

**From:** Jean Fraser  
**To:** Jaegerman, Alex  
**CC:** Barhydt, Barbara  
**Date:** 10/22/2014 12:25 PM  
**Subject:** Update re Dev Rev discussion Fwd: Re: 2282 Congress St - Request To Commence Site Prep  
**Attachments:** Let\_to\_A\_Jaegerman\_10-20-14.pdf; Clearing\_&\_Grading\_Scope\_Fall\_2014.png; Cumberland Ave. 409 - Avesta Housing 7-29-13\_2.pdf

Alex

I will send a draft letter around just after lunch.

We discussed this at Dev Rev today and Barbara requested the amendment application approval be issued before the work starts.

Jeff Tarling/Dave Senus and David Margolis-Pineo were against allowing any advance site work and so the only reason they relented was that there is a genuine need for the filled area to settle/stabilize in advance of the rest of the construction work for this project.

Jeff is particularly concerned as many of the mature trees were cleared for the previous hotel project that did not go forward, so he would like to avoid that situation being repeated. There are quite a few mature trees along the frontage. Dave Senus noted that it is late in the season to be doing this as difficult to stabilize. Phil recommended they have someone (engineer) supervising duign the advance work (to make sure its put in properly) and also through the winter to be sure its remaining in place.

Phil diPierro has also confirmed that we have allowed preloading on sites without payment of a performance guarantee at 409 Cumberland (copy of the 2013 letter is attached where this is explicitly stated) but there were no trees and it was graveled area. At the Dev Rev meeting this morning we thought that the PG could be reduced to cover just the cost of reinstating the site largely back to existing ie treeplanting.

thanks  
Jean

>>> Jean Fraser 10/22/2014 12:13 PM >>>  
David

We discussed your request this morning and I am drafting a formal reply for Alex to sign that I hope can be finalized and sent to you tomorrow.

At this stage the letter is likely to confirm the following:

That the approval letter for the amendment application would need to be issued prior to any advance work starting on the site; issuance of this approval letter depends on the receipt, review and approval of the final Landscape Plan, final Construction Management Plan and final Off-site Improvements Plan; Receipt of evidence of RTI and the executed Conditional Rezoning Agreement prior to any advance work starting on site;

That advance work is effectively limited to the area to be filled where we appreciate some "preloading" is necessary - and would not include clearing of other areas on the site (so the pink line on the attached sketch plan would need to be relocated to the green line) and access for this should avoid any clearing of mature trees; there is a view that removal of the (mature) trees does not improve the site and that if for some reason you don't go forward with the gas station development some other development could be proposed that would include retention of some or all of the trees.

That we are concerned that stabilization and erosion control will be challenging on this site at this time of

year and extra monitoring of erosion control measures will be needed;  
Possible need for clarification of the scale of fill needed and how many trucks might be involved over what period of time (just to assess whether there are any traffic issues).  
The issue of the performance guarantee is still under discussion and I will follow up as soon as possible.

This e-mail is based on a collective view of the specialist reviewers who are familiar with the site and it will be copied to Alex Jaegerman (874 8724) and Barbara Barhydt (874 8699). I am out of the office this afternoon so if you wish to discuss any of the issues further please contact Barbara or Alex.

thank you  
Jean

*Jean Fraser, Planner*  
*City of Portland*  
*874 8728*

>>> David Latulippe <ddlatulip@aol.com> 10/22/2014 9:09 AM >>>

Jean,

We purchased the property last month, so we will give you a copy of the deed to confirm right, title and interest. The MTA has signed the easement and is being held in escrow. We will provide a copy of the email from MTA.

We will get you the revised landscape plan by the end of the week. I'll check on the status of the Off-site improvement plan and revised photometric plan.

We will be requesting a reduced performance guarantee since the site prep work is quite limited to clearing the site and filling one area. The site prep work will only improve the site and upon completion will leave the site in a condition that will not require any further site improvements to stabilize the site.

Hope this answers the majority of your questions.

Thanks

David

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

From: Jean Fraser <JF@portlandmaine.gov>

To: David Latulippe <dlatulip@aol.com>

Cc: Alex Jaegerman <AQJ@portlandmaine.gov>; Barbara Barhydt <BAB@portlandmaine.gov>; jhoward <jhoward@priorityrealestategroup.com>; wthames <wthames@priorityrealestategroup.com>

Sent: Tue, Oct 21, 2014 10:23 am

Subject: Re: 2282 Congress St - Request To Commence Site Prep

David

Thank you for the letter and I will discuss with Alex as soon as possible.

The ordinance that applies to this request is [see 14-532 (e) 2]:

No alterations shall be made to a site with a pending or approved site plan application until:

- a. The performance guarantee has been posted and final site plans have been submitted to the Planning Authority.
- b. Written permission has been received from the Director of Planning and Urban Development or his/her designee. Such permission shall be granted only after submission of a written request describing the proposed scope of work to be conducted on the site and the planning authority concludes that the request is reasonable, time is imperative and the work will not compromise any aspect of the ensuing review process. All such work shall be done in compliance with information provided with the site plan application including, but not limited to, an erosion control plan. Such written permission shall not be required if the only work proposed is the digging of test pits.

So this raises several questions:

The Amendment Application is still under review as we are waiting for the final Landscape, Off-Site Improvements and Construction Plans (?photometric). Since clearing of the site is proposed as part of the advance work, I think we at least need to see the final Landscape Plan (which would confirm treesaves) as I understood that final Landscape Plan is being revised and could change considerably to address Jeff Tarling's most recent comments (attached); and

The ordinance (above) specifies that the Performance Guarantee (assumed to be in full) be posted, so if you want to request a reduced Performance Guarantee regarding the advance work, could you

confirm that is part of the request?

I don't believe we have seen final right, title and interest documents (as per the 2013 approval) which include the MTA easement and (I will check with my attorney re this) I think we also need to see the executed Conditional Rezoning Agreement. I recall that you said you had these in hand.

If you wish to add to your letter it would be helpful if you could get back to me by the end of today, as I will be discussing your request with my colleagues at our regular internal review meeting tomorrow morning. I hope to get a reply out to you later tomorrow, subject to Alex's schedule.

thank you  
Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

>>> David Latulippe <ddlatulip@aol.com> 10/21/2014 6:15 AM >>>  
Alex,

Attached is the letter and sketch describing the scope of site preparation that we would like to commence this fall.

should you have any questions or need any additional information, please do not hesitate to contact me.

Thanks

David Latulippe

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exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested. 2/2/21