

Practical Difficulty Variance Appeal:

331-337 Forest Avenue, Bayview Court Associates, owner, Tax Map 112, Block C, Lot 019, B-2 Community Business Zone: The applicant is seeking a variance from the residential density requirements of the B-2 zone. Currently, there are seventy residential units in the building. The applicant is proposing to convert vacant retail space to three additional dwelling units, for a total of seventy-three dwelling units in the building. In order to determine the maximum residential density for properties located off-peninsula in the B-2 zone, the residential density requirements of the nearest residential zone apply [section 14-185(a)(5)(b)(i)]. The nearest residential zone is R-5, and it requires 6,000 square feet of land area per dwelling unit in a multiplex [sections 14-120(1)(b) & 14-117(a)(2)(a)]. The lot size is 30,775 square feet. The applicant is requesting a variance from the 6,000 square feet of land area per dwelling unit requirement, which would result in 422 square feet of land area per dwelling unit if the three units are added. Representing the appeal is Ryan Keith from Slocum Custom Builders.



City of Portland, Maine
Planning and Development Department
Zoning Board of Appeals
Practical Difficulty Variance Application

Applicant Information:

Lloyd L. Lathrop
 Name
Bayview Court Associates
 Business Name
10 Moulton Street
 Address
Portland Maine 04101
(207) 772-4131
 Telephone Fax

Applicant's Right, Title or Interest in Subject Property:

Property Owner
 (e.g. owner, purchaser, etc.):

Current Zoning Designation: B.2

Existing Use of Property:

Mixed Use
(70) Residential Units
(2) Retail Spaces

Subject Property Information:

335 Forest Ave.
 Property Address
Chart # 112 Block # C019
 Assessor's Reference (Chart-Block-Lot) Lot # 001
 Property Owner (if different):
 Name _____
 Address _____
 Telephone _____ Fax _____

Practical Difficulty Variance from Section 14-85(a)(5)(b)(ii)

RECEIVED

NOV 21 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 a Practical Difficulty Variance as 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.

L. R. Kelly
 Signature of Applicant

11-21-2011
 Date

Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Board of Appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the Ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

"Practical Difficulty" Variance standards pursuant to Portland City Code §14-473(c)(3):

1. The need for the variance is from dimensional standards of the Land Use Zoning Ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied

Not Satisfied (deny the appeal)

Reason and supporting facts: The pre-existing building is located in the B2 zone, in the B2 zone there is a density requirement of no more than (1) unit per 1000 s.f. of lot Area. The subject property, 335 Forest Ave, is described by the deed (BK. 129888) as being 30,795 ± s.f. The Building currently houses (70) Residential Units and (2) Retail spaces. When the use was granted in 1984 the building was located in B3 zone with no density requirements. Pg 208

2. Strict application of the provisions of the Ordinance would create a practical difficulty, meaning it would both (1) preclude a use of the property which is permitted in the zone in which it is located and also would (2) result in significant economic injury to the applicant. "Significant economic injury" means the value of the property if the variance was denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied

Not Satisfied (deny the appeal)

Reason and supporting facts: The density requirement in place for the B2 zone is the single provision that restricts the applicant from moving forward in their application. The pre-existing space is requesting a variance to allow a permitted use to be expanded in that zone B2. The zoning change that took place was presumably made to eliminate over crowding of the surrounding area. In this situation this concern is moot however given an approval of our Variance request will free up (12) dedicated parking from the previous retail use and create much needed residential housing in the college vicinity.

[Signature]

This would be accomplished with no additional volume or s.f. construction. The difficult task of leasing commercial space in the area with so many vacancies has forced us to pursue previously unexplored alternatives in order to fill a large income void in a struggling economy. The space has been vacant now for quite some time and is a ~~financial~~ financial loss.

3. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Satisfied X

Not Satisfied ___ (deny the appeal)

Reason and supporting facts: The building was approved for a use under preexisting conditions. When a recent zone change took place the building's intended primary use created non-conforming circumstances with the property

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.

Satisfied X

Not Satisfied ___ (deny the appeal)

Reason and supporting facts: There will be no external change in appearance or daily comings and goings of residents or city patrons in regards to the proposed addition of three new units to the existing 90 unit building. Parking established for the bookstore will transfer to the residential units in the building, bettering the parking scenario for the building

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied X

Not Satisfied ___ (deny the appeal)

Reason and supporting facts: city zoning change from B3 to B2 introducing new requirements for the existing Building and Use.

6. No other feasible alternative is available to the applicant, except a variance.

Satisfied X Not Satisfied _____ (deny the appeal)

Reason and supporting facts: No abutting land is available to increase the parcel size without creating additional non conformity.

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied X Not Satisfied _____ (deny the appeal)

Reason and supporting facts: Build will see no external change. The Building is serviced by City Water and Sewer, waste and recycled material is contracted out, getting picked up three times a week

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. §435, nor within a shoreland zone or flood hazard zone.

Satisfied X Not Satisfied _____ (deny the appeal)

Reason and supporting facts:
The property is located 525' ± from the closest body of water and is at a significant elevation above normal high water marks and 100 year flood

Nov. 21,
2011

**Bayview Court
Associates**
10 Moulton Street
Portland Maine,
04101

City of Portland
Zoning Board
of Appeals
389 Congress
Street Portland
Maine 04101

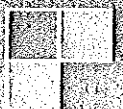
Variance Request for 335 Forest Ave. Bayview Court

Dear Zoning Board,

We have included within this document, supporting information in our request for a variance regarding a dimensional standard in the B2 zone. We are proposing to create two (2) single-bedroom units and one (1) two-bedroom unit in a pre-existing retail space. The building at 335 Forest Avenue currently houses 70 residential units and two Retail units, one vacant 2000 sq. ft. unit (previously the USM Bookstore) and one occupied 2,000 unit (Back Bay Bike) that acquired approval through the city in August 1984 and C/O in October 1985. When approval was granted, the property was in the B3 Zone, which had no dimensional standard requirement. The zone has since changed, sometime after 1995, to a B2 Zone at which time the property acquired a dimensional standard of one unit per 1,000 Sq. Ft. The property at 335 Forest Ave. or "Bayview Court" sits on 30,795+ Sq. Ft.

Sincerely,
Ryan Keith of Slocum Custom Builders
Representing Lloyd Lathrop,
Owner of Bayview Court Associates

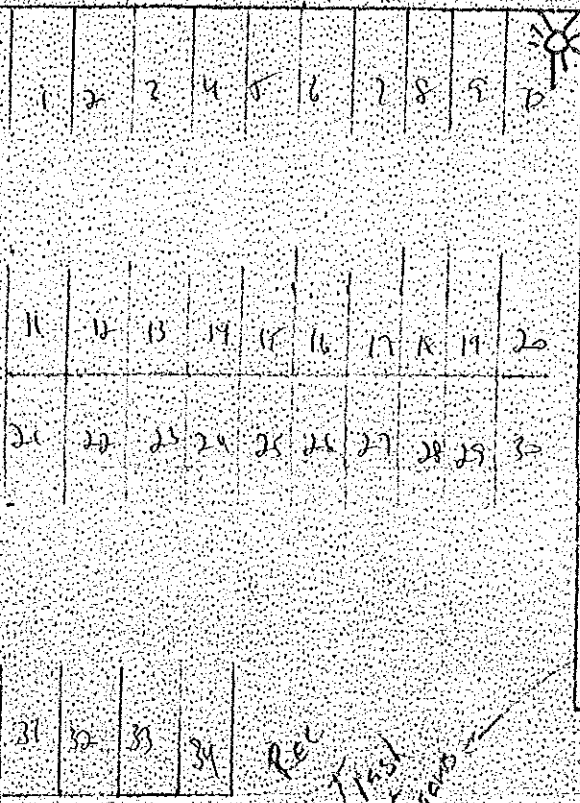
Ryan Keith
Slocum Custom Builders
November 20, 2011



SNOW



58' Parking
STREET
Lights



2045
53.601

167-2010

19.60

10.17

90'

19.60

150'

5'±

115'±

36'

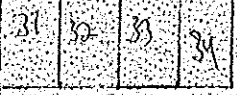
60'

13'

100

BANK STREET

185
Street



Rec

Truck

Truck



Previous
USM
Book Store

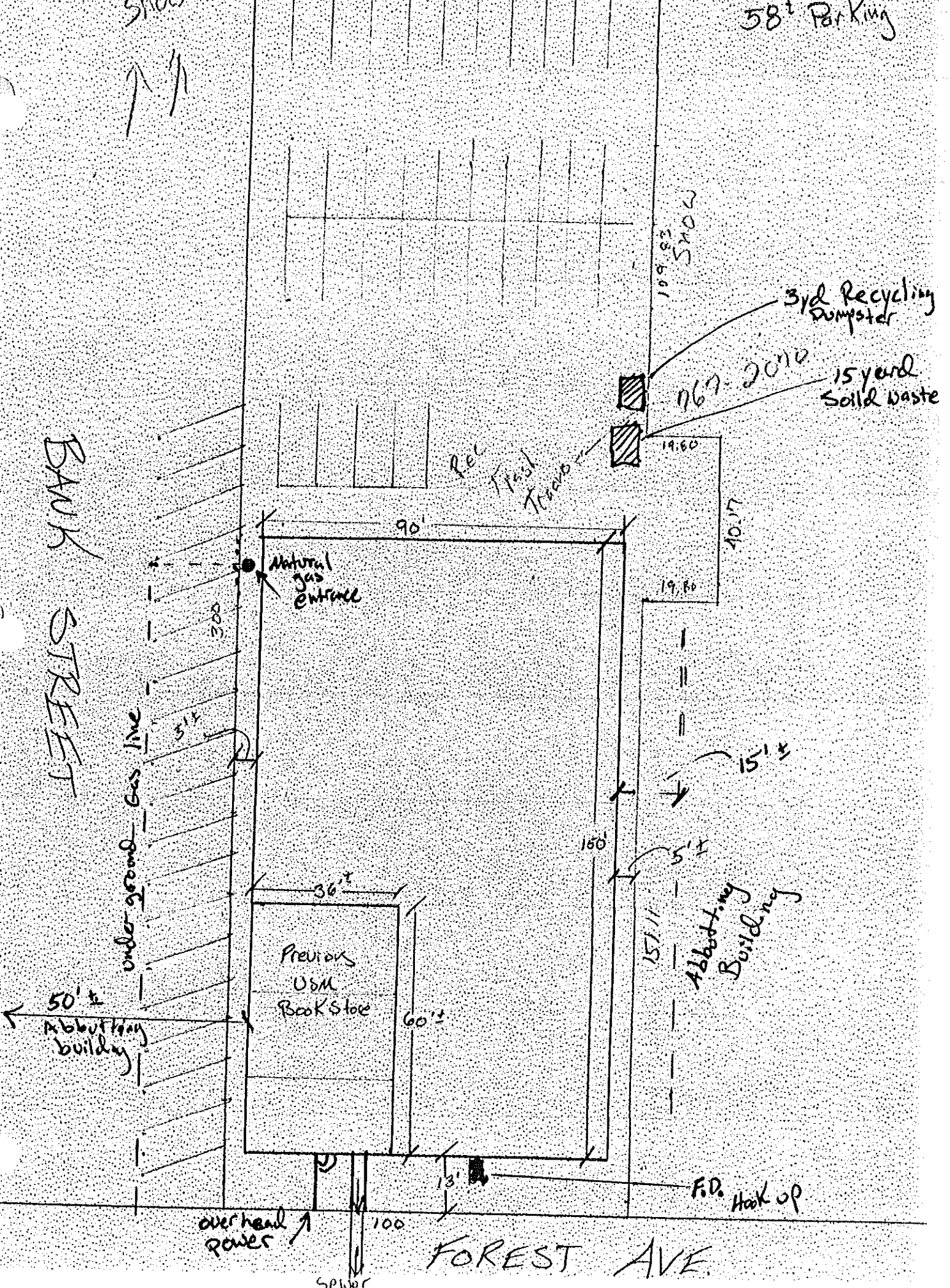


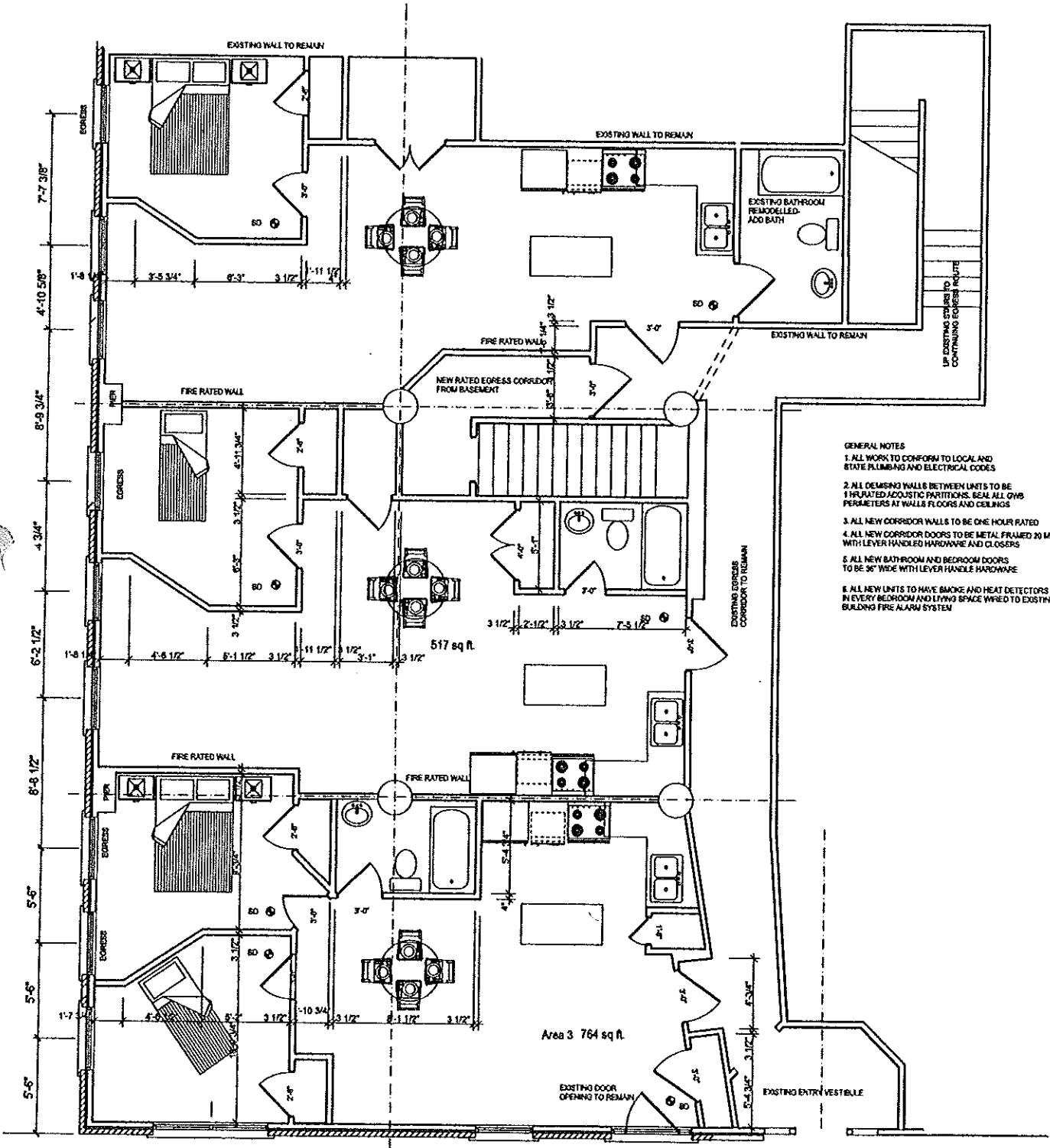
FOREST AVE.

SHOW

58± Parking

BANK STREET

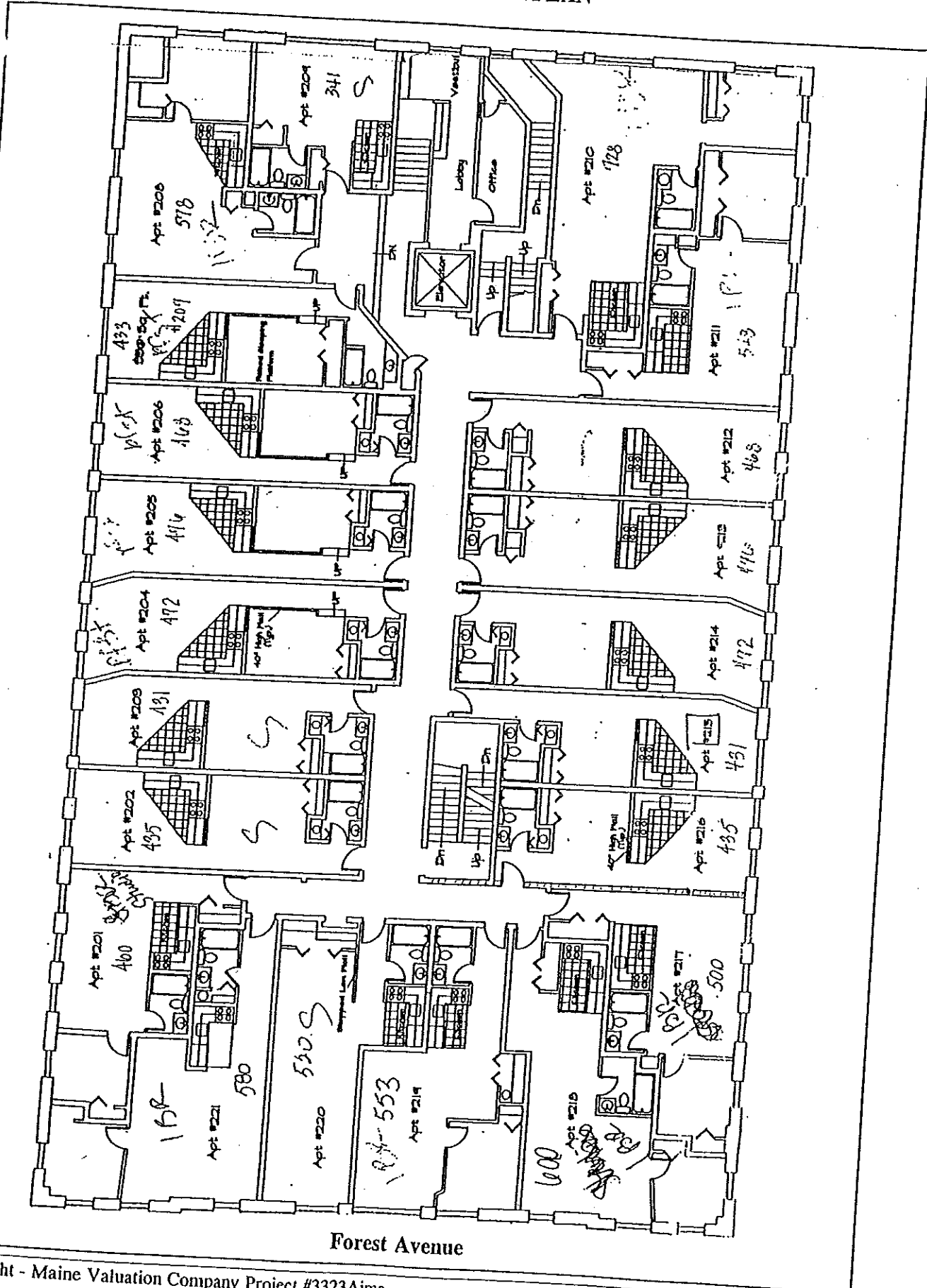




- GENERAL NOTES**
1. ALL WORK TO CONFORM TO LOCAL AND STATE PLUMBING AND ELECTRICAL CODES
 2. ALL DEMISING WALLS BETWEEN UNITS TO BE 1 HR RATED ACOUSTIC PARTITIONS, SEAL ALL GWS PERIMETERS AT WALLS FLOORS AND CEILINGS
 3. ALL NEW CORRIDOR WALLS TO BE ONE HOUR RATED
 4. ALL NEW CORRIDOR DOORS TO BE METAL FRAMED 20 MIN ASSEMBLY WITH LEVER HANDED HARDWARE AND CLOSERS
 5. ALL NEW BATHROOM AND BEDROOM DOORS TO BE 36" WIDE WITH LEVER HANDLE HARDWARE
 6. ALL NEW UNITS TO HAVE SMOKE AND HEAT DETECTORS IN EVERY BEDROOM AND LIVING SPACE WIRED TO EXISTING BUILDING FIRE ALARM SYSTEM

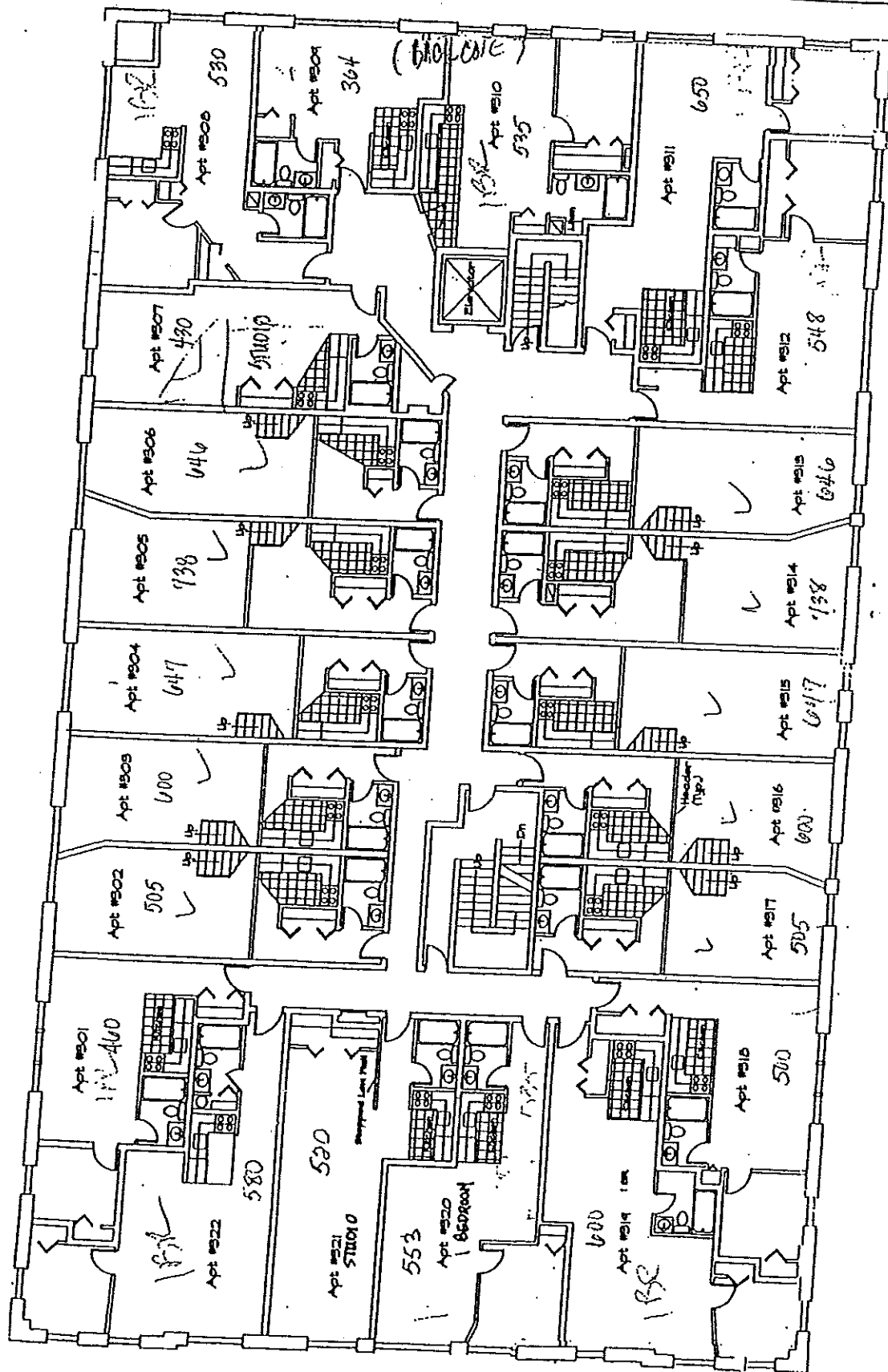
Proposed First Floor

SECOND FLOOR PLAN



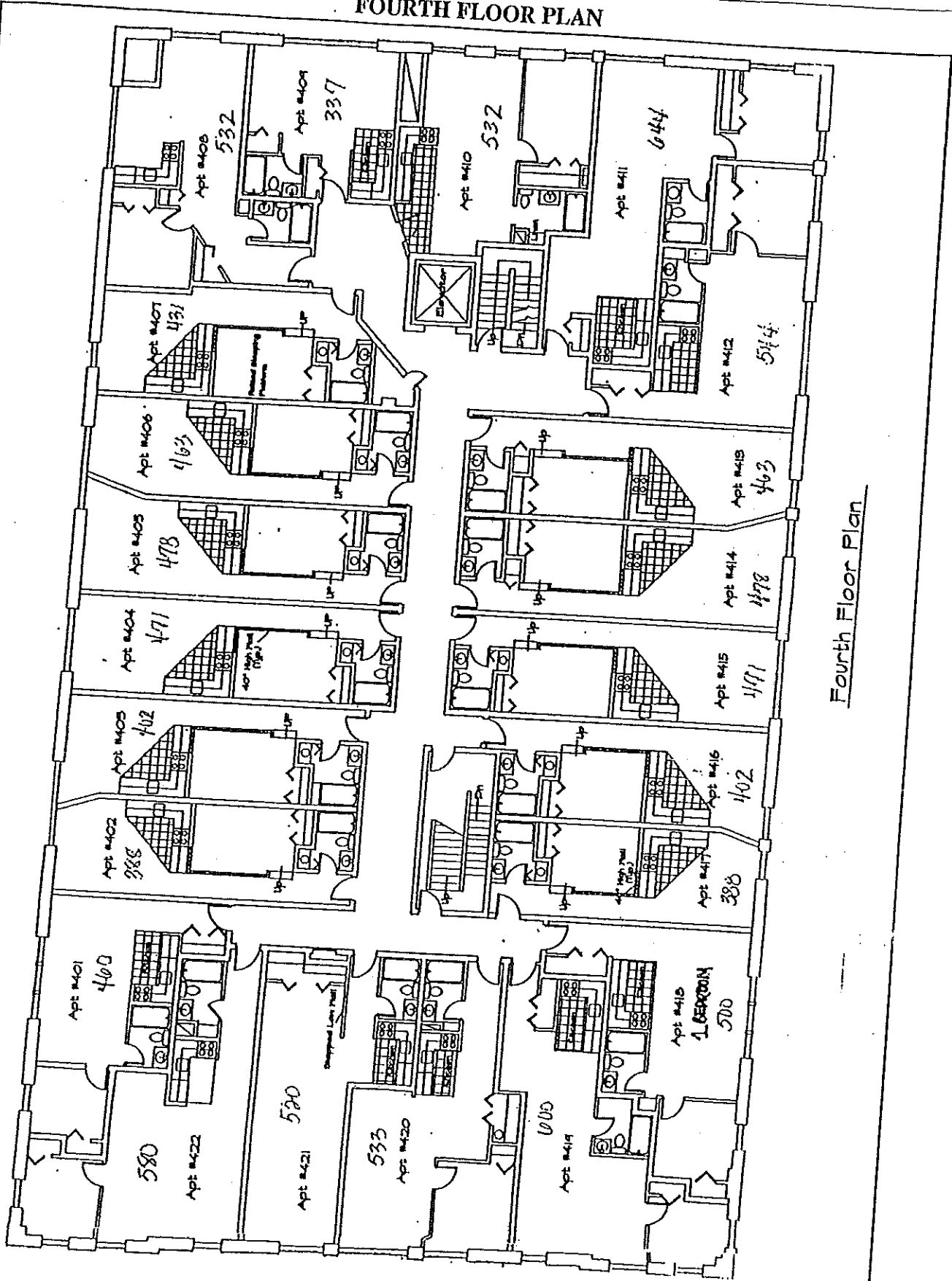
Forest Avenue

THIRD FLOOR PLAN



Forest Avenue

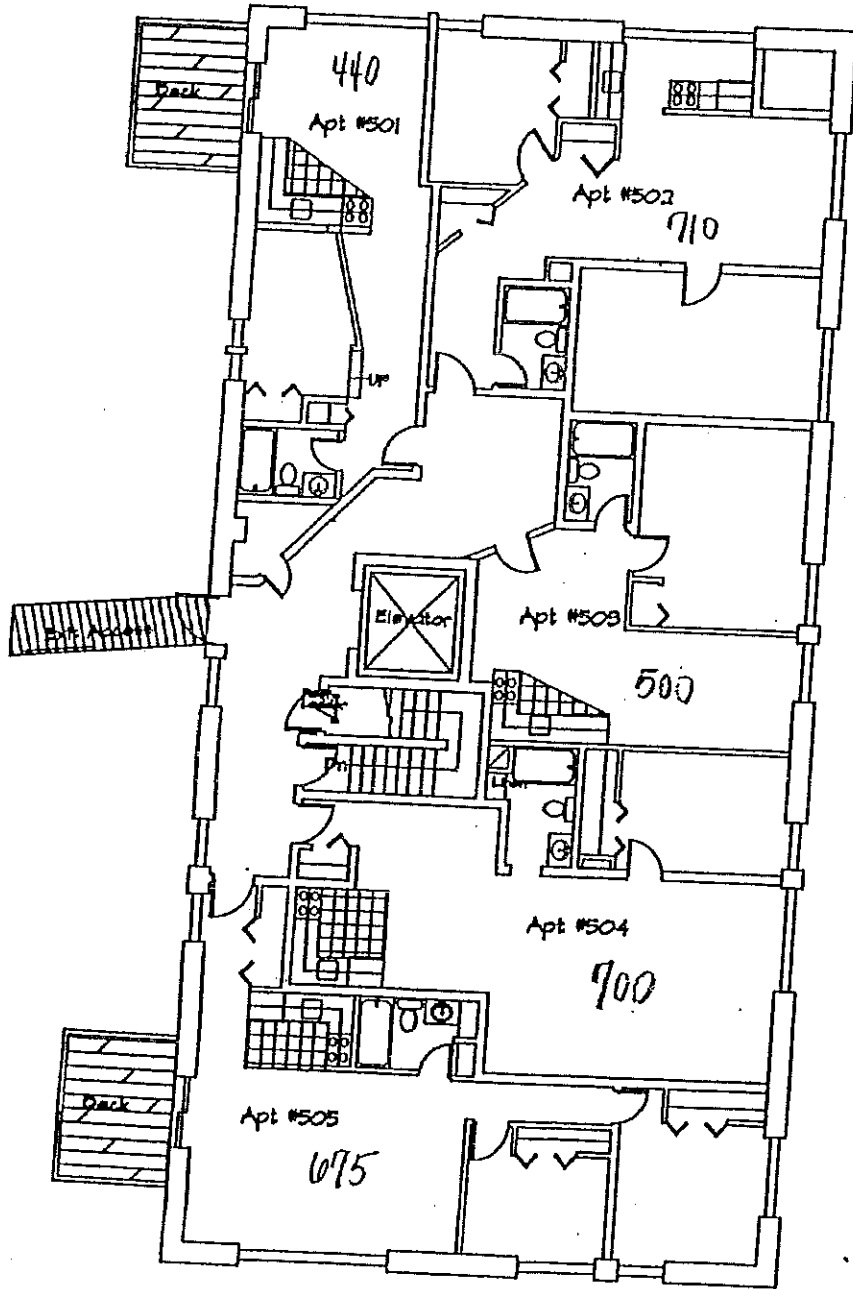
FOURTH FLOOR PLAN



Fourth Floor Plan

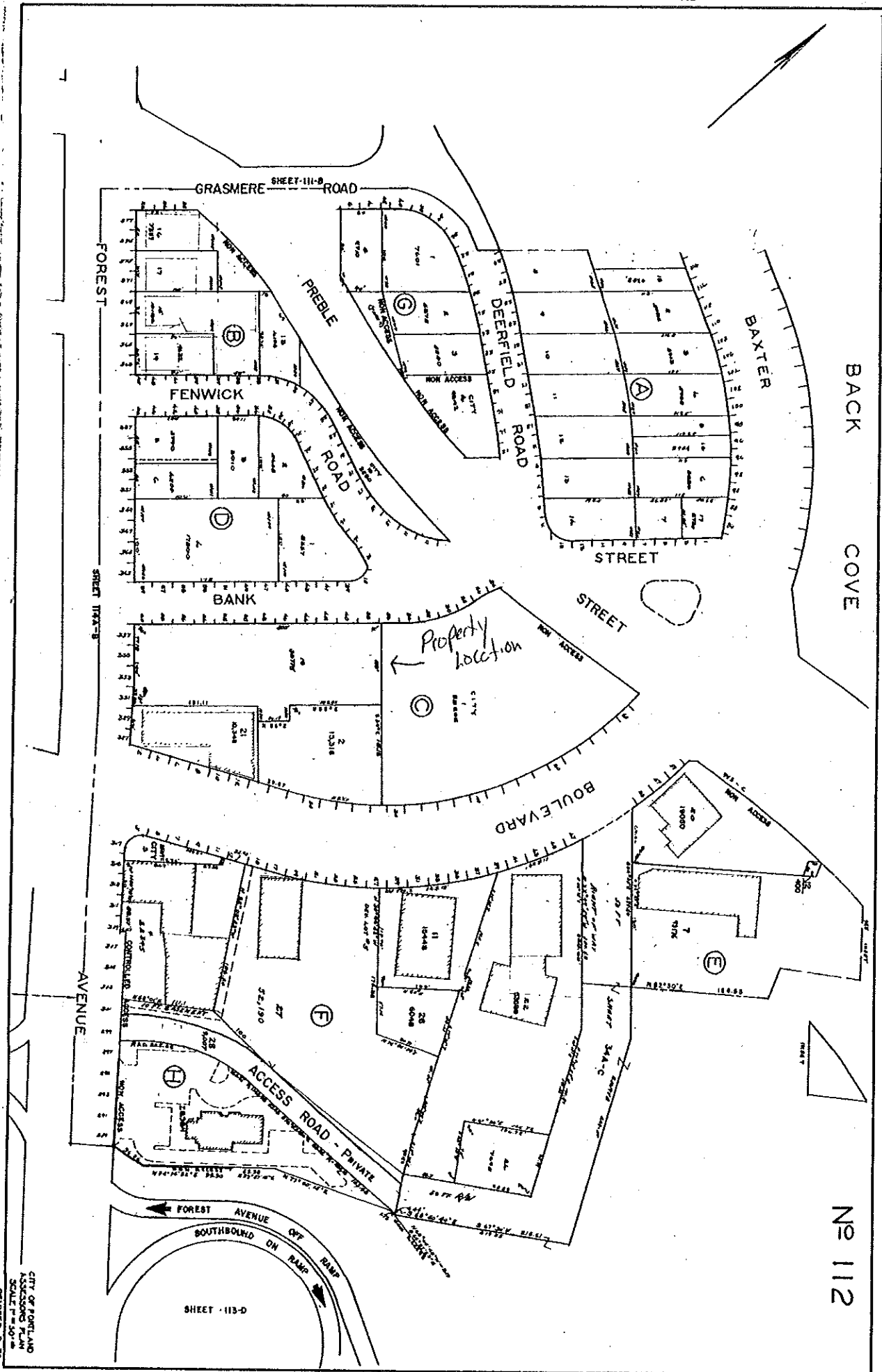
Forest Avenue

FIFTH FLOOR PLAN (PENTHOUSE)



Fifth Floor Plan

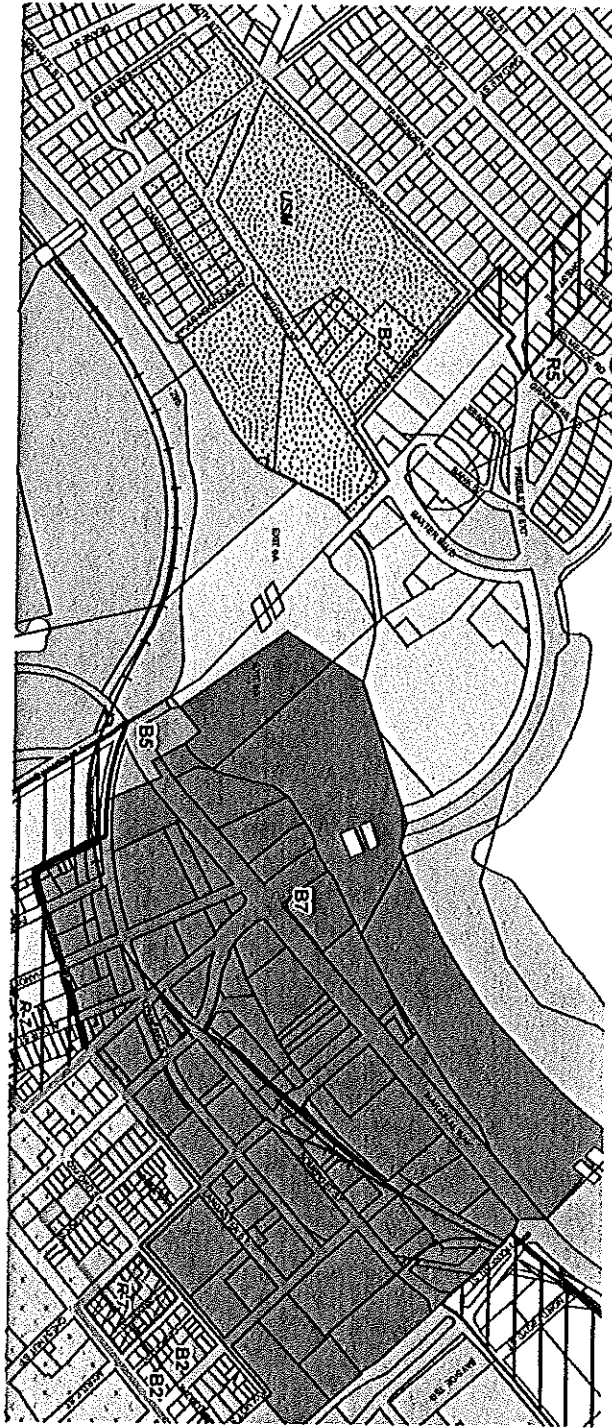
Forest Avenue



BACK COVE

№ 112

CITY OF PORTLAND
 ASSESSOR'S PLAN
 SCALE 1" = 50'
 REVISED 2-79



WARRANTY DEED
Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, that **BAYVIEW COURT ASSOCIATES**, a Maine general partnership with a mailing address of 10 Moulton Street, Portland, Maine, 04101, for consideration paid, grants, with **WARRANTY COVENANTS**, to **BAYVIEW COURT, LLC**, a Maine limited liability company with a mailing address of 10 Moulton Street, Portland, Maine, 04101 ("Grantee"), the land, with the buildings and improvements thereon, located in Portland, County of Cumberland and State of Maine, more particularly described on Exhibit A attached hereto and made a part hereof by reference.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 1st day of March, 2007.

Signed, Sealed and Delivered
in the presence of:

Timothy H. Norton

BAYVIEW COURT ASSOCIATES

By: Karen Winslow for Lloyd L. Lathrop, Jr. General Partner Lathrop,
by Karen Winslow under Limited
Power of Attorney dated 3/1/2007 J.

State of Maine
Cumberland, ss.

March 1, 2007

Personally appeared the above-named Lloyd L. Lathrop, Jr. General Partner, of Bayview Court Associates, by Karen Winslow under Limited Power of Attorney dated 3/1/2007, and acknowledged the foregoing instrument to be the free act and deed of Lloyd L. Lathrop in his said capacity and the free act and deed of the general partnership.

Before me,

Timothy H. Norton
Notary Public/Attorney-at-Law

Timothy H. Norton
Printed Name

Exhibit A - Property Description

Certain lots or parcels of land, with the buildings thereon, situated on the northwesterly side of Forest Avenue, in the City of Portland, County of Cumberland, and State of Maine, bounded and described as follows:

Parcel First: Lots numbered 23, 24, 25 and a portion of lot numbered 2; said lots being situated on the northeasterly side of Forest Avenue in said Portland and being shown on the plan recorded in the Cumberland County Registry of Deeds in Plan Book 12, Page 31, together with all buildings thereon:

Beginning at a point on the northeasterly side line of Forest Avenue, which point marks the dividing line between lot numbered 1 and lot numbered 24 as shown on above-mentioned plan, which point is 46 feet in a northwesterly direction from the point of intersection of Forest Avenue and the proposed roadway known as the Back Bay Boulevard; thence extending along the northeasterly side line of Forest Avenue 100 feet, more or less, to the point marking the intersection of Forest Avenue and Oakleigh Road, as shown on above-mentioned plan; thence in a northeasterly direction along the southeasterly side line of said Oakleigh Road 150 feet to a point which marks the dividing line between lot numbered 23 and lot numbered 22, as shown on above-mentioned plan; thence in a southeasterly direction along the dividing line between lots numbered 22 and 23 and a portion of the dividing line between lot numbered 2 and lot numbered 3, as shown on above-mentioned plan, 100 feet to a point; thence in a southwesterly direction 150 feet, more or less, to the point of beginning; said parcel of land containing 15,000 square feet of land, more or less, and meaning to convey, and hereby conveying, the whole of lots numbered 23, 24, and 25, as shown on above-mentioned plan and such part of lot numbered 2 as shown on above mentioned plan that is included with the above mentioned and described boundaries.

Parcel Second: Lots numbered 3 and 22 on said plan, the same being situated on the southeasterly side of a street called Oakleigh Road;

Beginning at a point in the southeasterly sideline of said Oakleigh Road, as shown on the above-mentioned plan, distant 150 feet northeasterly from the intersection of the northeasterly sideline of Forest Avenue and the said southeasterly sideline of Oakleigh Road; thence northeasterly along the southeasterly sideline of Oakleigh Road 50 feet to a point which point marks the division line between the said lot No. 22 and Lot No. 21 as shown on said plan at its intersection with the southeasterly sideline of the Oakleigh Road; thence at right angles with the last named course and in a southeasterly direction along the division line between lots No. 22 and 21 and lots No. 3 and No. 4 to a point in the northwesterly sideline of Back Bay Boulevard, which point is the point of intersection of said division line between lots No. 3 and No. 4 and the northwesterly sideline of Back Bay Boulevard, thence in a southwesterly direction along the northwesterly sideline of Back Bay Boulevard to a point, which point is the point of intersection of the division line between lots No. 2 and No. 3 with the northwesterly side line of Back Bay Boulevard; thence in a northwesterly direction along the division line between lots No. 2 and 3 and lots No. 23 and 22 to the point of beginning; containing 9,872 square feet, more or less, and meaning and intending to convey and hereby conveying lots numbered 3 and 22 as delineated on above mentioned plan of Boulevard Park.

Parcel Third:

Lots numbered 4, 5, 20 and 21, as shown on said plan the same being situated between the southeasterly side of said Oakleigh Road and the northwesterly side of Back Bay Boulevard, so-called:

Beginning at a point in the southeasterly side line of said Oakleigh Road as shown on the above-mentioned plan, distant 200 feet northeasterly from the intersection of the northeasterly sideline of Forest Avenue and the said southeasterly sideline of Oakleigh Road; thence northeasterly along the southeasterly sideline

of Oakleigh Road, 100 feet to a point, which point marks the division line between the said lot numbered 20 and lot no 19 as shown on said plan at its intersection with the southeasterly sideline of Oakleigh Road; thence in a southeasterly direction along the division line between lots No. 20 and 19 and continuing the same course along the division line between lots No. 5 and 6 to a point in the northwesterly sideline of Back Bay Boulevard, which point is the point of intersection of said division line between plots No. 5 and 6 and the northwesterly sideline of Back Bay Boulevard; thence in a southwesterly direction along the northwesterly sideline of said Back Bay Boulevard to a point, which point is the point of intersection of the division line of lots No. 3 and 4 with the said northwesterly sideline of Back Bay Boulevard; thence in a northwesterly direction along the division line between lots No. 3 and 4 and continuing the same course along the division line between lots No. 21 and 22, to the point of beginning, containing in the aggregate 21,221 square feet, more or less, and meaning and intending hereby to convey and hereby conveying lots 4, 5, 20 and 21 as delineated on above-mentioned plan of Boulevard Park.

Together with a right of way in common with others on foot and with teams and other vehicles in and to all roads and streets as shown on said plan, necessary or convenient in the occupation, use and enjoyment of the lots hereby conveyed, it being expressly understood and agreed that other than the easements in the roads and streets as herein contained said Grantee shall not be reason of this conveyance acquire any rights, easements or privileges in or to any land laid out or reserved on said plan for parks or public grounds.

And excepting and reserving from the above-described premises as certain lot or parcel of land situated in Portland in the County of Cumberland and State of Maine, on the northerly side of Baxter Boulevard, in the rear of and adjoining land numbered 327-329 Forest Avenue, bounded and described as follows:

Beginning at an iron pipe which is in the northerly sideline of Baxter Boulevard and 160.5 feet northeasterly of the northeast corner of Forest Avenue and Baxter Boulevard, which point of beginning is a corner of land of Reliable Furniture Co., Inc. (Reliable); thence N 34° W, 71 feet by a fence and the line dividing land of Reliable from the land of Bellis, Inc. to a point opposite a drill hole in a concrete pilaster; thence N 56° E by a fence and land of Reliable 40.17 feet to an iron pipe; thence N 34° W by a fence and land of Reliable 19.48 feet to a drill hole in a concrete wall and an iron pipe; thence N 56° E by a fence and land of Reliable 109.83 feet to an iron pipe; thence S 34° E by a fence and land now believed to be of the City of Portland 118.18 feet to an iron pipe in the northerly side of Baxter Boulevard; thence by said Boulevard in the southwesterly direction on a curve with a radius of 420.2 feet, 113.67 feet to an iron pipe at the point of curve; thence S 72° 8' W by said Boulevard 39.67 feet to the point begun at.

Received
Recorded Register of Deeds
Mar 05, 2007 10:22:36A
Cumberland County
Pamela E. Lovley

Nov. 21,
2011

Bayview Court
Associates
10 Moulton Street
Portland Maine,
04101

City of Portland
Zoning Board
of Appeals
389 Congress
Street Portland
Maine 04101

Variance Request for 335 Forest Ave. Bayview Court

Dear Zoning Board,

Please let this letter serve as authorization that I, Lloyd Lathrop, General Partner of Bayview Court, LLC, give Slocum Custom Builders permission to represent the interests of Bayview Court in our request for a variance to add three residential units to our property located at 335 Forest Avenue, Portland, Maine (Chart 112, Block C019, Lot 001)

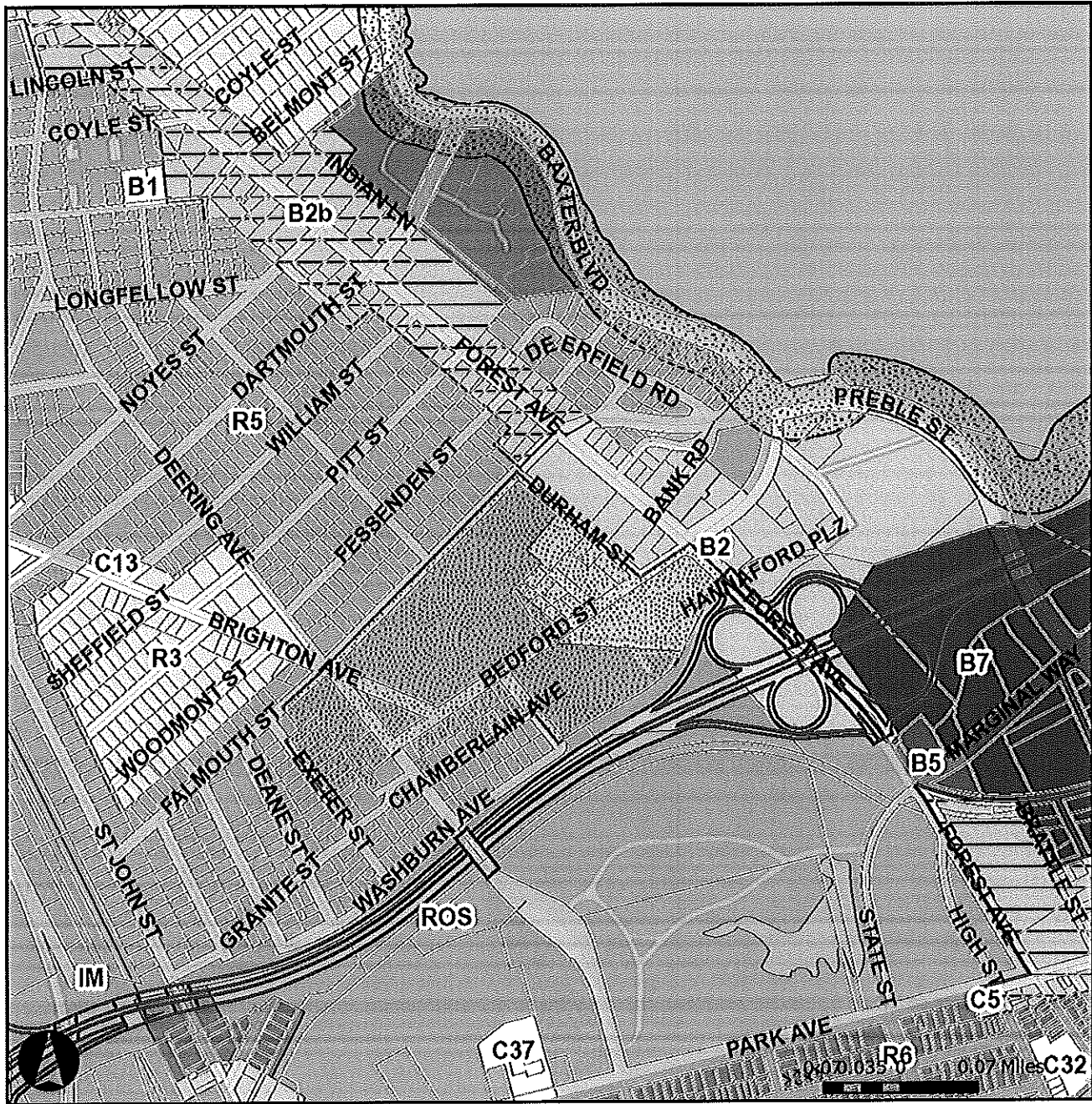
Sincerely,
Lloyd Lathrop
General Partner,
Bayview Court Associates



Ryan Kelth
Slocum Custom Builders
November 20, 2011



Map



Parcels

-
- Interstate
-
- Streets
-
- Parcels
-
- Traveled Ways

Island Zoning (continued)

- I-R1
- I-R2
- I-R3
- ROS
- RPZ
- Zoning
- AB Airport Business

Zoning (continued)

- R6 Residential
- ROS Recreation Open Space
- RP Residential Professional
- RPZ Resource Protection
- WCZ* Waterfront

Zoning (continued)

- C28
- C29
- C30
- C31
- none
- B2c
- C32



PORTLAND MAINE

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

Receipts Details:

Tender Information: Check , Check Number: 2333

Tender Amount: 100.00

Receipt Header:

Cashier Id: amachado

Receipt Date: 11/21/2011

Receipt Number: 13246

Receipt Details:

Referance ID:	1328	Fee Type:	PZ-Z1
Receipt Number:	0	Payment Date:	
Transaction Amount:	100.00	Charge Amount:	100.00
Job ID: Project ID: 2011-393 - 331 Forest Ave. Practical difficulty			
Additional Comments:			

Thank You for your Payment!