



# PORTLAND MAINE

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*Penny St. Louis Littell- Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

July 23, 2009

Chad Armstrong  
Engineering Lead  
Realty Resources Group  
247 Commercial Street  
Rockport, ME 04856

RE: Warren Green Development – 296-A-6 et. al – B-4 and R-3 Zones -  
Determination Letter for JMC Warren Ave., LLC

Dear Mr. Armstrong,

I am in receipt of your request to determine the suitability of current allowable uses/text within the B-4 Zone to allow neighboring users to share in the utilization of a proposed Biomass system.

According to submitted plans, the proposed Biomass system is to be located in the B-4 Commercial Corridor Zone. Under section 14-229.11 “Permitted Uses” of the B-4 Zone, there is a listing for “Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan)”. The definition of Utility substation under 14-47 is “Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a public utility”. The key phrase that stands out is *owned or operated by a public utility*.

It is my understanding that the proposed Biomass system will not be owned or operated by a public utility. It will be owned and/or operated by a private entity.

Based upon the current text of the ordinance, neighboring users would not be able to share the utilization of the proposed Biomass system. Please note that this zoning determination does not reflect negatively or positively on the validity of the proposed alternate utility system. The City of Portland tries to endorse alternate technologies when it can.

The developers may want to consider a text amendment to the definition section of the ordinance to allow private entities to own and/or operate utility substations. Such a text change would be accomplished by contacting the Planning Division and submitting an application.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have 30 days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

Very truly yours,

Marge Schmuckal  
Zoning Administrator

Cc: Penny St. Louis Littell, Director of Planning and Urban Development  
Alex Jaegerman, Division Director of Planning  
Barbara Barhydt, Planning Supervisor  
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