EXCERPTS FROM DEPARTMENT'S RECORD

- CORRESPONDENCE FROM TODD MEROLLA
  - LETTER DATED NOVEMBER 20, 2008
  - LETTER DATED JULY 7, 2007
  - LETTER DATED NOVEMBER 17, 2008
  - LETTER DATED NOVEMBER 12, 2008
  - LETTER DATED JULY 7, 2007

P.O. Box 260
47 Cameron Point Lane
Southport, ME 04576

November 20, 2008

Mr. Jim Cassida, Licensing Officer, Bureau
of Land and Water Quality, DEP
17 State House Station,
Augusta, ME 04333-0017

re: Southport Tax Map #25
Tax Lot 12-3 (formerly
Part of 12-1) Owners
Michael E. and Diane W.
Traphagen
DEP Field Determination
ID #6280

Dear Mr. Cassida:

I have located the original and larger Survey Plan which was sent to me by Mr. Bruce B. Tindal of Tindal and Callahan Real Estate back in July, 2007 which shows the entire Traphagen tax lot and set-back envelop as determined at that time.

Will you kindly include this survey with the materials I have previously forwarded to you.

Thank you.

Sincerely,

Todd Park Merolla
Cc: Mr. Colin Clark

Tindal & Callahan *Real Estate*

Tel. (207) 633-6711
Fax (207) 633-3392

32 Oak Street
Boothbay Harbor, ME 04538

www.tindalandcallahan.com
realestate@tindalandcallahan.com

July 5, 2007

Todd Park Merolla
Joseph J. Krulis
47 Ponderosa Lane
Southport, ME 04576

Dear Todd and Joe:

Enclosed is a copy of the revised Survey Plan showing the brook as it now crosses the lot from your property and the Traphagen property to the cove. Terry Leighton placed the 75 foot setback area on the plan. At the time that I asked Lauren Stockwell to go down and identify the brook from the standpoint of its significance regarding wetlands etc., she told me that she felt there would be no problem obtaining a Tier One Variance from the DEP to reduce the setback to 25 feet from the brook. I feel that this would then enable one to build a house on the upper portion of the lot overlooking the brook and the water.

Once you have had an opportunity to review this, please give me a call with any questions you may have. I hope you are enjoying the summer so far. Hopefully we will see you soon.

Sincerely,

Bruce B. Tindal, GRI/CRS/ABR
REALTOR

Encl BBT/jsp

207-633-8393 TODD@TPMLIMITED.COM
TODD PARK MEROLLA, LTD.
ARCHITECTURAL DESIGNER
CAMERON POINT
SOUTHPORT ISLAND, MAINE 04576

July 7, 2007

e-mail: todd@TPMLIMITED.com

Bruce B. Tindal, Realtor
32 Oak Street
Boothbay Harbor, Maine 04538

Dear Bruce:

Thanks! for your letter of July 5th and the enclosed copy of the revised Traphagen property survey showing the brook and the setback envelope. We appreciate having this information although the plan does not address the 250' coastal wetland setback and therefore our continued concern with Tier One applicability which would effect the likely resulting building envelope. In speaking with you some time ago about this property, Joe and I wondered if a building envelope had been indicated by the surveyor as this might allow greater assurance to us of both the value of the property and the likely impact development might have upon our existing property. We wish to be able to properly evaluate whether it would be possible for us to continue maintaining this property, as it had been in the past, as part of ours.

With kindest regards,

cc: J. J. Krulis

ing rod (found)
ole (found)

Setback envelope

20.0'

eron Point Road

(2.07 Acres)

N74°37'24" W
270.80'

Gravel roadway

N 85°35'16" W
258.90'

Septic design area

33'

rly
lursow
e 182
e 170
nce #3

N82°23'
32.6

16.72'

S18°38'39"E 82.34'

65.60' N18°38'39"

75.0'

S82°31'02"E
26.29'

Culve

Brook

S 35°45'59" W
282.03'(Tie)

371'±

NDARD BOUNDARY SURVEY
APHAGEN and DIANE W. TRAPHAGEN
Y CAMERON POINT ROAD
SOUTHPORT, MAINE

ASSOCIATES
Civil Engineering
asset Road
y, Maine
terry.leighton@verizon.net

To the best of my knowledge and belief this survey has been completed in accordance with the Maine Board of Licensure for Professional Land Surveyors Technical Standards (adopted April 1, 2001).

PRELIMINARY
Date 5/11/07 MO

Terry H. Leighton

DATE:	Dec. 15, 2005	
DRAWING NO.:	4-665SBS	

NO.	DATE	DESC
1	05/11/07	LOCATI

P.O. Box 260
47 Cameron Point Lane
Southport, ME 04576

November 17, 2008

Mr. Jim Cassida, Licensing Officer, Bureau
of Land and Water Quality, DEP
17 State House Station,
Augusta, ME 04333-0017

re: Southport Tax Map #25
Tax Lot 12-3 (formerly
Part of 12-1) Owners
Michael E. and Diane W.
Traphagen
DEP Field Determination
ID #6280

Dear Mr. Cassida:

Please allow this to serve as my response and protest to the Natural Resources Protection Act permit application filed on November 12, 2008 by Lauren T. Stockwell, Wetland Scientist as agent for Michael E. and Diane W. Traphagen. In addition, will you please consider this to be an addendum to my letter of concern sent to you November 12, 2008, both of which I would appreciate your keeping in the "Enforcement FYI" associated with the Traphagen lot. Also, please allow this to serve as a request for a Public Hearing should this be deemed necessary by your Department.

I object to this application on the basis of submitted misinformation including unsubstantiated and missing pertinent information. On the first page, whereas 78' of relocation of stream is cited, the submitted and proposed site plan shows 50' of relocated stream. The actual number of feet of stream proposed to be relocated is more than twice the 78' noted, including an infeasible culvert which is approximately 90' in length, and in addition, shows excavation on my property to redirect the flow of the stream uphill from its natural course

along with major contour changes which would most certainly cause drainage problems on my property (as well as the Traphagen lot.) The "DEP Staff Previously Contacted" box should include Mr. Colin Clark who inspected the property in August of 2007.

"Attachment 1"
This paragraph discusses the proposed construction of a dock sited as close to my property line as possible and attached to a steep and fragile bank composed partially of Native American shell midden. The contractor cited for this work is Peter Cole who constructed a new 40' dock with pilings for Traphagen several months ago at Traphagen's nearby home at 15 Albion Point Road, Boothbay. The purpose cited for this new 40' dock was his 39' yacht, the same as cited in this application. (Further on, in a worksheet, the closest public boat launch is stated as being 5.2 miles from the project location. In fact, the closest public boat launch is 1 mile away and next to the Southport Bridge.) Then, in the next paragraph, "The project will also involve relocation of 78' linear feet of the upper reaches of an intermittent stream to create a building window on the lot. In this plan, the north end of the stream will be relocated approximately 15' further west. The proposed home includes a 2000 s. f. single family residence and a 1000 s.f. garage/apartment, as well as a driveway/circulation area." First, Traphagen made it widely known, including telling Mr. Colin Clark, that he intended to build a "spec house" somehow on this land. Now, further on in this application, there is a discussion about an elderly gentleman who may wish to purchase the lot. Exactly who is it that needs proximate dock access to the water? The covenants of the association which created the subdivision which includes this lot state: "That the only buildings on each such lot shall be one single family dwelling and appurtenant garage." This does not allow for an apartment. Also, the deed included with this application is dated August 30, 2000, less than two years after his purchase of the undivided property, when Traphagen conveyed this lot as being separate from the abutting lot which he sold to me in January, 2006. The current deed includes a permanent right of

way favoring my property, as shown on the proposed plot plan, which runs from the road (right of way,) down and into my property in the general area of the second culvert. The resulting loss of mature landscape specimens on my property along with the destruction of mature, 60'+ trees in addition to a substantial grade change makes the redirection of the flow of the stream and resulting drainage problems highly unacceptable.

"Attachment 2" alternatives analysis report
The third paragraph states: "The stream relocation is to create a level building envelope for the house site. It is necessitated by the topography of the lot. The lot is bisected by the access road to this and two lots to the north. West of the access road is very steep and has many rock outcrops. Extensive blasting would be required to build a driveway to this portion of the lot or site a home." As has been noted by DEP officials, including Mr. Colin Clark, there is a substantial, naturally occurring level plateau on the lot west of the right of way which could be accessed transversely from the south side of the property. The steepness of this approach is comparable to that of the proposed "driveway/circulation area." Whereas this application states: "The southern portion of the lot just east of the access road is the only location suitable for the waste water disposal system," this site does not begin to conform to the requirements of the Maine Subsurface Waste Water Disposal Rules. Examples of this include insufficient setback area from wetlands and a septic field site immediately adjacent to ledge and steep slopes directly above the wetlands. Traphagen sought the advice of Mr. Marty E. Moore of Coastal Designers and Consultants, Inc. whose attached letter is referenced. On April 8, 2008, Mr. Moore lectured both the Southport Planning Board and the Southport Board of Appeals, advising them that property owners should be able to do with their land as they see fit. Here, Mr. Moore states: "If the intermittent stream/drainage ditch were to be relocated approximately 30 feet to the West at the base of the existing rock ledge a

proposed building site would be possible." Next, Mr. Steve Malcom, a potential builder of the proposed structures is consulted and he too feels that the stream should be relocated to make room for structures including a "1000 s.f. garage with a two bedroom guest apartment."

"Attachment 9"
Here, Ms. Lauren Stockwell, with full knowledge of the DEP stream determination as per Field Determination ID: 6280, requests that Lisa Vickers from the DEP visit the site, June 30, 2008. "She agreed that the north end was a drainage and not regulated." (sic) While at the Southport Town Hall, Ms. Vickers mentioned to southport code enforcement officers that she had not been made aware of the previous determination of a stream, with ID 6280 with conclusions by Mr. Colin Clark and Mr. Chris Redmond of the DEP.

Following this is the previously cited letter from Mr. Marty Moore. Disregarding DEP and Southport Land Use Ordinances which call for a 75' setback from a stream, he cites the various difficulties with developing the lot, proposes a 25' setback from the stream, proposes relocating the stream 30' to the west and attempts to establish a 5,292 sq. ft. building envelope which is 145 ft. long. He also states: "The East portion is also divided into two areas. The first is nearest the existing road and was the only location for the designed and *approved* septic system necessitating one to build very close to the subdivision road." On November 4, 2008, Mr. Henry Berne, Plumbing Inspector for the Town of Southport, confirmed that there is no approved septic system on file and that there never has been. Mr. Moore concludes by saying: "...simply relocating the water drainage stream/ditch is a practical solution that would not alter the direction or flow of water to the existing wetland located at the shore." He then advises the DEP that the approval of his "solution" should be granted to the owner.

Next is a letter from Mr. Steve Malcom of Knickerbocker Group builders who proposes that two buildings, rather than one, would satisfy the "modest" means of his client with "age and health issues" who nevertheless could apparently scale the rather steep slope from house to garage and needs a dock for water access.

The scale of the topographical map included with this application is far too small to serve as a meaningful reference to the relatively extreme and complex topography of this site.

Regarding Photo #5, even when the stream is not flowing on the driest day of August, there are 1' to 2' diameter pockets of water all along the stream bed which are apparently fed by a spring. Even on the driest day, there is a steady flow of water further along toward the bridge and the southern end. Other times, following a storm or extended wet weather, the stream, now over 5' wide, exhibits rapid "white water" which continues for days. There is a constantly flowing stream for more than 9 months of the year. South of the bridge, where there is also a substantial and natural stream bank, the stream widens greatly to accept tidal storm flooding. Most of the entire area between this end of the stream and coastal water constitutes the southern and more substantial end of the historic shell midden. It is in this area that initial archeological exploration with documentation has taken place.

My communication with Traphagen is limited to a phone message he recorded on my answering machine where he threatened me should I attempt to interfere with his application to the DEP for the development of a "spec house" on this lot. I have retained this recording in the event that it is necessary to present it to legal authorities.

Traphagen attempted to convince Chris Redmond of the DEP that the natural course of the stream, which he now wants to relocate, is actually a "drainage ditch" which he claims that he had constructed 6 or 7 years ago.

In the past, the Southport Fire Chief was forced to confront Traphagen who had built a bonfire in high wind and without a permit and refused to put the fire out. Traphagen has ignored requests for years from our neighbors, the Greenes, to contribute, as per covenant, to expenses related to the maintenance of the common right of way, including fallen tree removal and driveway maintenance. He has steadfastly refused to provide his share.

I believe that Traphagen, based upon his previous conduct, including extraordinarily poor stewardship of this lot, will view any concession made during this application and approval process as free license to continue to do whatever he intends to. Traphagen has repeatedly removed plants and shrubs from the wetlands, as reported to Mr. Ralph Spinney, and has repeatedly directed the illegal cutting and removal of a large percentage of trees within the shoreland and wetland setbacks leaving large piles of slash. The logging method of Mr. Ed Camera of Boothbay Tree and Landscape caused 60'+ long tree trunks to be dragged through the property and across the stream, disturbing the wetlands and ripping out smaller trees.

On this coastal site, with steep slopes, large outcroppings of ledge, thins soils and clay, a tributary stream with additional associated wetlands and an extensive historic shell midden, part of which one can see by walking along the shore and looking up at a bank exposed by a storm last year, there is a combination of issues requiring a thorough review by all land use agencies.

I would appreciate your confirming receipt of this information. Also, thank you for considering my continued concerns.

Sincerely,

Todd Park Merolla

Cc: Mr. Colin Clark, Mr. Henry Berne, Mr. Ralph Spinney, Mary Platt Cooper, Esq.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF LAND AND WATER QUALITY

Field Determination Form

Field Determination ID: 6280

CONTACT

MICHAEL TRAPHAGEN

15 ALBION POINT ROAD
BOOTHBAY ME 04537

TELEPHONE 2076333280

DIRECTIONS

camerons point road, go to sharp left in road, turn right on ponderosa lane. site is on right. N-43-50-52.2, W-69-40-1.3

PROPERTY OWNER

TRAPHAGEN, MICHAEL
15 ALBION POINT ROAD

BOOTHBAY ME 04537
TELEPHONE 2076333280

STAFF REDMOND, CHRISTOPHER

RESOURCE RSB

TOWN SOUTHPORT

TAX MAP 25 **TAX LOT** 12-3

MEMO

In Field Determination # 6119, I determined that Michael Traphagen had a stream on his property in Southport. Mr. Traphagen wanted a second opinion on the basis that it was actually a manmade drainage ditch. Colin Clark from the Department accompanied me and met with Mr. Traphagen at the site.

After inspecting the area, Colin Clark confirmed that the resource in question was a stream as currently defined by the Natural Resources Protection Act (NRPA). Any soil disturbances within 75 feet of the stream would require a section 2 Permit by Rule for activities adjacent to a resource. Any soil disturbance activities within 25 feet of the stream would require a full NRPA permit. Areas having slopes steeper than 3H:1V may not be counted when determining the 25 foot setback.

As we discussed, the presence of a stream does not necessarily mean that the lot is unbuildable, just that permits are required to work near the stream as discussed above. Mr. Traphagen had several possible plans in mind, some of which would require and individual NRPA permit.

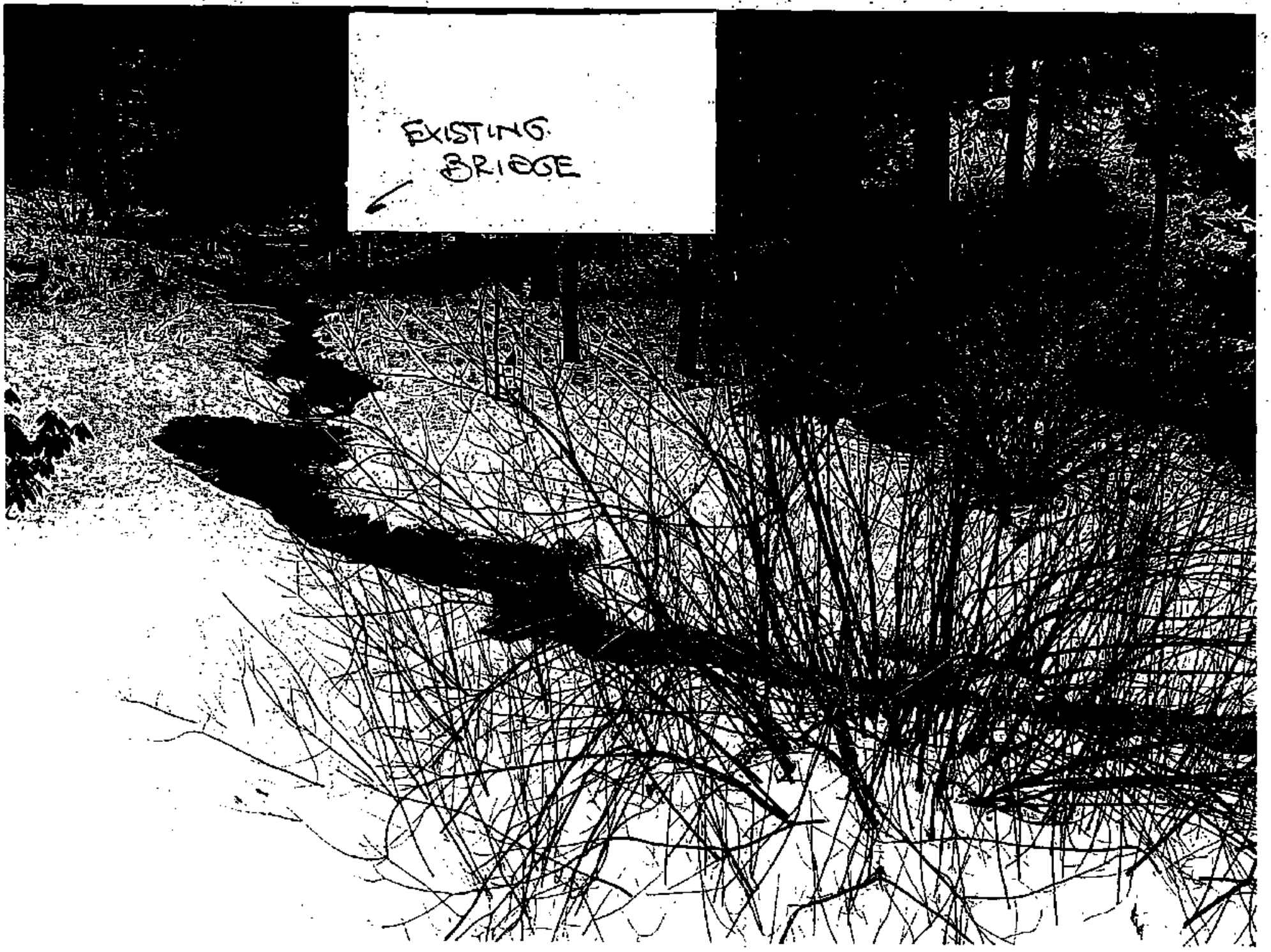
If you decide to pursue an individual NRPA permit, you should contact Jim Cassida, head of licensing, in writing, to request a formal pre-application meeting. He can be contacted at Maine DEP, 17 State House Station, Augusta, Maine 04333-0017. Please include a description of your project, a preliminary site plan, a regional map with the site marked, and photographs of the area. I have included a NRPA permit application for your use as well as an information sheet about pre-application meetings. It is helpful to start filling out the application prior to the pre-application meeting so any questions or concerns can be discussed at this meeting.

A permit pursuant to the Natural Resources Protection Act would also be needed for any regulated activity within 75 feet of the ocean.

The owner should make sure that all applicable DEP permits, as well as any local permits, have been obtained prior the start of any work. Erosion control devices must be installed and maintained on the project site during any soil disturbance activity.

NAME: Chris Redmond 287-8899

RECEIVED: 10/8/2007 SITE VISIT: 10/15/2007 COMPLETED: 10/22/2007


EXISTING
BRIDGE

P.O. Box 260
47 Cameron Point Lane
Southport, ME 04576

November 12, 2008

COPY

Mr. Colin Clark, Field Services
and Enforcement Officer, Bureau
of Land and Water Quality, DEP
17 State House Station,
Augusta, ME 04333-0017

re: Southport Tax Map #25
Tax Lot 12-3 (formerly
Part of 12-1) Owners
Michael E. and Diane W.
Traphagen
DEP Field Determination
ID #6280

Dear Mr. Clark:

Recently, when I asked Ralph Spinney if there had been any recent activity concerning the Traphagen property permit, he suggested that I check with the DEP. Thank you for your return call and the referral to Mr. Jim Cassida.

I would appreciate your keeping my enclosed and updated letter of concern along with pertinent documentation in the "Enforcement FYI" file associated with the Traphagen lot. (The name of the private right of way was changed from Ponderosa Lane to Cameron Point Lane by the Town of Southport three years ago.)

I have submitted copies of the enclosed documents to Mr. Ralph Spinney, Code Enforcement Officer and Mr. Henry Berne, Plumbing Inspector, both of the Town of Southport.

Again, thanks for your kind help.

Sincerely,

Todd Park Merolla

Memo to The Southport Planning Board and Maine DEP
Southport Island, Maine

From Todd Park Merolla, Cameron Point Lane
Southport Island, Maine

re: Southport Tax Map #25, Tax Lot #12-3 (formerly P/O 12-1) DEP Field Determination ID # 6280, Owners Michael E. & Diane W. Traphagen

Sometime prior to the purchase of my home on an abutting lot (Tax Map 25, Tax Lot 1) from Traphagen on Jan 9, 2006, this lot was divided from my lot as a separate tax lot. When I inquired about the possible purchase of this lot to return it as part of my property, I was told by the listing broker that there was no specific building envelope established but that a septic plan had been drawn sometime prior to 1998 and that a member of the Southport Planning Board had advised his client, Traphagen, that a Permit by Rule, Section 2 permit would allow for the normally required 75' setback from a stream to be reduced to 25' which then would allow for a house to be built on the coastal side of the property which is generally bisected by a right of way. Mentioned at the same time by the Planning Board Member was the Rule concerning a Tier 1 application which could allow for the relocation of the existing stream to provide the necessary setbacks for construction. This information was significant to me as it most likely would have a substantial impact upon the value of the property which is currently advertised for sale at $449,000 with a 4 bedroom septic system plan "on file." I have been unable to gain clarification concerning these matters as I am neither the owner nor a contract purchaser. Nevertheless, I have a vested interest in the disposition of this property. While the negative impact to my property of what has already happened is considerable, additional unauthorized activity is threatened by Traphagen and seems imminent.

In both 2006 and 2007 major trees were cut down within the Coastal and Freshwater Shorelands set-backs on this 2.07 acre property by Boothbay Tree and Landscape without the required permits and under the direction of Traphagen to "clear for construction." The indiscriminate cutting of fourteen 10" to 16" diameter spruce trees along the water's edge caused exposure leading to the weakening of others which then fell; some falling into my garden, smashing other trees and specimen plantings.

Southport Code Enforcement Officer Ralph Spinney came to the property three times to stop the tree clearing. Finally, he was forced to contact the DEP concerning the obvious violations. Traphagen met with Chris Redmond of the DEP on the property on or about August 22, 2007. With regard to setbacks, Traphagen then indicated to Chris Redmond that the stream on the property is a "drainage ditch" which he had constructed in 1998. At issue were violations not only in the Coastal Shorelands but also Fresh Water Wetlands. Subsequently, as I reported to Ralph Spinney, the Traphagens returned to the site repeatedly to remove plant material along the stream.

On October 15 2007, Chris Redmond returned to the site with his boss, Colin Clark, Field Services and Enforcement Officer for the Bureau of Land and Water Quality at the DEP in Augusta. A letter dated October 22, 2007 was then forwarded by Redmond to both Traphagen and the Town of Southport with a final determination that the purported "man made drainage ditch" is actually a stream as defined by the Natural Resources Protection Act. This letter further states: "Any soil disturbances within 75 feet of the stream would require a Section 2 Permit by Rule for activities adjacent to a resource. Any soil disturbance activities within 25 feet of the stream would require a full NRPA permit. Areas having slopes steeper than 3H:1V may not be counted when determining the 25 foot setback."

Permit By Rule Standards, DEP Rule, Chapter 305 as provided for in the NRPA Act, includes Section 2 "Activities adjacent to protected natural resources." "This section applies to an activity adjacent to, but not in .. a coastal wetland [or] stream." "This section does not apply to an activity where sustained slopes are steeper than 3 horizontal feet: 1 vertical foot (approximately 33% slope) between the normal high water line or upland edge of the protected resource and the soil disturbance." Also regarding Section 2: "This section does not apply to an activity that does not conform to the local shoreland zoning ordinance." *** Also "No activity or portion of an activity may be located within the 75 foot setback if there is a practicable alternative location on the parcel that would cause or result in less impact on the environment." Definitions within Section 2 include: "Practicable- Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project." Also: "Upland Edge- The boundary between upland and wetland."

*** The Land Use Ordinance of the Town of Southport, Maine under Dimensional Requirements in a Residential District and included under heading "Minimum Setback, All Structures" : "75 feet from the maximum spring tidal level or upland edge of a wetland."

DEP Rule, Chapter 310: "The purpose of this rule is to set forth the standards set forth in Section 480-D of the Natural Resources Protection Act, Section 464, Classification of Maine Waters and Section 465, Standards for Classification of Fresh Surface Waters are met by applicants proposing regulated activities in, on, over or adjacent to a wetland or water body." Section 480-D Standards include: "4. Interfere with natural water flow. The activity will not unreasonably interfere with the natural flow of any surface or subsurface waters. 6. Flooding. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties."Also in Chapter 310 the terms "wetland" and "stream" are used interchangeably. Included: "This rule applies to the alteration

of a coastal wetland,..freshwater wetland [or] stream." "This rule does not apply to an activity that.... qualifies for a general permit or permit by rule." Under Definitions: "Adjacent to a Protected Natural Resource. The area within 75 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland." Pertaining to a Tier One Variance, also included in this rule: "Freshwater Wetlands of Special Significance. A freshwater wetland of special significance has one of the following characteristics.
...(3) Location near coastal wetland. The freshwater wetland area is located within 250 feet of a coastal wetland." Also, under General Standards: "Avoidance. No activity shall be permitted if there is a practicable alternative to the project that would be less damaging to the environment." In fact, the first page of the *Tier One Variance Application* reads: "PART 1. TIER 1 FRESHWATER WETLAND ALTERATION (0 to 14,999 sq. ft. of freshwater wetland alteration) ELIGIBILITY CRITERIA & STANDARDS" "Tier 1 Review Criteria: The Tier I review process applies to activities altering up to 15,000 square feet of freshwater wetland provided your activity meets the general requirements listed below and the activity does NOT occur within 250 feet (measured horizontally) of a coastal wetland."

A survey dated Dec. 15, 2005 for Traphagen by Leighton and Associates and forwarded to me by Traphagen's real estate agent on July 5, 2007 shows the course of the stream, (not the upland edge,) the coastal shoreline and the proposed septic design area with a setback of 75 feet from the center of the stream. However, the Maine Subsurface Waste Disposal Rules pertaining to Disposal System Setbacks shows in Illustration 705.0 "Setbacks from coastal wetlands, freshwater wetlands, great ponds, waterbodies/courses and other features." In this example, a "First Time System Adjacent to Freshwater Wetlands in the Shoreland," land surface slope is less than 20%. The setback from the wetland boundary to the disposal system is 100 feet.

For the past five years, the Traphagen property has been advertised repeatedly as having "a four bedroom septic plan on file." The proposed septic field site is immediately adjacent to a steep downward slope toward the freshwater stream making a breakout likely. As of November 4, 2008, Mr. Henry Berne, Plumbing Inspector for the Town of Southport, has confirmed that there is no approved septic plan on file and that there never has been.

Additionally, there is an area in the southeast corner of the property which includes over 3,000 square feet of historic shell midden which has produced in just a partial excavation a large number of significant American Indian artifacts including scrapers, knives, a pestle, awls, fish hooks, needles, harpoons and decorated pottery along with fire pits at various levels. This is documented in a report to the Maine Archaeological Society titled "The Cameron Point Excavation At Southport Island, Maine" by Harry G. Nickel. It is noted that "the presence of a spring nearby may indicate a permanent camp site" and that further work at this site is needed. Several of the recently uprooted trees have exposed additional midden areas.

I remain concerned about the severely defective stewardship of this land. Efforts by Traphagen to develop this property will likely continue to be misrepresented to the DEP and the Town of Southport. As a surveyor and house designer have recently been engaged by Traphagen once again, I am unsure under whose name or under what entity a Permit by Rule might be filed. I have written the above to delineate specific instances of my concern and, as an abutter, would very much appreciate being kept informed of the disposition of this property should a previously withdrawn permit application by Traphagen for work in 2007 be reinstated.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF LAND AND WATER QUALITY

Field Determination Form

Field Determination ID: 6280

CONTACT

MICHAEL TRAPHAGEN

15 ALBION POINT ROAD
BOOTHBAY ME 04537

TELEPHONE 2076333280

PROPERTY OWNER

TRAPHAGEN, MICHAEL
15 ALBION POINT ROAD

BOOTHBAY ME 04537
TELEPHONE 2076333280

STAFF REDMOND, CHRISTOPHER

RESOURCE RSB

DIRECTIONS

camerons point road, go to sharp left in road, turn right on ponderosa lane. site is on right. N-43-50-52.2, W-69-40-1.3

TOWN [redacted]

TAX MAP 25 [redacted]

TAX LOT 12-3

MEMO

In Field Determination # 6119, I determined that Michael Traphagen had a stream on his property in Southport. Mr. Traphagen wanted a second opinion on the basis that it was actually a manmade drainage ditch. Colin Clark from the Department accompanied me and met with Mr. Traphagen at the site.

After inspecting the area, Colin Clark confirmed that the resource in question was a stream as currently defined by the Natural Resources Protection Act (NRPA). Any soil disturbances within 75 feet of the stream would require a section 2 Permit by Rule for activities adjacent to a resource. Any soil disturbance activities within 25 feet of the stream would require a full NRPA permit. Areas having slopes steeper than 3H:1V may not be counted when determining the 25 foot setback.

As we discussed, the presence of a stream does not necessarily mean that the lot is unbuildable, just that permits are required to work near the stream as discussed above. Mr Traphagen had several possible plans in mind, some of which would require and individual NRPA permit.

If you decide to pursue an individual NRPA permit, you should contact Jim Cassida, head of licensing, in writing, to request a formal pre-application meeting. He can be contacted at Maine DEP, 17 State House Station, Augusta, Maine, 04333-0017. Please include a description of your project, a preliminary site plan, a regional map with the site marked, and photographs of the area. I have included a NRPA permit application for your use as well as an information sheet about pre-application meetings. It is helpful to start filling out the application prior to the pre-application meeting so any questions or concerns can be discussed at this meeting.

A permit pursuant to the Natural Resources Protection Act would also be needed for any regulated activity within 75 feet of the ocean.

The owner should make sure that all applicable DEP permits, as well as any local permits, have been obtained prior the start of any work. Erosion control devices must be installed and maintained on the project site during any soil disturbance activity.

NAME: Chris Redmond 287-8899

RECEIVED: 10/8/2007 SITE VISIT: 10/15/2007 COMPLETED: 10/22/2007

THE CAMERON POINT EXCAVATION AT SOUTHPORT ISLAND, MAINE 2267

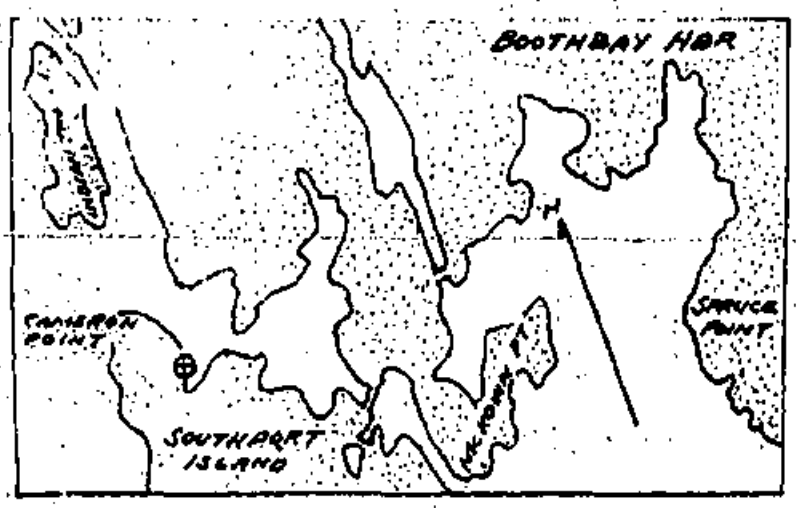
By Harry G. Nickel

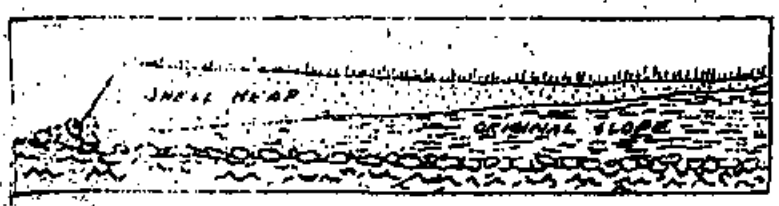
Cameron Point is located about 2 miles west of Boothbay Harbor on the northern end of Southport Island, which is connected to the mainland by a bridge. The dig is at one of the many shell heaps that dot this coastal area of Maine. These sites represent the summer fishing grounds of the American Indian.

This site was called to the attention of the Society in 1956. However, it was not until the summers of 1963 and 1964 that any serious exploration was undertaken. The first grid, 4' x 8', yielded one fire pit about 12" below the surface. Two additional fire pits were uncovered; the lower one being at a depth of 38". The work to date covers a total of 11 grids, and has yielded the following artifacts of significance: 13 points, 6 scrapers, 3 knives, 4 celts, 1 pestle, 4 bone awls, 3 bone fish hooks, 2 bone needles, 1 bone ornament, 5 bone harpoons, and numerous potsherds. We have had fair success in reconstructing some of the pottery. The following drawings show many of the typical artifacts we found.

Since the presence of a spring nearby may indicate a permanent camp site, we intend to carry on our work. A full report will be issued when this is completed.

We acknowledge the able assistance of our daughter, Mae Beth. Others participating in the work included Gerald Dunn, Maurice Blaisdell, Jack Brown, Mr. and Mrs. Demers and their son James, Norman Fossett, Jack Nickel, Mrs. Florence Elliott, Arthur Benner, and Mr. and Mrs. M. F. Camp.





STRATIGRAPHY

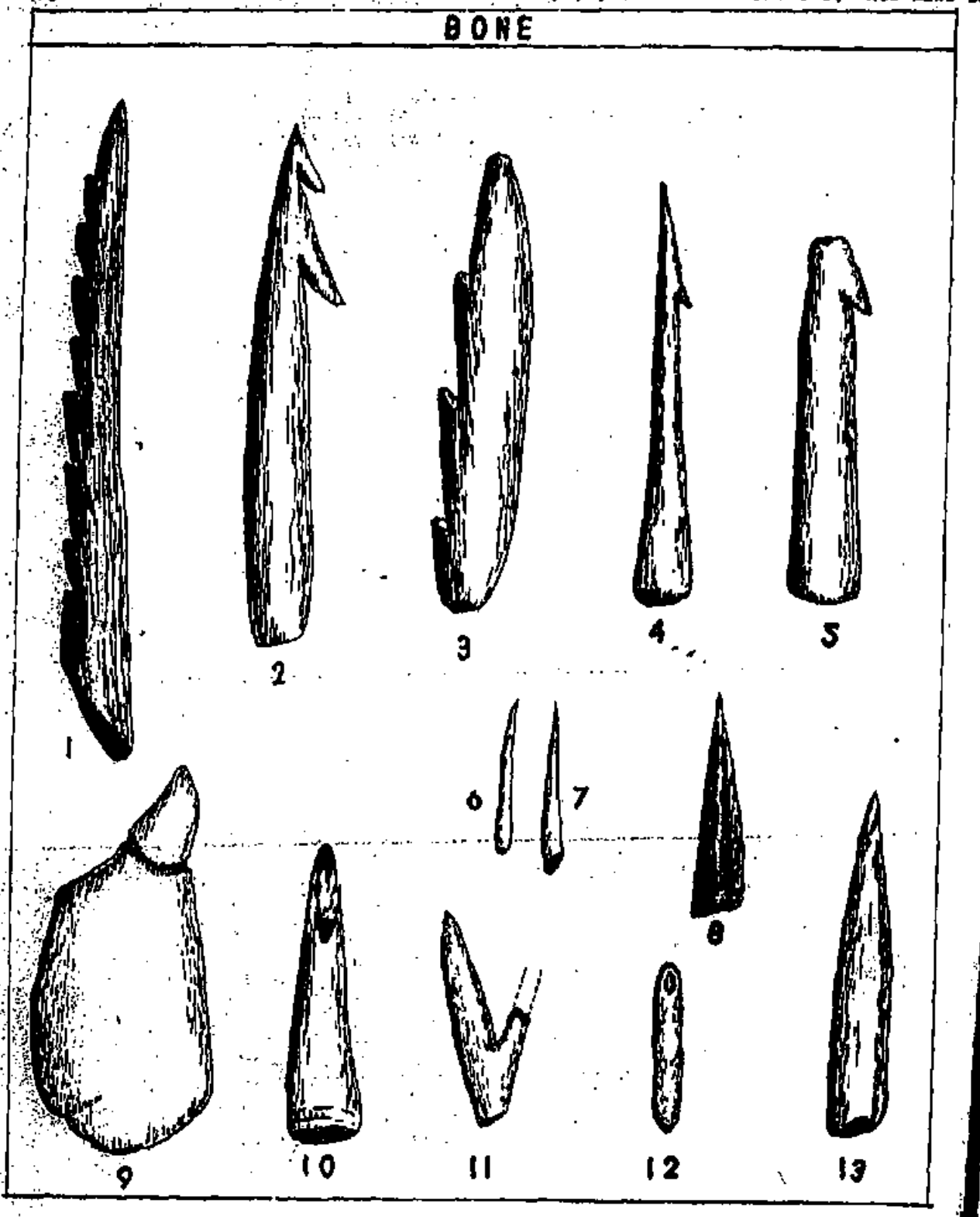
3"	Sod
22"	Broken Shells
2"	Earth
4"	Earth & Shells
2"	Charcoal
3"	Dirt, Ash, & Charcoal
2"	Charcoal
10"	Sand
	Bedrock

KEY TO DRAWINGS

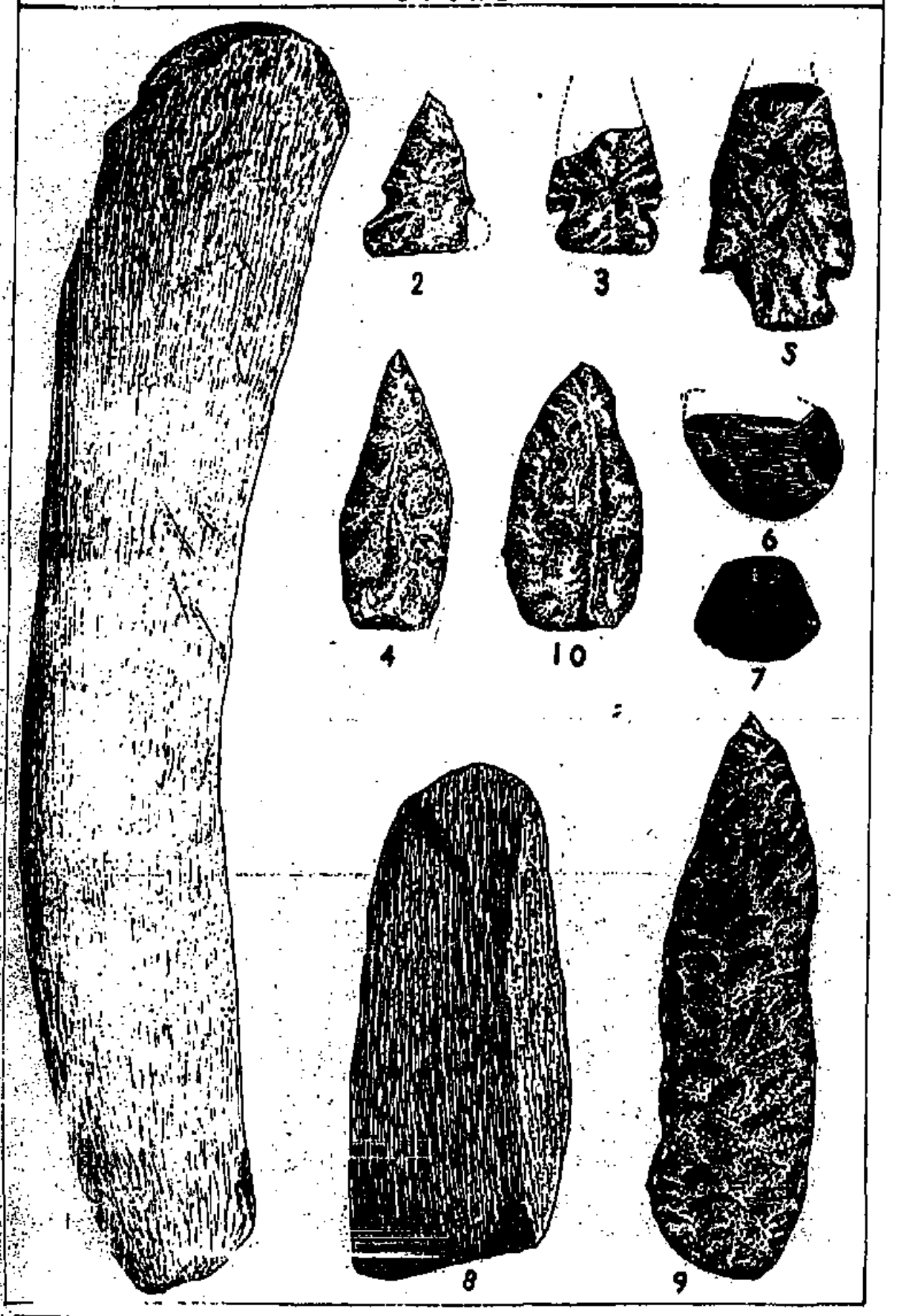
Page . Harpoons 1,2,3,4,5. Awls 6,7,8,13. Polished ornament, 9, Fishing spear 11. Needles 10,12. All full scale.

Page . Pestle 1. Side notched points 2,3. Corner notched point 5. Small stem points 4,10. Jasper Thumb Scrapers 6,7. Celt 8. Stemless knife 9. Full

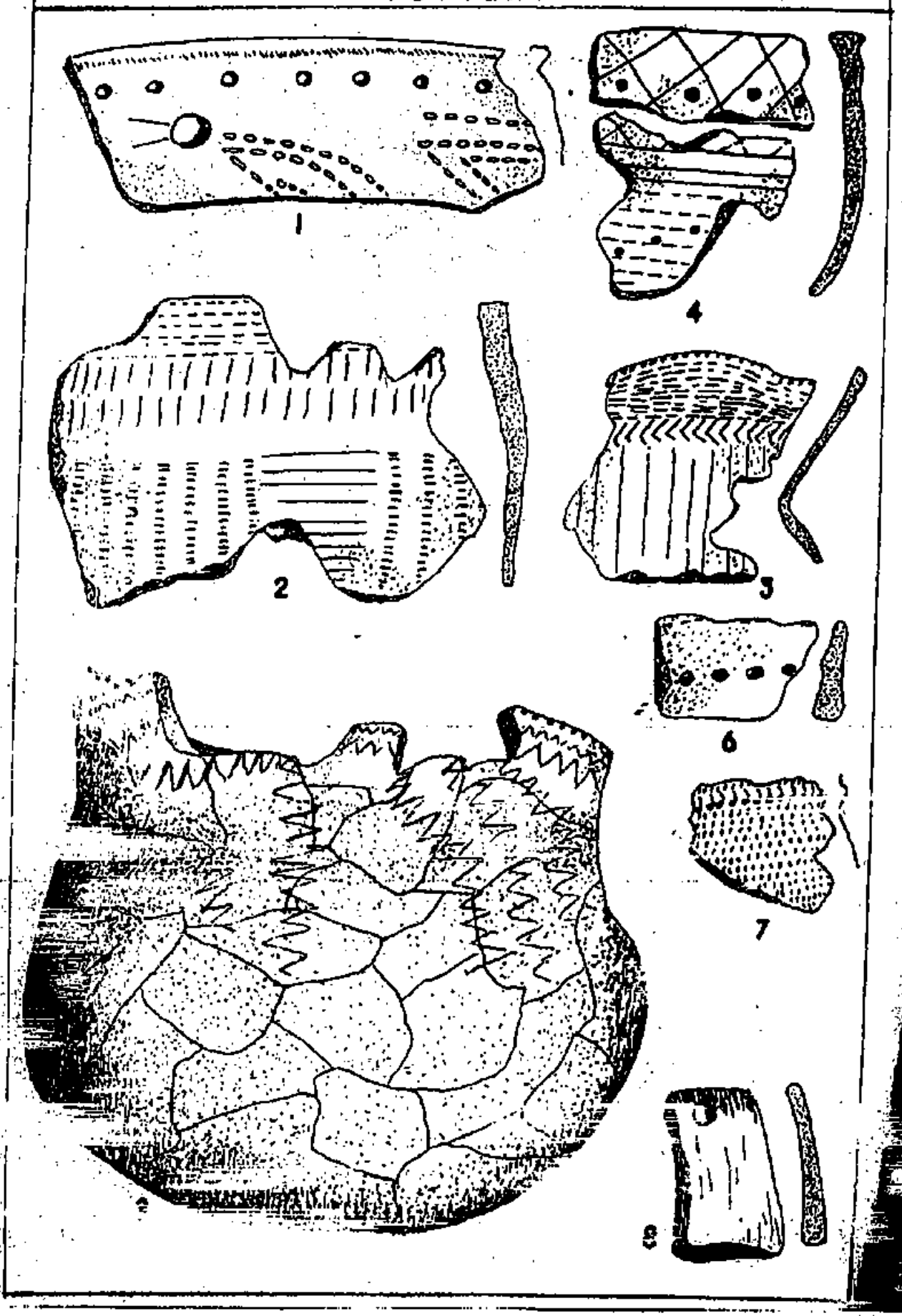
Page . Rimsherds1,5. Pot 3. Potsherds 2,4,6,7. Steatite sherd 8. All half scale.



STONE



POTTERY



Tindal & Callahan *Real Estate*

Tel. (207) 633-6711
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32 Oak Street
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www.tindalandcallahan.com
realestate@tindalandcallahan.com

July 5, 2007

Todd Park Merolla
Joseph J. Krulis
47 Ponderosa Lane
Southport, ME 04576

Dear Todd and Joe:

Enclosed is a copy of the revised Survey Plan showing the brook as it now crosses the lot from your property and the Traphagen property to the cove. Terry Leighton placed the 75 foot setback area on the plan. At the time that I asked Lauren Stockwell to go down and identify the brook from the standpoint of its significance regarding wetlands etc., she told me that she felt there would be no problem obtaining a Tier One Variance from the DEP to reduce the setback to 25 feet from the brook. I feel that this would then enable one to build a house on the upper portion of the lot overlooking the brook and the water.

Once you have had an opportunity to review this, please give me a call with any questions you may have. I hope you are enjoying the summer so far. Hopefully we will see you soon.

Sincerely,

Bruce B. Tindal, GRI/CRS/ABR
REALTOR

Encl BBT/jsp

207-633-8393 TODD@TPMLIMITED.COM
TODD PARK MEROLLA, LTD.
ARCHITECTURAL DESIGNER
CAMERON POINT
SOUTHPORT ISLAND, MAINE 04576

July 7, 2007

e-mail: todd@TPMLIMITED.com

Bruce B. Tindal, Realtor
32 Oak Street
Boothbay Harbor, Maine 04538

Dear Bruce:

Thanks! for your letter of July 5th and the enclosed copy of the revised Traphagen property survey showing the brook and the setback envelope. We appreciate having this information although the plan does not address the 250' coastal wetland setback and therefore our continued concern with Tier One applicability which would effect the likely resulting building envelope. In speaking with you some time ago about this property, Joe and I wondered if a building envelope had been indicated by the surveyor as this might allow greater assurance to us of both the value of the property and the likely impact development might have upon our existing property. We wish to be able to properly evaluate whether it would be possible for us to continue maintaining this property, as it had been in the past, as part of ours.

With kindest regards,

cc: J. J. Krulis

country kitchen

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STONE COVE SUBDIVISION

REALTY

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THE WOMAN WHO PLANTED 21,000 TULIPS

DECORATING WITH ANTIQUE BOTTLES

DIGGING UP A SEAFOOD DELICACY

Down East

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March 2008

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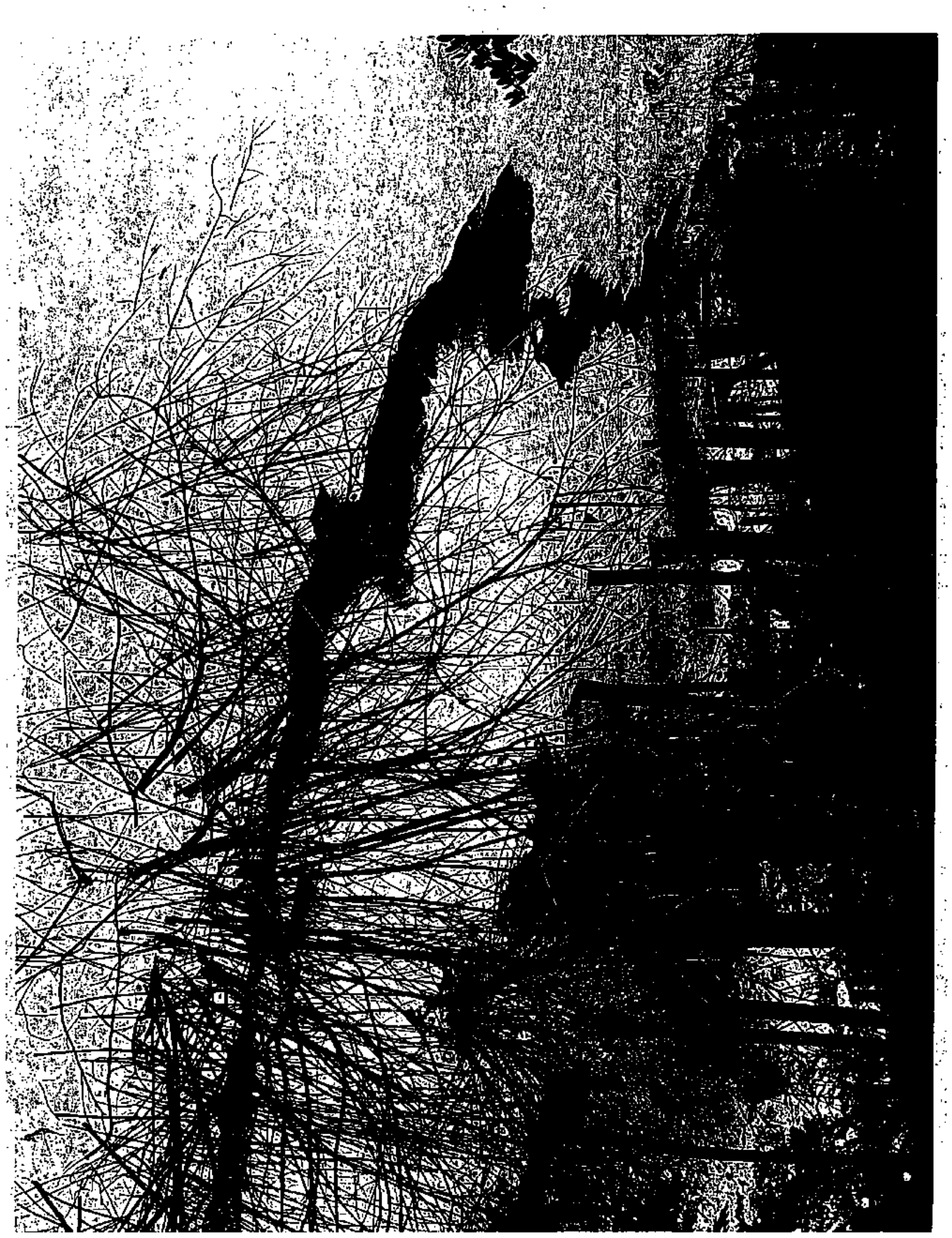

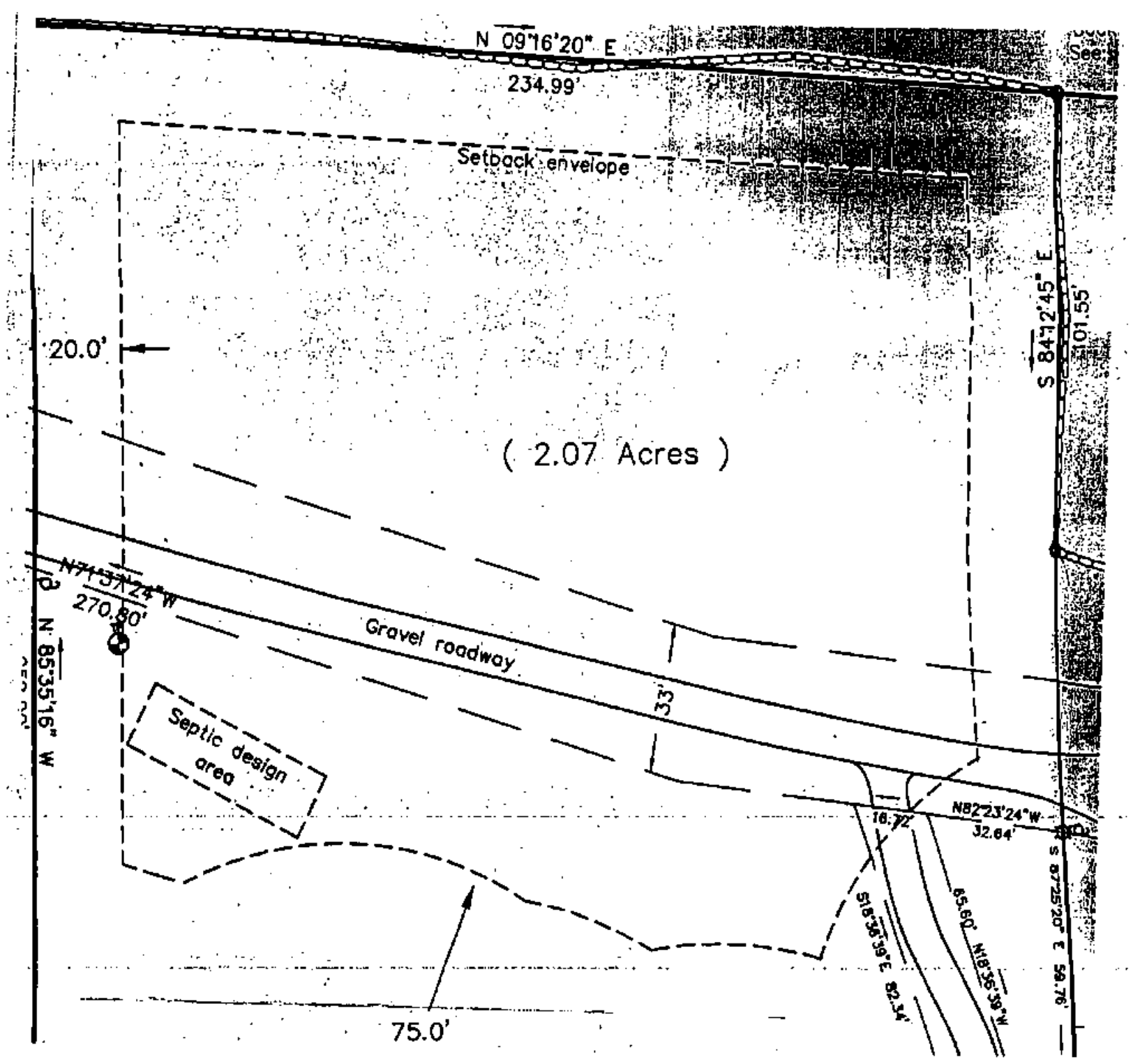
N 09°16'20" E
234.99'
See
Setback envelope
20.0'
S 84°12'45" E
101.55'
(2.07 Acres)
N71°37'24" W
270.80'
Gravel roadway
33'
N 85°35'16" W
Septic design area
16.72'
N82°23'24"W
32.64'
S 87°25'20" E 59.76'
S18°36'39"E 82.34'
65.60' N18°36'39"W
75.0'

TRAPHAGEN NRPA APPLICATION Nov. 12, 2008

Tier 3 Traphagen wants to relocate tributary stream and put 90' of it underground in a culvert with major grade changes and a house site above in addition to a dock (same application)

PROBLEMS WITH APPLICATION:

-"78' of intermittent stream" (actually 212')

-DEP staff previously contacted does not include Colin Clark

-Property title (2000) is outdated: doesn't include (2006) TPM right of way over Traphagen lot and onto my property

-Attachment 1
78' intermittent stream (also see other abutter Chris Bursaw letter re: "drainage ditch")
garage apartment (not allowed by covenant)
no bridge over stream listed as permanent structure

-Attachment 2
many mis-statements but application for dock without house?
no approved septic and insufficient set-backs from proposed
no analysis of alternative site

-Attachment 3
topo map 1" = 2,000' too small to show features impacting septic design area, alternative site, stream flow and potential drainage consequence of major grade changes
"For activities impacting a river, stream or brook submit scale drawing showing 2' contour intervals."

-Attachment 4
re: photo: contrived understanding of where DEP Field Determination 6280 stream begins (the start of the stream was actually determined to be at the intersection of the dotted "20' setback" line and the existing course of the stream as indicated on the survey of the eastern portion of the Traphagen lot submitted with the application)

-Attachment 5
no overhead plan nor profile view of proposed culvert and grade changes

-Attachment 6
no erosion control plan submitted
profile drawing of culvert missing

-Attachment 9
re: "site condition report" no mention of "Freshwater wetlands of Special Significance"
NRPA Chapter 310 Wetlands and Waterbodies Protection

1. Preamble ... "The terms "wetland", "wetlands", "waterbody", and "waterbodies" are used interchangeably and collectively in this rule to refer to freshwater wetlands, great ponds, rivers, streams, brooks, coastal wetlands and the areas adjacent to them."
2. Applicability A. "This rule applies to the alteration of a coastal wetland, great pond, freshwater wetland, river, stream or brook as defined in 38 MRSA Sec. 480 B of the Natural Resources Protection Act that requires an individual permit..."

4A. Freshwater Wetlands of Special Significance
A freshwater wetland of special significance has one or more of the following characteristics:
(3) Location near coastal wetland. The freshwater wetland is located within 250 feet of a coastal wetland.
(6) Wetlands subject to flooding. The freshwater wetland area is inundated with floodwater during a 100 year flood event ...

5. General Standards
A. Avoidance "No activity shall be permitted if there is a practicable alternative to the project which would be less damaging to the environment. Each application must provide an analysis of alternatives (see Section 9 (A)) in order to demonstrate that a practicable alternative does not exist. In wetlands of special significance, projects for

which no practicable alternative may exist are those limited to those necessary for:

(1) Health and safety;
(2) Crossings by road, rail or utility lines;
(3) Water dependent uses;
(4) Expansion of a facility or construction of a related facility that cannot practicably be located elsewhere because of the relationship to the existing facility, if the facility was constructed prior to September 1, 1996;
(5) Mineral excavation and appurtenant facilities; or
(6) Walkways

D. No Unreasonable Impact

(1) Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. "Unreasonable impact" means that one or more of the standards of the Natural Resources Protection Act, 38 MRSA Sect. 480-D, will not be met. i.e: "Standards" 4. "Interfere with natural water flow. The activity will not unreasonably interfere with the natural flow of any surface or sub-surface waters."

-Attachment 11

This proposed set of projects is substantially misrepresented to the Maine Historic Preservation Commission, leading the Commission to potentially feel that an area of special historic significance will remain undisturbed. Also, there is an inference here that Traphagen dug a drainage ditch on the subject property while owner/builder of a home on an abutting property. This is completely false.

Appendix A

Field survey checklist: There is no discussion here about the proposed relocation of the tributary stream and grade changes

Appendix B
Implies that there are no lobsters, clams or marine worms- all false. In addition, there are "abundant" mussels

Regarding the designer, Marty Moore's letter:
-there is a vague description of the west half of the lot which he states "is nearly impossible to access."
-he cites an "approved septic system" which doesn't exist and never did
-he calls for a relocation of the tributary stream THIRTY (30) feet to the west as being necessary at minimum (not 15')
-while restrictions upon tree cutting on this lot have already been exceeded (and in violation,) he implies that further cutting is largely unnecessary. This is hugely false. His proposed plan would result in major tree destruction.

The application survey with proposed building envelopes, driveways, septic area, tributary stream relocation and dock shows only the eastern half of the lot. It does not and cannot show the damage to my abutting property due to grade, access and drainage problems which would result from the proposed work were it to be approved. It does, however, show intrusion of the construction onto my property. The area regarded as a Protected Natural Resource is not delineated as where periodic tidal flooding occurs. The proposed "septic design area" shows insufficient set-backs and is not based upon any meaningful soil science nor consideration of proximate threat to wetlands. The survey does not demonstrate lot area within the Shoreland Zone and does not delineate Freshwater Wetlands of Special Significance.

Please consider the above notes regarding the Traphagen application to be added to the case file with my previous letters of November 12th and 17th, 2008. Thank you.

Todd Park Merolla, January 26, 2009