 - FENCE
 - STONE WALL
 - OVERHEAD WIRES



BOUNDARY SURVEY
ON OTTAWA AVENUE
CUSHING ISLAND - PORTLAND, MAINE
MADE FOR
**MARTHA R. & RICHARD A. MESERVE &
JOHN E. MESERVE, RICHARD A.
MESERVE & JEANNE M. MESERVE**

OWEN HASKELL, INC.
390 U.S. ROUTE ONE, FALMOUTH, ME 04105 (207) 774-0424
PROFESSIONAL LAND SURVEYORS

Drawn By JCS	Date JULY 18, 2012	Job No. 2012-038 P
Trace By JLW	Scale	Drawn No.
Check By JCS	1" = 40'	1
Book No. 1109		