

April 17, 2018



**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2018-00241**

REQUEST:

This is a request for an administrative interpretation regarding whether the property located at approximately 805 S. 800 West (Tax ID#15-11-276-001-0000) is a legal lot in accordance with the Salt Lake City zoning laws. The purpose of the request is to determine if the property could be developed for a commercial use. Specific commercial uses mentioned in the request include office, commercial bakery, and a restaurant or retail goods establishment with a drive-through.

DECISION:

The Zoning Administrator finds that the subject property located at approximately 805 S. 800 West (Tax ID#15-11-276-001-0000) is recognized by Salt Lake City as a legal complying lot. The property could be developed with any permitted or conditional uses as indicated in the table of permitted and conditional uses for manufacturing districts subject to meeting the zoning requirements of the applicable M-1 (Light Manufacturing) zoning district and any other applicable zoning regulations.

FINDINGS:

The subject property is currently located in M-1 (Light Manufacturing) zoning district and has a total lot area of approximately 4,791 square feet (0.11 acres), and a lot width of 39 feet. The M-1 zone requires a minimum lot area of 10,000 square feet and a minimum lot width of 80 feet.

Section 21A.38.060 of the Salt Lake City Zoning Ordinance states the following regarding noncomplying lots:

*A lot that is noncomplying as to lot area or lot frontage that was in legal existence on the effective date of any amendment to this title that makes the existing lot noncomplying shall be considered a legal complying lot and is subject to the regulations of this title. Any noncomplying lot not approved by the city that was created **prior to January 13, 1950**, may be approved as a legal noncomplying lot subject to the lot meeting minimum zoning requirements at the time the lot was created and documented through an updated zoning certificate for the property.*

The property was created prior to January 13, 1950. The subject parcel is described as an individual lot in 1903. The subject parcel is described in a Warranty Deed (#175742 in Book 6-L of Deeds and Transfers, page 459) from Mary A. H. Cannon to Gottfried Ashliman. The associated deed is attached to this interpretation. The property is described as follows:

Beginning at the North West corner of Lot Five (5) Block Two (2) Plat "C" Salt Lake City Survey and running thence East thirty nine (39) feet, thence South one hundred and twenty five (125) feet, thence West thirty nine (39) feet, thence North one hundred and twenty five feet to the place of the beginning.

Zoning regulations were first adopted by Salt Lake City in 1927. Prior to that year, lot dimensions were not regulated by the City and new lots could be created by deed without dimensional restrictions. As such, the lot was legally created in 1903.

Since the lot was legally created prior to 1950 and complied with zoning requirements at the time (there were none applicable), the lot is considered a legal complying lot. A legal complying lot may be developed for any use identified as permitted or conditional uses for the M-1 zoning district, subject to meeting applicable zoning regulations (see attached table of permitted and conditional uses).

Accessory uses are permitted subject to meeting any specific regulations for the accessory use in the Salt Lake City zoning ordinance. An *Accessory Use* is a use that:

- A. *Is subordinate in area, extent and purpose to, and serves a principal use;*
- B. *Is customarily found as an incident to such principal use;*
- C. *Contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use;*
- D. *Is, except as otherwise expressly authorized by the provisions of this title, located on the same zoning lot as such principal use; and*
- E. *Is under the same ownership or control as the principal use.*

Drive-through facilities are subject to the requirements in section [21A.40.060](#) of the zoning ordinance.

APPEAL PROCESS:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <http://www.slcgov.com/planning/planning-applications> along with information about the applicable fee. Appeals may be filed in person at the Planning Counter, 451 South State Street, Room 215 or by mail at Planning Counter PO BOX 145471, Salt Lake City, UT 84114-5471.

NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.

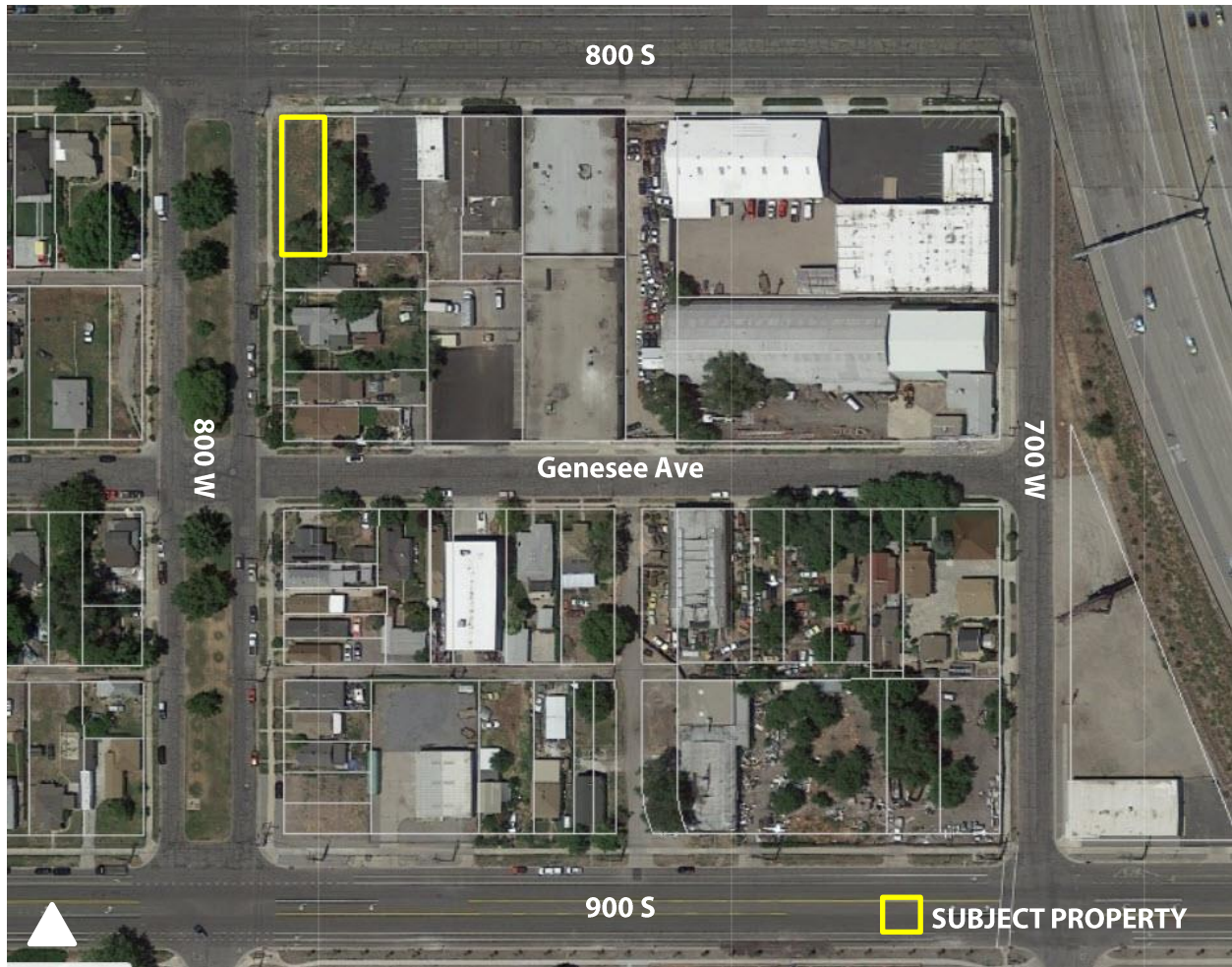


Amy Thompson
Principal Planner

CC:

Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Heather Gilcrease, Development Review Supervisor
Applicable Recognized Organization
Posted to Web
File

Vicinity Map of Subject Property (805 S 800 West, Parcel 15-11-276-001-0000)



Applicant's Request for an Administrative Interpretation

- a. An interpretation is sought for Zoning Ordinance 46-17, 2017, sections 21A.33.040 and 21A.02.040.
- b. Applicant is the duly appointed personal representative of the deceased owner of record, Robert B. Sheldon. Applicant requests an administrative interpretation on the legality of the lot, since it is in the M-1 Zoning District and it doesn't meet current zoning requirements for lot size.

Applicant affirms that she believes the lot to be a legal, buildable lot because a title search shows the same legal description for the lot going as far back as 1903, as indicated by the attached warranty deed description, entry no. 175742, dated 24 October 1903.

Applicant maintains that this lot has been a legal lot since at least 1903, when the attached deed was executed and on up through the present day, notwithstanding subsequent changes in zoning.

- c. The subject property is a legal and, therefore, buildable lot within the current M-1 Zoning District. The proposed primary use of the property, as either an office or commercial bakery with an accessory "milk bar" or combination restaurant/retail goods establishment with or without drive-through facility, would be acceptable permitted uses within this zoning district.

- d. The proposed primary use of the subject property is either an "office" or "commercial bakery," which classifications are both listed as permitted uses according to Ordinance 46-17, 2017, section 21A.33.040: Table of Permitted and Conditional Uses.

An unspecified or yet to be determined "accessory use, except those that are otherwise specifically regulated elsewhere in this title," is also proposed, since such classification is also listed as permitted within the M-1 manufacturing district.

A use interpretation is sought for a possible drive-through "milk bar," which most closely fits under the classification "restaurant with or without drive-through facility." The term "milk bar" refers to a combination snack bar/souvenir shop, which may be considered a small restaurant and retail goods establishment, where ice-cream and milk beverages might be served over a counter, along with chocolate or bakery goods. Since a retail goods establishment with or without drive-through facility" is also a permitted use in the M-1 Zoning District, the proposed "milk bar" would be compatible with this zoning and an acceptable "accessory use" according to the table.

Entry No. 175742

Warranty Deed.

Mary R. K. Cannon Grantor
 of Salt Lake City, County of Salt Lake, State of Utah, hereby Convey and Warranty to Goldfried Williams
 Grantee of the same place specified
 for the sum of One \$ 100.00 Dollars.
 the following described tract of land in Salt Lake County, State of Utah, to wit:

Commencing at the north west corner of Lot Five (5) Block Two (2) Plat "C" Salt Lake City Survey and running thence East thirty nine (39) feet thence South one hundred and twenty five (125) feet thence West thirty nine (39) feet thence North one hundred and twenty five feet to the place of beginning.

Witness the hand of said Grantor this 24th day of October 1903

Signed in the presence of

Lewis H. Cannon

Mary R. K. Cannon

State of Utah,
 County of Salt Lake } ss.

On this 24th day of October A. D. 1903

personally appeared before me Mary R. K. Cannon
 the signer of the above instrument, who duly acknowledged to me that she executed the same.

My commission expires June 5th, 1905

Recorded at request of Lewis H. Cannon



L. North Overton Notary Public

Nov. 13, 1903, at 12:21 o'clock P. M.

in Book 6-L of Deeds and Transfers, page 469, Records of Salt Lake County, Utah. Abstracted in 164 page 2, line 18.

Recording fee paid, \$ 70.00 (Signed) Walter J. Smith, Salt Lake County Recorder, Utah, by J. L. May, Deputy.

Entry No. 175745

Warranty Deed.

Friedrich W. Little Grantor
 of the City and County of Salt Lake, State of Utah, hereby Convey and Warranty to Thomas W. Ballantine
 Grantee of the same place
 for the sum of Thirteen Hundred Dollars.
 the following described tract of land in Salt Lake City and Salt Lake County, State of Utah:

Commencing at the southwest corner of Lot Three (3) Block Twenty Three (23) Plat "C" Salt Lake City Survey, thence running North Sixteen (16) rods, thence East Two and one half (2 1/2) rods, thence South Sixteen (16) rods, thence West Two and one half (2 1/2) rods to the place of beginning.

This deed is given subject to encumbrances for the sum of \$1080.00 (\$105.00 One Hundred and Five Dollars of which has already been paid together with interest), secured by trust deed on above described premises recorded October 1st 1902, recording number 162727, which said second party assumes and agree to pay—
 subject to taxes for the year 1903

Witness, the hand of said Grantor, this 15th day of May, A. D. nineteen hundred and three

Signed in the presence of

F. L. Goddard

Friedrich W. Little

21A.33.040: TABLE OF PERMITTED AND CONDITIONAL USES FOR MANUFACTURING DISTRICTS:

Legend:	C =	Conditional	P =	Permitted
---------	-----	-------------	-----	-----------

Use		Permitted And Conditional Uses By District	
		M-1	M-2
Accessory use, except those that are otherwise specifically regulated elsewhere in this title		P	P
Adaptive reuse of a landmark site		C	C ⁷
Agricultural use		P	P
Alcohol:			
	Brewpub	P ^{6,10}	P ^{6,10}
	Distillery	P	P
	Social club	C ^{6,10}	C ^{6,10}
	Tavern	C ^{6,10}	C ^{6,10}
	Winery	P	P
Ambulance services (indoor and/or outdoor)		P	P
Animal:			
	Cremation service	P	P
	Kennel	P ¹³	P
	Pet cemetery	P ²	P ²
	Pound	P ^{12,13}	P ¹²
	Raising of furbearing animals	C	P
	Stockyard	C ¹²	P ¹²
	Veterinary office	P	P
Antenna, communication tower		P	P
Antenna, communication tower, exceeding the maximum building height		C	C
Artisan food production		P	P

Bakery, commercial	P	P
Blacksmith shop	P	P
Bottling plant	P	P
Brewery	P	P
Building materials distribution	P	P
Bus line station/terminal	P	P
Bus line yard and repair facility	P ¹²	P
Check cashing/payday loan business	P ⁹	
Chemical manufacturing and/or storage		C
Commercial food preparation	P	P
Community correctional facility, large	C ^{8,16}	
Community correctional facility, small	C ^{8,16}	
Community garden	P	
Concrete and/or asphalt manufacturing	C ^{12,13}	P ¹²
Contractor's yard/office	P	P
Crematorium	P	P
Daycare center, adult	P	
Daycare center, child	P	
Drop forge industry		P
Dwelling, living quarters for caretaker or security guard, limited to uses on lots 1 acre in size or larger and is accessory to a principal use allowed by the zoning district	P	P
Equipment, heavy (rental, sales, service)	P	P
Equipment rental (indoor and/or outdoor)	P	P
Explosive manufacturing and storage		C ¹²
Financial institution with or without drive-through facility	P ¹¹	
Flammable liquids or gases, heating fuel distribution and storage		P ¹²
Food processing	P	P
Gas station	P	P
Government facility	P	P

Government facility requiring special design features for security purposes		P	P
Grain elevator			P
Greenhouse		P	
Heavy manufacturing			P ¹²
Home occupation		P ¹⁵	P ¹⁵
Hotel/motel		P	
Impound lot		P ¹²	P ¹²
Incinerator, medical waste/hazardous waste			C ¹²
Industrial assembly		P	P
Laboratory (medical, dental, optical)		P	
Laboratory, testing		P	P
Large wind energy system		P ^{13,14}	P
Laundry, commercial		P	P
Light manufacturing		P	P
Limousine service		P	P
Mobile food business (operation in the public right-of-way)		P	P
Mobile food business (operation on private property)		P	P
Mobile food court		P	P
Office		P	
Office, publishing company		P	
Open space		P	P
Package delivery facility		P	P
Paint manufacturing			P
Parking:			
	Commercial	P	
	Off site	P	P
	Park and ride lot	P	P
	Park and ride lot shared with existing use	P	P

Photo finishing lab	P	P
Poultry farm or processing plant		P ¹²
Printing plant	P	
Radio, television station	P	
Railroad, freight terminal facility	C ^{4,12}	C ^{4,12}
Railroad, repair shop		P
Recreation (indoor)	P	
Recreation (outdoor)	P	
Recycling:		
Collection station	P	P
Processing center (indoor)	P	P
Processing center (outdoor)	C ^{12,13,14}	P ¹²
Refinery, petroleum products		C ¹²
Restaurant with or without drive-through facilities	P ¹¹	
Retail goods establishment with or without drive-through facility	P ¹¹	
Retail service establishment:		
Electronic repair shop	P	
Furniture repair shop	P	P
Upholstery shop	P	
Rock, sand and gravel storage and distribution	C	P
School:		
Professional and vocational (with outdoor activities)	P	
Professional and vocational (without outdoor activities)	P	
Seminary and religious institute	P	
Seasonal farm stand	P	P
Sexually oriented business	P ⁵	P ⁵
Sign painting/fabrication	P	P
Slaughterhouse		P ¹²
Small brewery	P	P

Solar array	P	P
Storage and display (outdoor)	P	P
Storage, public (outdoor)	P	P
Store, convenience	P	P
Studio, motion picture	P	
Taxicab facility	P	P
Tire distribution retail/wholesale	P	P
Truck freight terminal	P ¹²	P ¹²
Urban farm	P	P
Utility:		
Building or structure	P	P
Electric generation facility	C ^{3,12}	C ^{3,12}
Sewage treatment plant	C	P
Solid waste transfer station	C ¹²	P ¹²
Transmission wire, line, pipe or pole	P ¹	P ¹
Vehicle:		
Auction	P	P
Automobile and truck repair	P	P
Automobile and truck sales and rental (including large truck)	P	P
Automobile part sales	P	P
Automobile salvage and recycling (indoor)	P	P
Automobile salvage and recycling (outdoor)	C ^{12,13,14}	P ¹²
Recreational vehicle (RV) sales and service	P	P
Truck repair (large)	P	P
Vending cart, private property	P	P
Warehouse	P	P
Welding shop	P	P
Wholesale distribution	P	P

Wireless telecommunications facility (see section 21A.40.090 , table 21A.40.090E of this title)		
Woodworking mill	P	P

Qualifying provisions:

1. See subsection [21A.02.050B](#) of this title for utility regulations.
2. Subject to Salt Lake Valley Health Department approval.
3. Electric generating facilities shall be located within 2,640 feet of an existing 138 kV or larger electric power transmission line.
4. No railroad freight terminal facility may be located within a 5 mile radius of any other existing railroad freight terminal facility.
5. Pursuant to the requirements set forth in section [21A.36.140](#) of this title.
6. If a place of worship is proposed to be located within 600 feet of a tavern, social club, or brewpub, the place of worship must submit a written waiver of spacing requirement as a condition of approval.
7. Building additions on lots less than 20,000 square feet for office uses may not exceed 50 percent of the building's footprint. Building additions greater than 50 percent of the building's footprint or new office building construction are subject to a conditional building and site design review.
8. A community correctional facility is considered an institutional use and any such facility located within an airport noise overlay zone is subject to the land use and sound attenuation standards for institutional uses of the applicable airport overlay zone within chapter 21A.34 of this title.
9. No check cashing/payday loan business shall be located closer than $\frac{1}{2}$ mile of other check cashing/payday loan businesses.
10. Subject to conformance with the provisions in section [21A.36.300](#), "Alcohol Related Establishments", of this title.
11. Subject to conformance to the provisions in section [21A.40.060](#) of this title for drive-through use regulations.
12. Prohibited within 1,000 feet of a single- or two-family zoning district.
13. Prohibited within the Eco-Industrial Buffer Area of the Northwest Quadrant Overlay District.
14. Prohibited within the Development Area of the Northwest Quadrant Overlay District.
15. Allowed only within legal conforming single-family, duplex, and multi-family dwellings and subject to section [21A.36.030](#) of this title.
16. Prohibited within $\frac{1}{2}$ mile of any residential zoning district boundary and subject to section [21A.36.110](#) of this title.