

May 25, 2018

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2018-00245**



REQUEST:

A request by Paul Svendsen for an administrative interpretation regarding whether a proposed project consisting of two buildings containing two dwelling units each (four units in two buildings) is allowed as “multi-family” in the CC, Commercial Corridor, zoning district. The property proposed for such use is located at approximately 45 E 1700 South.

DECISION:

The Zoning Administrator finds that because the definition of *dwelling, two-family*, is included in the zoning ordinance separately from the definition of *dwelling, multi-family*, the proposed use constitutes two separate two-family dwellings and is not considered multi-family. Although there are four dwelling units proposed for the site in two buildings, the ordinance specifically defines multi-family as a building with three or more units (not two or less). Table **21A.33.030:TABLE OF PERMITTED AND CONDITIONAL USES FOR COMMERCIAL DISTRICTS** specifically permits multi-family dwellings, but does not permit two family dwellings in the CC zoning district.

Additionally; the term “condominium” refers to an ownership category, not a building style or land use type. A two-family dwelling may consist of a two unit condominium (two condominium units and common space) as well as a duplex (one lot) or twin-home (two lots). Multi-family buildings may also be of single ownership of all units or condominium ownership of individual units or other variations of ownership.

FINDINGS:

As described by the applicant, the proposed principal use of the property involves two two-family dwellings.

“Multi-family dwelling” is listed as a permitted use in the land use tables for the CC, Commercial Corridor, zoning district. That use is defined in section 21A.62 of the zoning ordinance as follows:

DWELLING, MULTI-FAMILY: A building containing three (3) or more dwellings on a single lot. For purposes of determining whether a lot is in multiple-family dwelling use, the following considerations shall apply:

A. Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership or management, or cooperative apartments, condominiums and the like.

B. Any multiple-family dwelling in which dwelling units are available for rental or lease for periods of less than one month shall be considered a hotel/motel.

“Two-family attached dwelling” and “twin home dwelling” are NOT listed as a permitted uses in the land use tables for the CC, Commercial Corridor, zoning district. Their use is defined in section 21A.62 of the zoning ordinance as follows:

DWELLING, TWIN HOME AND TWO-FAMILY: A building containing one dwelling separated from one other dwelling by a vertical party wall. Such a dwelling shall be located on its own individual lot.

DWELLING, TWO-FAMILY: A detached building containing two (2) dwelling units on a single lot.

The use described by the applicant involves two proposed side by side structures of two dwelling units each. While the proposed density is four units on a single lot, as proposed they most closely resemble multiple two-family dwellings, not multi-family. Furthermore, since two-family is not listed as a permitted use in the CC Commercial Corridor zoning district, the Planning Commission does not have the authority to allow a building type or use not permitted in the underlying zoning district.

Multi-family dwellings are a permitted in the CC. Commercial Corridor zoning district. Therefore if the design is modified to involve one or more buildings of three or more units each and/or the two two-family building are connected with substantial architecture that they are defined as one building for building code, they would be an allowed multi-family dwelling. Assuming all other zoning requirements are met. A Building Connection is defined as: *Two (2) or more buildings which are connected in a substantial manner or by common interior space including internal pedestrian circulation. Where two (2) buildings are attached in this manner, they shall be considered a single building and shall be subject to all yard requirements of a single building. Determination of building connection shall be through the site plan review process.*

Any use interpretation is subject to the following standards in section 21A.12.050:

A. Any use defined in chapter 21A.62 of this title, shall be interpreted as defined;

Finding: The uses “Dwelling, two-family”, “Dwelling, twin home” and “Dwelling, multi-family” are defined in 21A.62.040 Definition of Terms and noted above.

B. Any use specifically listed without a "P" or "C" designated in the table of permitted and conditional uses for a district shall not be allowed in that zoning district;

Finding: Multi-family use is listed with a “P” within the CC district in the Table of Permitted and Conditional Uses for Commercial Districts and therefore is a permitted use. However two-family and twin home uses are not listed as permitted or conditional uses in the CC district and therefore are not allowed.

C. No use interpretation shall allow a proposed use in a district unless evidence is presented demonstrating that the proposed use will comply with the development standards established for that particular district;

Finding: While residential uses in general are permitted in the CC zoning district, not all forms of residential units or all levels of density are permitted. As proposed, the development includes 2 two-family dwellings, which are not permitted in the CC district. It is the format of two duplex/two-family buildings, rather than a multi-family building with three or more units, that is not permitted.

- D. No use interpretation shall allow any use in a particular district unless such use is substantially similar to the uses allowed in that district and is more similar to such uses than to uses allowed in a less restrictive district;*

Finding: As noted above, a multi-family residential use on the site is specifically listed and defined as permitted and two-family developments are specifically not listed as permitted in the CC zoning district. If the proposed structures were redesigned to meet the multi-family definition, they would be allowed.

- E. If the proposed use is most similar to a conditional use authorized in the district in which it is proposed to be located, any use interpretation allowing such use shall require that it may be approved only as a conditional use pursuant to chapter 21A.54 of this title; and*

Finding: The proposed design most closely resembles two two-family dwellings, which is not listed as either a permitted or conditional use in the CC district. Connecting the two buildings in a substantial manner to create a three or more unit building would be allowed as a permitted use.

- F. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of that zoning district.*

Finding: The CC zoning district has the following purpose statement:

“The purpose of the CC corridor commercial district is to provide an environment for efficient and attractive commercial development with a local and regional market area along arterial and major collector streets while promoting compatibility with adjacent neighborhoods through design standards. This district provides economic development opportunities through a mix of land uses, including retail sales and services, entertainment, office and residential. Safe, convenient and inviting connections that provide access to businesses from public sidewalks, bike paths and streets are necessary. Access should follow a hierarchy that places the pedestrian first, bicycle second and automobile third. This district is appropriate in areas where supported by applicable master plans. The standards are intended to promote a safe and aesthetically pleasing environment to all users.”

The purpose statement supports residential use as a generally accepted part of a broader mix of land uses, but the details of the zoning district do not allow all formats of residential use; two-family structures are not listed as permitted. The CC zoning district is generally intended to be of more intense use or higher density than low density residential neighborhoods where single and two family structures are allowed.

In summary: Residential uses are permitted in the CC zoning district only when configured as a specific residential use listed as a permitted or conditional use in the Table of Permitted and Conditional Uses for the Commercial District. Two-family dwellings are specifically not a listed permitted format and the proposed four units should be designed to constitute a multi-family building, rather than two two-family structures, in order to be a permitted land use.

If you have any questions regarding this interpretation please contact Doug Dansie at (801) 535-6182 or by email at doug.dansie@slcgov.com.

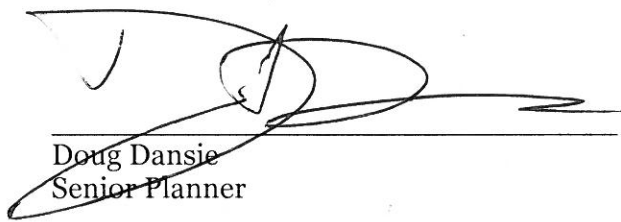
APPEAL PROCESS:

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 or by mail at:

In Person: Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT	US Mail: Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT 84114-5417
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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.



Doug Dansie
Senior Planner

Attachment
1. Application

cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Heather Gilcrease, Development Review Supervisor
Posted to Web
Applicable Recognized Organizations



Administrative Interpretation

SALT LAKE CITY PLANNING

OFFICE USE ONLY

Project #: PLNZAD2018-00245	Received By: MUMA	Date Received: 4/10/18	Zoning: CC
Project Name:			

PLEASE PROVIDE THE FOLLOWING INFORMATION

Address of Subject Property: 48 E 1700S SLC, UT 84115

Name of Applicant: Paul Svendsen Phone: [REDACTED]

Address of Applicant: 903 2nd Ave SLC, UT 84103

E-mail of Applicant: paulsvendsen2002@yahoo.com Cell/Fax:

Applicant's Interest in Subject Property:
 Owner Contractor Architect Other: Property is currently under contract

Name of Property Owner (if different from applicant): BIM Rainbow Creek LLC

E-mail of Property Owner: D/K Phone: D/K

Proposed Property Use: 4 residences - see attached

Please note that additional information may be required by the project planner to ensure adequate information is provided for staff analysis. All information required for staff analysis will be copied and made public, including professional architectural or engineering drawings, for the purposes of public review by any interested party.

AVAILABLE CONSULTATION

Planners are available for consultation prior to submitting this application. Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

WHERE TO FILE THE COMPLETE APPLICATION

Mailing Address: Planning Counter PO Box 145471 Salt Lake City, UT 84114	In Person: Planning Counter 451 South State Street, Room 215 Telephone: (801) 535-7700
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REQUIRED FEE

Filing fee of \$63, an additional \$61 per hour will be charged if research extends beyond first hour.

SIGNATURE

If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent: Paul	Date: 4/6/18
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SUBMITTAL REQUIREMENTS

Staff Review

Please provide the following information (attach additional sheet/s as necessary)

- a. The provision(s) and section number(s) of the Zoning Ordinance for which an interpretation is sought.
- b. The facts of the specific situation giving rise to the request for an interpretation.
- c. The precise interpretation the applicant believes to be correct.
- d. When a Use Interpretation is sought:
 - Please state what use classification you think is most similar to your proposed use.
 - Please provide a complete description of your proposed use and how you feel it will be compatible with the Zoning District. Include any documents or information that you feel would be helpful in making an interpretation.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

PJS

I acknowledge that Salt Lake City requires the items above to be submitted before my application can be processed. I understand that Planning will not accept my application unless all of the following items are included in the submittal package.

April 9, 2018

Joel Paterson
Zoning Administrator
Salt Lake City Corporation
451 S. State St.
Salt Lake City, UT 84111

Dear Joel,

I am in the final stages of purchasing the property located at 48 E 1700, SLC, UT 84115 (I will close on the property on April 13). I plan to demolish the existing single-family residence and build a four-unit condominium development on the parcel. The zoning of the parcel is CC. Multi-family dwellings are a permitted use in the CC zone.

This is a request for an administrative interpretation of the definition of a multi-family dwelling, which is found at 21A.62.040:

DWELLING, MULTI-FAMILY: A building containing three (3) or more dwellings on a single lot. For purposes of determining whether a lot is in multiple-family dwelling use, the following considerations shall apply:

A. Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership or management, or cooperative apartments, condominiums and the like.

B. Any multiple-family dwelling in which dwelling units are available for rental or lease for periods of less than one month shall be considered a hotel/motel.

I am requesting that the definition a multi-family dwelling be interpreted to include a four-unit condominium complex that is broken into two separate two-unit buildings, as opposed to a single four-unit building. Site plans showing both configurations are attached. The preferred option is labelled as Option 1.

This request rests on the following arguments:

(1) Based on the feedback I received at a recent DRT meeting concerning this project, there appears to be no question that Salt Lake City's definition of a multi-family dwelling includes a four-unit townhouse-style condominium development that is constructed as a single building. If this is the case, it seems odd and arbitrary that

the definition would exclude a four-unit townhouse-style condominium development that is broken into two buildings. The two schemes are functionally indistinguishable. But the two-unit configuration offers dramatically more opportunities for architectural interest and fenestration, better access to natural light for the condominium occupants, and a significantly less blocky, monotonous streetscape. Spreading the four units between two buildings is more expensive for me as the developer, but it would seem to be a preferable option for both the neighborhood and the condominium owners.

- (2) The definition is ambiguous. It states that a multi-family dwelling is “a building containing three (3) or more dwellings on a single lot,” with the reference to “a building” seeming to indicate a single structure. But in the next paragraph it goes on to say that a multi-family dwelling “may involve ... condominiums and the like,” without any reference to or limitation on the number of structures in the condominium development.

This creates an ambiguity. Under a recently passed provision of the Municipal Land Use, Development and Management Act, such ambiguities must be resolved in favor of the applicant. See UCA 10-9a-306 (“If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application”).

The administrative interpretation I am requesting is extremely limited in nature. The impacts will not be far-reaching; in fact, I would expect it to have very few applications beyond this particular property. But to the extent it is applied in the future, I think the impact will be entirely positive, by providing improved living conditions for condominium occupants and more interesting, permeable, and pedestrian-scale streetscapes for their neighbors.

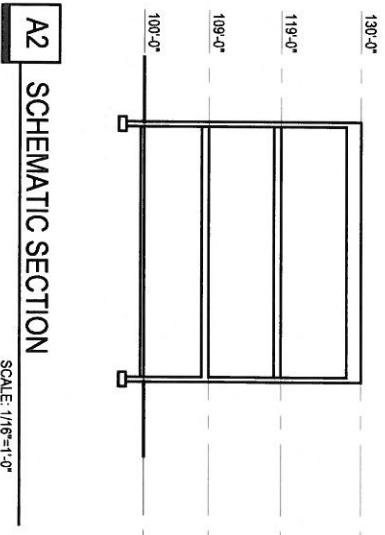
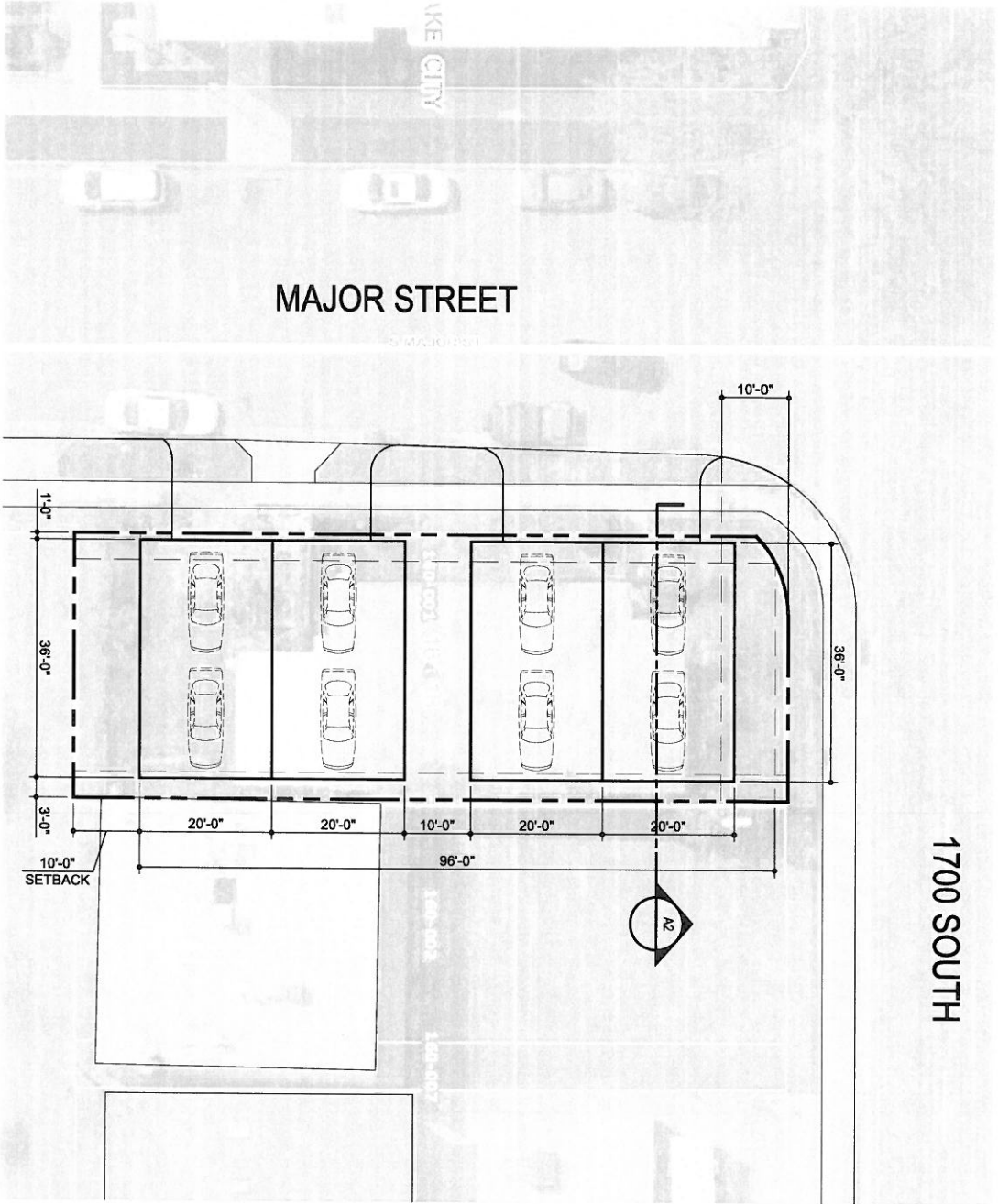
Thanks for your consideration of this matter. Please contact me if you need any additional information.

Best regards,

A handwritten signature in cursive script that reads "Paul Svendsen". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Paul Svendsen

Option 1



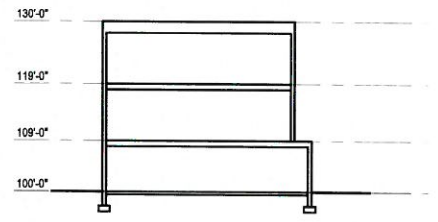
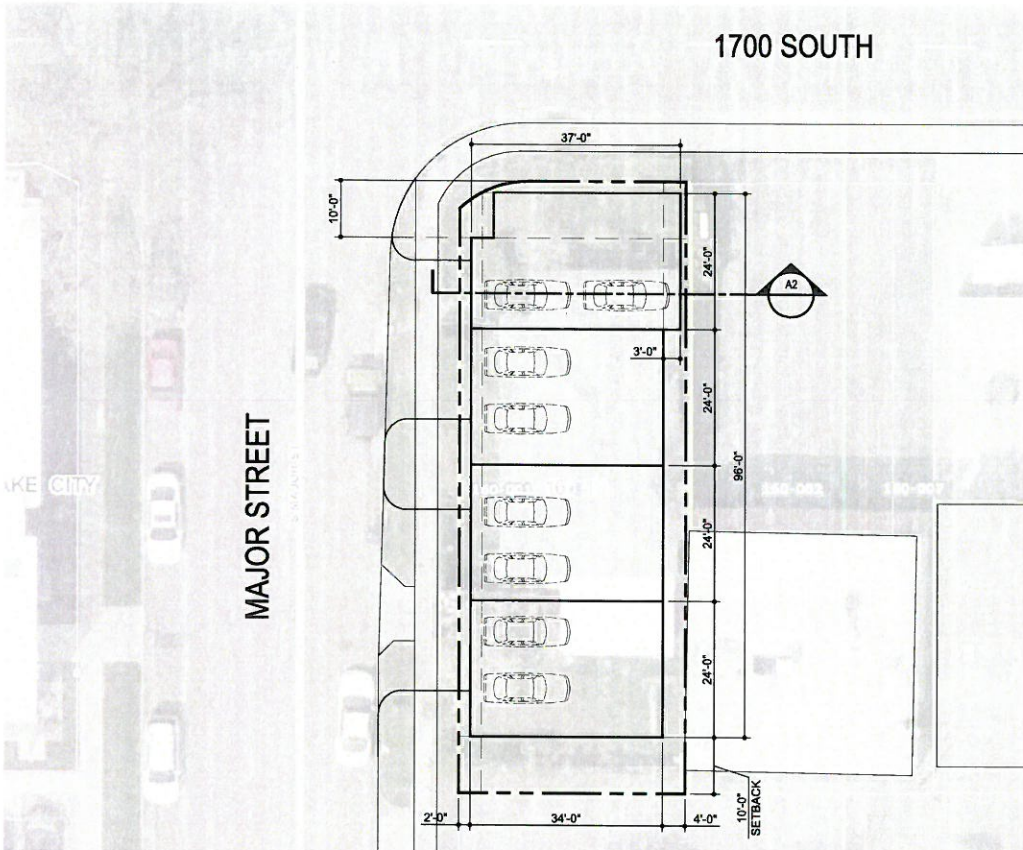
A1 SITE PLAN

SCALE: 1/16"=1'-0"



Axis Architects
927 SOUTH STATE STREET
SALT LAKE CITY UTAH 84111
P 365-3003

Option 2



A2 SCHEMATIC SECTION
SCALE: 1/16"=1'-0"

A1 SITE PLAN
SCALE: 1/16"=1'-0"