



PORTLAND MAINE

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Corporation Counsel
Gary C. Wood

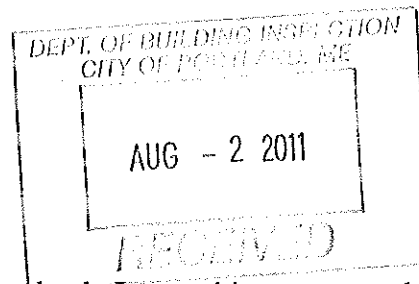
Associate Counsel
Mary E. Costigan
Danielle P. West-Chuhta
Ann M. Freeman

July 28, 2011

Mr. Lewis E. McDonald
145 Auburn Street
Portland, Maine 04103

Re: 145 Auburn Street

Dear Mr. McDonald:



I am an attorney and I represent the City of Portland. I am writing to respond to your June 25 and July 18 correspondence to the City's Zoning Administrator. This will be the City's last correspondence regarding this matter. I recommend that you contact an attorney if you have additional questions or concerns.

First, you have incorrectly characterized your property as two lots throughout both of your letters. Although your deeds may refer to your property has two distinct parcels, for City zoning purposes (as required by the City Code) your property is considered one lot. See 14-47 and 14-422. As the Zoning Administrator previously noted, you have even characterized your property throughout the years (on zoning applications, variance requests, etc.) as one lot.

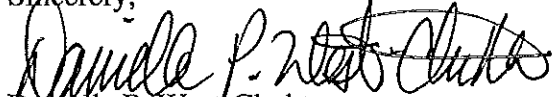
Next, you assert that your lot is grandfathered and therefore both parcels are buildable. This is simply not the case. The City Code specifies that a parcel needs to be held in separate and distinct ownership from an adjacent parcel in order to be considered a separate buildable lot. See 14-433. Your property has been and is currently held in the same ownership.

Finally, the City Code clearly allows the Zoning Administrator to make zoning decisions. As the Code indicates these decisions become final within thirty (30) days from the date of the decision. See Section 14-472. The Code does not, however, allow for extensions of this thirty (30) day timeframe. Consequently, since you have not appealed the Zoning Administrator's decision it is now a final and binding decision.

Mr. McDonald
August 2, 2011
Page 2

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle P. West-Chuhta". The signature is written in a cursive style with some overlapping letters.

Danielle P. West-Chuhta

Associate Corporation Counsel

cc: Penny St. Louis, Director of Planning & Urban Development
Marge Schmuckal, Zoning Administrator

Marge Schmuckal - Fwd: Lewis McDonald Deed Research

From: Camille Alden
To: Marge Schmuckal
Date: 8/2/2011 11:43 AM
Subject: Fwd: Lewis McDonald Deed Research
CC: Mary Costigan
Attachments: 08-02-11 McDonald Plan for Schmuckal.pdf

Marge, I realized this morning that you (and Mary) might find part of our CSO plan useful in your dealings w/Mr. McDonald's zoning issues. The attached plan is 1"=50'. While it is not a full boundary survey of the properties, it is pretty darn close to one. This plan is the result of an "on the ground" survey performed by the City's survey consultant, Titcomb. I used Titcomb's field survey data to create the plan.

- The little red circles labelled "RBF", "IPF" are "rebars found" and "iron pipes found" respectively. They are boundary markers that were located as part of the City's CSO survey.
- The green line at the top of the page is the City's 100 foot wide Fall Brook Sewer R/W
- The green line on the right side of the page is the PWD (Portland Water Districts) 25 foot R/W. One of McDonald's property lines is the far right green line of the PWD R/W.
- Mr. McDonald's rear property line is the center of Fall Brook which has changed substantially over the years. You'll see two lines on the plan. The blue line is where Fall Brook was located in 1950. The purplish line is the location of Fall Brook in 2008.

Contact me if you need further explanation of the plethora of acronyms and /or an explanation of the plan. Enjoy. Camille

>>> Camille Alden 8/1/2011 2:46 PM >>>
Marge,

As I promised on Friday, here is the "land history" of the two parcels owned by Mr. McDonald:

Parcel 374-B-4 and 16 Originally Combined 137 Auburn Front and Rear Lots:

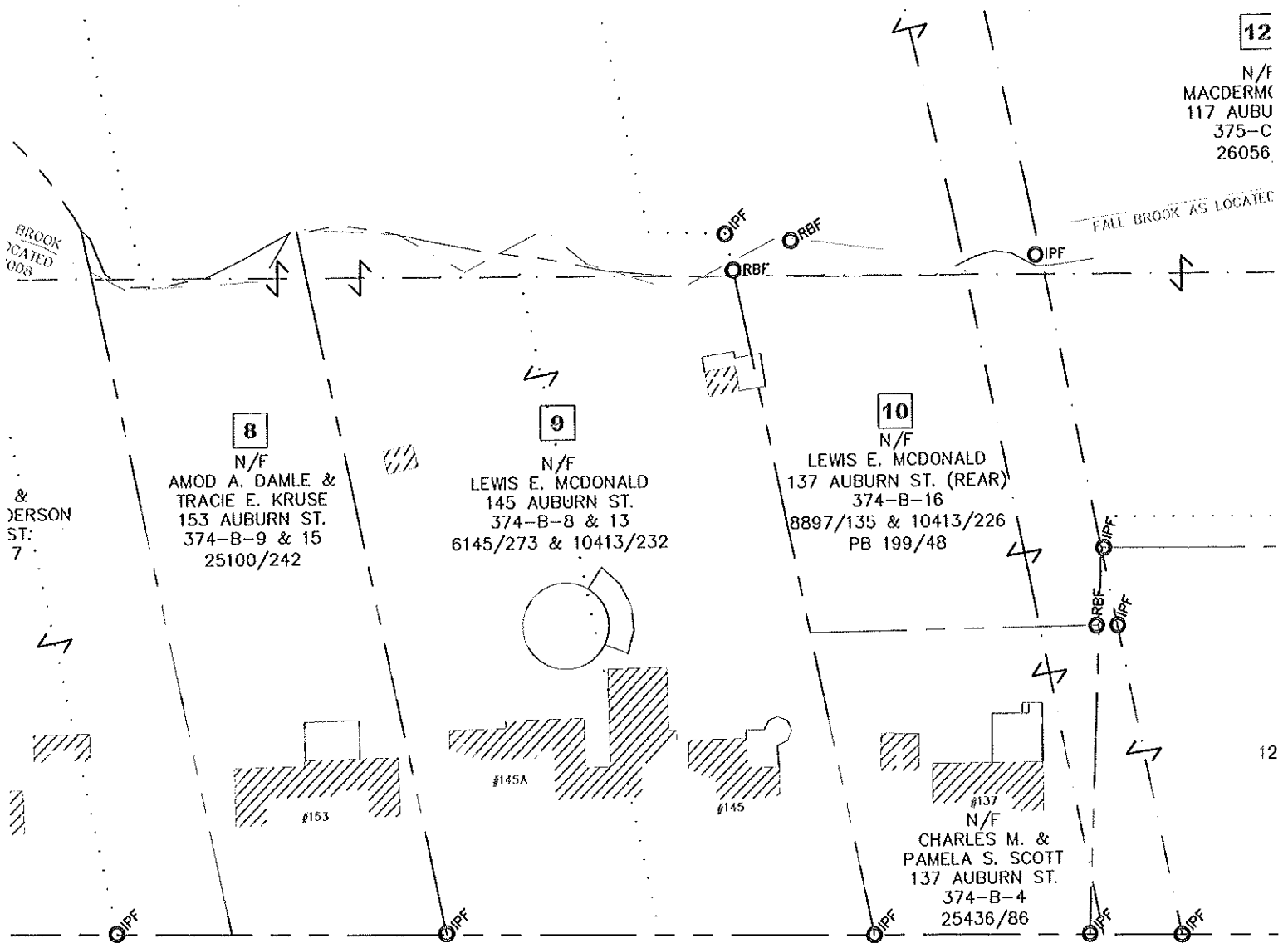
1. Aug. 29, **1989**: Louise W. and Lewis E. McDonald purchased the property. At the time it was one lot (not 2). (deed 8897/135)
2. Oct. 14, **1992**: Louise W. McDonald released her interest in the property so that Lewis was the sole owner. (deed 10413/226)
3. Feb. **1999**: A plan of the property is recorded at the registry of deeds. It is a lot division plan that shows the two lots as they exist today. (see attached plan 199/48)
4. July 28, **2000**: Lewis E. McDonald sells parcel 374-B-4 on Auburn Street. This deed creates the lot. Lewis retains the remainder lot in the rear to current day.

Parcel 374-B-8 and 13 Originally Combined:

1. May 12, 1941: Fred E. Lovejoy sold the combined lots to Suburban Homes, Inc. (deed 1639/274)
2. April 9, 1942: Suburban Homes breaks out parcel 374-B-8 by conveying it to Annie R. Cooper. (deed 1671/189) This conveyance in effect creates both 374-B-8 AND the remainder lot 374-B-13.
3. **The two lots stay in separate ownership for only 2-1/2 years until 1944.**
4. Nov., 1944: The two separate lots are once again combined into one lot. Ernest D. Weymouth and Ethel J. Weymouth are conveyed the 2 lots in 2 separate deeds.
**(Parcel 374-B-8, deed 1752/91, dated 06/20/1944 is conveyed to the Weymouths)
**(Parcel 374-B-13, deed 1762/377, dated 11/15/1944 is conveyed to the Weymouths)
5. The two lots remain combined to the current day.
6. Oct. 14, 1992: The two lots were conveyed in one deed to Mr. McDonald. (deed 10413/232)
7. Basically, the two parcels have always been one parcel except for a brief 2-1/2 year hiatus (April, 1942 to Nov., 1944)

I'd be happy to provide deed copies and whatever information I have on hand if you think it will be helpful to you. I'm not sure exactly what the zoning issue is with Mr. McDonald's parcels, but I hope that the information above is helpful as you move forward with the process. Please contact me if you need clarification.

Camille C. Alden, PLS
Senior Surveyor
City of Portland
Department of Public Services
55 Portland Street
Portland, Maine 04101
ph: 207-874-8839
fax: 207-874-8852
email:calden@portlandmaine.gov



AUBURN STREET

REFERENCES:

- 1) CHANDLER PLAT, CITY OF PORTLAND, ME. 1876
- 2) CITY OF PORTLAND, ME. 1876
- 3) CITY OF PORTLAND, ME. 1876
- 4) CITY OF PORTLAND, ME. 1876
- 5) CITY OF PORTLAND, ME. 1876

NOTES:

- 1) BOUNDARIES ARE EXTENDED TO MARKET NORTH LINE
- 2) ALL AREAS ARE TO BE CONSIDERED AS ONE UNIT
- 3) ALL AREAS ARE TO BE CONSIDERED AS ONE UNIT
- 4) ALL AREAS ARE TO BE CONSIDERED AS ONE UNIT
- 5) ALL AREAS ARE TO BE CONSIDERED AS ONE UNIT

RECORD EXEMPTION DEED REFERENCES:

- LEWIS E. McDONALD TO LOUIS E. McDONALD
- FALL BROOK

LOT TABLE:

LOT #	ACRES
1	0.22
2	0.28
TOTAL	0.50

LEGEND:

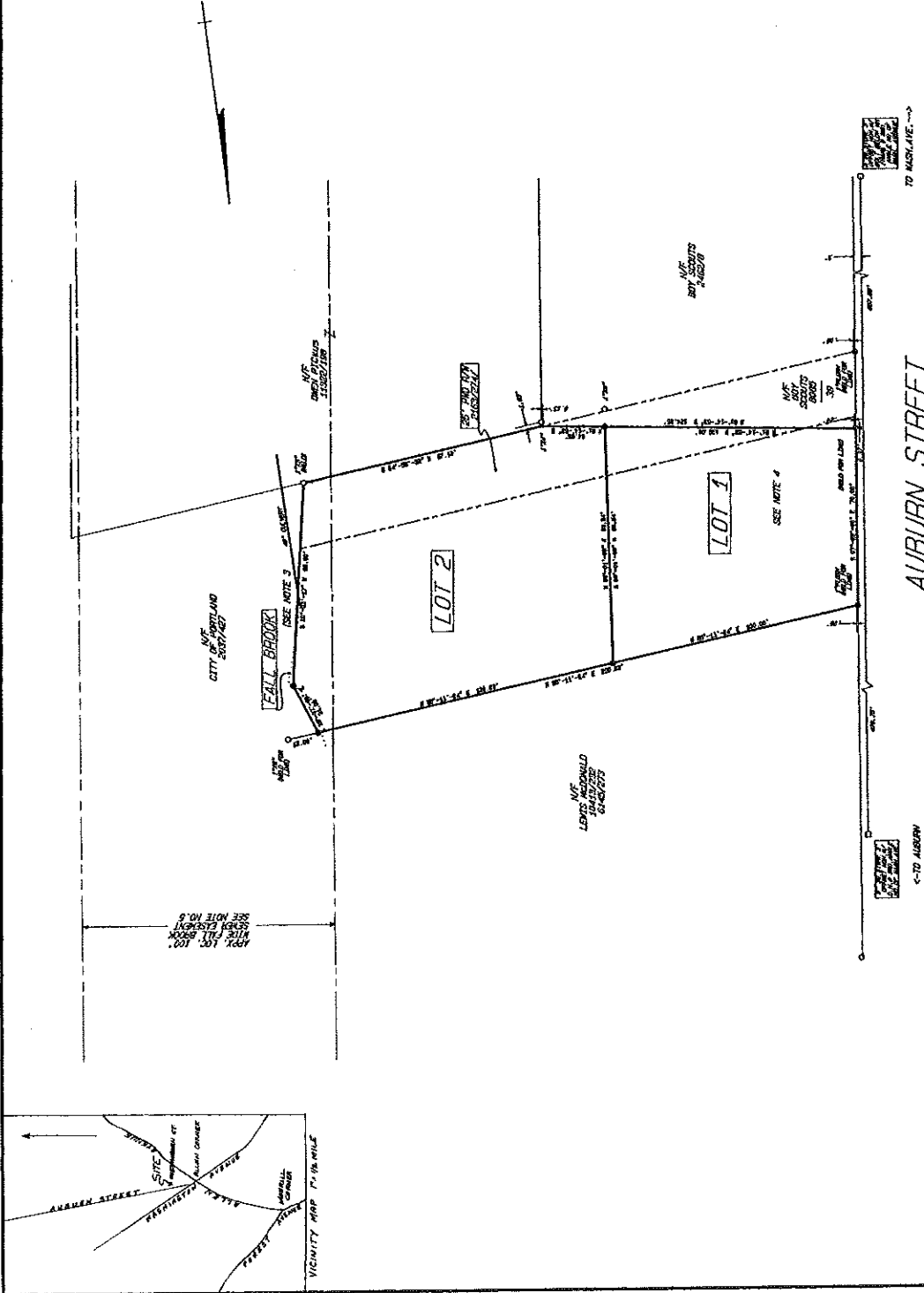
- O FOLLOW FROM THE PLAT AND INDEXED NOTES
- 5/8" IRON WITH 1/2" COP SET
- O 1/2" IRON FOUND
- D STONE MARKERS FOUND
- N/F NEW OR FORMER LOT OF
- N/F LINE
- APPROX. POSITION OF ADJACENT DEED
- APPROXIMATE CENTER OF ADJACENT DEED
- PT. NOT FOUND

THIS PLAN IS SUBJECT TO THE CITY OF PORTLAND, ME. PLAT AND INDEXED NOTES. THE CITY OF PORTLAND, ME. RESERVES THE RIGHT TO CHANGE THE PLAT AND INDEXED NOTES AT ANY TIME WITHOUT NOTICE.

1" = 20' HORIZONTAL
1" = 40' VERTICAL

STANDARD BOUNDARY SURVEY
PROPERTY PLAN
OF LOT DIVISION
137 AUBURN STREET - PORTLAND, ME. 04103
MADE FOR
LEWIS E. McDONALD
145 AUBURN STREET - PORTLAND, ME. 04103
FIELD NUMBER 10, 1952
JOHN G. PALLETTER, P.L.S. 1957
28 MICHIGAN ROAD - PORTLAND, ME. 04103
TELEPHONE 1971-3450

STATE OF MAINE, DEPARTMENT OF CONSERVATION
RECEIVED JANUARY 1, 1959
AT 8:11 AM. AND RECORDED IN
PLAT BOOK FOR PAGE 17
ATTEST: J. G. ROBERTS, REGISTRAR



REGISTERED
1958, 5149

M. D. PALLETTER

SEN

From: Camille Alden
To: Marge Schmuckal
Date: 8/1/2011 2:46 PM
Subject: Lewis McDonald Deed Research
Attachments: CCRD PB 199_048.tif

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