



PORTLAND MAINE

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

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

November 30, 2010

Erika L. Frank, P.A.
936 Roosevelt Trail, Unit #4
Windham, Maine 04062

RE: Parcel "A" – 109B-B-30 – 78 Sunset Road, Cliff Island - Donald H. Thompson & Susan Rowe, owners
Parcel "B" – 109B-B-11- 104 Sunset Road, Cliff Island – Robert Howard, owner

Dear Attorney Frank,

I am in receipt of your request for a determination letter concerning the proposed transfer of land between abutters as outlined in your submittal.

My determination is based upon a submitted, reduced survey performed by Troy F. McDonald, a licensed land surveyor, and dated 1-28-2010. Both lots are located within an IR-1, Island Residential Zone, with a Shoreland Overlay Zone. The IR-1 Zone requires a minimum lot size of 40,000 square feet for lots with public water and 60,000 square feet for lots without public water. Both lots are currently nonconforming as to lot size.

Your cover letter to me explained that the boundary dispute between parties was based upon incomplete or inconsistent deed descriptions. A compromise was reached as proposed by conveying approximately 1,563 square feet of land area from Parcel "A" to Parcel "B" as outlined on the survey.

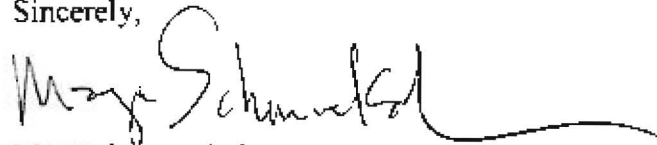
It is my determination that the recently agreed upon deed descriptions for both of the properties are considered to be the final, accurate deed descriptions. The prior deeds were based upon incomplete and/or inconsistent deed descriptions. Therefore, the accuracy of the prior descriptions could not be relied upon, including the underlying lot size. The agreed upon, revised descriptions would not create parcel "A" to become any more nonconforming since the original lot size was in question. It is my determination that no Land Use Zoning laws would be violated with the transfer of the land as described.

It is my understanding that the lot size of Parcel "A" will be approximately 30,625 square feet after the transfer of agreed upon land. Parcel "B" will be approximately 3,598 square feet after the transfer of agreed upon land.

You have the right to appeal my decision concerning this matter. If you wish to exercise your right to appeal, you have 30 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.

If you have any questions regarding this matter, please do not hesitate to contact me at (207) 874-8695.

Sincerely,

A handwritten signature in black ink that reads "Marge Schmuckal". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Marge Schmuckal
Zoning Administrator

Cc: file

Law Office of
ERIKA L. FRANK, P.A.

936 ROOSEVELT TRAIL, UNIT #4
WINDHAM, MAINE 04092
TELEPHONE (207) 892-8484
FAX (207) 892-8404
ERIKAFRANK@MSN.COM



October 29, 2010

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

IR-1

RE: Donald Thompson/Cliff Island/Request for Determination Letter

Dear Marge:

Pursuant to our recent e-mail correspondence, I am submitting the following materials in connection with property owned by Donald Thompson on Cliff Island (Map 109-B, Lot 30):

1. Copy of a survey of properties owned by Donald Thompson at Map ^{109B-B-30} 109-B, Lot 30 and Robert Howard at Map 109-B, Lot 11; ^{109B-B-11}
2. Proposed legal description of portion of Lot 30 to be conveyed to Lot 11 to resolve disputed boundary on the northerly boundary of Lot 30/southerly boundary of Lot 11; and ^{109B-B-30}
3. Mr. Thompson's check in the amount of \$150.00 for the Letter fee.

Mr. Thompson (Lot 30) and Mr. Howard (Lot 11) are abutters on the oceanfront of Cliff Island. A boundary dispute has existed between the two parties due to incomplete or inconsistent deed descriptions in the original deeds, which were not based on a survey. The parties both contributed to the cost of the enclosed survey in an effort to precisely locate and define the boundary line between them. According to the survey, the boundary line for Lot 30 is further north than Lot 11's owner anticipated, resulting in his losing land that both parties had partially assumed belonged to Lot 11. To avoid a legal dispute and to clarify the boundaries for the benefit of both owners, a compromise was reached. Mr. Thompson will convey the shaded area on the survey to Mr. Howard.

Both of the lots involved are currently non-conforming lots. Mr. Thompson is seeking a determination letter from the City stating that zoning laws will not be violated if the conveyance is completed. The boundary adjustment will result in Mr. Thompson's lot becoming smaller and therefore, more non-conforming, however, Mr. Howard's lot will become more conforming by adding more area.

Please issue your determination on behalf of the City of Portland with regard to any zoning laws that this transfer may be violating. If further information is required, please feel free to call or e-mail me.

Thank you for your assistance.

Sincerely,

Erika L. Frank

Enclosures

Marge Schmuckal - Thompson/Howard Properties

From: Marge Schmuckal
To: erikafrank@msn.com
Date: 11/23/2010 2:47 PM
Subject: Thompson/Howard Properties

Erika,

I just left a voice mail on your phone. I am preparing the determination letter that you requested and I have a few questions regarding the sizes of the lots involved.

Is the given lot sizes for parcel "A" (30,625 sq ft) and parcel "B" (2,035 sq ft) shown on the submitted survey before or after the transfer of land. I would like to lock in what the size of both lots will be after the transfer of land.

Thank you.

Marge Schmuckal

Exhibit A**Thompson and Howard Property
Sunset Road
Cliff Island, Maine**

A certain lot or parcel of land situated on the northerly side of Sunset Road, on Cliff Island, in the City of Portland, County of Cumberland, State of Maine, shown on a plan entitled "Boundary Survey of Thompson and Howard Property, Cliff Island, Sunset Road, Portland, Maine for David H. Thompson and Robert Howard", by Sebago Technics, Inc., with reference to project number 08558, dated October 2, 2009, being more particularly bounded and described as follows:

Beginning at a ½-inch copper bolt in a ledge outcrop on the southerly side of Granny Cove, so called and described in a deed from Norman I. Black to Johannes H.M.A. von Tiling, dated October 15, 1924 and recorded at the Cumberland County Registry of Deeds in Book 1168, Page 348, said point also being in the southwesterly line of land now or formerly of Robert Howard as described in Book 16712, Page 224 at said Registry of Deeds.

Thence S 57°-14'-07" E, by and along said southwesterly line of Howard, a distance of 54.89 feet to a point on the northerly sideline of Sunset Road;

Thence S 54°-53'-48" W, by and along said northerly sideline, a distance of 12.99 feet to an angle point;

Thence S 33°-42'-18" W, by and along said northerly sideline, a distance of 23.49 feet to a point marked by a 5/8-inch rebar with cap at the northeasterly corner of land retained by the Grantor;

Thence N 52°-32'-27" W, by and along retained land of the Grantor, a distance of 39.65 feet to a point marked by a 5/8-inch rebar with cap, said point lies S 15°-23'-32" W, along a tie line, 33.81 feet from said ½-inch copper bolt,

Thence continuing N 52°-32'-27" W, by and along retained land of the Grantor, a distance of 35 feet, more or less, to an arm of the sea and seashore at its lowest mark;

Thence northeasterly following the seashore at its lowest mark to a point that lies N 08°-09'-31" W, approximately 25 feet from said ½-inch copper bolt;

Thence S 08°-09'-31" E, 25 feet, more or less, to the Point of Beginning.

The above course of S 08°-09'-31" E, was determined by using the colonial method of bisecting lines observed by survey October 2009.

Meaning and intending to describe a parcel of land contained within the tie line described, approximately 1,540 square feet.

Bearings are based upon Maine State Plane Coordinate System, Grid North, West Zone 1802 on North American Datum 1983.

BAM:bam/kn
April 2, 2010

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	109B B011001
Land Use Type	VACANT LAND
Property Location	104 SUNSET RD
Owner Information	HOWARD ROBERT ISLAND AVE CLIFF ISLAND ME 04019
Book and Page	16712/224
Legal Description	109B-B-11 SUNSET RD 104-110 CLIFF ISLAND 4000 SF
Acres	0.092

Current Assessed Valuation:

browse city services a-z

TAX ACCT NO.	15520	OWNER OF RECORD AS OF APRIL 2010 HOWARD ROBERT
LAND VALUE	\$9,700.00	ISLAND AVE
BUILDING VALUE	\$0.00	CLIFF ISLAND ME 04019
NET TAXABLE - REAL ESTATE	\$9,700.00	
TAX AMOUNT	\$173.82	

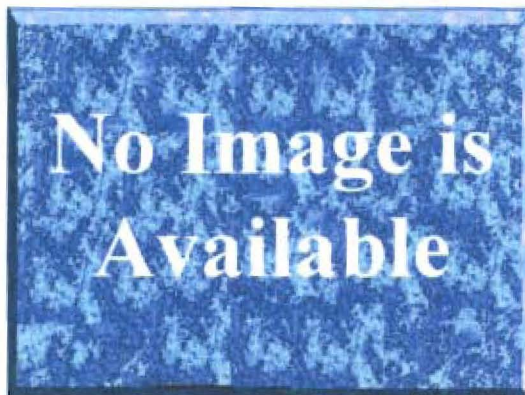
browse facts and links a-z

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

109B-E-5



[View Map](#)

Sales Information:

Sale Date	Type	Price	Book/Page
9/6/2001	LAND + BUILDING	\$0.00	16712/224

[New Search!](#)

Marge Schmuckal - RE: Zoning Question

From: Erika Frank <erikafrank@msn.com>
To: <mes@portlandmaine.gov>
Date: 10/19/2010 11:22 AM
Subject: RE: Zoning Question

Dear Marge:

I represent a landowner on Cliff Island, Donald Thompson. He recently inherited property from his family located at Map 109-B, lot 30. There is apparently a boundary dispute between my client and the abutter to the north, Robert Howard at Map 109-B, lot 11 (I think that's the right lot #).

Currently both lots are non-conforming based on area requirements, but are grandfathered.

My client and Mr. Howard have had a survey completed and have reached an agreement to resolve the boundary dispute. Approximately 1,500 square feet of lot 30 (Thompson) will be conveyed to lot 11(Howard) between the northerly boundary of 30 and the southerly boundary of 11. They have essentially cut a small peninsula down the middle to resolve the claim by each that they owned the whole peninsula.

By carving off 1,500+/-square feet of lot 30, it becomes even smaller and therefore more non-conforming; but in trade, lot 11 becomes larger and more conforming.

Could you please confirm that the City of Portland consents to this lot line change. I would like to request a "no action letter" indicating that the city will not take any action or impose any penalty or violation upon Mr. Thompson at Lot 30.

An e-mailed statement of no-action is satisfactory.

If you have any questions please call or e-mail this office. Thank you for your attention to this matter.

Sincerely,

Erika Frank

Law Office of

Erika L. Frank, P.A.

936 Roosevelt Trail, Unit #4

Windham, Maine 04062

(207) 892-8484 ErikaFrank@msn.com

Map



Parcels



Parcels



Parcels



Parcels



Parcels



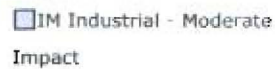
Overlay Zones



Shoreland Overlay Zone



Zoning (continued)



Zoning (continued)



Marge Schmuckal - RE: Zoning Question

From: Marge Schmuckal
To: Erika Frank
Date: 10/19/2010 11:43 AM
Subject: RE: Zoning Question

Dear Erika,

The City of Portland does not issued no action letters. However, there have been situations thru court and other resolutions that have requested similar verifications from me as the Zoning Administrator. If there has been a work out for a disputed boundary and an agreement has been achieved, then Zoning takes a view that perhaps the original boundary lines were never really correct.

There is a process for a determination letter from me as the Zoning Administrator to state that Zoning would not be violated based upon the information submitted. I would need a scaleable survey to indicated what actions transpired along with a cover letter explaining the details. There is a \$150 fee required for the determination letter. There is usually a 10 working day turn around time.

I hope this helps you,
Marge

>>> Erika Frank <erikafrank@msn.com> 10/19/2010 11:22 AM >>>

Dear Marge:

I represent a landowner on Cliff Island, Donald Thompson. He recently inherited property from his family located at Map 109-B, lot 30. There is apparently a boundary dispute between my client and the abutter to the north, Robert Howard at Map 109-B, lot 11 (I think that's the right lot #).

Currently both lots are non-conforming based on area requirements, but are grandfathered.

My client and Mr. Howard have had a survey completed and have reached an agreement to resolve the boundary dispute. Approximately 1,500 square feet of lot 30 (Thompson) will be conveyed to lot 11(Howard) between the northerly boundary of 30 and the southerly boundary of 11. They have essentially cut a small peninsula down the middle to resolve the claim by each that they owned the whole peninsula.

By carving off 1,500+/-square feet of lot 30, it becomes even smaller and therefore more non-conforming; but in trade, lot 11 becomes larger and more conforming.

Could you please confirm that the City of Portland consents to this lot line change. I would like to request a "no action letter" indicating that the city will not take any action or impose any penalty or violation upon Mr. Thompson at Lot 30.

An e-mailed statement of no-action is satisfactory.

If you have any questions please call or e-mail this office. Thank you for your attention to this matter.

Sincerely,

Erika Frank

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 Bill

Q & A

Browse City Services at 1

Browse Facts and Books at 2

CBL	1098 8030001
Land Use Type	SINGLE FAMILY
Property Location	78 SUNSET RD
Owner Information	THOMPSON DONALD H & SUSAN ROWE
	22 GEORGE ST GORHAM ME 04038
Book and Page	25550/293
Legal Description	1098-B-30 SUNSET RD 78 CLIFF ISLAND 28942 SF
Acres	0.664

Current Assessed Valuation:

TAX ACCT NO.	15542	OWNER OF RECORD AS OF APRIL 2010	THOMPSON DONALD H & SUSAN ROWE 22 GEORGE ST GORHAM ME 04038
LAND VALUE	\$289,000.00		
BUILDING VALUE	\$120,300.00		
NET TAXABLE - REAL ESTATE	\$409,300.00		
TAX AMOUNT	\$7,334.66		

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



Read about the City of Portland's services at 1

Building Information:

Card 1 of 1

Year Built	1890
Style/Structure Type	OLD STYLE
# Stories	1.5
Bedrooms	5
Full Baths	1
Half Baths	1
Total Rooms	8
Attic	NONE
Basement	FULL
Square Feet	1602

[View Sketch](#)

[View Map](#)

[View Picture](#)



Outbuildings/Yard Improvements:

Card 1

Year Built	1920
Structure	SHED-FRAME
Size	10X32
Units	1
Grade	C
Condition	A

Card 1

Year Built	1984
Structure	BOAT DOCK-MED
Size	1X292
Units	1
Grade	C
Condition	A

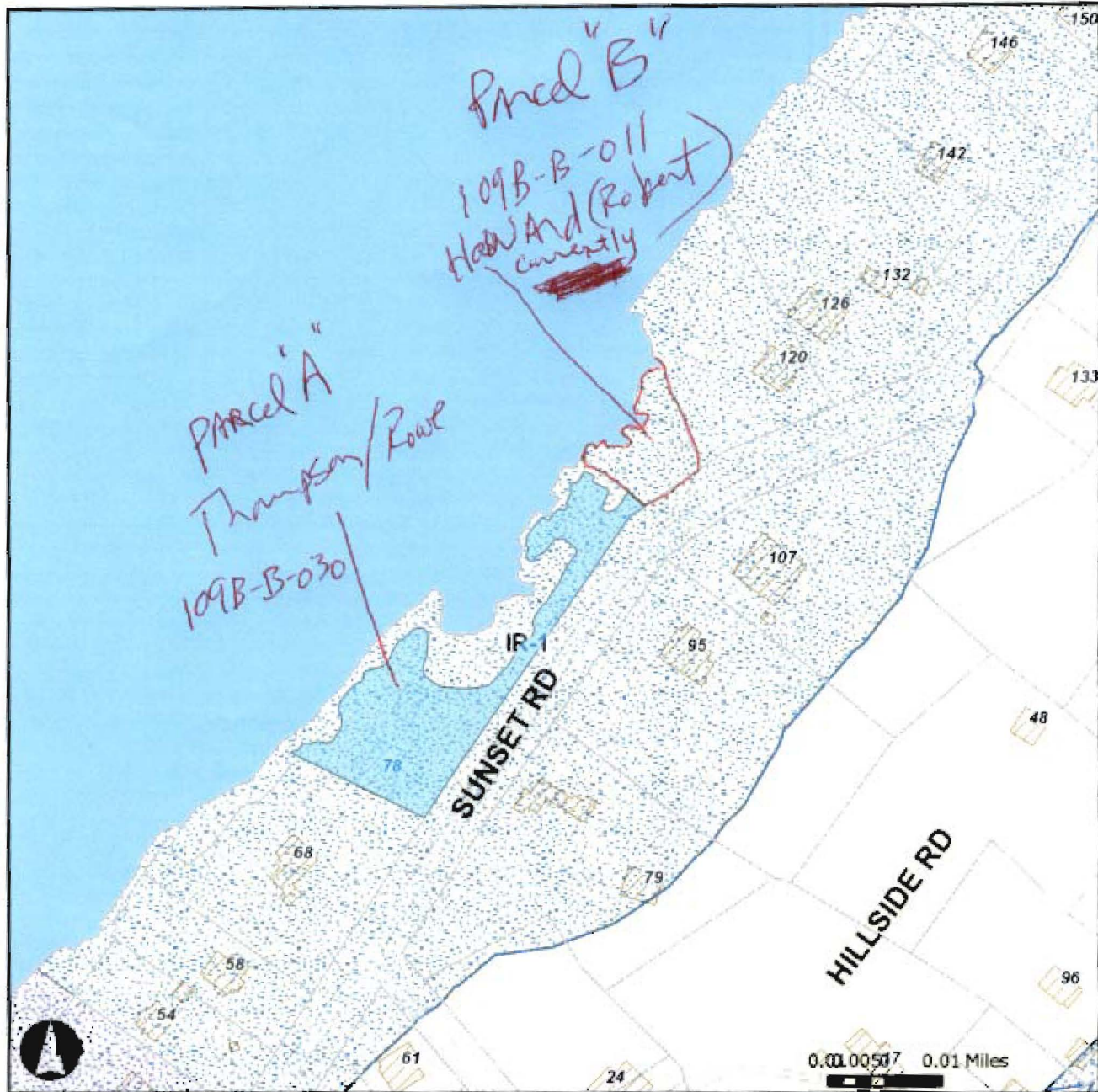
Sales Information:

Sale Date	Type	Price	Book/Page
10/18/2007	LAND + BUILDING	\$554,000.00	25550/293

[New Search!](#)

Cliff Island

Map



Parcels



Parcels



Interstate



Streets



Buildings



Shoreland Overlay Zone



Stream Overlay Zone



Stream_protection



Island Zoning



Zoning (continued)



Zoning (continued)





CITY OF PORTLAND, MAINE

Department of Building Inspections

Original Receipt

11.3.2010

Received from

Donall Thompson

Location of Work

Cliff Iske

Cost of Construction

\$

Building Fee:

Permit Fee

\$

Site Fee:

Certificate of Occupancy Fee:

Total:

150

Building (I1)

Plumbing (I5)

Electrical (I2)

Site Plan (U2)

Other

Zoning Determination

CBL:

109-B-30 & 109-B-11

Check #:

2836

Total Collected \$

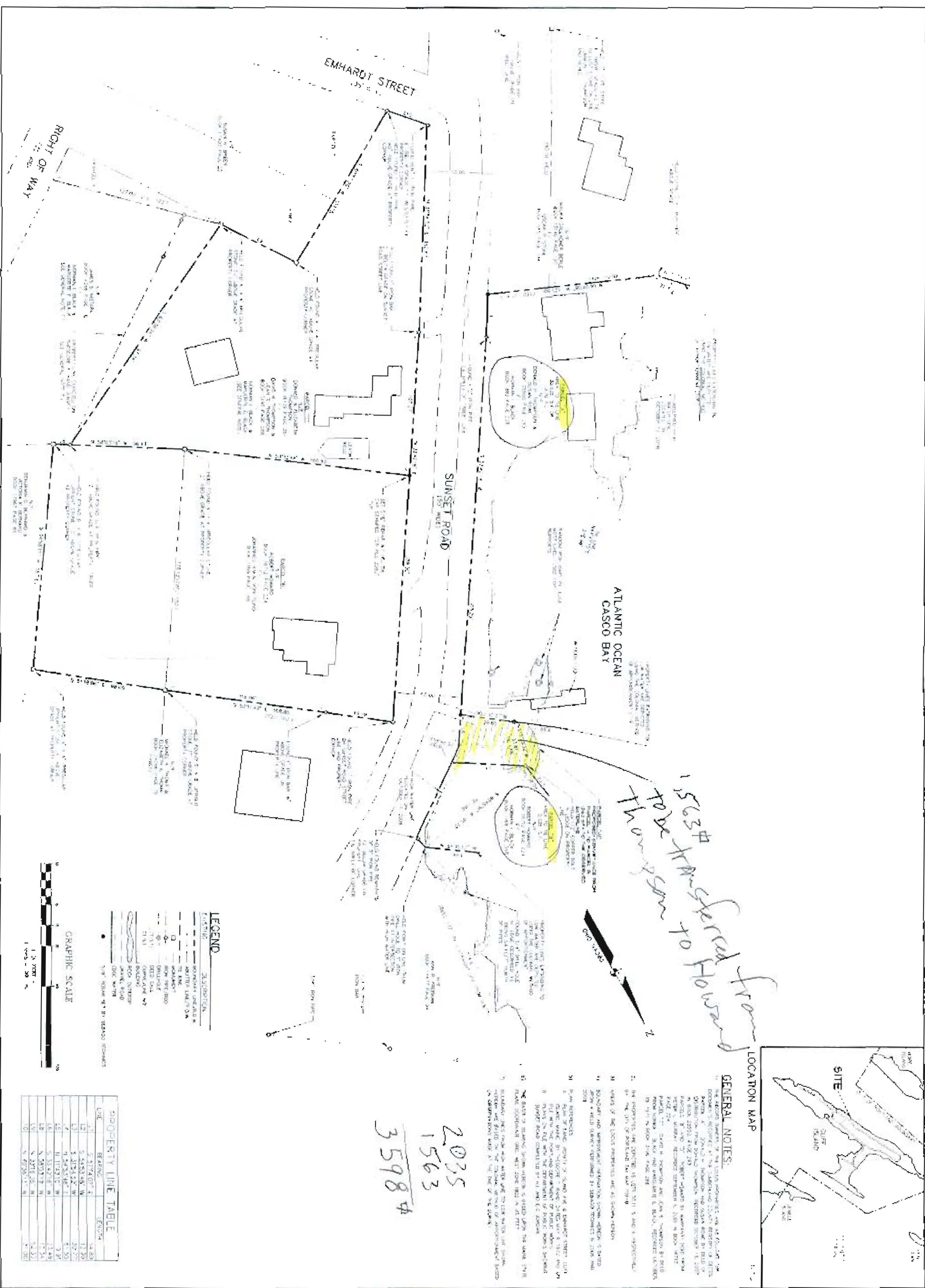
150

**No work is to be started until permit issued.
Please keep original receipt for your records.**

Taken by:

S. J. [Signature]

WHITE - Applicant's Copy
YELLOW - Office Copy
PINK - Permit Copy



*1563 #
 TO BE TRANSFERRED FROM
 THOMPSON TO HOWARD*

2035
 1563
 3598 #

PROPERTY LINE TABLE

LINE	BEARING	LENGTH
1	S 21° 12' 07" E	14.80
2	S 45° 20' 45" W	17.20
3	S 10° 55' 52" W	4.20
4	N 1° 42' 55" E	4.20
5	N 11° 29' 15" W	3.20
6	S 55° 42' 08" W	12.40
7	N 28° 03' 12" W	12.20
8	N 27° 16' 05" W	12.20
9	S 27° 05' 11" W	12.20
10	S 27° 05' 11" W	12.20

BOUNDARY SURVEY OF THOMPSON AND HOWARD PROPERTY
 CLIFF ISLAND
 SUNSET ROAD, PORTLAND, MAINE
 FOR THOMPSON
 CLIENTS CITY, STATE, ZIP

RECORD OWNER
 OWNER OF STREET
 OWNERS CITY STATE ZIP

DATE: 1-28-2010
 SCALE: 1" = 20'

SHEET 1 OF 1

Sebago Technics
 Engineering Experts You Can Build On

One Oakleaf Street
 Scarborough, ME 04074-1001
 Tel: 603.884.0277

200 Lakeside Rd - Suite 8
 Lewiston, ME 04240
 Tel: 603.853.8000

www.sebagotechnics.com

PROJECT NO.	FIELD BOOK	DESIGN	CHKD	DRAWN
0955	AM		MEK	DAW

DATE	1-28-2010	ISSUED FOR CLIENT REVIEW
BY	DAW	BY

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS AUTHORIZED OR OTHERWISE SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC.

STATE OF MAINE
 TROY P. MCGONIGAL
 PROFESSIONAL LAND SURVEYOR