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## 1 Joy Place Site Plan Application:

1 message

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**Todd Alexander** <TAlexander@renewalhousing.com> Thu, Jun 29, 2017 at 5:34 PM

To: Jean Fraser <jf@portlandmaine.gov>

Cc: Michael Tadema-Wielandt <mtw@terradynconsultants.com>, David Lloyd <lloyd@archetypepa.com>, Matt Maiello <matt@archetypepa.com>, "Richard A. Shinay" <RShinay@dwmlaw.com>, "Barhydt, Barbara" <bab@portlandmaine.gov>, "O'Brien, Stuart" <sgo@portlandmaine.gov>

Jean:

Thank you for your email and follow up phone call to discuss emergency access at 1 Joy Place. As we discussed, I am sending you this email to provide background on the Joy Place private way and to outline certain steps that can be taken to ensure that access to 1 Joy Place is maintained after the project is developed.

### Background:

Joy Place is private way. This is consistent with the Public Works Department's records.

There are four (4) property owners that have frontage on Joy Place. Each of the owners has rights in Joy Place to ensure that access to their property from Joy Place is maintained in perpetuity. These owners are; 1 Joy Place (the applicant), 167 Brackett (single family attached residence. Backyard abuts rear portion of Joy Place alley), 165 Brackett (3 unit apartment building along the northwest boundary of Joy Place) and 157 Brackett (the City of Portland).

Each property owner's deed contains a provision granting an easement to use Joy Place for access to their respective property. The easement language further clarifies that Joy Place shall remain "...open and unobstructed forever..." From a pure legal position, we believe each property owner's deed ensures that Joy Place cannot be used for parking. In addition, because one of the abutters is the City of Portland, there is a

mechanism in place (I think) to allow the City to enforce this standard (no parking). Attached is our deed as a reference.

**Past Use:** I am aware that the previous owner of 1 Joy Place utilized the private way for parking. Obviously, they are no longer in the picture. I am also aware that the previous tenants of 167 Brackett (prior to the fire) occasionally parked in the private way after the 1 Joy Place property was vacant and abandoned. I have a very good relationship with the owner of 167 Brackett and he is fully aware that his current tenants should not be parking in the alley. He has notified all of his residents that they cannot park in the alley and that this standard will be regularly enforced once our project begins.

**Future Use:** To ensure that Joy Place is not used for parking by the Onejoy condominium owners, we have the following options to consider;

- a. The Condominium Declaration, the Recorded Site Plan/Plat and the Condominium By-Laws will each specify that i) Joy Place is a private driveway not owned by the condominium association or individual unit owners, ii) that parking is not allowed on Joy Place and iii) the no parking standard can be enforced by the city, since the city has an interest in Joy Place through its easement/ownership of 157 Brackett (our counsel, copied here, will review this and can coordinate with corporation counsel when appropriate on how to best capture this in the recorded documents)
- b. We are open to appropriate signage (either posted or striped into the driveway itself) identifying 'No Parking' and/or 'Fire Lane'.
- c. The declarant (and condominium association) could enter into a management and maintenance agreement with the city that stipulates, among other things, that Joy Place shall not be used for parking. I don't think we can require the other abutters to be a party to the agreement, but I'm certainly comfortable asking them to consider it. If we keep it relatively simple, I think they will be open to such an agreement. It will benefit them to more clearly articulate their rights of use and interest in Joy Place – which can be recorded with their deeds.

We are also open to any other suggestions that you might have. Bottom line, we recognize -- and the other abutters are aware of -- the standard that there will be no parking on the Joy Place private way. And, we are happy to codify that in an

appropriate way to ensure that future owners at onejoy recognize and maintain that standard.

Please let me know if you, or any members of the Fire Department's review team, require any additional information at this time.

Respectfully,

Todd

Todd M. Alexander

**PLEASE NOTE OUR NEW ADDRESS**

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