

**From:** <topherbrowne@aol.com>  
**To:** <JF@portlandmaine.gov>  
**Date:** 10/11/2013 8:58 PM  
**Subject:** 133 York Street

Dear Ms. Fraser,

Thank you for your fastidious attentions to the proposal for 133 York Street.

As a resident who abuts the property in question, I have a few simple concerns:

1. The developer has been less than forthright when dealing with our condominium association. The agent for the developer is on the record at the last Planning Board meeting, stating that he would NOT require the use of our driveway at 33 Park Street to demolish the in situ building or to construct the new building. Less than 24 hours later, we received an e-mail from the developer requesting unlimited access to his property THROUGH our driveway at 33 Park Street for the duration of the construction project.
2. The developer is either unwilling or unable to contact our condominium association to discuss our concerns in spite of a specific request from the Planning Board to arrange such a discussion.
3. The residents of 33 Park Street stand to lose 50 percent of our assigned parking places for the duration of the demolition and the construction at 133 York Street. We have repeatedly voiced this concern with no response from the developer.
4. The architectural design of the proposed building at 133 York Street mirrors the design of the student apartments on Marginal Way (between Intermed and the Diner). I would not be surprised if the architect on both projects -- Marginal Way and 133 York Street -- is one and the same. While such an architectural design may be appropriate for Marginal Way, I respectfully submit that it is inappropriate for Portland's West End. Both the developer of 133 York Street and his architect can and should make a greater effort to ensure a measure of architectural continuity within the neighborhood.

Sincerely yours,

William "Topher" Browne  
33 Park Street Apt 2  
Portland, ME 04101

Sent from AOL Mobile Mail

**From:** "Catherine Morrison" <cmorrison@createagreement.com>  
**To:** "Jeff Tarling" <JST@portlandmaine.gov>  
**CC:** "Barbara Barhydt" <BAB@portlandmaine.gov>, "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 9/18/2013 4:51 PM  
**Subject:** RE: Tree located at 133 York St. development site

Jeff,

Thanks very much for the information. It sounds like the two trees (willow and deciduous tree with deeply grooved bark and almond shaped leaves adjacent to recently completed construction project) that are of greatest concern to Harborview Flats (the brick complex in front of the project) and Harborview Townhomes (the new construction adjacent to the project) might be preserved in some form. Each of the two Harborview properties has been developed recently and it is not our intention to take a NIMBY stance about additional development in the neighborhood. We do hope to preserve green space when possible. This gives me a better understanding of where things are at this point. I appreciate your advice about plantings for Harborview Flats as well.

Best,

Catherine

From: Jeff Tarling [mailto:JST@portlandmaine.gov]  
Sent: Wednesday, September 18, 2013 3:41 PM  
To: Catherine Morrison  
Cc: Barbara Barhydt ; Jean Fraser  
Subject: Re: Tree located at 133 York St. development site

Hi Catherine -

I recall that the tree near the corner of the existing building would be impacted by the construction project, the tree the furthest from York Street along with the Willow had less impact, and the Willow perhaps the root zone.

We would include 'tree protection' measures in the project review comments, see example at this web link:

[http://treesaregood.org/treecare/resources/Avoiding\\_Tree%20damage.pdf](http://treesaregood.org/treecare/resources/Avoiding_Tree%20damage.pdf)

Planting two to three columnar trees on your property in the green space might provide additional greening. I can suggest tree types such as 'Karpick' Red Maple of the more upright 'Armstrong' Red Maple, like the ones next door at the condo entrance on York Street.

Be glad to answer questions related to the landscape, I cc'd Jean Fraser the Site Planner on the project to let her know. The Planning Department maintains the 'official' lines of communication in site plan related projects.

thanks,  
Jeff

>>> "Catherine Morrison" <cmorrison@createagreement.com> 9/18/2013 9:38 AM  
>>>

Dear Mr. Tarling,

I live at 125 York Street and recently attended a meeting hosted by the developers of the property at 133 York Street. One of the items that we discussed was whether a tree located on the northeast corner of the property could be preserved. I understand that you came on site and looked at the tree to provide advice about its stability if a portion of it is removed. Our homeowners association is meeting tonight and I'd like to give them an update on the project. Could you let me know your recommendation to the developers about the tree?

Thanks very much.

Catherine Morrison

Catherine J. Morrison, JD

125 York Street, Unit A

Portland, ME 04101  
717-917-0115 (mobile)

<mailto:cmorrison@createagreement.com> cmorrison@createagreement.com  
<http://www.createagreement.com/> www.CreateAgreement.com

**Jean Fraser - Re: 133 York Street/Harborview Flats**

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**From:** Susan Kaplan <birmanmom@gmail.com>  
**To:** Jeremy Benn <jeremy@joeflynnrealestate.com>  
**Date:** 9/24/2013 6:01 PM  
**Subject:** Re: 133 York Street/Harborview Flats  
**CC:** Seth Page <sxp@earthlink.net>, Elliot Vrana <elliott.vrana@gmail.com>, Er...

Much appreciated Jeremy - I am glad the illustration was helpful in clarifying our concerns. I copied Jean Fraser, City Planner on our correspondence as our concerns are consistent with those raised on page 9 of her September 6, 2013 memorandum. In one of the Staff Comments, headlights, screening, and solid fencing are discussed and the City Arborist's recommendations are referenced for further consideration.

Our Association is having discussions regarding trees being planted on our property (whose maintenance will become a Harborview Flats expense) with arguments pro and con being presented. We are eager to hear additional ideas beyond your proposal to plant trees on our side of the fence. Any further ideas you are entertaining (solid fencing, trees on your property, etc.) would be of interest to us.

Finally, we are eager hear / see the details of the updated façade.

Thanks again for your time and patience as we come to an agreeable plan, Jeremy!

Susan Kaplan  
 207.232.1180

On Mon, Sep 23, 2013 at 12:58 PM, Jeremy Benn <jeremy@joeflynnrealestate.com> wrote:

Hi Susan,

I see your concerns about the headlights as illustrated by the red arrows. I have asked the engineer to update the site plan to show a "green wall" to continue all the way across the fence. I will keep you updated on the façade.

Thank you,

Jeremy Benn

133 York, LLC

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**From:** Susan Kaplan [mailto:birmanmom@gmail.com]

**Sent:** Thursday, September 19, 2013 11:12 AM

**To:** Jeremy Benn

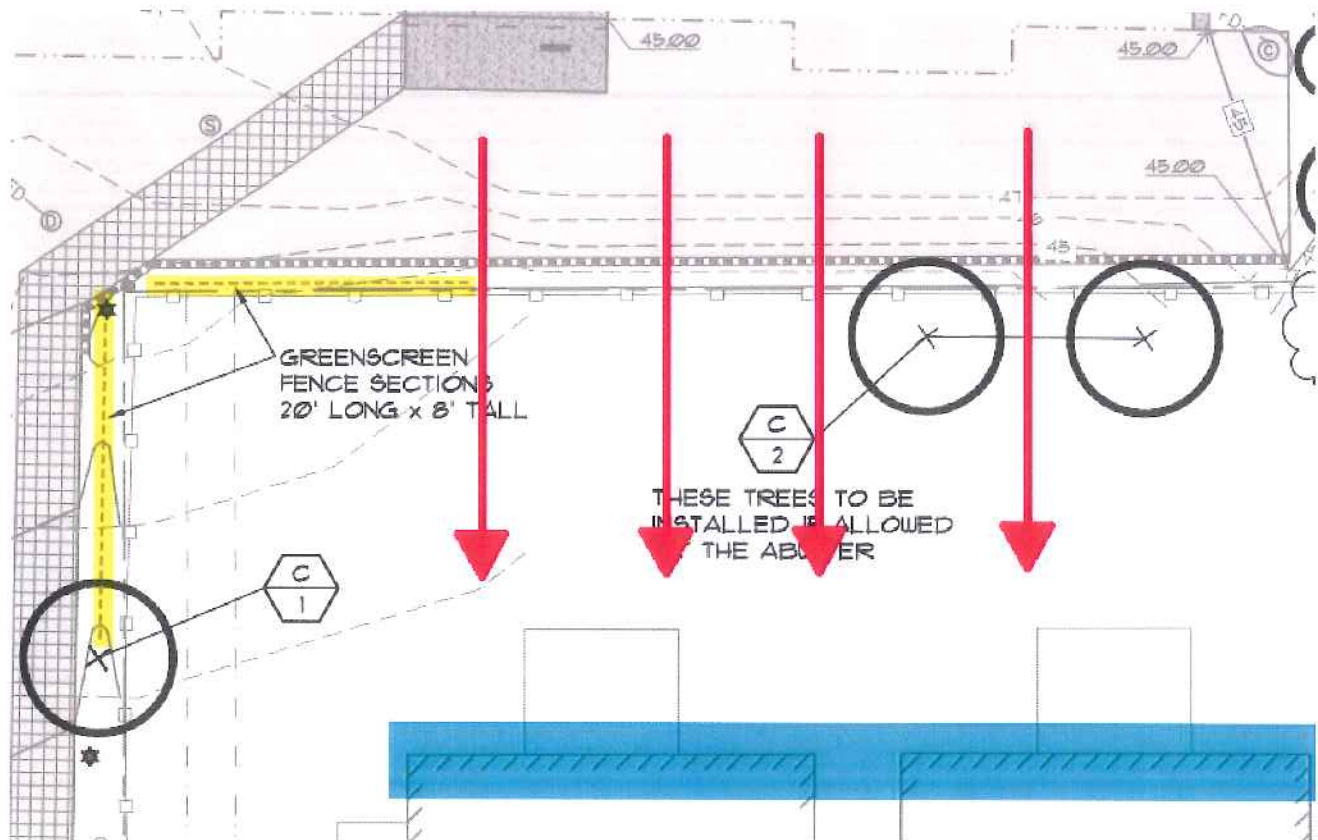
**Cc:** Seth Page; Elliot Vrana; Erin Foley; Bruce Baker; Catherine Morrison; David Marsden; Jean Fraser; Erika Johnson; Bill Mitchell

**Subject:** Re: 133 York Street/Harborview Flats

I appreciate the clarification, Jeremy.

incl. in PB Report.

Below is an updated image with the green wall highlighted in yellow. The areas noted in blue (below) are our primary concern; hence the placement of the green wall is puzzling to me. Perhaps our concerns were not clearly stated.



AS the plan sits, the headlights from cars that are backed into your parking area will shine directly into the first floor condos (in blue) at the Flats. This unscreened area is noted with the red arrows above. The green wall and trees (as they are currently proposed) will not adequately address our concerns.

The abutters will be meeting to discuss our privacy and screening concerns further. In the meantime, we are very eager to hear your ideas for addressing this issue. We are also eager to see the changes to the exterior, as this was another primary concern.

Thanks again for reaching out to us so we can work together on a mutually agreeable plan.

Susan Kaplan

[207.232.1180](tel:207.232.1180)

On Wed, Sep 18, 2013 at 5:13 PM, Jeremy Benn <[jeremy@jocflynnrealestate.com](mailto:jeremy@jocflynnrealestate.com)> wrote:

Hi Susan,

1) The green wall goes beyond what you have highlighted, it is represented by the dashed line. It goes to about where the front door is located and further down the driveway.

2) The additional provision is in fact the two trees on the plan – this was suggested by the city arborist. We have added the trees and green wall to help with the privacy concerns.



3) The extra privacy for the town homes is provided with the additional 12 trees and shrubs as detailed on the plan.

Thank you,

Jeremy

Jeremy Benn

133 York, LLC

807-9218

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**From:** Susan Kaplan [mailto:[birmanmom@gmail.com](mailto:birmanmom@gmail.com)]

**Sent:** Wednesday, September 18, 2013 4:59 PM

**To:** Jeremy Benn

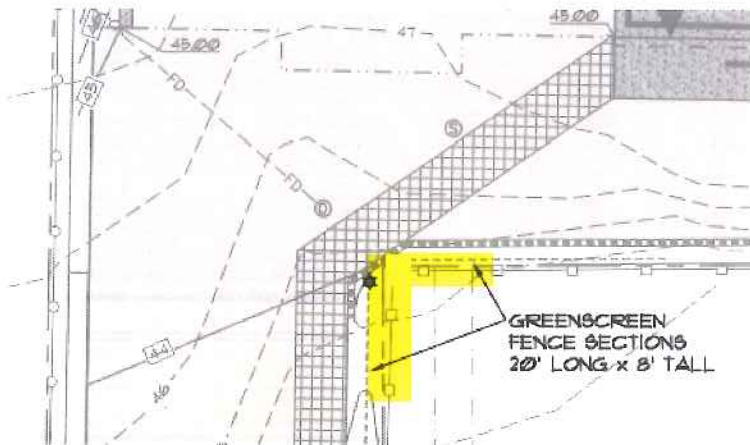
**Cc:** Seth Page; Elliot Vrana; Erin Foley; Bruce Baker; Catherine Morrison; David Marsden; [JF@portlandmaine.gov](mailto:JF@portlandmaine.gov); Erika Johnson

**Subject:** Re: 133 York Street/Harborview Flats

Hello Jeremy,

Thank you for the site plan. I want to be sure I have read the plan correctly.

- 1) In your present design, is the green wall only planned for the section that is highlighted in yellow in the image below (the corner area)?
- 2) If YES, what provisions (beyond the trees you cited) have you made for affording the Flats screening and privacy from the parking area?



3) And finally, do you have any plans for providing privacy or screening to the adjacent Townhomes building?

Much thanks Jeremy,

Susan

Susan Kaplan

[207.232.1180](tel:207.232.1180)

On Wed, Sep 18, 2013 at 4:43 PM, Jeremy Benn <[jeremy@joeflynnrealestate.com](mailto:jeremy@joeflynnrealestate.com)> wrote:

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Hi Susan,

I attached an updated site plan that illustrates the proposed trees and "green wall" addressing the planning board and abutters concerns. The plan identifies the location, species, and size of the plantings. I spoke with the architect this afternoon, he is working on the façade design. I will forward you the "re-worked" design as soon as it is available.

Sincerely,

Jeremy Benn

133 York, LLC

807-9218

**From:** Susan Kaplan [mailto:[birmanmom@gmail.com](mailto:birmanmom@gmail.com)]

**Sent:** Wednesday, September 18, 2013 12:22 PM

**To:** Jeremy Benn

**Cc:** Seth Page; Elliot Vrana; Erin Foley; Bruce Baker; Catherine Morrison; David Marsden; [JF@portlandmaine.gov](mailto:JF@portlandmaine.gov); Erika Johnson

**Subject:** Re: 133 York Street/Harborview Flats

Hello Jeremy,

Thanks so much for contacting me about your 133 York St project. I believe we met at the second public meeting.

The suggestions in your email sound like you are moving in the right direction. When you say, "the corner of the fence in your backyard", can you give me a better sense of what area would / would not be screened by the green wall? As the plan sits, the headlights from cars that are backed into your parking area will shine directly into the first floor condos at the Flats. I would be very interested in additional details as to the placement and length of the green wall.

Do you have any plans for providing privacy or screening to the adjacent Townhomes building (the modern building next to your property)? There has been discussion about planting one or more small trees, but this will not afford the privacy that the present tree provides (which apparently cannot be saved with your current design). I will be interested in hearing your plans for that side of the property and will pass along your ideas to the Townhomes residents.

As for the tree planting on our property, this sounds like a positive step. I will forward your suggestions to our residents for comment.

In addition to the items above, the façade was also a concern to both the abutters

and the planning board. Can you let us know if the exterior design has been modified? If so, we would be eager to hear / see the details of these changes.

Thanks again, and I look forward to your reply.

Susan Kaplan

[207.232.1180](tel:207.232.1180)

On Wed, Sep 18, 2013 at 12:00 PM, Jeremy Benn <[jeremy@joeflynnrealestate.com](mailto:jeremy@joeflynnrealestate.com)> wrote:

Hi Susan,

I am not sure if we have met or not, my name is Jeremy Benn. I am one of the owners of the property, 133 York, being developed behind Harborview Flats. I spoke with David Marsden and he suggested that I contact you to discuss ways that we could help the owners of Harborview Flats be more agreeable to our plan. We understand that some of the residents are concerned about privacy. We have made some changes to the site plan that include a "green screen" that is in two twenty foot lengths on the corner of the fence in your backyard. The City Arborist also suggested that we plant two Armstrong Red Maple trees on Harborview Flats property to add privacy. We would like to have a landscaper submit an estimate to plant the trees on your property and give your association a check to pay for the installation. The green screen and two additional trees will provide extra privacy that was not on our original plan. We realize that the owners may not be excited about the project going on behind them but we would like to make it as affable as possible. Do you have any suggestions?

Do you think that the residents would be agreeable to us planting trees in your backyard?

Sincerely,

Jeremy Benn

133 York, LLC

807-9218



**From:** "McGee, Martin" <Martin.McGee@FMR.COM>  
**To:** "'JF@portlandmaine.gov'" <JF@portlandmaine.gov>  
**CC:** "'mcgeekm@verizon.net'" <mcgeekm@verizon.net>  
**Date:** 10/11/2013 10:53 AM  
**Subject:** Concerns and Questions regarding 133 York Street

Hi Jean,

Our names are Karen and Marty McGee and we own Unit #3 in the McCormick Building at 33 Park St. We thoroughly enjoy our location and the immediate surrounding area as it currently exists.

We're sending you this email because we have a number of serious concerns and questions related to the proposed development at 133 York St. which abuts our property.

#### Concerns

1. **Height of Building.** When we purchased our unit 2 ½ years ago, one of the main reasons we selected our unit was because it had beautiful water views from the 2nd and 3rd floors. Our understanding is that the design of the proposed building will raise the height such that we will no longer have views of the water. This is very upsetting to us. We propose that the developer not be able to raise the height of the building so that the enjoyment (and value) of our property isn't compromised.
2. **Design of the Building.** The view from the rear of the building, our view, from the designs provided to this date, is uninspiring and doesn't fit in with the neighborhood. As we will be forced to look at this buildings rear view (if approved), it should at least be something that is pleasant to look at. And, as mentioned below, the lack of substantive greenery is definitely disappointing.
3. **Tree Removal.** Another important amenity to the enjoyment of our property is the greenery on and around our property. It is our understanding that the developer plans to remove all trees on or near the property (including those with a base on our property) without any plans for replacement when construction is completed. This will take away from the natural aspects of the surrounding area and create an unattractive, stoic environment. We are very concerned about this also.
4. **Central Air Units on the edge of our property.** Our understanding is that the building will place six (6) central air conditioning units at the rear of the building, directly on our property line. In addition to the noise pollution at the edge of our property, this is another detriment to the project and our visual enjoyment. We noticed that they have conveniently omitted these from all depictions of the property. It certainly doesn't seem to "contribute to and be compatible with the predominant character-defining architectural features of the neighborhood."
5. **Potential Damage to Our Property.** We at the McCormick Building have a storied history with developers and contractors that lack honesty, integrity, ethics and resort to bullying tactics to try to intimidate us. We're sure there are honest, ethical developers in the industry. But instead of dealing with honest, ethical businessmen, we've had to rely on attorneys to respond to their unprofessional, unethical tactics. We are very concerned about Joe Flynn and his associates. At the initial meetings at 133 York, they were not forthcoming with information regarding the specifics of the proposal. At a subsequent Planning Board meeting, they said they would not require access to the development from our property, but then sent an email the next morning to our association President asking for access. We are not willing to grant access to our property for work on 133 York St. And even if we were, what they are offering (landscaping an area that is fine "as is") is inexplicably inadequate. We are concerned that the developers and contractors will ignore this and use our property without consent and cause damage to our property.

#### Questions

1. How are concerns and questions raised by abutters, such as this email from us, factored into the approval process?

2. Do the plans include any drainage issues that could negatively impact our property? Is there any planned drainage onto our property?
  3. Overall size of the building. Is there any requirement that the footprint of the new building be no larger than the existing building? The current design's footprint is significantly larger than the current one.
  4. What are the restrictions on raising the height of the building from its current state?
  5. During the construction process, how often is the developer checked to make sure they are following the approved designs? What happens if they "deviate" from the approved plans? What checks and balances are in place by the City of Portland?
  6. Is the city involved in any way regarding enforcement of how the developer is accessing the property? Are they checked to make sure they are following approved access to the property? Or is this a private matter?
  7. Are there instances where abutters, like those of us in the McCormick Building, can be forced to grant access to the developer? (and how are the wishes of the abutters, extreme inconvenience and potential damage to property addressed)
  8. Demolition and construction of the property will make ½ of the available parking spaces unusable and almost certainly cause damage to our property. (for example, nails landing in our parking lot which could then end-up in a car tire) How can this be prevented?
- Thank you for your attention to our questions and concerns. We look forward to hearing back from you. If it's easier to discuss these concerns via phone, I (Marty) can be reached most easily at (617) 733-4384.

Regards,

Karen & Marty McGee

**From:** <topherbrowne@aol.com>  
**To:** <JF@portlandmaine.gov>  
**Date:** 10/11/2013 8:58 PM  
**Subject:** 133 York Street

Dear Ms. Fraser,

Thank you for your fastidious attentions to the proposal for 133 York Street.

As a resident who abuts the property in question, I have a few simple concerns:

1. The developer has been less than forthright when dealing with our condominium association. The agent for the developer is on the record at the last Planning Board meeting, stating that he would NOT require the use of our driveway at 33 Park Street to demolish the in situ building or to construct the new building. Less than 24 hours later, we received an e-mail from the developer requesting unlimited access to his property THROUGH our driveway at 33 Park Street for the duration of the construction project.
2. The developer is either unwilling or unable to contact our condominium association to discuss our concerns in spite of a specific request from the Planning Board to arrange such a discussion.
3. The residents of 33 Park Street stand to lose 50 percent of our assigned parking places for the duration of the demolition and the construction at 133 York Street. We have repeatedly voiced this concern with no response from the developer.
4. The architectural design of the proposed building at 133 York Street mirrors the design of the student apartments on Marginal Way (between Intermed and the Diner). I would not be surprised if the architect on both projects -- Marginal Way and 133 York Street -- is one and the same. While such an architectural design may be appropriate for Marginal Way, I respectfully submit that it is inappropriate for Portland's West End. Both the developer of 133 York Street and his architect can and should make a greater effort to ensure a measure of architectural continuity within the neighborhood.

Sincerely yours,

William "Topher" Browne  
33 Park Street Apt 2  
Portland, ME 04101

Sent from AOL Mobile Mail

**From:** "George L. Higgins III" <HIGGIG@mmc.org>  
**To:** "JF@portlandmaine.gov" <JF@portlandmaine.gov>  
**Date:** 10/13/2013 3:10 PM  
**Subject:** Input for the upcoming Planning Bord meeting

Dear Ms. Fraser:

My wife Cheryl and I are owners of one of the condominiums located at McCormick Place located on 33 Park Street. I write to add my voice and input for your consideration as the Planning Board considers the proposal to construct a 6-unit condominium complex at 133 York Street.

First and foremost, I want to sincerely thank you for the open, respectful and constuctive manner in which you have responded to our collective queries. You represent the City of Portland well, and I am most appreciative.

I will briefly express four issues that I offer for consideration by the Planning Board.

1. My understanding is that the developers of the York Street facility have publicly indicated that their contractors can access the site via the existing York Street entrance. This is good news since we, the Owners Association of McCormick Place, unanimously oppose having our private entrance and parking area adversely impacted during the construction process. Recent history with another developer involved with the facility constructed behind us was not optimal. We don't want to be in this position again since there is an alternative solution to the access issue.

2. Half of our parking spaces will be significantly compromised because of their contiguous location with the rear of the proposed York Street facility. Does the City require proof of appropriate liability insurance by the developer to cover any damage to our proerty, including vehicles?

3. I know you and your colleagues do all that you can to ensure that existing trees are given optimal consideration for survival within our beautiful city. I support this postion fully and hope that trees will only be sacrificed during the York Street construction process if there is no other reasonable option.

4. Since the rear of the new proposed facility directly abuts our parking area, this will be our unobstructed view of it. I hope that the developer is considering ways to minimize the visual impact of industrial types of equipment and maximize the visual impact of buffering urban landscaping for the rear of the building. I have no doubt these issues are being considered for the front and side facades.



I will plan to attend the Planning Board meeting if my schedule allows. Can you provide me with the day, time and place?

I look forward to welcoming our new next-door neighbors in the near future. I'm sure they would want to know that neighborly respect was already evident during the construction process of their new homes.

Thank you again for your advice and consideration.

George L. Higgins III, MD, FACEP

Academic Faculty

Department of Emergency Medicine

Maine Medical Center

Professor

Tufts University School of Medicine

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Jean Fraser - 133 York St

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**From:** Erin Foley <efoley19@aol.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**Date:** 10/22/2013 4:47 PM  
**Subject:** 133 York St

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McCormick Place parking spaces are 42" from the edge of the existing building on 133 York

Photo to the right is an enlargement of the photo above showing the distance between the existing building and the cars parked in the McCormick Place parking lot

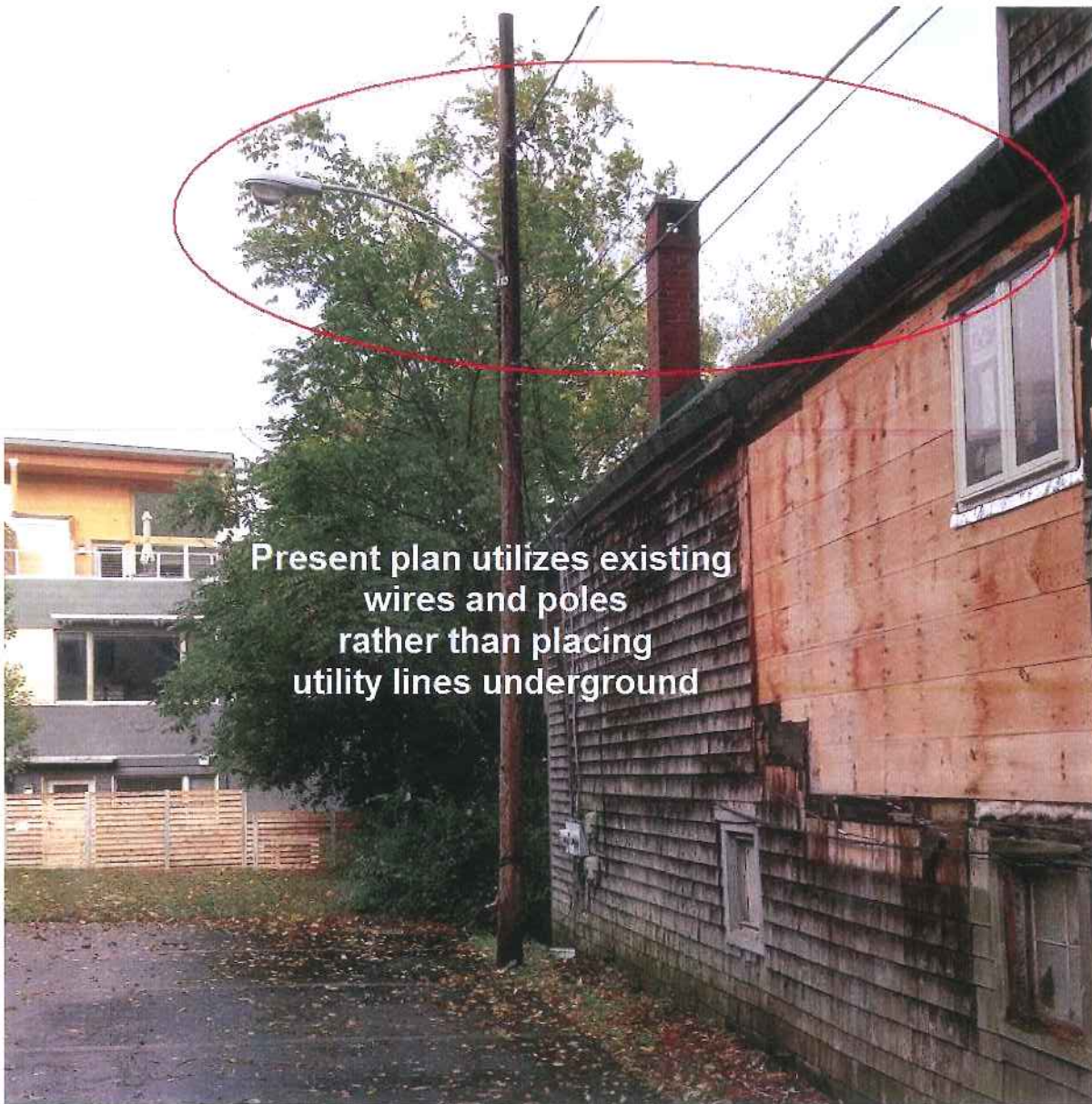




*Flat Roofed  
Buildings  
in Surrounding  
Neighborhood  
Shown Above*

*Proposed  
Building for  
133 York St  
to the Left*





**Present plan utilizes existing  
wires and poles  
rather than placing  
utility lines underground**





Jean, Thank you very much for taking time to meet with me, it was very informative and gave me some direction as to where to focus my concerns with this project.

As far as the project at 133 York Street I would like to bring up the following concerns:

1. The trees. Multiple trees stand on the property line. I would like to see an official landscape survey to see all trees on the property and determine ownership. If trees are shared, will the developers be required to replace them on our property if they are removed.

Site Plan standards. 2. landscaping and landscape preservation

a. landscape preservation (i) Site development shall be designed to incorporate and limit disturbance to or removal of existing trees.

2. This building does not fit in with the feel of the neighborhood. According to R-6 Design principles and Standards " A building design shall contribute to and be compatible with the predominant character-defining architectural features of the neighborhood" "they have a public responsibility to add to and enhance the neighborhoods in which their projects are built." This building is less than 100 feet from the historic district and within the West End. Most homes within the neighborhood maintain historic qualities or make an effort to blend in with the feel of the neighborhood. See image 2 .

Is there a reason for the teal stripe, could this possibly be a different shade of gray instead of teal. There are no other properties in the neighborhood that include teal as part of their color choices.

Also, is there architectural significance to the height of the building being 2 different heights?

3. According to the city Site Plan standards "1. b. The bulk, location or height of proposed buildings and structure shall minimize, to the extent feasible, any substantial **DIMINUTION** in the value or utility to neighboring structure. under different ownership and not subject

to a legal servitude in favor of the site being developed"

This related to our parking spaces, where due to safety reasons, I believe we will not be able to use the 5 spots abutting the construction site. Currently there is less than 4 ft from our parking lot to their property. See image 1.

Parking spaces in the West End average \$80/month for open air parking.

The height of this building will impact water views for 3 units at McCormick Place. I recently had my home reappraised and the water view is taken into account when determining the value of my home.

4. The current retaining wall on their property is in grave disrepair, what are the plans for preventing erosion during construction. City code requires "erosion control measures shall be taken both during and after construction in accordance with the standards of the public works" Our parking lot already has areas of erosion under the asphalt.

5. The rear of the building has no privacy from our property, a few trees but no real plan for landscaping the rear of the building. Is there a possibility for a fence or shrubbery to provide a separation of the properties.

6. The city requires space for delivery trucks to deliver and turn around on the property. I do not believe there is enough space for delivery trucks to turn around. This leaves trucks backing up onto York Street or worse parking on the side of York Street.

Sec 14-526 Site plan Standards (a)Transportation. 2.b. Loading and Servicing

All developments served by delivery or other service vehicles shall provide a clear route and travel way geometric design that permits safe turning and backing for the maximum vehicle length that would service the development and does not impede site access, vehicle circulation, pedestrian movements or parking.

7. Along the lines of turning radius, how will a snow plow be able to move and remove snow from this property?

8. We are concerned about the electrical lines that run to this property. Is there any plan to update the electrical lines or bury them? Currently they run from the opposite side of Park St through multiple trees to a telephone pole. From the pole they precariously run to the building. 3. Availability and adequate Capacity of public utilities. b. Electrical services shall be underground unless otherwise specified for industrial uses, or if it is determined to be unfeasible due to extreme cost.

See image 3 and 4.

Thank you for your time,

Erin Foley

McCormick Place Condo President

**From:** Chris Weiner <chrisweiner14@gmail.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**Date:** 11/6/2013 2:13 AM  
**Subject:** Hi Jean, York street project

Hi Jean,

This is Chris Weiner again, I live at 33 Park Street. I know we have exchanged some emails, and my plan is to save any specific comments for the meeting , but I wanted to send a few thoughts along for inclusion in the meeting binder.

I am still concerned about the design of the building they want to build. It seems out of place for this neighborhood, and it also seems overly ambitious for that space. It also appears they may plan on lining the back with central air units, which would create noise and just generally be obnoxious for everyone here and in the surrounding buildings. In general, it seems that the goal here is to try and squeeze as much onto the land as possible, without consideration of anything or anybody else, and that is distressing.

As I said before, I am generally in support of development, and will always support development in Portland \*when it is done right. \*Contrary to the accusations made by their engineering firm in the last paragraph of their recent response (which were out of line, in my opinion), I think people in this building and neighborhood support development on that land, but \*only if it is done right\*. I do not think anyone here is convinced this proposal passes that test yet.

Thanks

Chris

**From:** Hallie Gilman <hallie.gilman@gmail.com>  
**To:** <bab@portlandmaine.gov>, <JF@portlandmaine.gov>  
**CC:** Ned Flint <info@nedflint.com>, Dave Marshall <marshalldistrict2@gmail.com>, Hallie Gilman <hallie.gilman@gmail.com>  
**Date:** 11/6/2013 5:36 PM  
**Subject:** Comments re 133 York Street

Dear Ms. Barhydt, Ms. Fraser, and Member of the Portland Planning Board:

We write to submit comments relating to the proposed development at 133 York Street and appreciate the opportunity to do so. We are the owners of the adjacent property to the west of the proposed development, a single-family home at 29 Park Street. As reflected in the application materials, Ned attended the public meeting held on May.

The property at 133 York Street is certainly ripe for investment, but the current proposal may not be quite ripe for approval. We are concerned that the developer has not returned our call (placed in May) - even after saying he would do so at the May meeting - and has sent surveyors onto our property without prior notice or permission. In evaluating the proposal, we would like the Planning Board to consider these few comments, made in response to the materials now available on the Planning Board website:

- **\*Height.\*** The Sept. 6 Staff Memo indicates that there are "no windows facing the proposal site" on the east side of our property (Staff Memo at 3). That is **\*almost\*** correct. We do have one window on the third floor that will directly face the new development. That third floor is part of the living space of our house (it is not an attic window) and we request an assessment and/or simulation of what impact the increased height (we understand to be 6-8.5 additional feet on the west end of the proposed building) will have on that window and the available light the house receives through it, particularly as the distance between the our house and the proposed structure will be very small.
- **\*Fencing.\*** We very much appreciate the Staff Memo comments and recommendations regarding the fencing between our property and the proposed development. As the plans and photos reflect, we have a substantial fence located on or near the property line (the fencing continues on the south and west sides of our property). Our expectation, which appears to be reflected in the plans, is that that fence will need to be removed during construction, particularly when the large tree is removed, as the tree has grown into the fence. But we have not had any communication from the developer regarding the timing of that fence removal, the duration of the removal, or how the fence between our properties will be replaced. We strongly urge the issuance of any approval or permit be tabled until (or at least conditioned upon) the terms of the fence removal and replacement have been worked out between the developer and us. We think this is consistent with the recommendations of the Staff Memo (at 6, 9) and the City Arborist (at Staff Memo Attachment 8). We would be happy to work with the developer and/or City officials to figure out the best fence replacement plan.
- **\*Easement.\*** Woodard & Curran has identified a need for the developer to obtain access rights or construction easements to our property (see



Staff Memo, Attachment 3.2, item 7). (And it is not clear how the fence could be removed without such an easement or agreement.) We have also heard a rumor that the developer has asserted he has such easements in place with us. Just in case there is any confusion on the record: we have never heard of any need for an easement of any kind, we have not been asked for one by the developer and we have not agreed to one. To the extent any such access agreement or easement is required for the proposed project, we strongly recommend that any permit or approval be tabled until such an easement or agreement has been reached.

These items are critically important to us and our continued enjoyment of our property, of course. But we view these three conditions or requirements as very achievable and should not ultimately stand in the way of the appropriate development of 133 York Street. We plan to attend the meeting on Nov. 12 and look forward to learning more about next steps.

Thank you for all you do for our City.

Sincerely,  
Hallie Flint Gilman and Ned Flint