

CBL: 444-A-003
444-A-004
Zoning Division
Marge Schmuckal
Zoning Administrator

Department of Urban Development
Lee Urban, Director



CITY OF PORTLAND

June 6, 2002

Mr. John Carroll
Wiley Avenue
Peaks Island, ME 04107

RE: Cruise Ship Use of the Maine State Pier – WPDZ (Waterfront Port Development Zone)
444-A-003 & 004

Dear John,

I am aware of your concern regarding the cruise ship use of the Maine State Pier. I have been in the loop regarding the previous letter to you from Alex Jaegerman dated April 4, 2002. I concur with the analysis of that letter.

Cruise ship berthing, like all berthing, is a water-dependent use as defined under City Code 14-47. That definition states, "Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters." Section 14-463 regulates when a change of use permit is required. "Water-dependent use" is a separately listed activity on the uses given within 14-463. Since the principal use has not changed, there is no requirement for a change of use permit. Furthermore, since there is no change of use, there is no requirement that would trigger a site plan review based on a change of use as outlined in the ordinance under section 14-522.

Since you have acknowledged that you have received a copy of Alex's letter, I do not feel it necessary to repeat all the specific responses he gave you. I agree with his analysis.

You have the right to appeal my decision and interpretation under section 14-472 of the Zoning Ordinance. If you wish to exercise your right to appeal, you would have 30 days from the date of this letter in which to do so. Please contact my office for all the necessary paperwork that is required for such an appeal.

Very truly yours,

Marge Schmuckal
Zoning Administrator

Cc: Joseph Gray, City Manager
Lee Urban, Director of Planning and Development
Alex Jaegerman, Planning Division Director
Jeffery Monroe, Director of Ports and Transportation
Ben Snow, Waterfront Operations Manager
William Needleman, Senior Planner
Penny Littell, Associate Corporation Counsel
File

- (2) Establishment of any home occupation;
- (3) Change in the use of a nonconforming use, whether of land or buildings;
- (4) Occupancy and use, or change of use, of vacant land, except for the raising of crops;
- (5) Change in the use of an existing building, whether or not alterations are involved, from any use in the following list to any of the other uses on the list:
 - a. Manufacturing or processing;
 - b. Residential;
 - c. Retail;
 - d. Storage or warehouse;
 - e. Transportation;
 - f. Other industrial;
 - g. Institutional;
 - h. office;
 - i. Other commercial;
 - j. Water-dependent use;
 - k. Marine use.

(Code 1968, § 602.22.C; Ord. No. 293-84, § 1, 11-19-84; Ord. No. 168-93, § 4, 1-4-93)

Sec. 14-464. Plans to be submitted.

A site plan showing the dimensions of the lot and of all buildings, yards and parking spaces, existing or proposed, shall accompany each application to the building authority for a building permit or certificate of occupancy. Site plans of all off-street