



CITY OF PORTLAND

December 4, 2000

William Nemmers Associates Architects
424 Fore Street
Portland ME 04101

RE: Change of use Application 104-114 Grant Street 48-C-008

Dear Bill,

I am in receipt of your letter dated November 30, 2000 in reference to nonconforming uses and the allowance for changes of nonconforming uses. I would like to point out that under Section 14-382 entitled Increase in nonconforming use of building or alterations to nonconforming buildings limited, both sections (b) and (c) of this section, state that there shall be no increase in the **degree of nonconformity**. I interpret degree of nonconformity to mean intensity of use. The ordinance does not allow an increase in the intensity of any use. I have determined that a proposal for an increase to several different uses is considered an increase in the degree of nonconformity.

As you pointed out, section 14-384 also states that if a lawful nonconforming use is located in a structure that was not originally designed for a use permitted in the zone in which it is located (R-6 zone in this case) it may be take advantage of subsection (3). That subsection (3) states that if the structure is located in a residential zone, and the lawful nonconforming use is a permitted use within a B-2 zone, then the use may be changed (or reduced) to any use permitted in a B-1 zone.

I would specifically like to point out that the ordinance **does not** state that it can be changed to any use **or uses**. The word use is used singularly. And your proposed change includes five (5) distinct different uses listed separately in the B-1 zone. I believe that the ordinance relating to nonconformity is purposely restricting the number of allowable uses to only one because the ordinance has already stated that there shall be no increase in the degree of nonconformity . Your proposal for the five separate uses would in fact be an increase in the degree of nonconformity and therefore could not be allowed.

As we have discussed previously, under the R-6 conditional uses, the use of a Community Hall would meet the uses that you are requesting. This use requires a Conditional Use appeal with the Planning Board as the reviewing authority.

You have 30 days from the date of this letter in which to exercise your right to appeal my interpretation. I have included copies appeal information for your reference.

Very truly yours,

Marge Schmuckal
Zoning Administrator

Cc: file