

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



October 11, 2011

By US Mail and Email PDF

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Goulston & Storrs
1999 K Street, NW, 5th Floor
Washington, DC 20006

**Re: 1063 Rear Wisconsin Avenue, NW (Square 1199, Lot 48 (the "Property"))
Development of an Alley Lot**

Dear Ms. Prince:

The purpose of this letter is to confirm that the improvements on the above-referenced Property may be used in their entirety for commercial purposes despite their lack of street frontage. It is my understanding that the potential purchaser of the Property is investigating the possibility of renovating one of the existing buildings on the Property for use as a restaurant. As discussed in further detail below, I have concluded that (i) the Property can be used as a commercial establishment despite the fact it does not front on a public street but has frontage on a public alley; (ii) that the entirety of the existing improvement can be used for commercial purposes despite the floor area ratio limitation on commercial uses that otherwise applies in the W-1 Zone District; and (iii) the Property can be subdivided to establish two separate record lots.

Property Description

The Property is located along "Blues Alley" in the Georgetown Historic District. The lot extends from the alley to the Chesapeake and Ohio Canal and does not have any street frontage. The Property has been designated as Record Lot 48 and is improved with two separate structures. The Property is located in W-1 Zone District and consists of approximately 8,266 square feet of land area.

Alley Lots

An alley lot is defined in the Zoning Regulations as "a lot facing or abutting an alley and at no point facing or abutting a street." Section 2507 of the Zoning Regulations sets forth the limitations for constructing and using buildings on alley lots. There are no restrictions on erecting, constructing, converting, altering, remodeling, restoring or repairing a structure on an alley lot for commercial use. The limitations delineated in Section 2507 only apply to buildings to be used for human habitation and thus, do not apply to commercial uses. Accordingly, the existing improvements on the Property may be used for commercial use.

Permitted Commercial Floor Area Ratio

The W-1 Zone District, under 11 DCMR 931.2, permits a floor area ratio ("FAR") of 2.5 with a limitation on non-residential uses of 1.0 FAR. The Property is currently improved with

two structures with a total estimated gross floor area of 11,070 square feet or a 1.3 FAR. The improvements on the Property were constructed prior to the adoption of the Zoning Regulations in 1958, exceeds the otherwise permitted 1.0 commercial FAR limit, but is deemed a lawful non-conforming structure.

I understand that your client is interested in purchasing the structure located along Blues Alley, which is two stories in height and consists of approximately 5,500 square feet. A tenant has not occupied the building for over eight years but there is no evidence that the building was ever used for residential purposes. The building itself does not have any of the typical features of a residential building. Rather it has a physical resemblance to a commercial building. Further, a review of the tax records indicates that the property has been taxed as a commercial establishment since at least 1923 (prior tax records are not available). Attached are tax records for the property for 1923 and every decade since 1950, when the Zoning Regulations were adopted. The records indicate that the building was first taxed as a store in 1923 and a shop in 1950. It was later taxed as a commercial warehouse and most recently, as a multi-story warehouse.

In light of this evidence, it is clear that the existing building is a non-conforming structure dedicated to a conforming use. In combination with the other structure on the Property, they exceed the permissible 1.0 commercial FAR and the two buildings exceed the limitation on one principal structure per record lot. Nevertheless, despite their non-conforming status, the structures can be renovated pursuant to Section 2001.2, which allows ordinary repairs, alterations and modernizations to the nonconforming structure(s), including structural alterations. The Regulations further allow enlargements or additions to be made to the buildings within specified parameters. Accordingly, the buildings can be renovated and used in their entirety for commercial purposes.

Subdivision of Property

The Property can be subdivided to create a separate record lot for each existing structure so long as the subdivision is consistent with Section 2001.3 of the Zoning Regulations. Specifically, that the improvements conform to the permitted lot occupancy in the W-1 Zone District set forth in 11 DCMR 932.1 and that the subdivision does not increase or extend any existing nonconforming aspect of the structures nor create any new nonconformity. If the Property can be subdivided to accommodate the two structures on separate lots in conformity with the requirements of this Section, the subdivision is permitted from a zoning perspective.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely, 
Matthew Le Grant
Zoning Administrator