



PORTLAND MAINE

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*Greg Mitchell - Acting Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

December 9, 2011

Ms. Jennifer Kelly
79 Winding Way
Portland, ME 04102

RE: 79 Winding Way – 225-C-026 – R-3 Zone & Shoreland Zone

Dear Ms. Kelly,

I am in receipt of your request for a determination letter concerning the removal of five (5) trees located within the Shoreland Zone at the rear of your property. It is understood that the five trees are located within the 75 foot from High Water Line (HWL).

Based on a letter report from R. W. Gillespie & Associates, Inc., a geotechnical engineering, geohydrology and materials testing service dated December 6, 2011, along with a copy of an e-mail from John Maclaine of MDEP dated December 7, 2011, I have been better able to assess the matter at hand and render a decision based on City Ordinances.

It is clear that the five trees in the Shoreland Zone you have shown to be on your property per your submitted sketch are leaning and unsafe based on the reports. Also, based on the reports, the trees may be contributing to a potential slump of land toward the Fore River. Section 14-449(c)4.v of the City of Portland's Land Use Zoning Ordinance allows the removal of the five trees if they are unsafe. It is further required by section 14-449(c)4.v that a replanting schedule be prepared and submitted for approval.

Based on the materials you have submitted to date, and pursuant to section 14-449, you may remove the five trees located on your property, leaving the root ball structures intact and in place as recommended by the reports, with the condition that a replanting schedule be submitted before the Spring planting season, but no later than April 1, 2012. If you have any questions regarding the replanting schedule, the City will be glad to work with you and your chosen professional. The Ordinance requires that the replanting consist of native tree species unless existing new tree growth is present. Your chosen professional will need to do an evaluation of the existing site before recommendations.

Please note that you are assuming all of the risk of moving forward with the removal of the five trees as suggested by MDEP and your private engineer in the aforementioned reports, and that any further damage to the slope or your property as a result of this removal is not the fault of the City.

It is also noted that if you intend to take any further action to stabilize the slope (i.e. with a retaining wall, rip rap, or other structural measures), a Level II site plan must be submitted to the City for review and approval.

Very truly yours,

Marge Schmuckal

cc: Mark Rees, City Manager
Greg Mitchell, Acting Director of Planning and Development
Mike Bobinsky, Director of Public Services
Danielle West-Chuhta, Associate Corporation Counsel
Barbara Barhydt, Planning Division
Tammy Munson, Inspection Services Division
Jeff Tarling, City Arborist