

December 22, 2021

**ADMINISTRATIVE DETERMINATION OF A
NONCONFORMING USE
DECISION AND FINDINGS
PLNZAD2021-01210**



REQUEST:

A request for a Determination of Nonconforming Use regarding the property located at 150 N Main Street (The Kimball Condominiums). This is a request to determine if the condominium units can continue to be rented as timeshare units and as short-term rentals per the historical use of the property.

DECISION:

Based on the provisions of the Zoning Ordinance section 21A.38.040.E, City and County records and the documentation submitted by the applicant, the Zoning Administrator finds that the nonconforming use located at 150 N Main Street is considered to be legal nonconforming use.

FINDINGS:

The property located at 150 N Main Street, known as The Kimball Condominiums, was built in 1916 and consisted of two identical buildings. In the late-1970's, a fire destroyed one building and in 1978 a plat was recorded changing the property from an apartment building to a condominium.

In 1979 the Board of Adjustment granted a variance (Case No. 7940) to restore the existing nonconforming building which was damaged in excess of 60% of its assessed value in a fire. In 1982, Case No. 7940 was reopened "in light of newly discovered information." According to city records, it was determined that the condominium was in possible violation of the zoning ordinance because of their timeshare operation marketing concept. According to the letter dated July 26, 1982 (attached), rather than pursue the variance request, the owner "followed the suggestion of Planning and Zoning staff" to rezone the property to C-1 (Commercial) to allow a timeshare use. While the 1978 or 1987 Salt Lake City Zoning Ordinances do not mention "timeshare" as a land use, at that time staff considered the use to be most closely related to a Hotel or Motel. Hotels and Motels were a permitted use in the C-1 zone at that time. Per ordinance 56 of 1982, the City Council approved a rezone from R-5 to C-1. Following the rezone, the variance was reinstated, and the timeshare use was permitted to continue.

In 1995 the property was rezoned from C-1 to RMF-75 (High Density Multi-Family Residential) Zoning District. The RMF-75 district does not allow hotels, motels, timeshare or short-term rentals, as permitted or conditional uses, therefore making the subject property a legal nonconforming use.

To rezone the property to C-1 to allow the timeshare use, the City indicated support of a use that operates similarly to a hotel or motel, which allows for nightly rentals. Additionally, the impact of a timeshare is thought to be substantially similar to that of a short-term rental. Therefore, both timeshare and short-term rental uses are considered legal nonconforming uses.

Per zoning ordinance 21A.38.040.F3 *Rebuttal of Presumption of Abandonment*: It has been shown that the use of timeshare and rentals over a short term has not been abandoned through applicant-provided Articles of Incorporation and Condominium Declarations. Planning Staff

obtained additional records from the Salt Lake County Recorder's Office affirming that the use has existed since 1982 and has continued to the present day.

If you have any questions regarding this interpretation, please contact Krissy Gilmore at (801) 535-7780 or by email at Kristina.Gilmore@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 <http://www.slcgov.com/planning/planning-applications> along with information about the applicable fee and submission process. Appeals may be filed by submitting an application through the City's online application portal here: <https://citizenportal.slcgov.com>.

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.



Krissy Gilmore
Senior Planner

cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Casey Stewart, Development Review Supervisor
Posted to Web

VERNON F. JORGENSEN
PLANNING DIRECTOR
MILDRED G. SNIDER
SECRETARY

SALT LAKE CITY CORPORATION

BOARD OF ADJUSTMENT ON ZONING
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VICE CHAIRMAN
LOUIS H. CALLISTER, JR.
HERMAN J. HOGENSEN
L. SPRY KELLY

August 5, 1982

Merlyn Hanks
Franklin Financial
1200 Continental Bank Bldg.
200 South Main
Salt Lake City, Utah 84101

Dear Mr. Hanks:

At the Board of Adjustment meeting held Monday, July 26, 1982 your letter was read asking that the variances granted in Cases 7940, 8317 and 8874 be reinstated in view of the recent approval by the City Council of the rezoning of the property at 150 North Main Street.

It was the motion of the Board that the cases be reinstated, effective upon the rezoning.

Sincerely,

BOARD OF ADJUSTMENT

Connie M. Hooper

Connie M. Hooper
Acting Secretary



FRANKLIN FINANCIAL

July 26, 1982

Salt Lake City Corporation
Planning and Zoning Department
Board of Adjustment
City/County Building
Salt Lake City, Utah 84111

Re: Kimball Condominium

Dear Board Members:

A short time after the Kimball Condominium sales began, it was determined we were in possible violation of zoning ordinances because of our time-share ownership concept of marketing. The previously granted variances, which we obtained through your board were also withdrawn.

To avoid any criticism, we followed the suggestion of the Planning and Zoning staff to get our property zoned C-1. We would now appreciate having those variances reinstated so we can continue in a timely way with our project.

Yours truly,

A handwritten signature in cursive script that reads "Merlyn Hanks".

Merlyn Hanks, Vice
President

MH:rj