



DRAPER CITY HALL

Community Development | 1020 E. Pioneer Rd. Draper, UT 84020

September 7, 2021

Draper City Planning Division Administrative Interpretation

RE: 13413 S Minuteman Dr.

This letter is in response to a determination request on the status of a commercial structure located at 13413 S Minuteman Dr., parcel number 34-06-101-001. The application is APPL-0137-2021. The owner has asked the Zoning Administrator to find that the existing commercial building is legal nonconforming and that commercial uses are allowed within the building.

According to the applicant, the structure was built in 1958. This is before the City incorporated in 1978. The Zoning Administrator was unable to verify the exact year of construction for the building, but it does show up on the City's aerial in 1977, establishing its existence prior to City incorporation.

According to the 1973 Salt Lake County Zoning Map, the property was zoned CV (Commercial). This zone was created by the County on June 12, 1971. The City does not have legible zoning maps that pre-date the 1973 Zoning Map and therefore cannot verify what the zoning was when the property was developed. According to the 1977 Salt Lake County Zoning Ordinance, the CV zone allowed "automobile service station" as a conditional use in the CV zone.

Draper City currently has the property zoned RM2 (Multi-family Residential, up to 12 dwelling units per acre). This zoning designation has been on the property since April 3, 2007, when it was rezoned from the RA1 (Residential Agricultural, 40,000 square foot lot minimum) zone. Looking at past zoning maps, the property was zoned RR-43 (Rural Residential) in both 1984 and 1998, the oldest zoning maps the City has. This zone was an equivalent zone to the RA1 zone on the books today, it allowed for single-family homes on one acre lots. The RM2, RA1, and RR-43 zones allow commercial uses in a limited fashion but do not allow "automobile service station", "vehicle sales", "auto, truck, RV and equipment storage", "gasoline service station", or similar uses.

Per Draper City Municipal Code (DCMC) Section 9-6-050, a nonconforming structure which pre-dates the code prohibiting the structure may continue as long as it is not enlarged or expanded.

9-6-050: NONCONFORMING STRUCTURES:

A. Continuation: A nonconforming structure in any zone may be continued as provided in this chapter so long as no additions or enlargements are made thereto and no structural alterations are made therein, except as may be required by law. If any nonconforming structure is removed from the lot or parcel on which it was located, each future structure thereon shall conform to the provisions of this title.

When reviewing the use of the building, the Zoning Administrator could not find any records to indicate the building has been occupied by a commercial use. The applicant provided general directory records showing operations under several names during 1965-1976. These business names were *L&L Service Gasoline Station, Darrell Lloyd Gasoline Station, and Darrell Lloyd General Automotive Repair Shop*. No such names exist within the City data bases, and the proffered years pre-date the City Incorporation. Looking at business license records for the property, there is no evidence that any business has ever received a license from the City of Draper at the property. Based on this data, the Zoning Administrator finds that there has been no legal business operations in the building since the City incorporated in 1978.

Per DCMC Section 9-6-090, a nonconforming use which has not been occupied for a period of a year or more shall be deemed abandoned and shall not reoccupy unless it conforms to the requirements of DCMC.

9-6-090: ABANDONMENT:

Any nonconforming use, structure, or other nonconformity which is not thus occupied or so used for a continuous period of one year shall be deemed abandoned and shall not thereafter be reoccupied or used except in a manner that conforms to the requirements of this title.

A. Presumption Of Abandonment: A nonconforming use, structure, or other nonconformity shall be presumed abandoned when any of the following occurs:

- 1. The owner has in writing or by public statement indicated intent to abandon the use, structure, or other nonconformity;*
- 2. A less intensive use has replaced the original nonconforming use;*
- 3. The owner has physically changed the structure or its permanent equipment in such a way as to indicate a change in use or activity to something other than the nonconforming use; or*
- 4. The structure has been removed through applicable procedures for the condemnation of unsafe structures.*

B. Overcoming Presumption Of Abandonment: A presumption of abandonment may be rebutted upon evidence presented by the owner showing no intent to abandon the use, structure, or other nonconformity. Such evidence may include proof that during the alleged period of abandonment the owner has done either of the following:

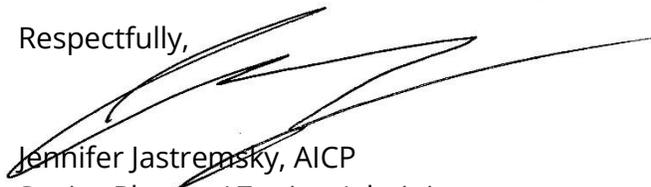
- 1. Maintained the lot and structure, if any, in accordance with the building code; or*
- 2. Has actively and continuously marketed the lot or structure for sale or lease.*

The Zoning Administrator finds that the building itself is legal nonconforming and may remain. A continuous, legal nonconforming commercial use of the building has not been established in the City and any use of the building and property shall conform to the current DCMC.

If you believe this interpretation has been made in error, you may appeal this determination. An appeal is subject to DCMC Section 9-5-180 and shall be made within 10 days of the decision which is appealed. An application can be found on the city's website. You may also seek another interpretation under DCMC Section 9-6-090(B) providing the necessary documentation to overcome a presumption of abandonment.

If you have further questions, please contact me at jennifer.jastremsky@draperutah.gov or at 801-576-6328.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jennifer Jastremsky', written over a horizontal line.

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