



Planning &amp; Urban Development Department

*Jeff Levine, AICP, Director*  
*Marge Schmuckal, Zoning Administrator*

August 6, 2014

Carol J. De Tine AIA  
144 Vaughan Street  
Portland, Maine 04102

RE: 190 Pine Street – 069-D-012 (the "Property") – R-4 Zone with a Historic Overlay

Dear Ms. De Tine,

I am in receipt of your request concerning the Property. The Property is located within the R-4 residential zone with a Historic overlay zone. The last and current recognized use of the Property is for one doctor's office on the first floor; one apartment on the second floor; and one apartment on the third floor as evidenced by a certificate of occupancy issued on March 14, 1969. It is further noted that the doctor's office use on the first floor was granted by a conditional use appeal by the Zoning Board of Appeals on March 13, 1969. It is further noted that the doctor's office is considered a legally nonconforming use since the R-4 zone no longer lists doctor's offices as a conditional use allowance.

You have requested a letter determining the availability to change the use of the doctor's office on the first floor to a residential dwelling unit as provided under Section 14-384, Change of Nonconforming Use. The ordinance reads:

"A lawful nonconforming use in a structure not designed for a use permitted in the zone in which it is located shall not be changed to any use other than a use permitted in the zone in which the use is located or to any use other than a nonconforming use of a more restricted zone, as set forth in the following schedule, provided that in no such case shall any structural alterations be made in any building except those required by law, ordinance or other regulations:"

The permitted use of the doctor's office is located in a building designed for residential and not for doctor's offices. I further determined that paragraph (c) would be appropriate to use to change the doctor's office to a residential dwelling unit.

"(c) In a residence zone, from any use permitted in a B-2 zone to any use permitted in a B-1 zone."

The Property is located in a residential zone. A doctor's office is a use permitted in the B-2 zone, and residential uses are allowed in the B-1 zone.

Therefore, I have determined that Section 14-384 would allow the conversion of the nonconforming doctor's office into one dwelling unit with the conditions stated in the Ordinance. It is necessary to



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apply for a permit to validate the conversion. The Ordinance does not require any further dimensional requirements of the underlying zone for such conversion.

Please note that once the conversion to a third dwelling unit on the Property is completed, the nonconforming use right will be extinguished and there will be no right to permit the previous use in the future. The underlying zone requirements will prevail.

If you have any questions regarding this matter, please do not hesitate to contact me at 874-8695. You also have the right to appeal this determination within thirty (30) days of the receipt of this letter. Please contact this office for the required paperwork to file an appeal.

Very truly yours,

A handwritten signature in black ink that reads "Marge Schmuckal".

Marge Schmuckal  
Zoning Administrator  
City of Portland, Maine