



September 15, 2020

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

RE: McCrary Rooster Interpretation

This letter is in regards to a requested interpretation as to the legal nonconforming status of roosters on the property located at 847 East Canyon Breeze Ln. The administrative interpretation application is APPL-1055-2020. The subject property is located within the RA1 (Residential Agricultural, 40,000 square foot lot minimum) zoning designation.

The applicant has asserted that she has had roosters on the subject property since moving onto the property in 1995. The applicant has also obtained a letter from two neighbors certifying that she has had roosters for 12- 20 years, effectively the entire time the neighbors have lived nearby.

The City's aerial map history shows a barn and other accessory structures dating to 1997. Aerial imagery does not mean that the property has housed chickens, but that farm buildings have been present since at least 1997.

The requirements and restrictions on fowl for recreation or family food production was consistent within the Draper City Municipal Code (DCMC) from 1990, 1999, and 2001 and was not amended until 2009 with Ordinance 892. Roosters and crowing hens are prohibited under current DCMC Section 9-27-055. This prohibition was adopted by the City Council on June 23, 2009.

9-27-055(C): KEEPING OF CHICKENS FOR FAMILIAL GAIN

C. Standards Of Care: The following standards for care of chickens shall be required in all cases where the provisions of this section are applied:

4. There shall be no roosters or crowing hens.

The property was subject to the 1990 Zoning Code at the time the applicant asserts roosters were first placed on the property. The City's 1990 Zoning Code did not prohibit roosters. The 1990 DCMC Section 9-4-050 permitted animals and fowl for recreation or family food production at a rate of 1 animal unit per half acre of property in the RR-43 zone. The definition found in DCMC Section 9-1-020 for animal unit allowed 20 fowl per animal unit. The code did not provide a distinction between types or gender of fowl.

Section 9-1-020 Meaning of Words

(6) Animal Unit. Each horse and cow or other similar large domestic animals shall be counted as one (1) animal unit. Each medium size domestic animal such as sheep and goats shall be counted at a ratio of five (5) per animal unit. Small domestic animals and fowl shall be counted at a ratio of twenty (20) per animal unit.



(7) Animals and Fowl for Recreation and Family Food Production. The keeping of animals for the exclusive use of persons residing on the lot provided that the number of animal units maintained for food production at anyone time shall not exceed that required to supply the household needs for a one (1) year period.

The City does not have a copy of the zoning map from 1995, but the 1984 zoning map shows the property in the RR-43 designation. This is a single-family one-acre lot zone. When the city adopted the 2001 zoning code, they modified the names of some zoning districts, which included changing the RR-43 zone to the RA1 zone. This indicates the subject property has had a one-acre single-family lot zoning since at least 1984.

DCMC Section 9-6-040 allows for legal nonconforming uses to continue. If a nonconforming use is abandoned, or removed from the property, for a period of a year the use shall be deemed abandoned under DCMC Section 9-6-090 and any new use of the property shall conform to the code. In all cases, it is the property owners burden to establish if a nonconforming use lawfully exists per DCMC Section 9-6-100.

Based on the information provided by the applicant, it is the Zoning Administrator's position that the applicant has lawfully kept roosters on the property prior to the 2009 code amendment and has kept roosters continuously since the 2009 code amendment. The keeping of roosters on the property is a legal nonconforming use of the property. The roosters do not need to be removed from the property.

The 1990 Zoning Code allowed for 1 animal unit per half acre. The property is 1.32 acres in size and has 2.6 animal units. The utilization of animal units shall not exceed the cumulative allotment of animals under the 1990 definition for animal units, DCMC Section 9-1-020.

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,

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Cc File