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via email: <MES@portlandmaine.gov>

Ms. Marge Schmuckal
City of Portland Zoning Administrator
389 Congress Street
Portland, ME 0401

RE: 40 Deering Street, Portland, Maine (Tax Map 047 C016)

Dear Marge:

As promised in our meeting yesterday with my clients, Patrick and Danika Babcock, about the 40 Deering Street property they own through BWB40, LLC, I am setting forth in writing the rationale for continuing to treat the property as a single-family dwelling permitted use in the R-6 Zone. This is the classification noted on the pending building permit application for fitting up the basement.

You noted that 40 Deering is classified as a single family dwelling in your October 18, 2012 determination that none of the R-6 Zone properties associated with the Babcock's business, Foundation House, are sheltered care group homes. (That determination was upheld by the Zoning Board of Appeals on December 6). You specifically reserved judgment on whether 40 Deering might be more properly reclassified as a lodging house in light of a pending building permit application.

Based upon the language of the Ordinance, I think it clear that the proper classification of 40 Deering is and will continue be that of a single family dwelling.

First off, I note that Sec 14-135(a) defines the purpose of the R-6 Zone as follows: "To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impact of professional offices and other nonresidential uses." (emphasis added)

The crux of my argument is that 40 Deering provides a "differing type of household" for Foundation House clients, namely, a family household whose members' interdependent relationships are based upon their need for a stable, mutually supportive residential environment. Their residence at 40 Deering directly contributes to the conservation of the existing housing stock in the neighborhood, and produces no external impact of nonresidential uses that the R-6 Zone is intended to control. It is clear upon any examination that the residents of 40 Deering provide a positive influence upon the neighborhood, setting an example of concerned, active residents who are motivated to improve the