

**Rita Sawyer**

---

**From:** Jeremy Benn [jeremy@joeflynnrealestate.com]  
**Sent:** Monday, September 30, 2013 11:12 AM  
**To:** Rita Sawyer  
**Subject:** RE:  
**Attachments:** DOC093013.pdf

Hi Rita,

I have attached the email correspondence with 33 Park Street and Harborview Flats. We asked 33 Park Street for a construction easement allowing construction trucks to access our site through their driveway and unfortunately at this time they have decided to not allow an easement. Harborview Flats has been very responsive to us helping with their privacy concerns. Their main concern is with headlights shining on their property. At their recommendation I have agreed to install a "green wall" along the entire fence on the front of the property line. I have suggested planting two trees on their property as well to help shield their units from headlights. They have not confirmed if they would like us to plant trees on their property yet – they are still discussing among themselves.

Please let me know if you need anything else.

Thank you,

Jeremy  
807-9218

---

**From:** Rita Sawyer [mailto:RSawyer@pinkhamandgreer.com]  
**Sent:** Monday, September 30, 2013 9:52 AM  
**To:** Jeremy  
**Cc:** Tom Greer  
**Subject:**

Jeremy,

We are planning on submitting to the City today. Could you email me copies of the correspondence on your communications w/ the neighbors?

Thank you  
Rita

**Pinkham & Greer, Consulting Engineers**  
28 Vannah Avenue  
Portland, Maine 04103  
Phone: (207) 781-5242 Fax: (207) 781-4245  
[rsawyer@pinkhamandgreer.com](mailto:rsawyer@pinkhamandgreer.com)

Subject **Re: 133 York Street/Harborview Flats**  
From Susan Kaplan <birmanmom@gmail.com>  
To Jeremy Benn <jeremy@joeflynnrealestate.com>  
Seth Page <sxp@earthlink.net>, Elliot Vrana <elliot.vrana@gmail.com>, Erin Foley <efoley19@aol.com>, Bruce Baker <brucewbaker.me@gmail.com>, Catherine Morrison <cmorrison@createagreement.com>, David Marsden <davidm@homesinmaine.com>, Jean Fraser <JF@portlandmaine.gov>, Erika Johnson <ejjohnson83@gmail.com>, Bill Mitchell <Bill@ghmagency.com>  
Cc  
Date 2013-09-24 18:00



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](mailto: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

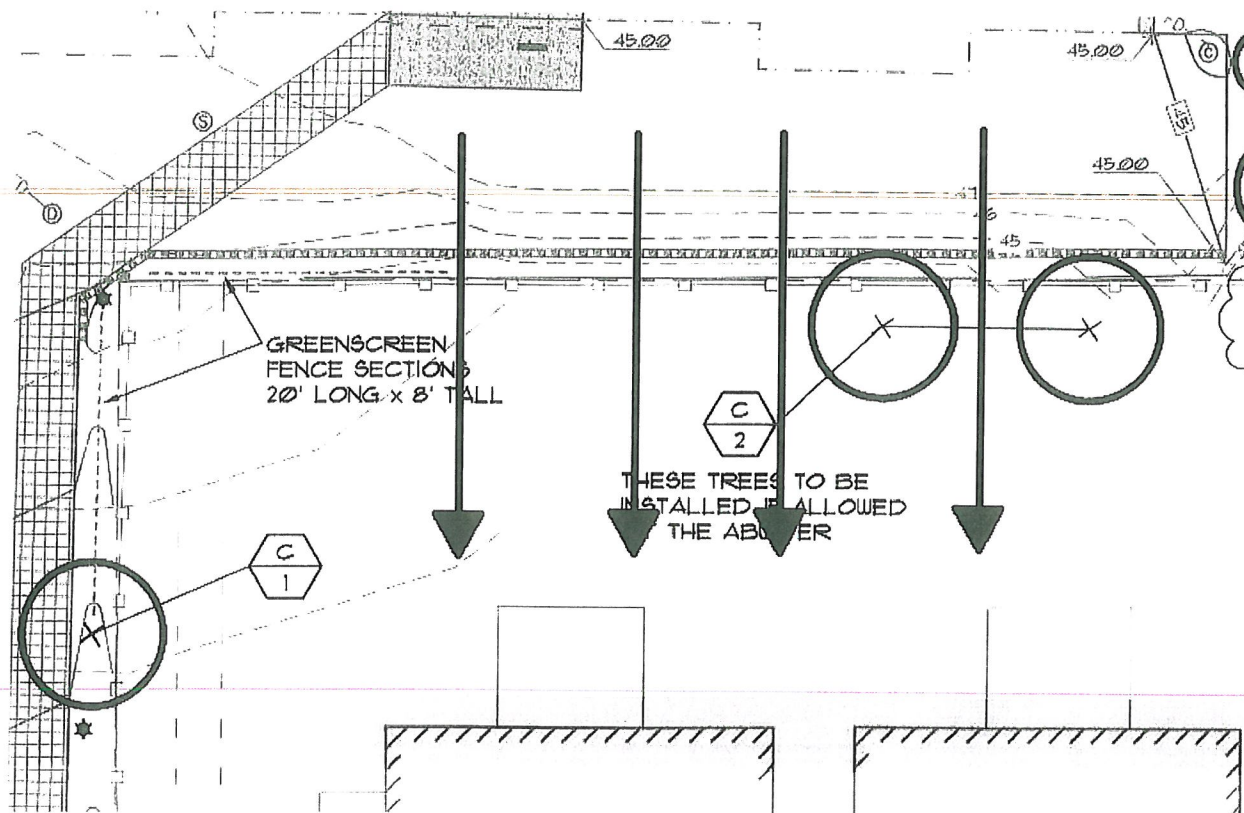
---

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

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

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

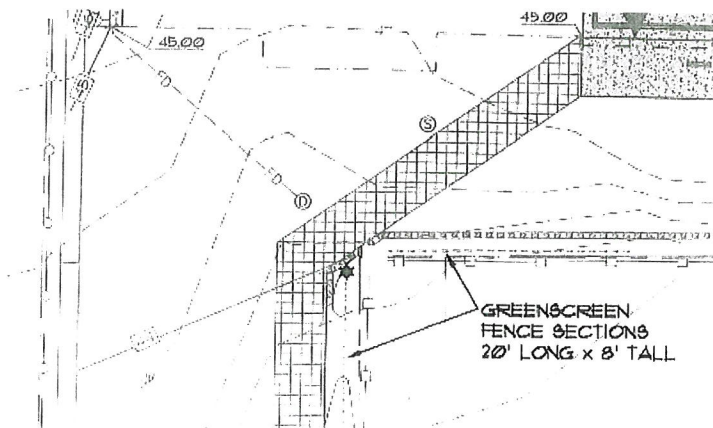
**From:** Susan Kaplan [mailto:[birmanmom@gmail.com](mailto:birmanmom@gmail.com)]  
**Sent:** Wednesday, September 18, 2013 4:59 PM

**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

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

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>]

**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

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

----- Original Message -----

Subject: 133 York St

Date: 2013-09-19 20:23

From: Erin Foley <erioley19@aol.com>

To: Joe Flynn <joe@joeflynnrealestate.com>

Cc: Topher Browne <topherbrowne@aol.com> Martin McGee <Martin.McGee@FMR.COM> Bud Higgins <bhiggig@mmhc.org> Chris Wainer <chriswainer14@gmail.com> Tim Gebhardt <info@gpmaine.com>

Hi Joe,

Thank you for your patience in waiting for our response to your inquiry about a construction easement. As a condo association we have voted and have decided to not allow you access to our property.

We continue to have many concerns about your proposed project and look forward to working with you to find some common ground.

Sincerely,

Erin Foley

--

Joe Flynn Real Estate

913 Forest Avenue

Portland, Maine 04103

207-873-3800

joeflynnrealestate.com

Licensed to sell Real Estate in the State of Maine

JoeFlynnRealEstate.com

Erin Foley <efoley19@aol.com>  
To: Joe Flynn <joe@joeflynnrealestate.com>  
Re: 133 York Street

September 11, 2013 7:43 PM

---

Mr Flynn,  
Thank you for your email. I have shared it with the other members of McCormick Place. We will make a decision on this offer and respond to you within 10 days.  
Sincerely,  
Erin Foley

On Sep 11, 2013, at 1:50 PM, Joe Flynn <[joe@joeflynnrealestate.com](mailto:joe@joeflynnrealestate.com)> wrote:

Hi Erin,

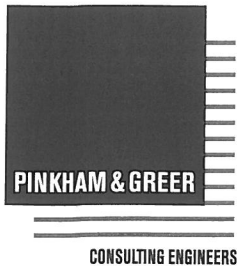
We wanted to reach out to you regarding creating a mutually agreeable easement for the construction of our building at 133 York Street. As you and I talked about previously, it would be much more beneficial for the residents of 33 Park to grant us a construction easement with specific guidelines so you don't deal with the headaches you went through with the previous project. We have no need to store any materials on your site. We would only need access to the property for material deliveries and construction vehicles during the business day. We are proposing that 33 Park Street allows us access to your lot and for the residents vehicles that are currently parked closest to our building to temporarily park on the area of green space at the edge of your parking lot. We would be happy to pay to have your green space landscaped after the construction is completed. We want to be sensitive to your needs and are open to your suggestions. Thanks for your help and consideration. We want this construction project to be handled in the most civil and organized manner possible. Please do not hesitate to call me at 776-5226.

Sincerely

Joe Flynn  
133 York Street LLC

---





28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

October 16, 2013  
File: 13105

Ms. Jean Fraser  
City of Portland  
389 Congress Street, 4th Floor  
Portland, ME 04101

RE: EMAIL FROM KAREN AND MARTY MCGEE  
133 YORK STREET

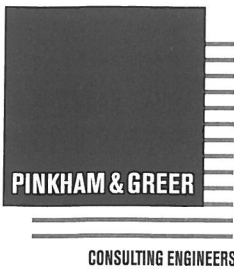
Dear Jean,

Thank you for forwarding me the email noted above. Many of the concerns and questions raised are process and City Ordinance questions that are best handled by the City Staff. We are in an unfortunate situation where these neighbors were treated very poorly by the Harborview Development. We are willing to work with them, but as you can see from the email they oppose the project.

We plan to revise the electrical and the gas service so it enters the building from York Street. This will eliminate the service currently from the McCormick building site.

As you know, we are working with the City Staff on the design of the building and in particular the rear elevations. We believe we are in compliance with the City's Standards.

As for the size of the building and its height, the Ordinance provides for structures of this size. The Ordinance is set up to be fair not only to the current residents but for the new residents as well. It is not a first in wins situation. The developers have invested a lot of time and money in this project based on the Ordinance. The six units are allowed by the density, and the height of the building is within those Ordinance limits. We expect the Board to approve our project as it meets those Standards.



Mr. Jean Fraser  
October 16, 2013  
2 of 2  
File: 13105

The developers are working with the contractor to prepare a Construction Plan that details how the building will be constructed, staying within the property currently owned. Most likely a Sheeting Plan will be developed for the rear boundary line. It would be far easier if we could obtain an access easement from the McCormick building, but that is, as you know, this is not likely to occur. Our attorney will address the ramifications of the situation.

Thank you very much for your consideration of our comments.

Sincerely,

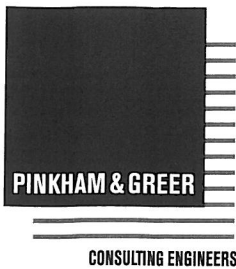
PINKHAM & GREER

A handwritten signature in black ink, appearing to read "Thomas S. Greer". Below the signature, the text "Thomas S. Greer, P.E." is printed in a standard font.

Enclosures

cc: Jeremy Benn/Joe Flynn, Paul Peck, File

TSG/rjs



28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

October 25, 2013  
File: 13105

Ms. Jean Fraser  
City of Portland  
389 Congress Street, 4th Floor  
Portland, ME 04101

RE: McCORMICK PLACE CONDOMINIUM

Dear Jean,

In response to the McCormick Place comments raised by Erin Foley, we would like to offer the following:

1. The current plan has additional landscaping across the property boundary as recommended by Jeff Tarling. If they would like to replace the trees in the corner on their property, we would be willing to pay for the trees.
2. The current parking is close to the boundary. We have provided a construction plan that addressed those concerns. If they are willing to provide a temporary construction easement we would be willing to pay for off site open air parking for the duration of the construction for 5 vehicles. We would also repair any damage that might occur as a result of construction. No access would be granted via the McCormick Place driveway.
3. We are planning to provide electrical and gas service from York Street. They use the existing pole to light the parking lot so the overhead service will remain as is.

We are willing to work with our neighbors to accommodate their needs. To date we have not received any indication that an option with an easement is acceptable to them. We are concerned that they believe the project will be denied without the easement. Hopefully this is not the case as an approval will likely be made. We would very much like to resolve this issue before the meeting. Thank you for consideration of our project.

Sincerely,

PINKHAM & GREER

A handwritten signature in black ink, appearing to read "Thomas S. Greer". The signature is written in a cursive style with a large, sweeping flourish at the end.

Thomas S. Greer, P.E.

Enclosures

cc: Erin Foley, Jeremy Benn/Joe Flynn, File

TSG/rjs