



## DEVELOPMENT SERVICES DEPARTMENT

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**File:** HISTFY2021-0001  
**Date:** June 24, 2021  
**Reviewer:** Hanna Veal, Associate Planner

### **Background:**

The applicant is seeking an analysis to determine if a property has a legal nonconforming use.

Applicant: Bob Ramsey represented by Mark Butler

Location: 200 E. 45<sup>th</sup> Street; Lot 8 Block 01 Fairview Acres Subdivision number 01 #8237709

Current Zoning: C-2

Stated Use: Light Industry

Stated Date of Commencement of Use: 1982

### **Analysis:**

In order to establish if an existing use is a legal nonconforming use, the applicant must demonstrate the following:

- 1. The use was legally established in accordance with the laws in effect at the time.**
- 2. The time the use became in existence; and**
- 3. Evidence of continuous use.**

Staff has completed a review of the existing identified uses, submitted records, archive files and plans:

#### **1. The use was legally established in accordance with the laws in effect at the time.**

According to the submitted documents, Bob Ramsey, the property owner, received a building permit September 7, 1982. An additional building permit was applied for in 1986 for a 40' x 60' commercial addition. There is one business compliance document submitted with the packet which is for Action Steel Builder, a personal and professional

service use, issued on April 26, 2008. The business compliance document status reads that the company went out of business on this date.

As there are no Certificates of Occupancy on file, nor was there an affidavit of use submitted as part of the application materials, the only use that can be proven is that of the business compliance for the use of Personal & Professional Services.

Title 8 Development Code from 2004 was applicable during the time of the business compliance issuance. Personal and Professional Services was considered one use at the time. Personal and Professional Services is defined as:

*“The use of a site for the provision of individualize services generally related to personal needs. Personal service uses include but are not limited to, beauty and healthcare services such as salons, hair, nail, and skin care, spa, and barbers; locksmiths; and repairs such as footwear and leather goods, watches, and appliances. Professional service uses include, but are not limited to: architects, engineers, landscape architects and other design services; computer designers; consultants, lawyers; media advisors; photography studios, realtors; and title companies.”*

The claim that the use has not changed in character since the construction of the building in 1982 is not supported by the submitted documents, and thus cannot be determined as a legal nonconforming use. Even if the site has continued to operate in the same manor, or particular character, the tenants have not lawfully been occupying the space as there are no certificates of occupancy or additional business compliance documents.

## **2. The time the use came into existence.**

Based on the business compliance document, 2008 will be used as a commencement date for the use of Personal and Professional Services.

## **3. Evidence of continuous use.**

Action Steel Builders has a business compliance permit for “Professional and Personal Services”. However, the business compliance permit notes that Action Steel Builders went out of business and there are no other certificates of occupancy, certificates of compliance, or affidavits submitted with this application. Without evidence of occupancy, the site has claimed to be vacant since Action Steel Builders vacated in 2008.

Garden City Code 8-1B-3 states that if a nonconforming use has ceased for twelve (12) consecutive months and not declared the intent to continue the nonuse of the use or improvements designed for the use, as defined by Idaho Code section [67-6538](#) and approved Garden City procedures, or has been replaced with a conforming use, the nonconforming use shall be deemed abandoned and shall not be reestablished. Thus relinquishing any grandfather rights the property was entitled to.

## **Documentation:**

The following documentation was provided by the applicant:

- Nonconforming Status Determination Application
- Letter addressed to Mark Jones, Development Services Code Enforcement
- List of 200 E. 45<sup>th</sup> Street Documents

- Garden City Building Permit dated September 7, 1982.
- Business Compliance (BUS2011-00020)
- Email
- Elevations and Floor Plans
- Building Permit Application dated May 9, 1986.

**Other documentation reviewed:**

- Current Title 8 Garden City Code
- Title 8 of Garden City Code 2004
- Ada County Assessors Website

**Conclusion:**

Based on the lack of documentation available to review, the use **IS NOT** a legal nonconforming use.