

## Marge Schmuckal - Mayfield Street

---

**From:** Marge Schmuckal  
**To:** susan small  
**Date:** 6/18/2014 10:51 AM  
**Subject:** Mayfield Street

---

Hi Susan,

Jim Mullen of Northeast Civil Solutions called me this morning and we had the conversation I was waiting for.

1) The first test of 14-403 concerns the width of the right-of-way in front of the property which states that no building intended for habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide. Based on all the evidence, this access is 50' wide.

2) 14-403 also states that "For purposes of this section, street shall be defined in section 14-47." 14-47 states: "Street: A public way established by *or maintained under public authority...*" It has been made clear that Public Services collects garbage and plows and otherwise maintains Mayfield. It was Public Services that extended Mayfield in 1994 and is continued to be maintained by them. So by definition it is a street.

3) So the property which is in an R-5 zone can be built upon. Paragraph 14-403(b) goes on to outline the minimum requirements for the street that is to be built upon. It says, "For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, **shall be improved**, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the public works authority pursuant to section 14-498(a) of article IV of this chapter..."

So, from a zoning standpoint, I would say that a new single family dwelling could be constructed if you comply with putting in approximately 17.25' of street to City standards.

I am only referring the street requirements in this e-mail to you. If there is more information that is needed by either Ann Machado or Philip DiPierro during their reviews, please submit what may be needed so the building permit can be issued.

Marge Schmuckal

-

## Marge Schmuckal - Mayfield Street & 14-403

---

**From:** Marge Schmuckal  
**To:** Ann Machado; Barbara Barhydt ; David Margolis-Pineo; Jennifer Thomps...  
**Date:** 6/18/2014 10:29 AM  
**Subject:** Mayfield Street & 14-403

---

I just wanted to follow up on my e-mail of 5/20/2014. I received clarifying information concerning what was submitted as information on the survey.

Jim Mullen of Northeast Surveyors explained to me that the 50' right-of-way was defined by abutting deeds and using the 1913 Briggs survey. He is going to try to get me the full copy of the 1913 survey. He also confirmed that the right-of-way does go to the end of the Small property.

Therefore, I am satisfied as my 5/20/14 memo stated, that the lot can be divided and built upon. However, the pavement is about 17.25' short of the end of the property being developed. Under 14-403 the approximately 17.25' must be brought up to City standards as required by Public Services.

I will let Ms. Small know this outcome immediately. Her next questions will be when she can get her permit. I will forward the previous e-mail since I am having trouble attaching it to this e-mail

Marge

## Marge Schmuckal - Re: Mayfield Street & 14-403

**From:** Jennifer Thompson  
**To:** Ann Machado; Barbara Barhydt; David Margolis-Pineo; Marge Schmuckal; ...  
**Date:** 5/20/2014 2:17 PM  
**Subject:** Re: Mayfield Street & 14-403

O.k. Here's where I think we are: We have an attorney who says that the right of way extends to this property. The City has maintained the portion of Mayfield that runs in front of the Small's property, including installing a sewer (right?) So, the fact that this portion does not appear on a subdivision plat (which is how I read Bill Clark's email) doesn't necessarily mean it doesn't meet the definition of a street - if we're interpreting that definition as Marge is (namely, that it meets the definition because it's been maintained under public authority).

If all of this is correct, then I'm inclined to support Marge's interpretation - provided that the "street" as it exists and is maintained meets the 35' dimensional requirement. But, I do invite further correction if I'm missing something.

>>> David Margolis-Pineo 5/20/2014 10:47 AM >>>  
 Time out guys. Marge logic appears sound but as Bill Clark stated, the E.C. Jordan survey is incorrect. The right of way does not continue, it stops at the spite strip. Therefore no street frontage.

>>> Jennifer Thompson 5/20/2014 10:13 AM >>>  
 My further understanding is that the City installed or repaired a sewer. Have we made other repairs?

In light of our historic maintenance of this road, this office is comfortable with Marge's interpretation in this case.

>>> Marge Schmuckal 5/20/2014 9:55 AM >>>  
 I have reviewed 14-403 and used the information that I have gleaned about Mayfield Street.

1.) The submitted survey shows the Mayfield right-of way to be 50' wide. This is based upon a survey "... for Fred E. Briggs, May 1913, by E.C. Jordan & Co., recorded at Cumberland County Registry of Deeds in Plan Book 12, Page 68." We will be requesting a copy of that survey for our files. The survey also shows the right-of-way continues to the end of the property of Susan Small. Therefore the first test of 14-403 has been met, which states that no building intended for habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide.

2.) 14-403 also states that "For purposes of this section, street shall be defined in section 14-47." 14-47 states: "Street: A public way established by **or maintained under public authority....**" It has been made clear that Public Services collects garbage and plows and otherwise maintains Mayfield. It was Public Services that extended Mayfield in 1994 and is continued to be maintained by them. So by definition it is a street.

3.) So the property which is in an R-5 zone can be built upon. Paragraph 14-403(b) goes on to outline the minimum requirements for the street that is to be built upon. It says, "For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, **shall be improved**, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the public works authority pursuant to section 14-498(a) of article IV of this chapter....."

So, from a zoning standpoint, I would say that a new single family dwelling could be constructed if they comply with putting in approximately 17.25' of street to City standards.

I do not think that the new dwelling unit is exempt from meeting 14-403. Only an addition to the existing dwelling that does not have additional kitchen facilities (thus not triggering 14-403) would be allowed without having to meet 14-403.

Marge

Marge Schmuckal - Re: 29 Mayfield

From: Marge Schmuckal
To: Marge Schmuckal
Date: 6/17/2014 12:31 PM
Subject: Re: 29 Mayfield

Hi Lee,
I have not yet heard from the attorney or Jim Mullen. Is there a time frame when they may be getting back to me on these questions?
Thank you,
Marge

>>> Lee Allen <lee.allen@northeastcivilsolutions.com> 5/23/2014 7:43 PM >>>

Marge,
I will refer this to the attorney that worked on this on Tuesday and Jim Mullen the surveyor on the project they will be in touch.
Thanks.

Lee

6/18/14 - spoke with Jim Mullen on phone

321-886 (C)

defined by Abuttij Deeds -

Sent from my iPhone

> On May 23, 2014, at 2:32 PM, "Marge Schmuckal" <MES@portlandmaine.gov> wrote:

> Hi Lee,
> The City has many questions about Mayfield Street. Thank you for what appears to be a portion of the 1913 plan recorded at Cumberland County Registry of Deeds. Is there a full copy that we could have?

BRIGGS
does go to the end of property

> Our interest revolves around the width of Mayfield down to #29 and how far it extends to #29. You have shown on your survey that the right-of-way (which is described in length, but not width) extends to the end of their property. I am not questioning you, but I am trying to understand, how you determined that the width of the right-of-way.

> Any light that you can shed on these issues would be helpful. I do need to use what you have supplied to make a decision on the "buildability" of those described lots at the end of Mayfield. I want to be sure I am correctly understanding all of it correctly.

> Enjoy the long weekend.

> Thank you,
> Marge Schmuckal
> Zoning Administrator

> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

**From:** Lee Allen <lee.allen@northeastcivilsolutions.com>  
**To:** MES@portlandmaine.gov  
**Date:** 5/23/2014 7:43 PM  
**Subject:** Re: 29 Mayfield

Marge,  
I will refer this to the attorney that worked on this on Tuesday and Jim Mullen the surveyor on the project they will be in touch.  
Thanks.

Lee

Sent from my iPhone

> On May 23, 2014, at 2:32 PM, "Marge Schmuckal" <MES@portlandmaine.gov> wrote:

>

> Hi Lee,

> The City has many questions about Mayfield Street. Thank you for what appears to be a portion of the 1913 plan recorded at Cumberland County Registry of Deeds. Is there a full copy that we could have?

>

> Our interest revolves around the width of Mayfield down to #29 and how far it extends to #29. You have shown on your survey that the right-of-way (which is described in length, but not width) extends to the end of their property. I am not questioning you, but I am trying to understand, how you determined that the width of the right-of-way.

>

> Any light that you can shed on these issues would be helpful. I do need to use what you have supplied to make a decision on the "buildability" of those described lots at the end of Mayfield. I want to be sure I am correctly understanding all of it correctly.

>

> Enjoy the long weekend.

>

> Thank you,

> Marge Schmuckal

> Zoning Administrator

>

> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested. --

**Marge Schmuckal - Re: Mayfield st.**

**From:** Marge Schmuckal  
**To:** jffsmall@yahoo.com  
**Date:** 6/17/2014 12:21 PM  
**Subject:** Re: Mayfield st.

I am sorry, I can not continue this discussion. I need information from professionals to explain how they came to their conclusions. Perhaps I misunderstood your question regarding the width of the access. This continued back and forth is not getting me the information from the professionals. I will contact them to find out their time frame getting back to me.

>>> <jffsmall@yahoo.com> 6/17/2014 11:23 AM >>>

I don't believe I am making an assumption. I was using the information that you provided to me yesterday. If you recall I asked you in an e-mail how wide the city thinks the street is. You replied with 50 FEET.

So is that information you provided correct or not? I'm still a little confused. Based on the information that you provided to me yesterday, the street is 50 feet wide and now you're saying it's an assumption and "the city" doesn't know how wide the street is. I appreciate your continued prompt responses to my questions and e-mails. Hopefully we can this cleared up and to a point where everyone invoked understands what the issues are.  
 Sent from my iPhone

> On Jun 16, 2014, at 5:49 PM, "Marge Schmuckal" <MES@portlandmaine.gov> wrote:

>  
 > 50 FEET

>  
 >>> <jffsmall@yahoo.com> 6/16/2014 3:59 PM >>>

> How wide does the city think the street is?

>  
 > Sent from my iPhone

>> On Jun 16, 2014, at 3:54 PM, "Marge Schmuckal" <MES@portlandmaine.gov> wrote:

>> As I stated before, I do not have all the information I need. And I am questioning the surveyor (I am not a surveyor) as to how he came to some conclusions on what was submitted to us. It is a reasonable request.

>> Marge

>>

>>>> <jffsmall@yahoo.com> 6/16/2014 3:19 PM >>>>

>>

>> I believe that the surveyor must have looked at the same surveys the city did when it was determined that the sewer would be brought down and the street would be paved, also there are no parking signs out in front of the house, ( on the lawn and not on the street) how did the city determine where these signs should be placed? How was it determined where the pavement would end ? Or how wide the pavement would be? What I'm getting at is you, ( the city) should already have all this information. For years the street has been maintained and improvements have been made. I.e the sewer ,the pavement, the water, the no parking signs. The city wouldn't of just put these things where ever they felt like. The city must have some record as to how they were able to determine where these services were to go? I would imagine it would be the same survey that you are requesting from the surveyor . You should have everything you need right in the city's records.

## Marge Schmuckal - Re: Mayfield st.

---

**From:** Marge Schmuckal  
**To:** jffsmall@yahoo.com  
**Date:** 6/16/2014 3:54 PM  
**Subject:** Re: Mayfield st.  
**CC:** Susan Small

---

As I stated before, I do not have all the information I need. And I am questioning the surveyor (I am not a surveyor) as to how he came to some conclusions on what was submitted to us. It is a reasonable request.  
Marge

>>> <jffsmall@yahoo.com> 6/16/2014 3:19 PM >>>

I believe that the surveyor must have looked at the same surveys the city did when it was determined that the sewer would be brought down and the street would be paved, also there are no parking signs out in front of the house, ( on the lawn and not on the street) how did the city determine where these signs should be placed? How was it determined where the pavement would end ? Or how wide the pavement would be? What I'm getting at is you, ( the city) should already have all this information. For years the street has been maintained and improvements have been made. I.e the sewer ,the pavement, the water, the no parking signs. The city wouldn't of just put these things where ever they felt like. The city must have some record as to how they were able to determine where these services were to go? I would imagine it would be the same survey that you are requesting from the surveyor . You should have everything you need right in the city's records.

Sent from my iPhone



**Marge Schmuckal - Re: Mayfield Street**

**From:** Marge Schmuckal  
**To:** susan small  
**Date:** 6/16/2014 2:14 PM  
**Subject:** Re: Mayfield Street  
**CC:** russ doucette

Ms. Small,

I had questions about the survey. There are things on the survey that after viewing previous surveys, I had questions on like: how did the surveyor determine the width and length of the Mayfield Street right of way easement. When I asked the surveying office, they said their lawyer will get back to me. You have a very unique access in front of your property. A lot depends upon what it exactly is and how that access is considered to be.

Marge

>>> "susan small" <ssmall2@maine.rr.com> 6/16/2014 12:36 PM >>>

----- O

what do you mean the lawyer representing the surveyor? why should the surveyor need a lawyer? as you said before in previous e-mails you were waiting on professionals, he is a professional. he surveyed the property 3 times, I cant possibly understand what it is that you need, that he would need a lawyer for. it would be very helpful if you could give some more information to your e-mails instead of the vague answers you respond with. I understand that I am not the only person applying for a building permit and you are very busy, but I also feel like you are blowing me off because I'm not a contractor and I'm not in the constuction business. This is a very unique situation as far as the street is concerned, but ultimatlly we have been paying taxes on the property as if it were an approved streest ever since my family has owned the land. That has been for over 60 years. What I can't understand is how it could be such a problem until recently (when i went to public works to find out where the sewer ended). It was then the city realize that they didn't in fact own the street. So now after all these years of paying taxes as if it were approved street ( we did have all the services as well) you're unable to come to a timely decision because you just aren't sure of the street and how wide it is. I would really appreciate an informative and prompt respose to this e-mail. Jeffrey Small via Susan Smalls e-mail

iginal Message -----

**From:** Marge Schmuckal  
**To:** susan small  
**Cc:** russ doucette ; jeffrey m small  
**Sent:** Monday, June 16, 2014 12:00 PM  
**Subject:** Re: Mayfield Street

It is the lawyer for the surveyor. I do not know the name of the lawyer.

Marge

>>> "susan small" <ssmall2@maine.rr.com> 6/16/2014 11:50 AM >>>

Thank you for the reply. Is there a way I can followup with the attorney who is keeping you waiting. I am leaving next week and I must make some financial decisions before I leave. I had no idea that I would have to wait so long for a permit and now I am really under the gun financially. Please, is there someway this can reach resolution immediately. I am getting desperate and hope you are willing to help me and move this along. Susan

**From:** Marge Schmuckal

**To:** [susan\\_small](mailto:susan_small)  
**Cc:** [russ\\_doucette](mailto:russ_doucette) ; [jeffrey\\_m\\_small](mailto:jeffrey_m_small)  
**Sent:** Monday, June 16, 2014 10:29 AM  
**Subject:** Re: Mayfield Street

I have not yet heard from the lawyer representing the surveyor who was supposed to contact me concerning my questions to the surveyor. I am still waiting too.

Marge

>>> "susan\_small" <[ssmall2@maine.n.com](mailto:ssmall2@maine.n.com)> 6/10/2014 12:10 PM >>>

Hello Marge - I just found out I have to go out of town in a couple of weeks. I am hoping you have some information for me about the status of my permit. I would like to get things moving along before I have to leave. Is it possible for you to give me an update or a time estimate?

Thank you for your time. Susan

----- Original Message -----

**From:** [Marge\\_Schmuckal](mailto:Marge_Schmuckal)  
**To:** [susan\\_small](mailto:susan_small)  
**Cc:** [russ\\_doucette](mailto:russ_doucette) ; [jeffrey\\_m\\_small](mailto:jeffrey_m_small)  
**Sent:** Tuesday, May 27, 2014 2:23 PM  
**Subject:** Re: Mayfield Street

Thank you, but I am in the process of getting the information that I need.

Marge

>>> "susan\_small" <[ssmall2@maine.n.com](mailto:ssmall2@maine.n.com)> 5/27/2014 2:14 PM >>>

Thank you for the reply. I am also trying to get information so that perhaps I can facilitate the decision. I have already invested \$5000 in various people to research the property, so if you need more information, perhaps it is readily available.

----- Original Message -----

**From:** [Marge\\_Schmuckal](mailto:Marge_Schmuckal)  
**To:** [susan\\_small](mailto:susan_small)  
**Cc:** [russ\\_doucette](mailto:russ_doucette) ; [jeffrey\\_m\\_small](mailto:jeffrey_m_small)  
**Sent:** Tuesday, May 27, 2014 11:47 AM  
**Subject:** Re: Mayfield Street

I will let you know, as I mentioned before, when I get all the information that is needed to make a final decision.

Marge

>>> "susan\_small" <[ssmall2@maine.n.com](mailto:ssmall2@maine.n.com)> 5/27/2014 10:45 AM >>>

Lee Allen sent over the information Ann requested on 5/21. Who is the surveyor you are waiting to hear from and what other information is necessary?

----- Original Message -----

**From:** [Marge\\_Schmuckal](mailto:Marge_Schmuckal)  
**To:** [susan\\_small](mailto:susan_small)  
**Sent:** Tuesday, May 27, 2014 9:30 AM  
**Subject:** Re: Mayfield Street

Susan,

I understand how anxious you are. However, I am trying to get facts from the surveyor at this time.

They will be getting back to me. I will let you know when I have more specific information.

>>> "susan small" <ssmall2@maine.net> 5/23/2014 6:45 PM >>>

Ann told me you are reviewing the information regarding a building permit for Mayfield Street. I would appreciate an update at your earliest convenience as we are not able to make any plans until a decision is reached. The application was submitted the end of March and paid for on April 7.

Susan Small

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

## **Marge Schmuckal - 29 Mayfield**

---

**From:** Marge Schmuckal  
**To:** Lee Allen  
**Date:** 5/23/2014 2:32 PM  
**Subject:** 29 Mayfield

Hi Lee,

The City has many questions about Mayfield Street. Thank you for what appears to be a portion of the 1913 plan recorded at Cumberland County Registry of Deeds. Is there a full copy that we could have?

Our interest revolves around the width of Mayfield down to #29 and how far it extends to #29. You have shown on your survey that the right-of-way (which is described in length, but not width) extends to the end of their property. I am not questioning you, but I am trying to understand, how you determined that the width of the right-of-way.

Any light that you can shed on these issues would be helpful. I do need to use what you have supplied to make a decision on the "buildability" of those described lots at the end of Mayfield. I want to be sure I am correctly understanding all of it correctly.

Enjoy the long weekend.

Thank you,  
Marge Schmuckal  
Zoning Administrator

**Marge Schmuckal - Fwd: FW: Mayfield Plan**

---

**From:** Ann Machado  
**To:** Marge Schmuckal  
**Date:** 5/21/2014 11:40 AM  
**Subject:** Fwd: FW: Mayfield Plan  
**Attachments:** 193\_10\_29\_1913.pdf

Ann Machado  
Zoning Specialist  
Planning & Urban Development  
Portland City Hall  
(207) 874-8709

>>> "Lee Allen" <lee.allen@northeastcivilsolutions.com> 5/21/2014 10:32 AM >>>

Ann,

Attached please find copy of the plan that you requested.

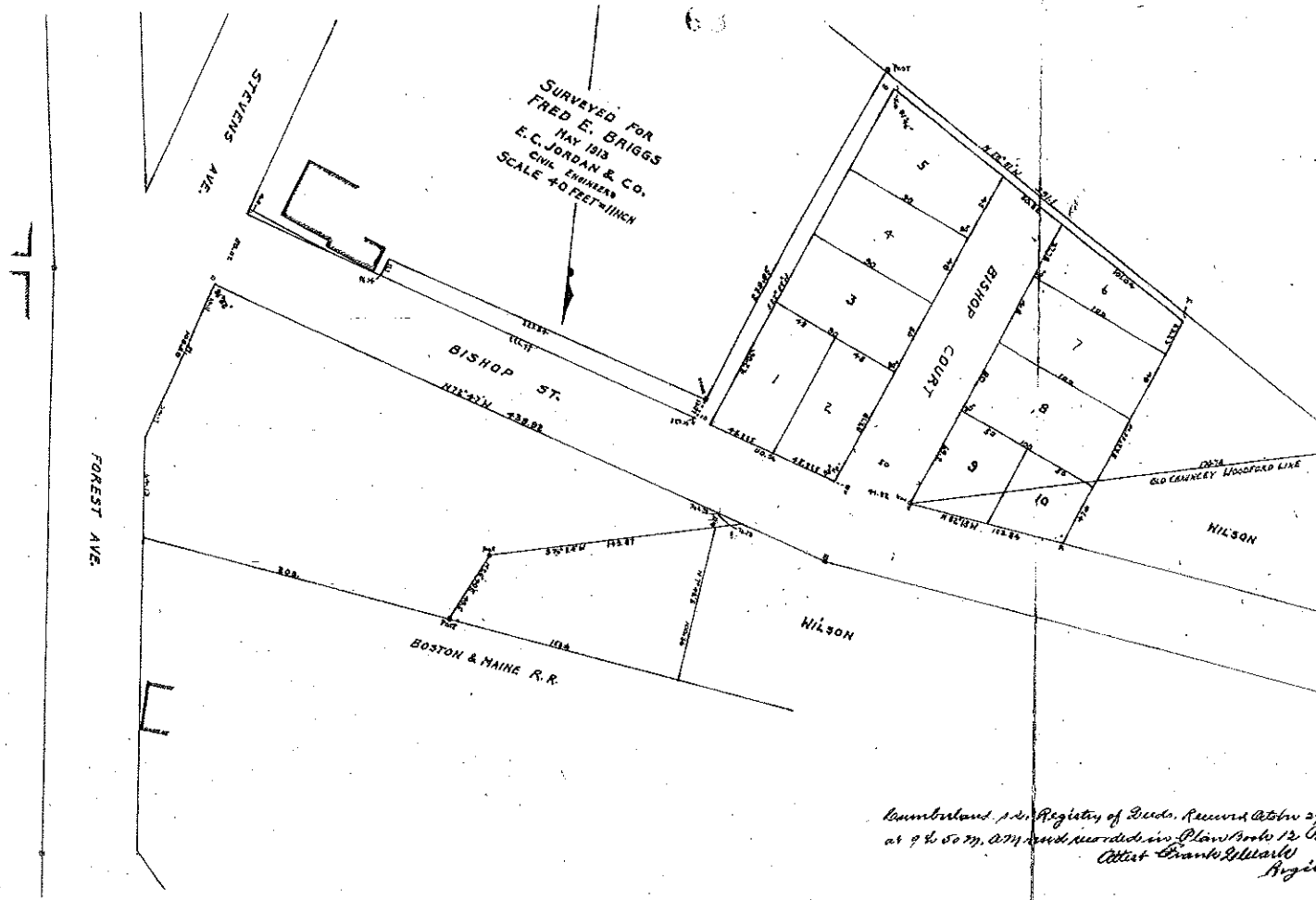
Lee Allen, PE  
*Vice President – Civil Engineering*

(w) 207.883.1000 x107  
(f) 207.883.1001

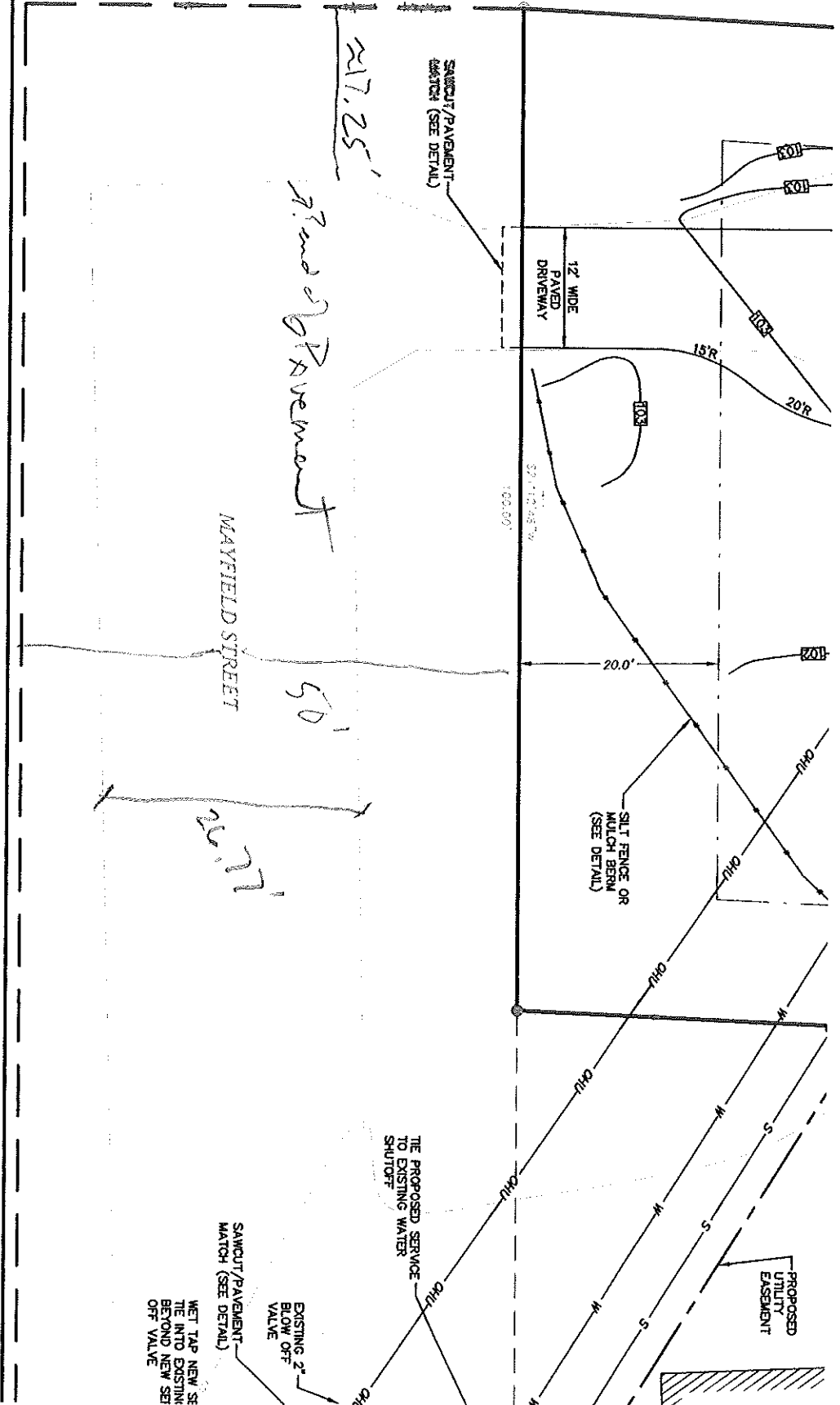
NORTHEAST CIVIL SOLUTIONS, INC.  
153 US Route 1  
Scarborough, ME 04074

*A DBE Certified Company*  
SURVEYING ◦ ENGINEERING ◦ LAND PLANNING  
[www.northeastcivilsolutions.com](http://www.northeastcivilsolutions.com)

**From:** NAN WHITTEN [mailto:nan.whitten@northeastcivilsolutions.com]  
**Sent:** Wednesday, May 21, 2014 10:28 AM  
**To:** Lee Allen (Lee Allen)  
**Subject:** Mayfield Plan



5/21/14 from  
 Lee Allen



FOUND DECIDUOUS TREE (SIZE & TYPE AS NOTED)

FOUND CONIFEROUS TREE (SIZE & TYPE AS NOTED)

- BOUNDARY LINE
- EASEMENT LINE
- ===== EDGE OF PAVEMENT
- - - - - RIGHT-OF-WAY LINE
- ABUTTER LINE
- OVERHEAD UTILITY
- SETBACK LINE
- NOW OR FORMERLY OWNED BY
- DEED BOOK AND PAGE (???CRD)
- TAX MAP-BLOCK-LOT
- PARENTHESIS DENOTE RECORD DATA

11/8  
1234/567  
12-3-45  
(123.45)

### NOTES

1. THE BASIS OF BEARING FOR THIS SURVEY IS MAGNETIC, 2013.
2. DEED AND PLAN BOOK REFERENCES ARE TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS
3. RECORD OWNERSHIP OF THE PARCEL SURVEYED CAN BE FOUND IN A DEED FROM JANE H, McDONALD TO JEFFREY M. SMALL DATED JANUARY 31, 2004 AND RECORDED IN DEED BOOK 20964, PAGE 310.
4. REFERENCE IS MADE TO THE FOLLOWING PLANS:
  - a. SURVEYED FOR FRED E. BRIGGS, MAY 1913, BY E.C. JORDAN & CO., RECORDED AT CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 12, PAGE 68.
5. THE PARCEL SURVEYED IS IDENTIFIED ON THE CITY OF PORTLAND TAX ASSESSOR'S MAP 145 BLOCK B, PARCEL 32
6. THE PARCEL SURVEYED IS LOCATED IN THE R5 ZONE/DISTRICT\*. PORTIONS OF BULK AND SPACE REQUIREMENTS ARE AS FOLLOWS:
  - MINIMUM LOT SIZE: 6,000 S.F.
  - MINIMUM FRONT SETBACK: 20 FEET
  - MINIMUM SIDE SETBACK: 2 STORIES -- 12 FEET
  - MINIMUM REAR SETBACK: 20 FEET
  - MAXIMUM LOT COVERAGE: 40%
- \*OTHER MUNICIPAL AND STATE OVERLAY ZONES MAY EXIST AND APPLY.
7. THE WIDTH AND LAYOUT OF MAYFIELD STREET IS 50 FEET PER PLAN REFERENCE 4.a.
8. THIS SURVEY WAS CONDUCTED WITH 6 INCHES OF SNOW
9. THE UTILITIES SHOWN ON THIS PLAN WERE FROM FIELD OBSERVATION ONLY. THERE MAY BE OTHER UTILITIES EXISTING THAT ARE NOT SHOWN. CONTACT DIG-SAFE (888)DIG-SAFE PRIOR TO ANY EXCAVATION WORK.
10. ROOF TO BE GUTTERED SUCH THAT RUNOFF IS DIRECTED TOWARD INFILTRATION TRENCH.

**THIS PLAN IS FOR REVIEW  
PURPOSES ONLY AND IS NOT  
INTENDED FOR CONSTRUCTION  
OR RECORDING**

Revised:	By:	Date:	Change:
1	SMA	1/23/14	REVISED PER PWD

IER: 33946 ACAD FILE: 33946-GRADING.DWG SCALE: 1" = 10' DATE: AUGUST 20, 2013

Drawing Name:  
**GRADING PLAN**

145-B-32  
293-C-12  
Application  
under 145-B-32  
201A-00663



## Marge Schmuckal - Re: Mayfield Street & 14-403

---

**From:** Jennifer Thompson  
**To:** Ann Machado; Barbara Barhydt; David Margolis-Pineo; Marge Schmuckal; ...  
**Date:** 5/20/2014 10:13 AM  
**Subject:** Re: Mayfield Street & 14-403

My further understanding is that the City installed or repaired a sewer. Have we made other repairs?

In light of our historic maintenance of this road, this office is comfortable with Marge's interpretation in this case.

>>> Marge Schmuckal 5/20/2014 9:55 AM >>>

I have reviewed 14-403 and used the information that I have gleaned about Mayfield Street.

1.) The submitted survey shows the Mayfield right-of way to be 50' wide. This is based upon a survey "... for Fred E. Briggs, May 1913, by E.C. Jordan & Co., recorded at Cumberland County Registry of Deeds in Plan Book 12, Page 68." We will be requesting a copy of that survey for our files. The survey also shows the right-of-way continues to the end of the property of Susan Small. Therefore the first test of 14-403 has been met, which states that no building intended for habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide.

2.) 14-403 also states that "For purposes of this section, street shall be defined in section 14-47." 14-47 states: "Street: A public way established by ~~or~~ *maintained under public authority....*" It has been made clear that Public Services collects garbage and plows and otherwise maintains Mayfield. It was Public Services that extended Mayfield in 1994 and is continued to be maintained by them. So by definition it is a street.

3.) So the property which is in an R-5 zone can be built upon. Paragraph 14-403(b) goes on to outline the minimum requirements for the street that is to be built upon. It says, "For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, **shall be improved**, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the public works authority pursuant to section 14-498(a) of article IV of this chapter....."

So, from a zoning standpoint, I would say that a new single family dwelling could be constructed if they comply with putting in approximately 17.25' of street to City standards.

I do not think that the new dwelling unit is exempt from meeting 14-403. Only an addition to the existing dwelling that does not have additional kitchen facilities (thus not triggering 14-403) would be allowed without having to meet 14-403.

Marge

**Marge Schmuckal - Mayfield Street & 14-403**

---

**From:** Marge Schmuckal  
**To:** Ann Machado; Barbara Barhydt ; David Margolis-Pineo; Jennifer Thomps...  
**Date:** 5/20/2014 9:55 AM  
**Subject:** Mayfield Street & 14-403

I have reviewed 14-403 and used the information that I have gleaned about Mayfield Street.

1.) The submitted survey shows the Mayfield right-of way to be 50' wide. This is based upon a survey "... for Fred E. Briggs, May 1013, by E.C. Jordan & Co., recorded at Cumberland County Registry of Deeds in Plan Book 12, Page 68." We will be requesting a copy of that survey for our files. The survey also shows the right-of-way continues to the end of the property of Susan Small. Therefore the first test of 14-403 has been met, which states that no building intended for habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide.

2.) 14-403 also states that "For purposes of this section, street shall be defined in section 14-47." 14-47 states: "Street: A public way established by *or maintained under public authority...*" It has been made clear that Public Services collects garbage and plows and otherwise maintains Mayfield. It was Public Services that extended Mayfield in 1994 and is continued to be maintained by them. So by definition it is a street.

3.) So the property which is in an R-5 zone can be built upon. Paragraph 14-403(b) goes on to outline the minimum requirements for the street that is to be built upon. It says, "For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, **shall be improved**, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the public works authority pursuant to section 14-498(a) of article IV of this chapter...."

So, from a zoning standpoint, I would say that a new single family dwelling could be constructed if they comply with putting in approximately 17.25' of street to City standards.

I do not think that the new dwelling unit is exempt from meeting 14-403. Only an addition to the existing dwelling that does not have additional kitchen facilities (thus not triggering 14-403) would be allowed without having to meet 14-403.

Marge

## Marge Schmuckal - Mayfield follow up

---

**From:** Marge Schmuckal  
**To:** Jennifer Thompson  
**Date:** 5/19/2014 2:20 PM  
**Subject:** Mayfield follow up

I have also looked at what was submitted for a survey site plan. The survey references the width (showing 50') and layout of Mayfield Street based on a survey for Fred E. Briggs, May 1913, by E.C. Jordan & Co. recorded at Cumberland County registry of Deeds in Plan Book 12, page 68."

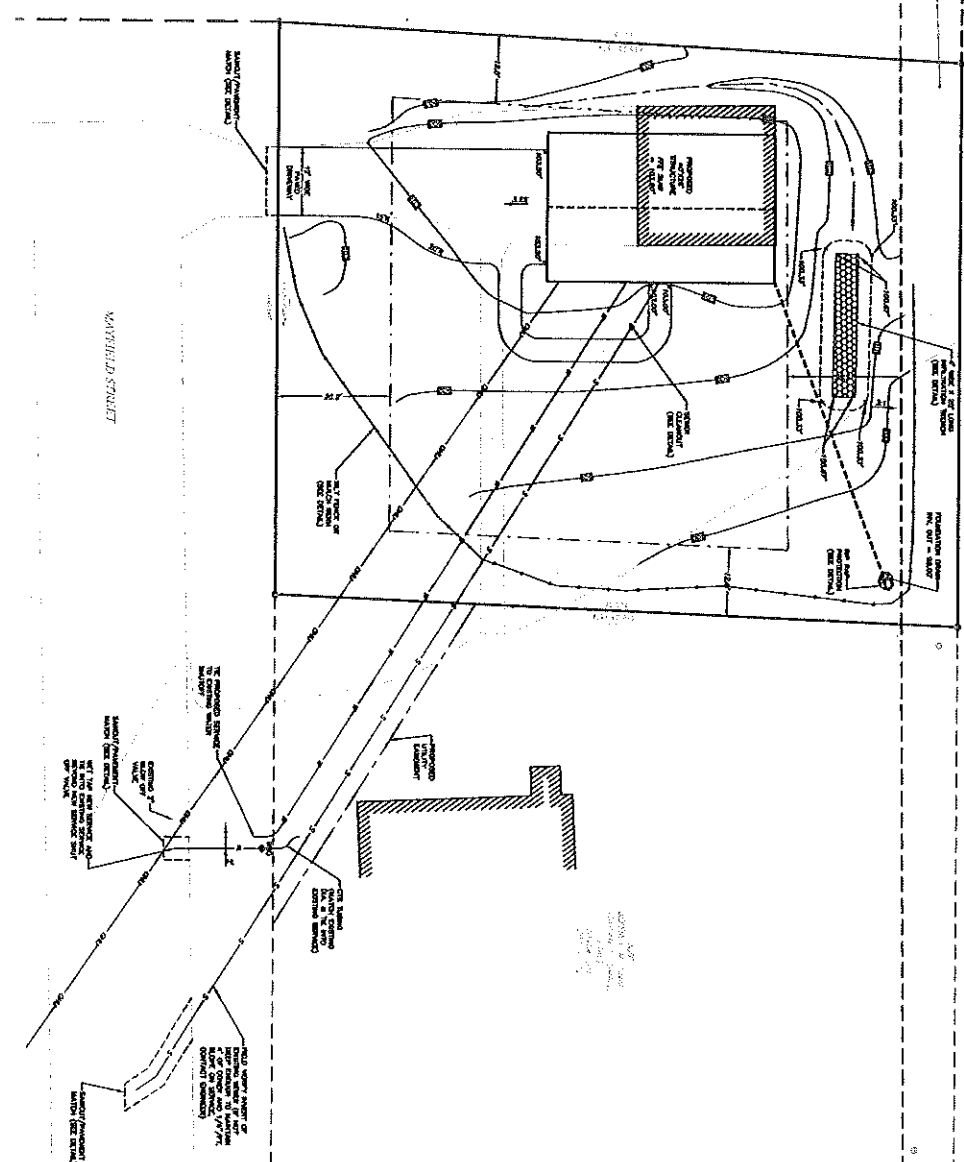
We should get a copy of that 1913 survey for our files to confirm what we may finally conclude.

If the width is 50' (over 35') and it goes to the end of the property, and the permanent pavement ends approx 17.25 feet from the end of the property, Then 14-403 states that the 17.25' must be brought up to City standards as promulgated by Public Services.

So I would say *per zoning*, that a new single family dwelling could be constructed if they comply with putting in 17.25' of street to City Standards.

Marge

VICINITY MAP



- NOTES**
1. THE SITES OF RECORD FOR THIS SUBJECT IS SUBJECT, 2013.
  2. THIS AND PAID FOR RECORDS ARE TO THE CHAIRMAN OF THE BOARD OF THE CITY OF PORTLAND.
  3. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.
  4. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.
  5. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.
  6. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.
  7. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.
  8. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.
  9. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.
  10. RECORDS OF THE CITY OF PORTLAND ARE TO BE FILED IN THE CITY OF PORTLAND RECORDS OFFICE.

**THIS PLAN IS FOR REVIEW PURPOSES ONLY AND IS NOT INTENDED FOR CONSTRUCTION OR RECORDING**

PROJECT NUMBER	DATE	DESCRIPTION	BY	DATE
2013-001	01/15/2013	GRADING PLAN	J. SMITH	01/15/2013
2013-001	01/15/2013	SINGLE FAMILY RESIDENCE	J. SMITH	01/15/2013
2013-001	01/15/2013	BRUSS DOVCETTE HOMES	J. SMITH	01/15/2013
2013-001	01/15/2013	REVISION: TECHNICAL DRAWING, SUBMITTING TO CITY	J. SMITH	01/15/2013



**Northstar Civil Solutions**  
 180 W. BENTLEY ST., SUITE 100, PORTLAND, OREGON 97201  
 503.255.1111  
 www.northstarcivil.com

(29 MAY field)



# PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)

Jeff Levine, AICP, Director  
Marge Schmuckal, Zoning Administrator

The Attorney shows she doesn't own the underlying fee

## Meeting Information

DATE: 5/16/14 ZONE: R-5

LOCATION: in Planning Room

PEOPLE PRESENT: Bill Clark - David M-P - Jennifer Marge - Ann - Phil - Barbara - ~~Atty~~

DISCUSSION:  
Bill → just a private Right-of-way - Not A Street  
HAS NEVER been dedicated

we plow & pick-up trash - prescriptive writes -  
Vallin Court Esq - Train Lawyer

kind of similar -  
1st The right to dedicate / bought spitesly  
2nd went to Council for Dedicate  
3rd - used 14-403 & built a Street  
& Accepted by Council After Blt

2 public policies at conflict  
John C-mail to Danielle & Larry

**Please note:** this meeting is not an pre-approval of any ordinances. No project can be approved without going thru the appropriate reviews. This meeting is only to outline the City processes to go through based on the information given at this meeting. Any changes to that information may change the process requirements. Please check ordinances that are on-line for further information at [www.portlandmaine.gov](http://www.portlandmaine.gov).

**Marge Schmuckal - Re: Mayfield follow up**

---

**From:** Jennifer Thompson  
**To:** Marge Schmuckal  
**Date:** 5/19/2014 3:12 PM  
**Subject:** Re: Mayfield follow up

I've talked with Danielle - given that a sewer was installed by the City on this street, she's comfortable with your interpretation. I realize, however, that this may cause some discomfort among others. Should we meet or are you comfortable just issuing your interpretation?

>>> Marge Schmuckal 5/19/2014 2:24 PM >>>

I totally understand. My interpretation is within a zoning vacuum, which is all that I am authorized to do. there are so many other issues with this.

Marge

>>> Jennifer Thompson 5/19/2014 2:22 PM >>>

Thanks, Marge. I'm wanting to touch base with Danielle about this. As you know, I have concern about this interpretation of "under public authority." I want to make sure we're clear about how to proceed. O.k. if I follow up with you once she and I have talked?

>>> Marge Schmuckal 5/19/2014 2:20 PM >>>

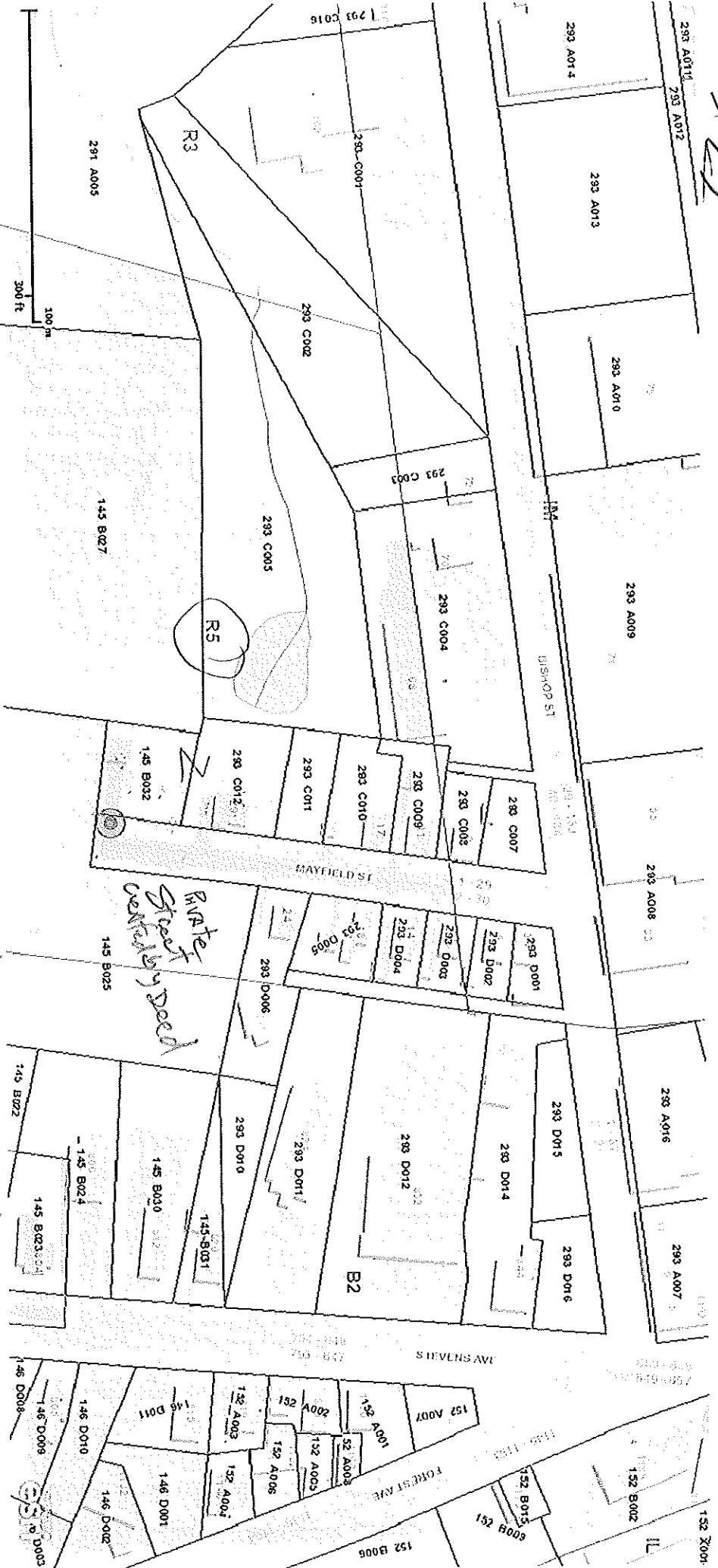
I have also looked at what was submitted for a survey site plan. The survey references the width (showing 50') and layout of Mayfield Street based on a survey for Fred E. Briggs, May 1913, by E.C. Jordan & Co. recorded at Cumberland County registry of Deeds in Plan Book 12, page 68."

We should get a copy of that 1913 survey for our files to confirm what we may finally conclude.

If the width is 50' (over 35') and it goes to the end of the property, and the permanent pavement ends approx 17.25 feet from the end of the property, Then 14-403 states that the 17.25' must be brought up to City standards as promulgated by Public Services.

So I would say *per zoning*, that a new single family dwelling could be constructed if they comply with putting in 17.25' of street to City Standards.

Marge



Copyright 2011 Esri. All rights reserved. Thu Apr 25 2013 10:59:21 AM

Bill Clark - Merge - Barbara - Daniela - David M - F

rights to use it?  
 rights for attorney work?

1913 Spitz Strip part in  
 Also in date Jeffrey Small  
 Russ Doucette & Susan Small

Barbara - Merge - DAVID M - F  
 4" actual from new bldg to

Next Wed. 1:30 Tues 2:30  
 AT DRS

Bill Clark  
 Several site plan reviews - 18' to angle - actual 14-403  
 Pro ponds  
 776-0629

## Marge Schmuckal - Re: mayfield street

---

**From:** Marge Schmuckal  
**To:** Jennifer Thompson  
**Date:** 5/19/2014 12:33 PM  
**Subject:** Re: mayfield street

Hi Jenn,

I have been reading 14-403 and the guidance memo from Corporation Counsel dated 11/29/84. The first part of 14-403 states that "no building intended for use as a habitation shall be erected on a lot which has its only street frontage on a "street" (by definition) of at least 35' wide. My first complication is whether the "street" in front of 29 Mayfield is at least 35 feet wide. I have read the information given from the lawyer which does state that there is a right-of-way. The deeds describe the right-of-way indicating the length of it, but not the width of it. So what is the width of the right of way? I do know what the City accepted closer to Bishop Street is 50' wide. And do we have a plan that shows where that right of way end in relationship to 29 Mayfield. One of the deed descriptions states: "A right of way in said Portland in common with others from Bishop Street southerly over Bishop Court as it now exists and as extended to within five feet of the northerly line of land owned by John W. Gulliver which he purchased of D. H. Read, and a right of way of the same **width** as Bishop Court over the five foot strip of land between the southerly end of said Bishop Court, and said land purchased by said Read."

That being said, the second paragraph details the minimum requirements for a "street". As directed by the Ordinance in paragraph (a), I am directed to use the definition in 14-47. As pointed out during our meeting on Friday 5/16/14, the definition reads: "Street: A public way established by **or maintained under public authority**, or a way dedicated to the use of the public and appearing on the official map of the city." It appears that since Mayfield was extended in 1994 by Public Services and continues to be maintained by Public Services, the definition of "street" includes Mayfield.

Please remember, I am only opining on the Zoning aspect of this situation. I do realize that there is much more going on.

So, if the right of way is at least 35' wide and it can be shown based upon the length of the right of way, that the lot either as it is has at least 50' of street frontage along Mayfield, then I believe the can build another unit on the lot. Based upon the length of the Mayfield "street" being located on the survey (which I have not seen yet), the rest of the "street" may have to go thru a process to be extended per Public Services requirements and or approved by process by the City Counsel.

I do not think that the new dwelling unit is exempt from meeting 14-403. Only an addition to the existing dwelling unit that does not have kitchen facilities (thus not triggering 14-403) would be allowed without having to meet 14-403.

Again, I am only looking at this unique situation and how it meets the Land Use Ordinance.

I hope this helps you,

Marge

Marge

>>> Jennifer Thompson 5/19/2014 11:30 AM >>>

Marge - I've had two phone calls from Jeff Small. Have you had an opportunity to consider whether building an addition, rather than a new single family home, is a possibility for him? Or if he could put an in-law apartment in the existing garage?



1913 sp. str. strip put in

City of Portland  
Code of Ordinances  
Sec. 14-400

Land Use  
Chapter 14  
Rev. 9-15-11

**Sec. 14-401. Generally.**

The requirements of this article shall be subject to the use regulations and exceptions of this division.  
(Code 1968, § 602.18)

**Sec. 14-402. Relationship of buildings to lots.**

Every building hereafter erected shall be located on a lot as defined in section 14-47.  
(Code 1968, § 602.18.A)

**Sec. 14-403. Street access.**

35' wide

(a) *In general.* No building intended for use as a habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide. No building shall be erected on a lot, except on the islands in Casco Bay, which does not abut a street meeting the minimum requirements for street improvements set forth in this section. For purposes of this section, street shall be as defined in section 14-47, except that a dedicated street which may no longer be accepted due to lapse of time and an accepted street which may have been discontinued by abandonment shall also be deemed to be streets, provided that an applicant for a building permit respecting any lot abutting such street shall, without compensation or claim for damages, and at his own cost and expense, first submit to the building authority (a) a deed from the owner of such lot conveying to the city all his right, title and interest in and to such street or any portion thereof; and (b) an agreement by such owner forever releasing the city from any and all claims for damages for the laying out and taking of such street and indemnifying the city against any and all other such claims, both such instruments to be executed and in recordable form acceptable to the corporation counsel and to encumber and run with the land.

See 14-47 Def of Street

(b) *Minimum requirements for* street *improvements on unimproved and improved but unpaved streets.* For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, shall be improved, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the

public works authority pursuant to section 14-498(a) of article IV of this chapter. Where the nearest permanently paved street does not have granite curbing, the public works authority may waive the requirement of curbing under this section, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved, or improved but not permanently paved, the following shall occur: (1) A plan of the street improvements required by this section shall be submitted to the public works authority; and (2) upon determination by the public works authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the city as set forth in section 14-501. Also as set forth in section 14-501, a one-year defect bond shall be tendered to the city prior to release of the performance guarantee required hereby. The provisions of this subsection (b) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence.

I *Exceptions.* The requirements of this section shall not apply to the following city streets upon their construction by the public works authority to such standards as are determined by the authority to be the most feasible:

(1) Dingley Court;

(2) Morgan Court.

(Code 1968, § 602.18.B; Ord. No. 193-84, § 1, 11-19-84; Ord. No. 178-87, 11-2-87; Ord. No. 372-89, 3-20-89; Ord. No. 273-90, 3-19-90)

**Sec. 14-404. Accessory use.**

The term "accessory use" shall include only the following:

- (a) A subordinate use of land or building which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use. No "garage sale," "lawn sale," "attic sale," "rummage sale," or other similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the

*Sports complex:* One or more facilities located on the same parcel of land where athletic events are held and with a combined seating capacity of at least six thousand (6,000) seats.

*Stockpiling.* Any placement or creation of piles or loads of soil, loam, sand, gravel, rock or other mineral deposits upon a site for the purpose of storage, warehousing or reserving for future use. Stockpiles shall be considered structures for purposes of dimensional requirements under the Land Use Code.

*Stormwater detention area:* A storage area for the temporary storage of stormwater runoff which does not contain water during non-storm conditions.

*Storm water retention area:* A pond or basin used for the permanent storage of stormwater runoff.

*Story:* That portion of a building included between the surface of any floor and the surface of the floor, or the roof, next above. A half story is a story situated under a sloping roof, the area which at a height four (4) feet above the floor does not exceed two-thirds of the floor area of the story immediately below it and which does not contain an independent apartment or dwelling unit. A story which exceeds eighteen (18) feet in height shall be counted as two (2) stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

*Stream:* A free-flowing body of water from the outlet of the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area, or any stream designated within a Stream Protection Zone.

*Street:* A public way established by or maintained under public authority, or a way dedicated to the use of the public and appearing on the official map of the city.

*Street line:* The line of demarcation between a street and the abutting land.

*Structure:* Anything constructed or erected of more than one

CITY OF PORTLAND, MAINE

MEMORANDUM

To: Distributees Listed Below Date: 11/29/84  
From: Richard P. Flewelling, Associate Corporation Counsel  
Subject: Zoning Amendments re Building Permits  
and Unimproved Streets

Attached are the new zoning amendments concerning building permits and unimproved streets. The amendments are shown as finally enacted by the City Council. They take effect on December 19, 1984. Below are the answers to some frequently asked questions about the amendments:

Q. Who is subject to the new amendments?

A. Anyone who builds on a lot with frontage on an unimproved or an improved but unpaved street, regardless of whether it is accepted, dedicated, lapsed or abandoned. The amendments apply to residential and nonresidential buildings alike but not to accessory buildings or building additions. They also do not apply to the islands. Existing built-up lots are not affected.

Q. What improvements are required under the new amendments?

A. The street must be paved to the nearest paved street that is the principal access to the lot. Sewers, storm drains and granite curbing must also be installed. The curbing requirement can be waived, however, if there is an acceptable drainage alternative. Sidewalks are also required if the street is a designated school walking route. All improvements must meet minimum City specifications.

Q. What are the requirements for lapsed and abandoned streets under the new amendments?

A. Lapsed and abandoned streets can be built upon if the lot owner deeds his interest in the street to the City and signs an agreement waiving any claim for damages and indemnifying the City against any other claim for damages in case the City ever takes the street by eminent domain. (Under the current ordinance, lapsed and abandoned streets cannot be built upon unless the street is rededicated.) If the street is also unimproved or improved but unpaved, it must also be improved to minimum City specifications.

Q. Who is "grandfathered" under the new amendments?

A. Anyone who has been granted a building permit before December 19, 1984, and anyone who has applied for a permit before that date, as long as the street has already been

**Marge Schmuckal - Mayfield Street**

---

**From:** "Norman Twaddel" <ntwaddel@pwd.org>  
**To:** <MES@portlandmaine.gov>  
**Date:** 1/8/2014 10:14 AM  
**Subject:** Mayfield Street  
**CC:** "Gordon Johnson" <gjohnson@pwd.org>

G

293-C-12

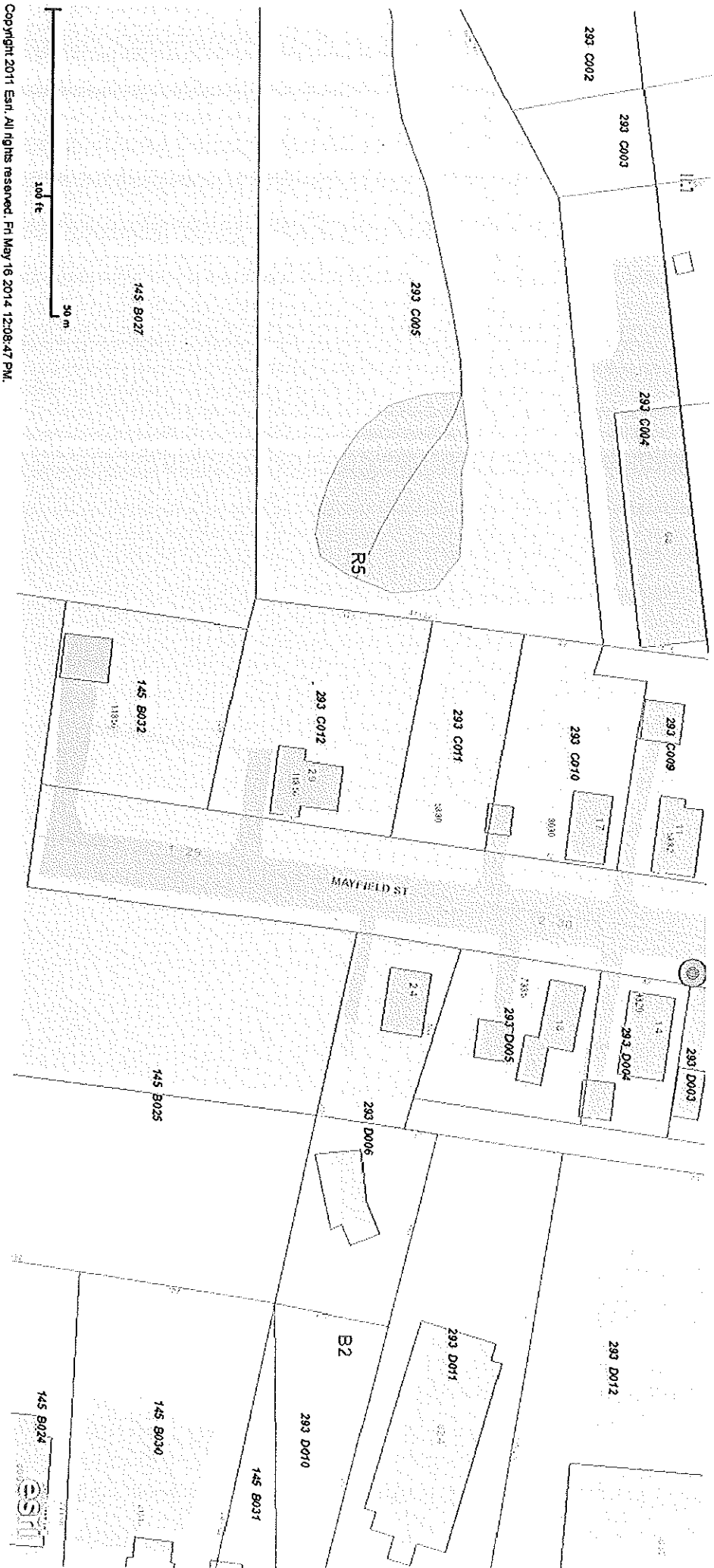
Marge, we are still struggling with the ability to serve the new proposed house at Mayfield Street. Everything they have submitted to us suggests a right of way over the private portion of the road but no easements for utilities. Ownership of that portion of private road is unclear. How has the City dealt with this issue to allow house construction? Any help you can give us would be appreciated.

**Norman Twaddel**  
**Right Of Way Agent**  
Portland Water District  
Phone: 207-774-5961 Ext. 3057  
E-mail: ntwaddel@pwd.org  
<http://www.pwd.org>

**Portland Water District NOTICE & DISCLAIMER Confidentiality Notice:**  
THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. Please notify the sender if you have received this message in error. Recipients should be aware that replies to this message may not be considered confidential and may therefore be subject to public disclosure.

 Please consider the environment before printing this email

# Mayfield



Copyright 2011 Esri. All rights reserved. Fri May 16 2014 12:08:47 PM.



## Susan Small

---

**From:** susan small <ssmall2@maine.rr.com>  
**Sent:** Friday, January 10, 2014 7:56 PM  
**To:** Susan Small  
**Subject:** Fw: Mayfield Street, PO - Review of Water Service Conditions

----- Original Message -----

**From:** Rico Spugnardi  
**To:** [ssmall2@maine.rr.com](mailto:ssmall2@maine.rr.com)  
**Cc:** [Gordon Johnson](mailto:Gordon.Johnson)  
**Sent:** Friday, January 10, 2014 4:25 PM  
**Subject:** Mayfield Street, PO - Review of Water Service Conditions

Dear Ms. Small,

This email is a follow-up to your request for review of the District's decision to require a water main extension to serve a new house on Mayfield Street. I have met with senior staff to discuss your project and to determine if it would be possible to instead serve the new property with a water service line as you have requested.

The review group has decided that allowing an exception to the main extension requirement is appropriate for this project under the following conditions:

- 1) Based on information provided, the section of the road in front of 29 Mayfield Street and the proposed house is a private way. Typically, PWD would require that a new property receive a private easement from the owner of the private way noting that they have granted rights to the owner of the new parcel to install utilities through their property. However, we understand that finding contact information for the owner of the private way has proven difficult. In light of that, we will require that you:
  - a. Provide evidence of an easement for the right to install a water service line through the private way only if an easement is also required by the City to connect to the sewer main. Or,
  - b. If an easement is not required by the City to connect into the sewer main, we will instead note on the pending water service application that the owner assumes all risks in the event that rights to the water service line are challenged by an outside party. These risks could potentially include removal of the service line within the private way. Essentially, we are agreeable to not requiring you to obtain an easement from the owner of the private way but want to make sure that you understand the risks involved in installing the service.
  - c. Since PWD does not have an easement for the water main within the private portion of Mayfield Street, we will require that you sign a document that conveys any rights that you may have to this private way to allow the District to own and maintain the public main within the private way. This is a standard process that PWD takes with customers with frontage along a main where we don't currently have an easement. PWD will draft this document and send to you for review.
- 2) The design plan created by Northeast Civil Solutions must be modified as noted below to meet PWD specifications. We are happy to work directly with NECS on these comments to clarify any questions that they may have. Please feel free to send this along to the engineer as you see fit.
  - a. The size of the new water service line must be noted on the plan. A 1" service line is typical for a new single family home, however a larger service line may be required to meet the needs of a residential sprinkler system. We recommend that you consult with the sprinkler system designer on the service line size needed and reflect that on the plan.
  - b. The new water service line must extend perpendicularly from the existing water main to the property line prior to any bending of the service.

- c. The new water service line must be located at least five feet away horizontally from the blow-off valve at the end of the main.
- d. The new water service line must be located at least three feet away horizontally from the existing water service line to 29 Mayfield Street.
- e. The new water service line must be located at least five feet away horizontally from the sewer service line. An exception to this separation requirement is possible if the sewer service line is at least 18 inches deeper than the proposed water service line, in which case the horizontal separation may be as little as 18 inches.


With your agreement to the proposed conditions, we will develop the appropriate documents needed to allow this project to move to construction. Please let me know if you have any questions on any of the above items or if you would like to discuss any of these items in more detail.

Sincerely,  
Rico Spugnardi

**Rico Spugnardi, P.E.**  
**Business Development Engineer**  
Portland Water District  
Phone: 207-774-5961 Ext. 3198  
E-mail: RSpugnardi@pwd.org  
<http://www.pwd.org>

**Portland Water District NOTICE & DISCLAIMER Confidentiality Notice:**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. Please notify the sender if you have received this message in error. Recipients should be aware that replies to this message may not be considered confidential and may therefore be subject to public disclosure.

 Please consider the environment before printing this email



Ainsworth Thelin  
Counselors at Law

Michael F. Vaillancourt, Esq.

November 1, 2013

Susan Small  
24 Cypress Street  
Portland, ME 04103

RE: 29 & 0 Mayfield Street  
Our File No. 130294

Dear Susan:

As you will recall, we have worked together over the past several months for the purpose of determining your interest in and to the street now known as Mayfield Street, as this roadway serves as your only current means of ingress and egress with respect to your Mayfield Street property. You'll also recall that our firm worked with title abstractor Dick McLain who conducted title research on the relevant property.

In light of this research and subsequent analysis, it appears that the City of Portland never accepted Mayfield as a City street. Therefore, as it is unlikely that the City has any ownership interest in and to the roadway, we researched: 1) Likely ownership; and 2) Access.

With respect to ownership, our title research revealed that the land underlying the roadway is likely owned by the Estate of Bishop and/or the Estate's heirs and devisees. Frankly, Bishop and designees are probably unaware of any ownership claims they may have to the roadway. Such claims are likely immaterial anyhow, given the easement that was granted in 1914 permitting property owners and devisees (including you and your son) to use the roadway for virtually all purposes.

Therefore, it is our conclusion that you have a deeded right of way and thus proper means of ingress and egress for purposes of accessing your property on Mayfield Street. Susan, if you have any further questions or concerns please do not hesitate to contact me.

Sincerely,



Michael F. Vaillancourt, Esq.

MFV/pvj  
Enclosure

MVAILLANCOURT@ATRLAW.PRO



AINSWORTH, THELIN & RAFTICE, PA  
Seven Ocean Street . PO Box 2412 . South Portland, Maine 04116-2412  
207.767.4824 . FAX 207.767.4829 . www.atrlaw.pro

# MAYFIELD STREET

# STATUTORY VACATION TRIANGLE AT END

October 10, 2007

It appears that a triangular portion at the end of the street was not accepted, and may be Statutorily Vacated. Please refer to the edited "Blue Sheet" for Mayfield Street.

Mayfield Street was accepted with the northerly line described up to the subdivision line, with the street to be 50 feet wide, and to lie on the southerly side of the described line. The acceptance description made no reference to the recorded subdivision plan, and made no reference as to include a triangular portion of the street westerly of the end of the acceptance.

Recreating the street, as described in the acceptance, creates a 90° angle to the northerly line. The subdivision line at the end of the paper street is at an angle greater than 90°, and creates a triangular portion of the paper street that was not accepted.

Mayfield Street is not listed on the City of Portland City Council Order #84 titled "Order Excepting Streets From Deemed Vacation", as passed on September 3, 1997 and recorded in the Cumberland County Registry of Deeds in Deed Book 13326, Page 19. Omission of the unaccepted portion of Mayfield Street from the City Council Order #84 may be deemed a STATUTORY VACATION as the City Council did not file another Order Excepting Streets From Deemed Vacation prior to or on September 29, 1997. An Attorney should be consulted further on the subject of title and any claims of title.

As a result it appears the end of street was Statutorily Vacated by omission from the list. This means the land reverts to the private land owners and we do not have any future ability to accept the street unless it is decided to us as a public easement or totally in fee for street purposes.

William B. Clark, Jr. PLS 2100 City of Portland - DPW Engineering

# Know all Men by these Presents, That

I, Fred E. Briggs, of Portland, in the County of Cumberland and State of Maine,

In consideration of one dollar and other valuable consideration, paid by John W. Gulliver, of said Portland,

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said John W. Gulliver, his heirs and assigns forever, a certain lot or parcel of land situated in said Portland, in that part formerly Deering on the easterly side of Bishop Court, and bounded and described as follows: Commencing at an iron hub in the ground at the northeasterly corner of the lot of land conveyed by Nancy K. Roberts to said John W. Gulliver, by deed dated June 2, 1913, and recorded in Cumberland County Registry of Deeds, Book 918, Page 368. thence running on the northwardly line of said Gulliver lot westwardly one hundred fifty-five (155) feet to an iron hub in the ground, at the northwest corner of said Gulliver lot; thence on the westwardly line of said Gulliver lot southwardly one hundred ten (110) feet to another hub in the ground at the southwesterly corner of said Gulliver lot and in the northwardly line of land conveyed to said John W. Gulliver, by Daniel H. Read; thence on line of said Read-Gulliver land westwardly to the point of intersection of said northwardly line of said Read-Gulliver land with the easterly side line of Bishop Court, as extended across the five foot strip of land between the southerly end of said Bishop Court and said Read-Gulliver land; thence northerly along said easterly side line of said Bishop Court, as extended across the five foot strip of land and along said easterly side line of said Bishop Court two hundred (200) feet to a point; thence easterly by land of this grantor to the easterly boundary line of land conveyed to me by Nancy Kimball Roberts, by deed dated December 17, 1913, and recorded in Cumberland County Registry of Deeds, Book 929, Page 414, at a point distant ninety (90) feet northwardly from the point of beginning, thence southwardly in a direct line ninety (90) feet to the point of beginning. Being a portion of the land conveyed to me by Nancy Kimball Roberts, by said deed dated December 17, 1913. Also a right of way in common with others over said Bishop Court and a right of way of the same width as Bishop Court, over said five foot strip of land between the southerly end of said Bishop Court and said Read-Gulliver land, for all purposes in connection with any land the said Gulliver now owns or any land, he, his heirs or assigns may acquire in the future.

What is the width

On May said in full the foregoing and bargained premises, with all the privileges and appurtenances thereof, to him the said John W. Gulliver, his heirs and assigns, to his and their use and behoof forever. And I do covenant with the said Grantee, his heirs and assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances;

that I have good right to sell and convey the same to the said Grantee, to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said Grantee, his heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said Fred E. Briggs, unmarried

my hand and seal this twenty-first day of May have hereunto set one thousand nine hundred and fourteen. in the year of our Lord  
Witness my hand and seal in presence of  
Harry L. Gran, Fred E. Briggs Seal.

State of Maine, CUMBERLAND, ss. Portland, May 21, 1914. Personally appeared the above named Fred E. Briggs and acknowledged the above instrument to be his free act and deed.  
Before me, Harry L. Gran Justice of the Peace.

Received May 20, 1914, at 8 o'clock 15 m. P. M., and recorded according to the original.

## Know all Men by these Presents, That

J. Nancy Kimball Roberts residing at No. 820 Stevens Avenue in the City of Portland  
County of Cumberland State of Maine,

In consideration of One dollar and other sufficient consideration,  
Fred E. Briggs, of said City of Portland,

paid by

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said Fred E. Briggs his heirs and assigns forever, a certain portion of and in the rear of my homestead situated on the westwardly side of said Stevens Avenue, and being a portion of the land conveyed by Mary H. Libby and Oscar F. Libby to my husband George O. Roberts by warranty deed dated Oct. 24th, A.D. 1898 and recorded in Book 652, Page 6 in the registry of deeds for said County and by my husband conveyed to me by warranty deed dated January 31st, A.D. 1898 and recorded in book 657, Page 188 in said registry. The portion and parcel of my said land hereby conveyed being bounded and described as follows: Commencing at an iron hub in the ground at the N.E. corner of the lot of land by me conveyed to John W. Gulliver by my warranty deed dated June 2, A.D. 1913 recorded in book 913 Page 568 in said Registry and thence running on the northwardly line of said Gulliver lot westwardly one hundred and fifty-five feet to an iron hub in the ground at the N.W. corner of said Gulliver lot, thence on the westwardly line of said Gulliver lot southwardly one hundred and ten feet to an iron hub in the ground at the S.W. corner of said Gulliver lot and in the Northwardly line of land conveyed to said John W. Gulliver by Daniel H. Read, thence on line of said Read - Gulliver land westwardly Two Hundred and fifteen feet to land of one Dennis F. Gulliver, thence on line of said Dennis F. Gulliver northwardly Two hundred eighty and one half feet to land of this grantee, thence eastwardly on line of said land of Grantee, formerly of George Bishop and land formerly of Wm. M. Scammon Three hundred and eighty four feet to an iron hub in the ground at the N.E. corner of the parcel hereby conveyed in the line between this land and said Scammon land. Thence southwardly in a direct line one hundred and fifty six feet to the iron hub, corner and parcel of commencing. The said Briggs having extended and constructed "Bishop Court" as and for a street Southwardly across the land hereby conveyed to a point five feet from the southwardly line of this land; And as a part of the above stated consideration said Briggs having by deed dated December 17th, 1913 conveyed and granted to John W. Gulliver his heirs and assigns a right of way over said five foot strip of land and said Bishop Court as extended and to Bishop Street for access to and egress from said land so by me conveyed to said Gulliver this deed and conveyance to said Briggs of the land hereby conveyed is made subject to said herein described right of way.

On Here and in Full the aforesaid and bargained premises, with all the privileges and appurtenances thereof, to the said Fred E. Briggs, his heirs and assigns, to his and their use and behoof forever. And I do covenant with the said Grantee, his heirs and assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances;

that I have good right to sell and convey the same to the said Grantee, to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said Grantee, his heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said Nancy Kimball Roberts and I, George O. Roberts her husband joining in this deed as Grantor and also relinquishing and conveying my right by descent and all my other rights in the above described premises,

our hands and seal this seventeenth day of December have hereunto set  
one thousand nine hundred and thirteen.

Witness, Signed and Delivered  
in presence of

Henry W. Swasey to both.

Nancy Kimball Roberts Seal.  
Geo. O. Roberts Seal.

State of Maine, CUMBERLAND, ss. Dec. 19th, 1913 Personally appeared  
the above named Nancy Kimball Roberts

and acknowledged the above instrument to be her free act and deed.

Before me, Henry W. Swasey. Justice of the Peace.

Received December 20 1913 at 11 o'clock 10 m. A. M., and recorded according to the original.

*W.H.S.  
The Witness*

through and along and over a certain right of way described as follows:-

A right of way in said Portland in common with others from Bishop Street southerly over Bishop Court as it now exists and as extended to within five feet of the northerly line of land owned by John W. Gulliver which he purchased of D. R. Read, and a right of way of the same width as Bishop Court over the five-foot strip of land between the southerly end of said Bishop Court and said land purchased by said Gulliver from said Read. It is understood and agreed that the right of way granted by this deed is limited to a right of way to pass to and pass from the land which John W. Gulliver purchased of Nancy K. Roberts, and he is not to use this right of way for any other purpose. It is understood and agreed that said Fred E. Briggs is to put his right of way in suitable condition for heavy teaming. The said John W. Gulliver agrees to maintain said right of way and keep it in proper repair in so far as his use of said right of way necessitates any repair.

TO HAVE AND TO HOLD the aforegranted and bargained premises with all the privileges and appurtenances thereof to the said John W. Gulliver, his heirs and assigns to his and their use and behoof forever. And I do covenant with the said grantee, his heirs and assigns, that I am lawfully seized in fee of the premises; that they are free of all encumbrances; that I have good right to sell and convey the same to the said grantee to hold as a right of way as aforesaid; and that I and my heirs shall and will warrant and defend the same to the said grantee, his heirs and assigns forever, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, I, the said Fred E. Briggs, widower, have hereunto set my hand and seal this seventeenth day of December, in the year of our Lord one thousand nine hundred and thirteen (1913)

Signed, sealed and delivered in presence of

Harry L. Oram

Fred E. Briggs

Seal

State of Maine. Cumberland, ss. Portland, December 17, 1913. Personally appeared the above named Fred E. Briggs and acknowledged the above instrument to be his free act and deed.

Before me, Harry L. Oram

Justice of the Peace.

Received December 20, 1913, at 11h 10m A. M. and recorded according to the original

Bridgton Sav. Bk.  
to  
Butters  
Discharge

KNOW ALL MEN BY THESE PRESENTS, that Bridgton Savings Bank a corporation established by law at Bridgton in the County of Cumberland and State of Maine, owner of a certain mortgage given by J. Bennett Pike Guardian of Clayton L. Butters to said Bank dated February 18, A. D. 1913, and recorded in Cumberland Registry of Deeds, Book 907, Page 312, do hereby acknowledge that it has received full payment and satisfaction of the same and of the debt thereby secured, and in consideration thereof it does hereby cancel and discharge said mortgage, and release unto the said Clayton L. Butters, his heirs and assigns forever the premises therein described.

IN WITNESS WHEREOF, the said Bank by Melien Plummer its Treasurer thereto

To Michael

Pursuant to your request I have researched in the Cumberland County Registry of Deeds Mayfield Street formerly known as Bishop Court.

Nancy Kimball Roberts conveyed to Fred E Briggs by deed dtd 12/17/1913 and recorded in Book 922-414 a parcel of land westerly of Stevens Avenue and southerly of Bishop Court. The parcel is outlined in red on Tax MAPS 145 AND 293. The parcel includes the bounds of Mayfield Street and Tax MAP lots 293-C-12 and 145-B-32. This deed references the Grantee, Briggs, as having extended and constructed "Bishop Court" as and for a street southwardly across the land hereby conveyed to a point 5 feet from the southwardly line of this land.

Fred E Briggs conveyed to John W. Gullivan by instrument dtd 12/17/13 and recorded in Book 925-71 a right of way in common with others from Bishop Street southerly over Bishop Court as it now exists and as extended to within 5 feet of the northerly line of land owned by John W. Gullivan. The right of way to the same with as Bishop Court.

Fred E Briggs conveyed to John W. Gullivan by deed dtd 5/21/1914 and recorded in BK 933-40

a parcel of land and a right of way. The parcel abuts the easterly side of Bishop Court and is outlined in Red/Black marks on the Tax Maps.

Fred E. Briggs conveyed to Alfred N. McCracken by instrument dtd 8/29/14 rec'd in BR 940-69 a right of way over Bishop Court as it now exists and a right of way of the same width as Bishop Court.

Fred E. Briggs conveyed to John A. Steward by deed dtd 6/27/1918 and rec'd in BR 1020-50 a parcel of land which now makes up our current locus. This parcel abuts the easterly side of Mayfield Street and is outlined in Blue on Plan [2-68]

I have obtained copies of Volume 2 Page 17 of the 1909 Insurance Atlas which shows Mayfield Street abutting our locus and the 1914 Platt showing a right of way to our locus.

I did not find recorded evidence of Mayfield Street being accepted, vacated or abandoned.

When Fred E. Briggs conveyed our conveyance they all abutted the easterly or westerly bounds of Bishop Court Extension. It appears Fred E. Briggs has the fee interest in Bishop Court Extension now known as

Mayfield Street

I have provided copies of all of the above referenced instruments along with Tax Maps, Plans and Platts for a visual aid.

If you have questions please call.

Sincerely Yours,

Richard McLean

RHM Registry Services, Inc.  
P.O. Box 4653  
Portland, ME 04112  
(207) 998-2554