

March 6, 2020

**ADMINISTRATIVE DETERMINATION
DECISION AND FINDINGS
PLNZAD2020-00110**



REQUEST:

A request for an administrative determination regarding the current use of the property located at approximately 737 S 400 W. This is a request from Jesse Dean, property owner, to determine if the use of the property would be considered a multi-family residential use. The subject parcel is located in the CG General Commercial zoning district.

DECISION:

The Zoning Administrator finds that City records show insufficient evidence to support the legal use of the subject property as residential. Based on associated business license records, the most recent uses of the property include industrial assembly, woodworking mill, furniture repair and office uses.

FINDINGS:

Any use interpretation is subject to the below standards found in section 21A.12.050:

- A. *Any use defined in chapter 21A.62 of this title, shall be interpreted as defined;*

Finding: The Definitions chapter of the Salt Lake City Zoning Ordinance Chapter 21A.62 defines Dwelling: Multi-Family as:

A building containing three (3) or more dwellings on a single lot. For purposes of determining whether a lot is in multiple-family dwelling use, the following considerations shall apply:

- A. *Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership or management, or cooperative apartments, condominiums and the like.*
 - B. *Any multiple-family dwelling in which dwelling units are available for rental or lease for periods of less than one month shall be considered a hotel/motel*
- B. *Any use specifically listed without a "P" or "C" designated in the table of permitted and conditional uses for a district shall not be allowed in that zoning district;*

Findings: Pursuant to the Salt Lake City Zoning Ordinance (Section 21A.33 of the Salt Lake City Code), *Dwelling: Multi-Family* is a permitted use in the CG General Commercial zoning district, however, there is insufficient evidence to show that the established use of the subject property is multi-family residential.

International Building Code (IBC) occupancy classification for multi-family residential is an "R-2" occupancy classification.

International Building Code defines “R-2 Occupancy” as: Occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses; Boarding houses (nontransient) with more than 16 occupants; Congregate living facilities (nontransient) with more than 16 occupants; Convents; Dormitories; Fraternities and sororities; Hotels (nontransient); Live/work units; Monasteries; Motels (nontransient); Vacation timeshare properties.

- C. *No use interpretation shall allow a proposed use in a district unless evidence is presented demonstrating that the proposed use will comply with the development standards established for that particular district;*

Findings: There are no building permit records that show permitting of a multi-family residential structure or include an occupancy classification as “R-2” on the subject property. Salt Lake City building permit records show history of Commercial building permits with IBC occupancy classifications as “U” occupancy or “S-1” occupancies.

International Building Code defines “U Occupancy” as: Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

Agricultural buildings; Aircraft hangars, accessory to a one- or two-family residence (see Section 412.5); Barns; Carports; Fences more than 6 feet (1829 mm) in height; Grain silos, accessory to a residential occupancy; Greenhouses; Livestock shelters; Private garages; Retaining walls Sheds Stables Tanks Towers.

International Building Code defines “S-1 Occupancy” as: Buildings occupied for storage uses that are not classified as Group S-2, including, but not limited to, storage of the following:

Aerosols, Levels 2 and 3; Aircraft hangar (storage and repair); Bags: cloth, burlap and paper; Bamboos and rattan; Baskets; Belting: canvas and leather; Books and paper in rolls or packs; Boots and shoes; Buttons, including cloth covered, pearl or bone; Cardboard and cardboard boxes; Clothing, woolen wearing apparel; Cordage; Dry boat storage (indoor); Furniture; Furs; Glues, mucilage, pastes and size; Grains; Horns and combs, other than celluloid; Leather; Linoleum; Lumber; Motor vehicle repair garages complying with the maximum allowable quantities of hazardous materials listed in Table 307.1(1) (see Section 406.8); Photo engravings Resilient flooring; Silks; Soaps; Sugar; Tires, bulk storage of; Tobacco, cigars, cigarettes and snuff; Upholstery and mattresses; Wax candles.

Based on the definitions set forth by the IBC, neither the “U” occupancy or the “S-1” occupancy classifications allow for any type of residential use. A building permit would

be necessary to change the use of the property to multi-family, in which case building plans must be reviewed for compliance with the zoning standards and approved by the Building Services division.

In June of 2009, the Salt Lake City Civil Enforcement Department initiated enforcement for illegal use of the property. (Civil Enforcement Case Number HAZ2009-01749). Inspection notes from this case show enforcement for illegal use of the second floor as habitable space and notes that the second floor is considered uninhabitable.

- D. *No use interpretation shall allow any use in a particular district unless such use is substantially similar to the uses allowed in that district and is more similar to such uses than to uses allowed in a less restrictive district;*

Finding: As noted above, the proposed use is most similar to a multi-family dwelling, which is a permitted use in the CG zoning district subject to the issuance of required building permits.

- E. *If the proposed use is most similar to a conditional use authorized in the district in which it is proposed to be located, any use interpretation allowing such use shall require that it may be approved only as a conditional use pursuant to chapter 21A.54 of this title; and*

Finding: As noted above, the proposed use is most similar to a multi-family dwelling, which is a permitted use in the CG zoning district subject to the issuance of required building permits.

- F. *No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of that zoning district.*

Finding: The CG zoning district has the following purpose statement:

The purpose of the CG General Commercial District is to provide an environment for a variety of commercial uses, some of which involve the outdoor display/storage of merchandise or materials. This district provides economic development opportunities through a mix of land uses, including retail sales and services, entertainment, office, residential, heavy commercial and low intensities of manufacturing and warehouse uses. This district is appropriate in locations where supported by applicable master plans and along major arterials. Safe, convenient and inviting connections that provide access to businesses from public sidewalks, bike paths and streets are necessary. Access should follow a hierarchy that places the pedestrian first, bicycle second and automobile third. The standards are intended to create a safe and aesthetically pleasing commercial environment for all users.

The proposed use as described by the applicant is a multi-family dwelling which is a use that is allowed in the CG zoning district. The proposed use is consistent with the purpose statement of the zoning district which supports residential uses.

In summary, based on city records, there is insufficient evidence to support the use of the subject property as a multi-family residential use. Obversely, there is substantial city record to show that the subject property has historically been used as nonresidential.

If you have any questions regarding this determination, please contact Chris Earl at (801) 535-7932 or by email at christopher.earl@slcgov.com.

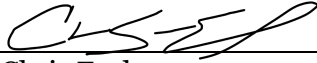
APPEAL PROCESS:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <https://www.sl.c.gov/planning/applications/> along with information about the applicable fee. Appeals may be filed in person or by mail at:

In Person: Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT		US Mail: Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT 84114-5417
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NOTICE:

Please be advised that a determination finding a particular use to be a permitted use, or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.



Chris Earl
Associate Planner

- cc: Nick Norris, Planning Director
- Joel Paterson, Zoning Administrator
- Greg Mikolash, Development Review Supervisor
- Posted to Web
- Applicable Recognized Organizations