File 3811/024

RECVD FEB. 23, 2000

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

February 17, 2000

Mr. Douglas Jemal
c/o Douglas Development Corporation
11611 Old Georgetown Road, Suite 200
Rockville, Maryland 20852

DISTRICT OF COLUMBIA
OFFICE OF ZONING
00 MAY -2 P 3:41

Re: **The Car Barn (Rooftop Pavilion Public Hall Use)**
3600 M Street, NW
Washington, DC
Zoning: C-2-A/R-3
Lot 800/Square 1203

Dear Mr. Jemal:

You submitted information and documentation outlining your plans and intention to use the rooftop pavilion for commercial/public events. Also, you have asserted that the use is consistent with the zoning regulations, as an existing non-conforming use. Accordingly, we have completed our review of documents submitted by you and our files within DCRA. Based on that and our observations made during on-site inspections of the facility, I am writing to inform you that I have reached a determination regarding the use of the rooftop pavilion, at the above referenced property. It is my determination that use of the portion of the roof located in the R-3 zoning district, to extend the public hall use proposed for the C-2-A zone, is not permitted as a matter of right.

Facts:
The property is split zoned C-2-A Commercial and R-3 Residential. The C-2-A Commercial zone extends to a line 120 feet north of and parallel to M Street, NW The remaining 124 feet of the lot, north of that and up to Prospect Street, NW is zoned R-3 Residential. The public hall use, on the fourth floor roof top level of the structure was not established prior to May 12, 1958, and thus, never established legal non-conformity. The referenced property has Certificates of Occupancy (C of O) designating "office use" for all four levels (1st through 4th floors), in addition to a C of O for a car garage located on the first level.

Title 11, Section 2514 of the D. C. Municipal Regulations, Boundary Line Crossing a Lot, states in part: " When a district boundary line divides a lot which is in single ownership on May12, 1958, the permitted use and bulk of a structure located on that lot may be determined as follows:

(a) The allowable bulk for the portion of the lot located in a lesser restrictive use district may be increased by the bulk permitted on the portion of the lot located in a more restrictive use district; Provided, that no portion of any structure permitted on the lesser restricted portion of the lot shall be extended to the more restricted portion of the lot;

(b) The calculation of determining additional bulk shall include only that portion of the lot in

BZA
Case No. 16592
Exhibit No. 3

Board of Zoning Adjustment
District of Columbia
CASE NO.16592
EXHIBIT NO.3

(c) the more restrictive use district which is located within thirty-five feet (35ft.) of the district boundary line;

(d) The additional bulk authorized in this section shall not exceed the maximum bulk permitted on the portion of the lot located in the lesser restrictive use district;

(e) For computation purposes, (...) any portion of the lot located in an R-3 district shall be deemed to be limited to a floor area ratio of six-tenths (0.6), (...); and

(f) Except for accessory open parking facilities permitted elsewhere in this title, the portion of the lot located in a more restrictive use district shall be devoted only to required yards or courts, or other open spaces.

2514.2 If approved by the Board of Zoning Adjustment, the regulations applicable to that portion of a located in a lesser restrictive use district that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use district; Provided that the following requirements shall be met:

(a) The extension shall be limited to that portion of the lot in the more restrictive use district but not exceeding thirty-five (35ft.);

(b) In authorizing an extension, the Board shall require compliance with sub-section 2514.1 (d);

(c) The extension shall have no adverse effect upon the present character and future development of the neighborhood; and

(d) The Board may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.

Conclusion:

Accordingly, I conclude that the proposed extension of the existing use and introduction of an adjunct public assembly use in R-3 zoning district will require special exception relief pursuant to section 2514.2 of the zoning regulations. This is provided for in section 3104.1 of DCMR, Title 11. The only lawfully established uses in the C-2-A and R-3 zones are office and parking garage. A use that is not lawfully in existence cannot be classified as a legal non-conforming use or grandfathered.

Because this is an official Zoning Administrator interpretation, you have the right to appeal my decision. If you chose to, please be advised that you have fifteen (15) days from the date of this letter to file an appeal of my determination with the Board of Zoning Adjustment (BZA) to:

Board of Zoning Adjustment
c/o Office of Zoning
441 4th Street, N.W., Suite 210
Washington, D. C. 20001

Please be advised that you do not have approval from this office and thus, are not allowed to use the portion of the building located in the R-3 district for public hall use, until the BZA has made a determination. Use may be lawfully resumed only when the final BZA order and a certificate of occupancy have been issued, pursuant to such order, if warranted.

To request BZA information relative to the hearing procedures, you may call the Office of Zoning at (202) 727-6311. In the interim, should you have any questions, please do not hesitate to call me at (202) 442-4560.

Respectfully,

Michael D. Johnson
Zoning Administrator

cc: Lloyd J. Jordan, DCRA Director
Armando Lourenco, BLRA Administrator
Sherri Pruitt, Secretary to the BZA
Jonda McFarland, Commissioner, ANC 2-E-06
Jacques B. DePuy, Attorney @ Law

MDJ/mdj
carbarn/dec.track

GREENSTEIN DELORME & LUCHS, P.C.
1620 L STREET, N.W., SUITE 900
WASHINGTON, D.C. 20036-5605

TELEPHONE (202) 452-1400
FACSIMILE (202) 452-1410

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Today's Date: 5/2/00 **Time:** 3:15

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Individual: Linda Peltzer
Company Name: BZA
Direct Phone#:
Fax/Telecopier #: 727-6072

Total # of Pages: 4 ***(including cover page)***

TRANSMITTAL FROM:

Individual: Jeannine Rustad
Phone Number: 202 452-1400
Billing Code: 3811/0024

Message:

For Clarke's app
Lot 800/Sq. 1203

If there is a problem with this transmission, it is important that you notify:

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