

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER  
APPEAL OF ADMINISTRATIVE INTERPRETATION  
PETITION NO. PLNAPP2024-00139  
AMERICAN CRANE, 950 SOUTH 500 WEST  
PUBLIC HEARING HELD APRIL 18, 2024

This appeal is from an Administrative Interpretation issued by Salt Lake City Planning on January 23, 2024. The interpretation found that the use of American Crane's property at 950 South 200 West for outside storage is not legally compliant.

On April 18, 2024, a public hearing was held on this matter and appearances were made by Katie Walton speaking for American Crane and Madison Blodgett representing Salt Lake City. The property owner spoke during the public comment portion of the hearing. Representations and argument made during the hearing along with the written submissions of the parties and the staff report prepared by Salt Lake City form the basis for this review.

Although Salt Lake City issued an administrative interpretation on this matter, the hearing and this decision are de novo, with no deference given to the previous interpretation and findings. *Salt Lake City Code* Section 21A.16.030 (E1). Based on the evidence submitted by the applicant, the staff report and testimony presented during the public hearing, the non-conforming use is found to have been abandoned in 2008 when American Crane relinquished its business license because by its own admission it was no longer conducting an outdoor storage business on the property.

A non-conforming property is considered legal if the use was permitted at the time it was created and has not been abandoned. *Salt Lake City Code* Chapter 21A.62. The current dispute focuses on the question as to whether American Crane abandoned the use of the property for outdoor storage during a period of time starting at 2005 and continuing to at least 2014.

According to the City's records and confirmed by the appellant, American Crane ceased having a business license for outdoor storage on the property beginning in 2008. The City's records indicate the license was terminated in 2008 due to "*Construction moved out of the City.*" During the hearing appellant asserted that they allowed the license to lapse because no business license was required. When asked why, appellant responded that no business was being conducted on the site. This response was given at 6:45-6:58 on the recording of the hearing. The Staff report included documentation showing aerial images indicating the property was used for the storage of trailers, containers and other similar equipment prior to 2005. Subsequent aerial images showed the property to be vacant for several years.

Appellant testified that a tenant retail operation existed on the property in 2014 and thereafter the location was leased to a truck repair business known as Merlin's Truck Repair. These other business maintained licenses at 988 South also owned by the appellant but not at 950 South, the address at issue in this proceeding. In 2014, a business license for tire sales and service was denied because the property was not hard surfaced as required by City code for that use. According to the staff report, a license was issued for the storage of tires only in 2017. That

license terminated in 2021. None of these uses constituted an outdoor storage facility as that use is licensed by the City.

The applicant stated that they treated the lots at 988 and 950 as a single space and considered the businesses occupying 988 South to be also occupying 950 South; however, the testimony indicated that the use of the property at 950 was sporadic and accessory to the use at 988, rather than the main occupant. Regardless, and based on the testimony, it appears undisputed that the property was not used for the business of outdoor storage at least between 2008 when the business license was knowingly allowed to lapse and the commencement of the current case, when the appellant determined to conduct an outdoor storage facility on the property.

American Crane did lease the property for other uses, including truck repair and beginning in 2017 obtained a license for storage of tires only. The tire storage license was terminated in 2021. Since that time, the City has conducted two enforcement cases arising out of the storage of junk and vehicle parts on the property. At no time after 2008 did American Crane apply for or receive a renewed business for the purpose of maintaining an outdoor storage facility at 950 South 500 West.

Nonetheless, appellant argues that there was no intent to abandon the use of the property for storage and relies on the ordinance in existence in 1964. That ordinance; Chapter 7 Sec. 51-7-6 provided that a non-conforming use could only be considered abandoned:

1. When the intent of the owner to discontinue the use is apparent, or
2. When the characteristic equipment and furnishings of the nonconforming use have been removed and have not been replaced by similar equipment within one year, or
3. When the building or premises are left vacant for a period of one year or more, or
4. When the use has been replaced by a conforming use.

American Crane asserts that it had no intent to abandon the use of the property as an outdoor storage facility. In 2013 however, the intent to abandon language was removed from the code. Regardless, appellant's own testimony indicates that it made an affirmative decision to cease having a business license in 2008 and did not carry out business on the property until at least 2014. None of the intervening uses constituted an outdoor storage facility. This demonstrates intent by the owner to discontinue the outdoor storage use according to the terms of the ordinance.

The evidence also indicates that the property was vacant for a number of years and that the property hosted other uses in the intervening time. The current intent by American Crane to resume that use was interrupted by a period of several years of abandonment.

Appellant also asserts that the presence of an I-beam track on the property supports a finding that the business was ongoing. The images collected by the City however reflect that the equipment was derelict and unused. The presence of some personal property and one I-Beam fixture does not counter to direct evidence from appellant that the property was not used for

business after the license was relinquished. That intent combined with the photographic evidence of vacated space indicates the non-conforming use was abandoned.

Based on the evidence in the record, American Crane did not continuously maintain the property at 950 South 500 West and abandoned its use for outdoor storage for a number of years beginning in at least 2008. Therefore, the outdoor storage is not established as a legal non-conforming use.

Dated this 12<sup>th</sup> Day of May, 2024.

/Mary J. Woodhead/

Mary J. Woodhead, Appeals Hearing Officer