

**From:** Jennifer Thompson <jlt@portlandmaine.gov>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** Jennifer Thompson <jlt@gapps.portlandmaine.gov>, Barbara Barhydt <BAB@po...>  
**Date:** 3/4/2016 9:11 AM  
**Subject:** Re: Legal question re Taco Bell

I'm happy to try to think creatively about this. However, it's not immediately clear to me what authority we would have at this point to bind a property that is not the subject of a pending application. And, to me, the review of Taco Bell's project must be limited to whether its pending application meets the requirements of the Code. If Tom thinks that the traffic impacts, as proposed, are too great and do not satisfy our requirements, then I think he can say that and suggest that they find ways to reduce those impacts to acceptable levels - an arrangement with Rite Aid might be one way to do that. If, however, Taco Bell meets the requirements, then I think it's entitled to approval. And, then if the Rite Aid site comes in for future review and its proposal, when combined with the existing Taco Bell use, creates too much of an impact then it will be the Rite Aid site that will have to explore ways to mitigate that impact.

Those are my initial thoughts - but as I said, I'm happy to talk further to see whether there are other, more creative solutions available. Just let me know when works. I'm generally available today or first thing next week.

Jennifer L. Thompson  
Associate Corporation Counsel  
City of Portland, Maine  
(207) 874-8480

On Thu, Mar 3, 2016 at 3:37 PM, Jean Fraser <JF@portlandmaine.gov> wrote:

> Jen  
>  
> (this may be easier in person but maybe e-mail OK)  
>  
> Tom is uncomfortable with this project (which will introduce higher levels  
> of traffic because its adding a drive thru) having all-way access onto  
> Washington Ave.  
>  
> He is therefore exploring some conditions of approval, including one that  
> requires that if the abutting site is developed (that abutting site  
> includes a shared drive owned by the abutter Rite Aid- and we all think  
> the Rite Aid will be sold and redeveloped/reused) shall connect to and use  
> the abutters drive for some vehicle movements.  
>  
> So if the Rite Aid site comes in for redevelopment/change of use, is there  
> any way, at that time, that:  
>  
> - we could require the owner of the Rite Aid site to allow Taco Bell  
> to use the drive? The Rite Aid site already has a low-volume drive thru;  
> - we could ensure that Taco Bell made some real effort to negotiate an  
> easement to use the drive if the opportunity came along (assuming a  
> condition of approval required that)?  
>  
> (I am also trying to find out whether the drive is already subject to some  
> joint use with other properties nearby).

>  
> Tom and I need to wrap this up soon, as they have submitted everything and  
> are willing to meet all of the other staff comments.  
>  
> Thanks  
> Jean  
>  
> --  
>