



December 6, 2019

***Draper City Planning Division
Administrative Interpretation***

RE: Silver Paw Lodge, Inc. Interpretation

This letter is in regards to a question that has arisen regarding the legal nonconforming status for the Silver Paw Lodge Inc. kennel located at 11892 South 800 East. The property is located within the RA1 (Residential Agricultural, 40,000 square foot lot minimum) zone. This business used to be called Silver K Kennel and pre-dates the 1978 establishment of the City of Draper. The then Community and Economic Development Director, Eric A. Keck, issued a letter on August 15, 2002 which found that the Silver K Kennel was a legal nonconforming use which was allowed to continue operating as long as it did not expand beyond the historic intensity of the use with no more than seventy (70) dogs at any given time. The number of employees the business had at that time was two.

A business license renewal application has been submitted for Silver Paw Lodge Inc., which lists the number of employees at ten. The question is whether the increase in the number of employees affects the nonconforming status, and if new approvals are required.

Draper City Municipal Code (DCMC) Section 9-6-040 outlines when a nonconforming use has to come into compliance with current code. This section allows a nonconforming use to continue and expand within a building as long as the expansion does not create structural alterations, noise, odor, or vibration. The section further states that the nonconforming use of open land may be continued so long as it is not expanded into other portions of land or buildings or no new structures, additional, alterations, or enlargements are made, except as required by law.

9-6-040: NONCONFORMING USES:

- A. Continuation: A nonconforming use of any conforming or nonconforming structure which was legally existing when such use became prohibited may be continued as provided in this chapter.
- B. Expansion Within Conforming Building: A nonconforming use existing within a portion of a conforming building may be expanded to include the entire floor area of such building provided that such expansion:
 - 1. Does not include any structural alteration;
 - 2. Creates no noise, odor, or vibration; and
 - 3. Otherwise conforms to the requirements of this title.
- C. Nonconforming Use Of Open Land: A nonconforming use of open land may be continued provided such nonconforming use shall not be expanded or extended into any other portion of a conforming building or open land, and no structures, additions,



alterations, or enlargements thereto shall be made thereon, except those required by law.

- D. Expansion Of Outdoor Nonconforming Uses: A nonconforming use of a lot or parcel where the principal use is not enclosed within a building, such as a salvage yard or a motor vehicle sales lot, shall not be expanded except in conformity with the requirements of this title.

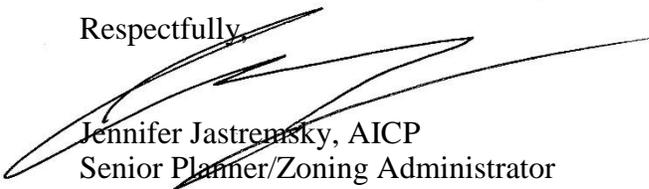
Based on aerial evidence, there has only been one instance of change to the site since 1997. No reliable aerial photo is available prior to that year. In 2008 and 2009 the Utah Transit Authority (UTA) installed a new TRAX line and station adjacent to the property. As part of those improvements, the subject property's access was moved from 700 East to its current location on 800 East. Prior to the TRAX improvements, the property was addressed as 11893 South 700 East. This change due to public action redirected the site access and parking lot access for the kennel. No new buildings or additions have been added to the site.

It is the Zoning Administrators position that the Silver Paw Lodge Inc. is a legal nonconforming use which may continue to operate under the restriction of its historical intensity of no more than seventy (70) dogs at any given time. The addition of new employees does not impact their nonconforming status, as the business has not expanded beyond their historical intensity, which was measured by number of dogs, nor have they expanded the business into new buildings or new open land area. An expansion in number of dogs beyond 70, or the addition or enlargement of buildings, or expansion into new open land would trigger the need to comply with current DCMC. Per DCMC Section 9-10-090 a conditional use permit is required to operate a kennel in the RA1 zone.

There are a couple options available to you if you believe this interpretation has been made in error. You may seek a text amendment in order to change the code, or you may appeal this determination. An appeal is subject to DCMC Section 9-5-180 and 9-6-140 and shall be made within 14 days of the decision which is appealed. Applications for both options can be found on the city's website.

If you have further questions, please contact me at jennifer.jastremsky@draper.ut.us or at 801-576-6328.

Respectfully,


Jennifer Jastremsky, AICP
Senior Planner/Zoning Administrator
Community Development Department

Cc File
Enclosure



15 August 2002

Rhonda Jenkins
591 East Malibu Drive
Salt Lake City, Utah 84107

Dear Ms. Jenkins:

Draper City recognizes the Silver K Kennels as a legitimate business that has been in operation, without complaint or violation, since prior to the City's incorporation. The business currently does not have a conditional use permit for operation as a kennel, however, since Silver K had been in operation as a kennel prior to the City's incorporation, the conditional use permit is not required.

Your desire to acquire the Silver K Kennels and continue its operation will not prove to be problematic for either yourself or the City so long as the appropriate zoning ordinance and business license prescriptions are followed. The prescriptive right to continue operating the kennel is afforded to him by law so long as he does not expand the property's use as a kennel beyond the historic intensity of use with ~~no~~ no more than seventy (70) dogs at any given time.)

I am aware that you desire to make improvements to the property which are welcomed by the City and will require the appropriate building permits if they are required. In the event of a tragic loss of property due to fire, flood, or some other calamity, you would have the ability to submit plans for rebuilding/reconstructing the kennel and continue operation so long as it does not exceed the historical use of the property.

If you should have any further questions, please do not hesitate to contact me.

Sincerely,

Eric A. Keck
Community and Economic Development Director