

County of Santa Clara

Environmental Resources Agency
Planning Office

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November 14, 2000

Bear Creek Stables
Attn: Glenda J. Smith
19100 Bear Creek Road
Los Gatos, Ca. 95033

Subject: Status of Horse Boarding Operation at 19100 Bear Creek Road
File: 5814-26-46-00Z1

Dear Ms Smith:

This letter is written in response to your request regarding a "letter of compliance" for the purpose of verifying that the horse boarding operation presently known as Bear Creek Stables is considered to be a legal non-conforming use.

Section 38-1 of the Santa Clara County Zoning Ordinance addresses existing uses not allowed today as a matter of right but established at a time when the use was allowed as a matter of right.

The ordinance states as follows:

"Except as otherwise provided in this section, the lawful use of land existing at the time of the adoption of this ordinance, although such use does not conform to the regulations specified by this ordinance for the district in which such land is located, may be continued; provided, however, that no such nonconforming use shall be enlarged or increased, nor shall any such nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this ordinance; provided, further, that if any such nonconforming use ceases, any subsequent use of such land shall be in conformity to the regulations specified by this ordinance for the district in which such land is located."

The information you have provided indicates that during the 1940's the property was under the ownership of the Novitiate of Los Gatos and that horse breeding and raising was taking place on the property. The submitted documentation shows that in 1969 Mr. and Mrs. Lester Porter leased fifteen acres from the Novitiate for the purposes of maintaining a riding stable. The lease was extended in subsequent years and the information you have provided verifies the fact that the lease was renewed at least through 1975. Additional information you have submitted (telephone listings) has verified that the use has been in continuous operation through the current date.

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It appears that subject property was zoned "A" Exclusive Agriculture at the time the 1969 lease was executed. The "A" zoning district allowed riding academies and stables as a matter of right and did not have any limitation on numbers of horses. The zoning ordinance was subsequently amended in 1975 resulting in a use permit requirement to establish the aforementioned uses. This 1975 requirement did not impact uses that had already been legally established. A copy of the ordinance is enclosed for your information.

Consequently, the use on subject property is currently allowed provided that the use has been continuously maintained since 1975, without interruption for a period exceeding six months.

The information I received October 2, 2000 in the rental agreement from the Midpeninsula Regional Open Space District (MROSD) notes that no more than 72 horses (or such lesser number as MROSD may authorize) are allowed. The notarized November 4, 2000 letter from Mrs. Helen Porter states that in 1970 the horses on the property numbered between 70 and 80, and that in 1975 there were 83 horses on the property.

MROSD has informed me that the number of horses authorized by their rental agreement was based on the number of horses that were present at the time they acquired the property. They have no additional information regarding the historical use of the property with respect to the number of horses that have been boarded at any point in time. Mrs. Porter's notarized letter is not substantiated with any additional documentation, however it is consistent with the current operation and it appears reasonable in light of the documentation that has been provided to verify the continued operation of the stables. Moreover, it appears that despite your attempts to substantiate the exact number of horses on the property in 1975 with additional sources of data, the necessary information is not available.

The facts you have provided (copies of leases, newspaper/magazine articles and telephone listings) adequately verify that the use has been in continuous operation. The information addressing the scope of the operation (number of horses) has further led me to conclude that in 1975 there were approximately 83 horses on the property and that since that time the number fell to 72 horses. My determination is based on the existing operation, what appears to be a pragmatic evaluation of the recent history of the boarding operation, a personal recollection by the former owner, and the situation at hand when MPROSD acquired the property.

On the basis of the foregoing, I have determined the following:

- a) The existing stabling use is legal nonconforming and may continue operation without benefit of a use permit.
- b) 72 horses is the maximum number of horses you may maintain on subject property as a legal non-conforming use.
- c) No expansion or intensification of the use may be allowed without first obtaining a use permit.

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Please note that my analysis of this matter did not address any other uses on the property or the status of any buildings on the property.

Although there may be evidence to dispute my analysis, I have no such evidence at this time and would reserve the right to change my analysis if additional pertinent information were to be presented.

If I can be of any further assistance, please feel free to contact me at 299-2454, ext. 228.

Very truly yours,


Michael M. Lopez,
Zoning Administrator

cc: Ann Draper
Carolyn Walsh
Thomas Fischer