

TOWN OF SARATOGA  
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Mayor Chuck Davis  
Councilman Michael Cooley      Councilwoman Kathy Beck  
Councilman Jerry Fluty      Councilman Bub Barkhurst

October 10, 2024

Town of Saratoga  
Planning and Zoning Department  
110 E. Spring Ave.  
Saratoga, WY 82331  
307-447-2882  
[e.penner@saratogawyo.org](mailto:e.penner@saratogawyo.org)

Hugh J. O'Halloran, Council for Brush Creek LLC  
645 South Cache Street, Suite 100  
P.O. Box 68  
Jackson, WY 83001

Subject: Town of Saratoga Zoning Verification for 207 Holly Avenue.  
Attached: Brush Creek Letter (Exhibit A), 207 Holly Avenue Site Plan (Exhibit B)

Mr. O'Halloran,

Your client, Brush Creek LLC has submitted materials to the Town of Saratoga concerning a proposed use at 207 Holly Avenue. The purpose of this letter is to verify the proposal's compliance or lack thereof with the Town of Saratoga's Zoning Ordinances.

After reviewing the proposal provided by Brush Creek LLC (see attachments), in regard to the Town of Saratoga Zoning Ordinances and consulting with the Town Attorney, the Town of Saratoga makes the following finding: The proposed use as described by the provided attachments is in compliance with the Town's Highway Business Zoning District.

Furthermore, the Town of Saratoga makes an additional finding concerning parking requirements for the proposed use. For the proposed use to be in compliance with the Town of Saratoga's Zoning Ordinance the proposed use would need to provide a parking space for each unit. Given this fact the proposed parking on the site plan which includes the off-street parking on the west of the property, as well as the off-street parking on the east of the property (option 2) must be adhered to, in order for the proposal to be in compliance.

This letter is only a verification of the use as described by the provided materials, any deviation from that use may cause a noncompliance issue. This letter does not waive the requirement of any adherence to additional federal, state or local regulations. Nor does this letter act as an approval of permits that may be required by federal, state or local agencies. Thank you for taking the time to consult with the Town of Saratoga on this matter, if you have any questions, please do not hesitate to contact me.

Regards,



Emery Penner  
Planning and Zoning Director

Zoning Verification Letter  
Town of Saratoga 10-1-2024  
Exhibit A

September 26, 2024

**VIA EMAIL ONLY**

Kylie Waldrip  
Saratoga Town Attorney  
715 West Pine Street  
P.O. Box 998  
Rawlins, WY 82301  
Email: kylie@kmwpc.net

Planning Director Emery Penner  
Saratoga Department of Public Works  
Saratoga Town Hall  
110 E. Spring Ave.  
Saratoga, WY 82331  
Email: emerypenner@saratogawyo.org

**Re:** Zoning Compliance Verification - Proposed Use of 207 Holly Street, Saratoga, Wyoming, as a Lodge or Boarding House for Employees of Brush Creek Ranch

Dear Ms. Waldrip and Mr. Penner:

As you are aware, this firm represents Brush Creek LLC ("Brush Creek") in connection with a possible purchase of the historic senior care facility located at 207 Holly Street in Saratoga, Wyoming (the "Property"). If Brush Creek completes the purchase of the Property, it intends to remodel the facility and use it for temporary, but not necessarily short-term, lodging or boarding of Brush Creek Ranch employees. It's ability to do so, of course, is dependent on our confirming that the current Highway Business District zoning of the Property would permit that use. Proposed site plans and floorplans for the remodeled facility are attached to this letter for your reference. The discussions set forth in this letter assume the facility is remodeled in a fashion substantially consistent with the attached site plans and floorplans.

In accordance with our discussions, this letter is being submitted for the purpose of requesting Town of Saratoga confirmation that use of the Property as a boarding or lodging house for Brush Creek Ranch employees, in the format and configuration proposed by Brush Creek, is a permitted use within areas zoned Highway Business District. The permitted uses listed in the zoning code for the Highway Business District include "[h]otels, motels and lodges, tourist lodges" but do not include residential usage. *See* Code of Ordinances § 18.33.020. Lodges, tourist lodges and boarding houses are not defined in the Town of Saratoga Code of Ordinances (the "Code"), but they are expressly excluded from the definition of a "dwelling" under the Code, making them fundamentally nonresidential uses. *Id.* at § 18.06.120. "Dwelling" is the term used in the Code to describe residential properties, and it expressly excludes "hotels, boarding and lodging houses, fraternity or sorority houses, rest homes and nursing homes or child care nurseries." *Id.* Notably, multiple family residences are separately defined as a "building or group of buildings on the same lot designed to be occupied by three or more families living independently of each other." *Id.* at § 18.06.350 (emphasis added). Finally, boarding and lodging houses also are distinguished from residential dwelling units and hotels and motels in the off-street parking provisions of the Code. *See Id.* at § 18.45.010.

Because lodges, tourist lodges and boarding houses are not defined within the Code or within the Wyoming Statutes (aside from fraternal lodges, as an organizational concept), we've turned to other sources to provide some level of guidance and clarity, including definition of similar or analogous concepts not detailed in the Code. A brief review of the common definitions of these terms provide the following insights:

- *Lodge* was generally defined as either a fraternal lodge or as a communal structure with various tourism-oriented uses – gatehouses, sleeping quarters, meeting facilities, etc.
- *Tourist Lodge* “is a house or hut in the mountains or countryside where people stay on vacation, often for hunting or fishing. Lodges are usually temporary accommodations, and are more likely to be found off the beaten path than chain hotels.” No more complete or helpful definitions were located.
- *Lodging House* is “a house in which rooms are rented, especially a house other than an inn or hotel; rooming house.” (emphasis added)
- *Rooming House*, “also called a “multi-tenant house”, is a “dwelling with multiple rooms rented out individually”, in which the tenants share kitchen and often bathroom facilities.” (emphasis added)
- *Boarding House* is “a house (frequently a family home) in which lodgers rent one or more rooms on a nightly basis, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied.” (emphasis added)
  - See also Wyoming Statute Section 35-2-901(a)(iv), which provides as follows in the context of licensed nursing home facilities: “*Boarding home*” means a dwelling or rooming house operated by any person, firm or corporation engaged in the business of operating a home for the purpose of letting rooms for rent and providing meals and personal daily living care, but not habilitative or nursing care, for persons not related to the owner. Boarding home does not include a lodging facility or an apartment in which only room and board is provided.”
  - The term “lodging facility” is not further defined in the Wyoming Statutes.

The common elements of the foregoing definitions that proved useful in this context are (a) accommodation of multiple occupants, (b) rental of rooms for sleeping and living accommodations, whether for short-term or long-term occupancy, and (c) shared use spaces, such as kitchen, dining, laundry, living and bathroom facilities, as well as common areas. We believe those elements can and should be applied to the Town of Saratoga's references to lodges and tourist lodges in Section 18.33.020(c) of the Code.

As you can see from the proposed floorplan of the remodeled facility, the Property is laid out in studio apartment style and is not well suited to accommodate families with children.


Based upon the lack of individual kitchen/cooking areas, the use of common rooms and shared public living and recreational spaces both indoor and outdoor, the employee occupants would not be living "independently" of each other as contemplated by the Code's concept of "dwellings." To the contrary, this facility would require, and is intended to foster, a strong element of communal living. As a point of clarification, Brush Creek does not intend to physically enlarge the footprint of the existing building on the Property. However, as you can see from the attached site plan, Brush Creek does intend to provide additional off-street parking immediately to the west and potentially also to the east of the building on the Property.

As a technical matter, Brush Creek's reading of the Code is that it does not actually require the proposed use of the Property to comply with the Code's off-street parking requirements, because the existing facility was in lawful use prior to July 6, 1992. *See Id.* at § 18.45.040.A. Based upon the referenced Code provision, the Property remains exempt from the off-site parking requirements, even if converted or changed to a different use after July 6, 1992, as long as there is no physical enlargement of the building on the Property. *Id.* Brush Creek's floorplan includes 34 lodging rooms, which would require 34 off-street parking spaces. However, public parking spaces "one-half or more of which are immediately adjacent to the property" also count toward satisfying that parking requirement. *Id.* at § 18.45.010.D. If Brush Creek is required to comply with the Code's off-street parking requirements, please confirm whether public street parking immediately adjacent to the Property may also be counted toward satisfying the number of parking spaces required by Code § 18.45.010.C. *Id.*

Finally, please confirm that as long as Brush Creek does not alter or enlarge the existing structures on the Property, any nonconforming aspects of the existing structures may be continued pursuant to § 18.66.040 of the Code.

We sincerely appreciate the Town's willingness to consider this request on Brush Creek's behalf. It is Brush Creek's view that the Town's vision for the community, as embodied in its Comprehensive Master Plan, coupled with its willingness to consider allowing Brush Creek to utilize the Property for employee housing, will enable Brush Creek and its employees to continue to support the community and to contribute to its long-term vitality. If you have questions or concerns about any of the foregoing, please do not hesitate to call me. Thank you for the opportunity to present these thoughts and for your assistance and consideration in this matter.

Very truly yours,

  
Hugh J. O'Halloran  
Partner,  
of Holland & Hart LLP



Saratoga Town Attorney Kylie Waldrup  
Planning Director Emery Penner  
September 26, 2024  
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**Attachments**

cc: Mayor Chuck Davis via electronic mail  
Paula Spada via electronic mail

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Zoning Verification Letter  
Town of Saratoga 10-1-2024  
Exhibit B

SARATOGA CARE CENTER

