



# PORTLAND MAINE

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Planning & Urban Development Department  
Shirley St. Louis Littell, Director

Planning Division  
Alexander Jaegerman, Director

March 6, 2009

Timothy H. Norton, Esquire  
**Kelly, Rummel & Zimmerman**  
53 Exchange Street  
P.O. Box 597  
Portland, ME 04112-0597

Re: 72 Walnut Street, Minor Site Plan Application No. 2006-0230

Dear Attorney Norton,

This letter is in response to your letter of February 4, 2009 regarding the concerns of Ms. Lawson of 110 North Street.

Although it is the applicant's burden to present evidence that he/she meets the Ordinance requirements, the Ordinance does not specify the types of evidence that he/she must provide and instead only indicates that such evidence must be in the form of plans and/or maps prepared by competent professionals (section 14-425(b)).

In your letter you reference sections 14-526(a)(6) and (8). These sections state that a proposal must meet the following criteria:

(6) the on-site landscaping provides adequate buffering between the development and neighboring properties so as to adequately protect each from any detrimental features of the other; and

(8) the site plan does not create any significant soil and drainage problems, whether on or off-site, and adequately provides for control of erosion and sedimentation during construction and afterward.

Section (a)(6) generally relates to plantings and fencing, whereas section (a)(8) applies to the grading and storm water management measures on the site, which include erosion

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control measures. In both cases the location of the building would not be in question unless the City reviewers identify issues regarding the effectiveness and feasibility of the proposed grading, storm water and/or erosion control measures.

Please note that generally structural issues related to the construction phase would be reviewed at the Building Permit stage; for example, the Inspections Division may require installation of piling or other measures to ensure the stability of Ms Lawson's wall. The Building Permit stage does not start until after the Site Plan is approved.

Overall, as with all projects that the City reviews, the project in question will need to meet the criteria outlined in the City Code including, but not limited to, section 14-526 prior to any approval.

With regard to your comments about the height of the building, I would refer you to the definition of "building height" in section 14-47 which clarifies that for pitched roofs the height is measured to a point "midway between the level of eaves and highest point". The "grade" in this case is the post-development grade. The maximum building height is 45 feet for this lot in this zone and the City's Zoning Administrator will be reviewing this aspect of the proposal.

We appreciate your comments, and will take them into account during the review process. As requested, I will copy you on any further correspondence or communications between the Planning Authority and the applicant.

Sincerely,



Jean Fraser  
Planner

CC

Barbara Barhydt, Development Review Manager  
Danielle West-Chuhta, Associate Corporation Counsel  
Marge Schmuckal, Zoning Administrator  
Tammy Munson, Inspections Division Director  
David Margolis-Pineo, Deputy City Engineer  
Dan Goyette, Engineering Reviewer  
Fred R. Panico, for applicant