



Ann Machado <amachado@portlandmaine.gov>

Fwd: Fire & Company

2 messages

Christina Stacey <cstacey@portlandmaine.gov>
To: Ann Machado <amachado@portlandmaine.gov>

Mon, Dec 5, 2016 at 4:15 PM

----- Forwarded message -----

From: **Craig Church** <cchurch@balfourcommercial.com>
Date: Mon, Dec 5, 2016 at 3:47 PM
Subject: Fire & Company
To: "cstacey@portlandmaine.gov" <cstacey@portlandmaine.gov>
Cc: Karen Rasmussen <rasmuk9@spectrummg.com>

Hi Christina,

I had a brief conversation with Ann this morning that you have been working with a possible new tenant, Ryan Casey of Fire & Company, for the Taco Trio space located at 1706 Forest Ave. It is my understanding that you are willing to provide an occupancy certificate even though they are a catering company with the understanding that they will provide, within a time period, a place of business that will conform to the retail aspect. It is also my understanding that they would be in compliance as long as they are open for at least a couple hours a day on a weekly basis.

I am the broker representing the owner, Karen Rasmussen of Red Brick Realty, and they want to make sure that after all the money they have put into the property, that they don't lose their grandfathered conformity of a retail location in a R3 zoning.

So a few questions come up that I would like cleared before Karen signs the lease:

1. If they don't comply and you were to cancel their occupancy certificate how long of a period after that would Karen have to reopen or lease the retail space to keep the grandfathered status?
2. How many days a week are they required to be open not to jeopardize the grandfathered status?
3. Could we get a letter from you that we could attach to the lease?

Thank you for your attention to this matter ahead of time.

Craig S. Church

Commercial & Business Broker

Cell (207) 318-6498

cchurch@balfourcommercial.com

95 India Street

Portland, Maine 04101

Office (207) 774-7715 x 102

Fax (207) 879-9102

www.balfourcommercial.com

This message and any attachments may be privileged, confidential or proprietary. If you are not the intended recipient of this email or believe that you have received this correspondence in error, please contact the sender through the information provided above and permanently delete this message

--
Chris Stacey - Zoning Specialist
Permitting & Inspections Department
City of Portland
389 Congress St.
Portland, ME 04101
(207) 874-8695
cstacey@portlandmaine.gov

Ann Machado <amachado@portlandmaine.gov>
To: Christina Stacey <cstacey@portlandmaine.gov>, "CChurch@balfourcommercial.com"
<cchurch@balfourcommercial.com>, Karen Rasmussen <rasmuk9@spectrummg.com>

Mon, Dec 5, 2016 at 4:57 PM

Craig -

Chris Stacey forwarded me the email that you sent her. I need to clarify what I said in the telephone conversation earlier today because there seems to be some confusion.

Please see my answers in red below. Also, is Taco Trio now closed at this address? If so what date did it close?

Let me know if you have any questions.

Ann

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine
(207) 874-8709

On Mon, Dec 5, 2016 at 4:15 PM, Christina Stacey <cstacey@portlandmaine.gov> wrote:

----- Forwarded message -----
From: **Craig Church** <cchurch@balfourcommercial.com>
Date: Mon, Dec 5, 2016 at 3:47 PM
Subject: Fire & Company
To: "cstacey@portlandmaine.gov" <cstacey@portlandmaine.gov>
Cc: Karen Rasmussen <rasmuk9@spectrummg.com>

Hi Christina,

I had a brief conversation with Ann this morning that you have been working with a possible new tenant, Ryan Casey of Fire & Company, for the Taco Trio space located at 1706 Forest Ave. It is my understanding that you are willing to provide an occupancy certificate even though they are a catering company with the understanding that they will provide, within a time period, a place of business that will conform to the retail aspect. It is also my understanding that they would be in compliance as long as they are open for at least a couple hours a day on a weekly basis. **Right now the permitted use at 1706 Congress Street is restaurant on the first floor and one dwelling unit on the second floor. It is my understanding that a catering company would like to lease the space. A commercial kitchen which is what a catering company needs is not a permitted use in the R-3 Zone (or in the B-1 zone which is the legal nonconforming zone for nonconforming commercial uses at this specific property). The space can continue to be run as a restaurant as the permitted, principal use and a catering company could use the kitchen to prepare food to be served off site, but this would be secondary and incidental. It would not be the recognized use and it would not receive a certificate of occupancy as a catering use. The property would have to continue to function as a restaurant. The other option would be to apply for a change of use permit to change the use to a retail (takeout) business. This is a permitted use. As a principal use it would have to be open at least Monday thru Friday, and offer food either for breakfast and lunch or lunch and dinner. The space would receive a certificate of occupancy as a retail/take out use. Once again a catering company could use the kitchen to prep food to be served off site but this would be secondary and incidental. The space would have to function as a retail use.**

I am the broker representing the owner, Karen Rasmussen of Red Brick Realty, and they want to make sure that after all the money they have put into the property, that they don't lose their grandfathered conformity of a retail location in a R3 zoning.

So a few questions come up that I would like cleared before Karen signs the lease:

1. If they don't comply and you were to cancel their occupancy certificate how long of a period after that would Karen have to reopen or lease the retail space to keep the grandfathered status? **See above. They have to function as a restaurant (continued use) or a retail use (change of use). They can't just be a catering company.**
2. How many days a week are they required to be open not to jeopardize the grandfathered status? **Once again, see above. The current use as a restaurant is nonconforming. If the business closes for 12 months and nothing else goes in, the nonconforming use is lost and it can only be a residential use. If a new restaurant opens or a retail use (as a change of use) opens within the 12 months the legal nonconforming use continues. As a principal use, the business should be open at least 5 days a week, M-F or Tues. - Saturday, for at least one meal a day if it is a restaurant. I addressed the days and hours above for retail.**
3. Could we get a letter from you that we could attach to the lease? **I don't think that a letter is appropriate. If the space operates as a commercial kitchen, it is not legal and it would have to stop immediately. If a legal nonconforming use is not operated within the 12 month period then the nonconforming use as a restaurant could be lost and then it would have to be a use that is allowed in the R-3 residential zone.**

Thank you for your attention to this matter ahead of time.

Craig S. Church

Commercial & Business Broker

Cell (207) 318-6498

cchurch@balfourcommercial.com



95 India Street

Portland, Maine 04101

Office (207) 774-7715 x 102

Fax (207) 879-9102

www.balfourcommercial.com

This message and any attachments may be privileged, confidential or proprietary. If you are not the intended recipient of this email or believe that you have received this correspondence in error, please contact the sender through the information provided above and permanently delete this message

--

Chris Stacey - Zoning Specialist
Permitting & Inspections Department
City of Portland
389 Congress St.
Portland, ME 04101
(207) 874-8695
cstacey@portlandmaine.gov