



CITY OF BELFAST, MAINE 04915
131 Church Street

CODE & PLANNING DEPARTMENT

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Re: Denial of application for permit 1812 and Finding of Fact for CSCC Real Estate, LLC Use permit application for converting part of an approved business use unit to an Air BnB rental at 70-72 Main St. in Belfast Maine.

It is the finding of the Code Enforcement Officer that the attached application must be denied as I have determined it to be a use that is not allowed in this location for the following reasons.

The following definitions are from City Code Part II, Code of Ordinances, Subpart B. Land Use Regulations, Chapter 66 General Provisions, Section 66-1, Definitions.

BASEMENT. Any area of a building having its floor subgrade (below ground level) on all sides.

COMMERCIAL USE. The use of lands, buildings, or structures, other than a home occupation, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, **exclusive of rental of residential buildings and/or dwelling units.**

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family, whether contained within a single-family or multifamily structure, and condominiums, and shall include timeshare units, apartments, and mobile homes, but not recreational vehicles.

HOTEL. See "Motel."

MOTEL. A building or group of detached or connected buildings used for lodging by the traveling public, in return for payment. The term "motel" shall include "hotel."

NONCONFORMING. A building, structure, or use of land legally existing at the time of adoption of this ordinance or at the time of adoption of the prior zoning ordinance on July 16, 1985, which building, structure, or use of land does not conform with the provisions established by the shoreland zoning ordinance or the prior ordinance adopted July 16, 1985.

PUBLIC ACCOMMODATIONS. Hotels, motels, inns, bed and breakfasts, campground establishments and seasonal housekeeping units.

RESIDENTIAL DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

RETAIL USE, GENERAL MERCHANDISE, CLOTHING AND/OR GROCERIES. A retail store in which the predominant amount of goods offered for sale include products such as but not limited to the following: clothing, furniture, shoes, electronics, household durable goods, home furnishings, dry goods stores, pharmaceuticals, jewelry, sporting goods, antiques, books, and food/groceries.

City of Belfast ordinance does not define Street Level, so I refer to the IBC 2015 as Adopted by the State of Maine for a similar definition, from Chapter 2, Section 201.

GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

STORY ABOVE GRADE PLANE. Any *story* having its finished floor surface entirely above *grade plane*, or in which the finished surface of the floor next above is:

1. More than 6 feet (1829 mm) above *grade plane*; or
2. More than 12 feet (3658 mm) above the finished ground level at any point.

Documents included to support the denial of the use permit are as follows:

1. Amendment #1 – Conditions of approval, Belfast Bay Condominium Project Map 11, Lots 66 & 66A from 2008
2. Adopted Finding of Fact & Belfast Bay Inn, building Expansion, Map 11, Lots 66 & 66A from 2014
3. Certificate of Occupancy for Permit 1242 dated 10-13-2022.
4. Chapter 10, Zoning, Article V, District Regulations, Division 9, Dimensional Standards, Section 102 - 471 Dimensional Chart.
5. Chapter 10, Zoning, Article V, District Regulations, Division 9, Dimensional Standards, Section 102 – 471 Footnotes to Dimensional Chart.

Findings of Fact

Finding 1: I find that 70-72 Main St. Map 11 Lot66 and 66-A is a Built lot of record containing .21 acres of land in the Downtown Commercial zone and contains an approved condominium consisting of 3 first floor commercial units and upper floor residential units.

Finding 2: I find that Condition # 9 allowed the applicant to convert one commercial unit to a guest room and space for guest registration and support services but expressly prohibited the use or sale of any first floor Hotel room as a residential dwelling.

Finding 3: I find the requested “continuation of use” per the provided description on page 1 of the application to be inaccurate as the Hotel option was vacated when the former owner sold one of the required Hotel rental units as described in Condition #10.

Finding 4: Condition # 10 also specifically noted that The Belfast Code of Ordinances prohibits first floor living units in the Downtown Commercial zoning district.

Finding 5: I find the use of the first-floor hotel rooms was verbally noted as being a violation of the Planning Board approval due to prospective purchasers inquiring as to their legal status. The department notified the listing agent and prospective buyers that the units were not in compliance and the former owner applied for building permit (#1242) to turn the units back into commercial spaces to gain compliance. Occupancy was granted on 10-03-2022. Occupancy acknowledges the dwelling units were not previously approved.

Finding 6: I find that per City Code Part II, Code of Ordinances, Subpart B. Land Use Regulations, Chapter 66 General Provisions, Section 66-1, Definitions: rental of residential buildings and/or dwelling

units are not a commercial use.

Finding 7: I Find that unit 102 is currently permitted as commercial retail and office space per the Certificate of Occupancy for permit 1242 dated 10-03-2022

Finding 8: I find that per the Belfast Code of Ordinances, Chapter 102, Article V, Division 9, Dimensional tables, that the lot area requirement in the dimensional table have a [1] which refers to a footnote that states in part that new residential uses in the Downtown Commercial district must be located on an upper floor. The proposed use is on the first floor.

Finding 9: I find that as the previous unit and Hotel lobby were permitted as part of a hotel with strict requirements for the use to dissolve when any of the other Hotel rooms were transferred to private owners that the unit was not a non-conforming residential dwelling use prior to October 21-2014

Due to the above findings, I respectfully deny this application.

Appeal

Please be advised that you may appeal this decision to the Zoning Board of Appeals within 30 days of receipt of this notice.

“Any person directly affected by any notice which has been issued in connection with the enforcement of the Belfast City Code may request a hearing before the Zoning Board of Appeals. A written petition shall be filed with the Code Enforcement Officer at 131 Church Street Belfast, Maine 04915, requesting such hearing and setting forth a brief statement of the grounds therefore, within thirty (30) days after the decision, notice, or order was served.”



Stephen Wilson CEO-LPI-BO
City of Belfast