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*Penny St. Louis - Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

March 30, 2011

Drummond & Drummond, LLP
One Monument Way
Portland, ME 04101
Attn: Christopher E. Pazar, Esq.

RE: 112 Sheridan Street – 13-J-11 – Priscilla Dunn property (property “A”) & 124-132 Sheridan Street & 27-47 Romasco Lane – 13-J-7 & 29 - A & M Partners, LLC property (property “B”)

Dear Attorney Pazar,

I am in receipt of your request for a determination letter concerning the transfer of property from A & M Partners LLC, property “B” to Priscilla Dunn, property “A”. I am in receipt of an unsigned and unstamped boundary survey of property “A” prepared by Herbert P. Gray. I have also been given an unexecuted quitclaim deed from A & M Partners, LLC along with Exhibit A which is a deed description depicting the proposed land conveyance. Exhibit A relates to the 1181.89 square feet shown on the Herbert P. Gray boundary survey. Both lots are located within a R-6 residential zone.

The transfer of the described land is basically a corrective deed rectifying the developed and land that has been in functional possession of property “A” since the construction of the building built in 1841 (Assessor’s information). The corrective deed is considered a reconfiguration of the property line between “A” and “B”. This action is similar to a functional division. It is noted the functionality of the land being transferred is based upon the extreme difference in elevation between the properties and the old fencing and years of continual exclusive use by property “A”.

I have also determined that property “B” is not harmed by the proposed transfer of land. It is my understanding that A & M Partners, LLC is concerned that the transfer of land would have a negative zoning impact on its legally nonconforming lot size. I have not been given any evidence that shows the legal nonconforming issues that A & M Partners, LLC is concerned about. From a zoning stand point, property “B” is 31,335 square feet in size according to the Assessor’s records. A transfer of 1181.89 square feet from property “B” leaves 30,153.11 square feet of land area which is more than the minimum lot size of 4,500 square feet in the R-6 zone. It is my understanding that there is no structure within 20 feet of the adjusted rear property line. I am aware of parking spaces on the land accessible only off of Romasco Lane. I am not aware of any other dimensional violation that would occur because of the transfer of land. Therefore, there is no violation of the 20 foot rear setback required in the R-6 zone.

It is my determination that the proposed transfer of land to correct an obvious omission from previous deeds does not violate any zoning requirements of the Land Use Zoning Ordinance. Neither lot "A" or "B" would violate current Land Use requirements.

It is also my understanding that A & M Partners, LLC has a concern that my office does not have the authority, by means of the proposed determination letter to bind the City. It is under the authority of section 14-465, the City's Zoning Administrator (as the building authority) has the authority to make determinations of the Land Use Zoning Ordinance. My determinations have held up under law. It is also noted that A & M Partners, LLC has the right to have this determination brought before the Zoning Board of Appeals. Section 14-472 of the Land Use Zoning Ordinance grants the Zoning Board of Appeals the jurisdiction and authority to, "hear and decide appeals from, and review orders, decisions, determinations, or interpretations made by the building authority;"

There is the right to appeal my decision concerning this matter. If there is a wish to exercise the right to appeal, there is 30 days from the date of this letter in which to appeal. If there is a failure to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

It is further reminded that the owner of property "A" is still under the requirement to legalize the illegal deck that has never been permitted as originally pointed out in my letter to the owner dated November 2, 2009.

This determination is also subject to change if the final signed, stamped survey uncovers unforeseen circumstances that may influence this determination.

If you have any questions regarding this matter, please do not hesitate to contact me at (207) 874-8695.

Sincerely,

Marge Schmuckal
Zoning Administrator