

**CITY OF SARATOGA SPRINGS
CITY COUNCIL WORK SESSION
AGENDA**

Tuesday, April 21, 2015

Meeting held at the City of Saratoga Springs City Offices
1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

Councilmembers may participate in this meeting electronically via video or telephonic conferencing

City Council Work Session

5:45 p.m.

1. Departmental updates from the Building, Fire and Police Department.
2. Discussion regarding Blair's Tire and Auto Non-Conforming status.
3. Discussion of the Tentative Budget FY 2015-2016.
4. Agenda Review:
 - a. Discussion of current City Council agenda staff questions.
 - b. Discussion of future City Council policy and work session agenda items.
5. Reports:
 - a. Mayor.
 - b. City Council.
 - c. Administration communication with Council.
 - d. Staff updates: inquires, applications and approvals.
6. Adjourn to Policy Session.



City Council Memorandum

Author: Sarah Carroll, Senior Planner
Memo Date: Thursday, April 9, 2015
Meeting Date: Tuesday, April 21, 2015
Re: Nonconforming Use at 1978 North Redwood Road

Background:

Staff is receiving calls and questions regarding the vacant building at 1978 North Redwood Rd and would like further direction from the Council on how to respond to these calls. Possible options are outlined later in this memo for your discussion and consideration.

At the corner of Harvest Hills Boulevard and Redwood Road (1978 North Redwood Rd, map below) is an empty building formerly used for Auto repair Services (Saratoga Tire and Auto, Blair's Tire and Auto, American Car Care). Staff has been receiving phone calls and questions about what can go in this building, but there are questions about whether or not the nonconforming use has expired.

When this building was approved in 2004, the property was zoned "C" Commercial and that zone allowed Auto Repair Services. In 2005, the City created other commercial zones and re-zoned this property to MU. Auto repair has never been an allowed land use in the MU zone and the business became a "nonconforming use."

Options:

The City's Land Development Code does not address legal nonconforming uses. However, State Code specifies options for nonconforming uses and they may be presumed to be abandoned if the use has been discontinued for a minimum of one year (cited on pg 3). In regard to this building, there has not been an active business license in the last 12 months and it may be presumed that the use has been abandoned and it is now a legislative decision as to whether or not the use may continue. The Council has three possible options to consider:

- 1) Declare the use to be abandoned and prohibit "auto repair services"
- 2) Declare the use NOT to be abandoned and allow "auto repair services" to continue once a new tenant and/or owner has committed to the building.
- 3) Rezone the property to RC to eliminate the "nonconforming" label and allow "auto repair services" to continue without the issues related to "nonconforming uses".

State Code 10-9a-511:

- (2) The legislative body may provide for:
- (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;
 - (b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and
 - (c) the termination of a nonconforming use due to its abandonment.

- (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.
- (b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
- (c) Abandonment may be presumed to have occurred if:
- (i) 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;
 - (ii) the use has been discontinued for a minimum of one year; or
 - (iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.
- (d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(b) has not in fact occurred.

Discussion:

The Council may wish to discuss the following:

- The building was constructed for “auto repair services” and it may need extensive remodeling for other uses. Use of the entire building would require an extensive remodel of the bays in back and a need for more parking.
- When the site was approved the parking spaces in the bays were counted towards the parking requirement.
- 49 stalls were required for the original approval: The site includes 37 parking stalls and the repair bays were counted to make up the difference.
- A new site plan would trigger compliance with the current code which requires a minimum of five feet of separation between a building and parking spaces; the north side of the building does not comply.
- There are access limitations for this site.

Recommendation:

Staff recommends that the Council review and discuss the potential options for the building at 1978 North Redwood Road and provide staff with further direction.

Location/Aerial Map:

