



August 25, 2020

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2020-00562**

REQUEST:

This is a request for a Determination of Nonconforming Use interpretation for property located at 667 S 700 East (Tax ID#06-08-102-001-0000) regarding whether a use on the site is considered legal nonconforming and whether that use is or will be considered abandoned by the City if the property continues to remain vacant. The subject property is located in the RMF-30 (Low Density Multi-Family Residential) zoning district.

DECISION:

The Zoning Administrator finds that the retail use at 667 S 700 East is considered a legal nonconforming use. The use is not currently considered abandoned and may be re-used as a legal non-conforming retail use. Continuing to seek a user to reuse the non-conforming use by actively marketing the property for a tenant or sale, to re-use the property for the non-conforming use, will avoid a presumption of abandonment of the use by the City.

FINDINGS:

The subject property is currently zoned RMF-30, which does not allow for commercial uses. However, the subject property is currently occupied by a commercial building. According to City records the building was constructed in 1976 for a "retail store." City records show that the property has been licensed for a retail store (also noted as a "grocery store" in City records) since at least 1979. The business license for the most recent retail store use (LIC2015-02149) expired May 31, 2020 and has not been renewed. The building is currently vacant.

The applicant has provided marketing documentation demonstrating that they are actively seeking a tenant to re-use the structure for commercial use. See Attachment A.

Section 21A.38.040 regulates nonconforming uses. Section 21A.38.040.E.1 and 2 state:

Burden Of Owner To Establish Legality Of Nonconforming Use: The burden of establishing that any nonconforming use lawfully exists under the provisions of this title shall, in all cases, be the owner's burden and not the City's. Building permits, business licenses and similar documentation may be considered as evidence establishing the legality of use.

Determination Of Nonconforming Status: The Zoning Administrator shall determine the nonconforming use status of properties based upon the evidence submitted and information available pursuant to the provisions of this chapter.

The property has been licensed as a retail store according to City records and is currently considered a legal nonconforming use.

City Code states the following regarding when a nonconforming use is considered terminated or abandoned and the nonconforming use right has been lost:

21A38.040.F.1: Termination Of Nonconforming Use: A nonconforming use of land or of a structure that is abandoned shall not thereafter be reestablished or resumed. Any

subsequent use or occupancy of the structure or site must conform with the regulations for the district in which it is located.

- a. Presumption Of Abandonment: Abandonment may be presumed to have occurred if:*
- (1) A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;*
 - (2) The use has been discontinued for a minimum of one year; or*
 - (3) The primary structure associated with the nonconforming use remains vacant for a period of one year.*

The City may presume a use to be abandoned if the above occur. None of the above have yet occurred. The property owner can avoid or rebut a presumption of abandonment if the property owner continues to actively seek a re-use of the existing building for the non-conforming commercial use. This may be demonstrated with evidence of continuous active marketing of the property for lease or sale for re-use of the non-conforming commercial use. Other activities may be used to rebut a presumption of abandonment, such as actively seeking building permits for improvements to the building that are associated with the non-conforming use.

The City recognizes the difficulties that the coronavirus pandemic is causing on commercial land uses and that there are a number of unknowns that may make it difficult to find a new use for the property at this time. The above actions would avoid a presumption of abandonment.

If a new conforming use (one allowed the RMF-30 zone) is established in the building that replaces the non-conforming use or a new development occurs on the property that replaces the nonconforming use, the existing nonconforming use would be considered voluntarily abandoned. If the property were rezoned to a zone that allows for retail uses, the existing nonconforming retail use would be considered “conforming” and could be continued indefinitely.

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 <http://www.slcgov.com/planning/planning-applications> along with information about the applicable fee. Appeals may be filed in person at the Planning Counter, 451 South State Street, Room 215 or by mail at Planning Counter PO BOX 145471, Salt Lake City, UT 84114-5471.



Daniel Echeverria
Senior Planner

CC:

Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Greg Mikolash, Development Review Supervisor
Applicable Recognized Organization – East Central Community Council
Posted to Web
File

Attachments:

A. Marketing material submitted by the applicant

AVAILABLE FOR LEASE

667 SOUTH 700 EAST

Salt Lake City, Utah 84102

RENDERING



- 3,420 SF
- .29 acres
- Space can be divided.
- TI available for qualified tenants.
- Quietly marketed
- Lease Rate: \$39.00 NNN
- Great access/visibility from 700 East
- Close proximity to University of Utah (25,000 Students)
- Strong daytime and nighttime traffic

LEGEND

PARTNERS ■■■■

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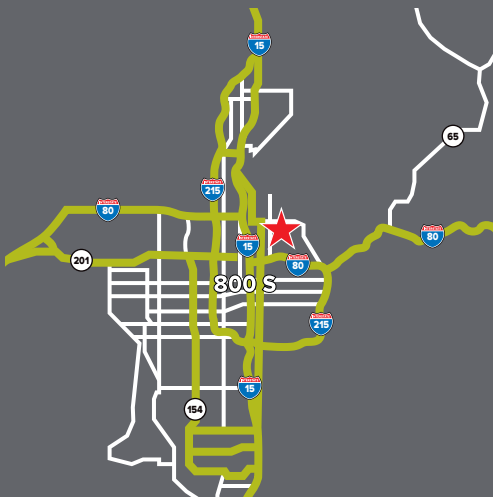
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XTEAM
RETAIL ADVISORS

AVAILABLE FOR LEASE

667 SOUTH 700 EAST

Salt Lake City, Utah 84102



2018 EST. POPULATION
2023 PROJECTED POPULATION
2018 EST. DAYTIME POPULATION

1 MILE	3 MILE	5 MILE
29,235	143,704	260,325
31,375	154,170	278,267
29,538	205,205	319,016



2018 EST. AVG HH INCOME

\$62,943 \$84,572 \$85,350



2018 EST. HOUSEHOLDS

15,553 65,815 108,577



2018 EST. BUSINESSES

1,967 11,416 17,120



700 EAST

44,000 vehicles per day

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