

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
File

Marge Schmuckal - 411-423 Warren Avenue

From: "Lawrence R. Clough" <lrcclough@tchl.com>
To: "Marge Schmuckal" <MES@portlandmaine.gov>
Date: 4/7/2010 4:57 PM
Subject: 411-423 Warren Avenue
CC: <natalie_c_herald@keybank.com>, <andrew_r_bloomstedt@keybank.com>
Attachments: Survey JMC Warren Avenue.pdf

Marg:

I am representing KeyBank with respect to the 48 acre property on Warren Avenue owned by JMC Warren Avenue LLC, which I believe is composed of the following tax parcels:

296-A-6 301-J-10 302-A-1
 303-A-8-10 304-B-28
 305-D-1
 301-F-4 TO 6
 307-B-19 308-B-2
 310-E-35
 307-J-1 308-C-1
 310-F-1

The area closest to Warren Ave is said to be in the B-4 zone. I would like to speak with you either in person or over the phone about the suggestion from the borrower that city would be receptive to a wood to energy electrical generating plant on the site without need for a rezoning or contract zone. I believe that there was a prior contract zone request that was not approved for a purely residential development.

My initial impression is that a wood to energy plant would not be a permitted use in the B-4 zone, but certainly you are the authority I would consult first on that issue.

A survey of the property is attached.

Would you have some time this week to address that with me, either in person or over the telephone?

Lawrence Clough, Esq.
 Tompkins, Clough, Hirshon & Langer, P.A.
 Three Canal Plaza, P.O. Box 15060
 Portland, ME 04112

Telephone (207) 874-6700 Fax (207) 874-6705

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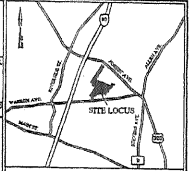
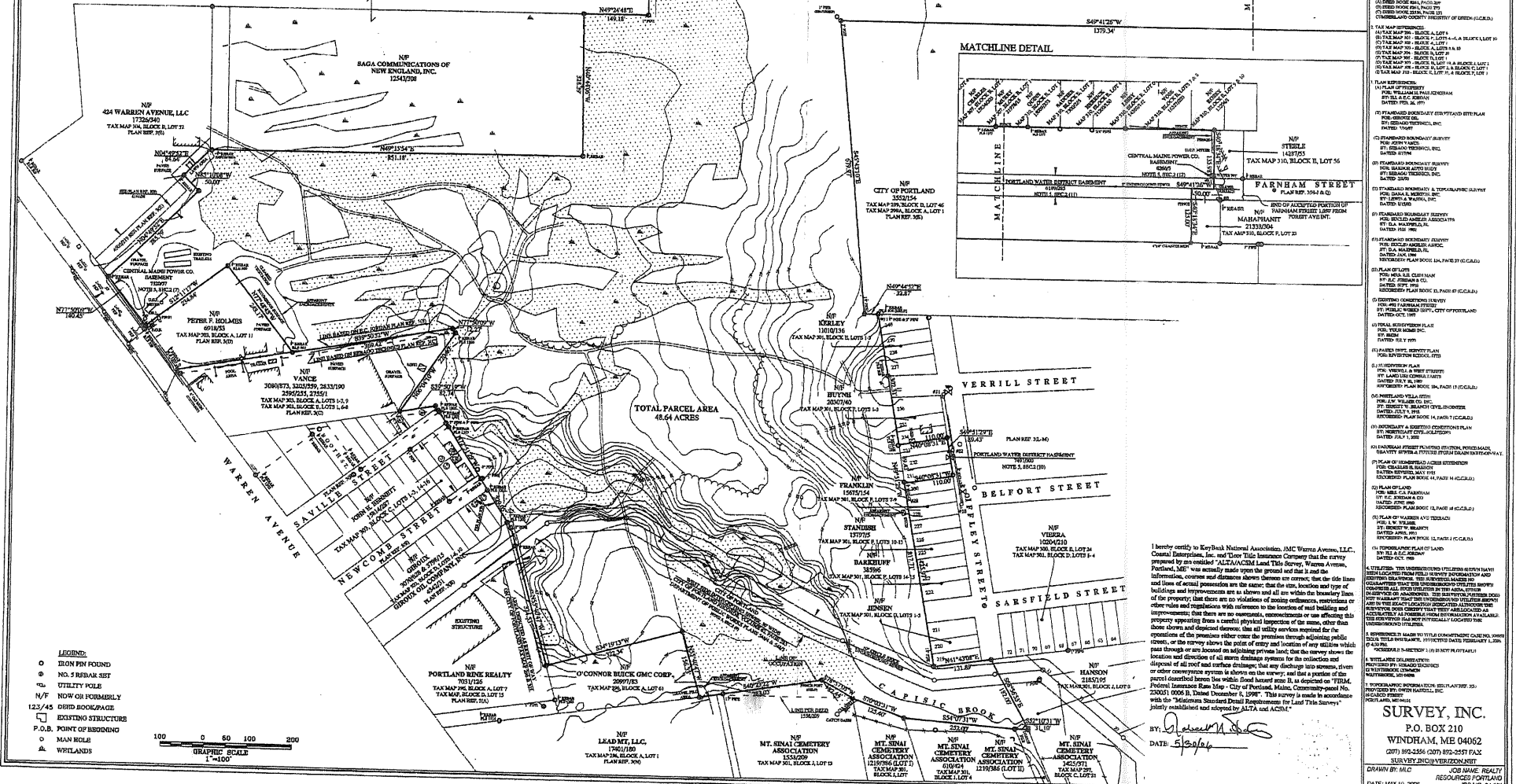
ALTA/ACSM LAND TITLE SURVEY
WARREN AVENUE
PORTLAND, ME

FOR:
REALTY RESOURCES, CHARTERED
247 COMMERCIAL STREET
ROCKPORT, ME 04856

ALFRED J. WAXLER
P.O. BOX 6681
PORTLAND, MAINE 04103
(OWNER OF RECORD)



NP
SAGA COMMUNICATIONS OF
NEW ENGLAND, INC.
12543708



- LEGEND**
- IRON PIN FOUND
 - NO. 5 REBAR SET
 - ⊙ UTILITY POLE
 - N/F NOW OR FORMERLY
 - 12.5/4.5 DIBD BOOK/PAGE
 - EXISTING STRUCTURE
 - P.O.B. POINT OF BEGINNING
 - ▲ MAN HOLE
 - ▲ WETLANDS
- GRAPHIC SCALE**
1"=100'
- LEGEND (continued)**
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I hereby certify to KeyBank National Association, JMC Warren Avenue, LLC, Casual Enterprises, Inc. and Utopia This Insurance Company that the survey prepared by an unlicensed ALTA/ACSM Land Title Survey, Warren Avenue, Portland, ME was actually made upon the ground and that the information, courses and distances shown thereon are correct, that the side lines and lines of several possessions are the same; that the area, location and type of buildings and improvements are as shown and all are within the boundary lines of the property; that there are no encroachments, encroachments or other claims and encroachments with reference to the location of said buildings and improvements; that there are no encroachments, encroachments or use affecting the property appearing from a careful physical inspection of the same, other than those shown and depicted thereon; that all utility services required for the operations of the premises either cross the premises through adjoining public locations and divisions of all storm drainage systems for the collection and disposal of all roof and surface drainage; that any drainage into streams, rivers or other conveyance system is shown on the survey; and that a portion of the parcel identified herein lies within flood hazard zone II, as depicted on "FIRM, 200501 0008 B, Coastal Flood Hazard Hazard Zone II, dated 08/11/05". This survey is made in accordance with the "Minimum Standard Detail Requirements for Land Title Surveys" jointly promulgated and adopted by ALTA and ACSA.

BY: *[Signature]*
DATE: 5/26/16

SURVEY, INC.
P.O. BOX 210
WINDHAM, ME 04092
(207) 892-3556 (207) 892-2541 FAX
SURVEY@SURVEYINC.COM
DRAWN BY: MJC JOB NAME: REALTY RESOURCES - PORTLAND
DATE: MAY 16, 2016 JOB NO. 04-171