

April 30, 2019

**ADMINISTRATIVE DETERMINATION OF A NONCONFORMING USE
DECISION AND FINDINGS
PLNZAD2019-00339**



REQUEST:

This is a request to change a nonconforming use to another nonconforming use at the property located at 567 W 300 N. The property is currently used as a Boys and Girls Club. The applicant, Jesse Lapin, is proposing to change the existing nonconforming use to an electric bicycle and scooter business. The property is located in the SR-1A Special Development Pattern Residential Zoning district.

DECISION:

Based on the information provided, the Zoning Administrator finds that the proposed change of use complies with the provisions of the Zoning Ordinance Section 21A.38.040.H1 and therefore is permitted.

FINDINGS:

The following findings are related to the existing use:

- The Boys and Girls Club use was approved as a conditional use in 1982 by the Board of Adjustment (BOA #9018) and the building was completed in 1986 (BLD1986-45776). At the time, the property was zoned R-6.
- The current zoning of the property is SR-1A, Special Development Pattern Residential.
- The purpose of the SR-1 Special Development Pattern Residential District is to maintain the unique character of older predominantly single-family and two-family dwelling neighborhoods that display a variety of yards, lot sizes and bulk characteristics. Uses are intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood.
- The land use that most closely relates to the Boys and Girls Club functions is a Community Recreation Center, which is defined in Chapter 21A.62 as *a place, structure, area, or other facility used for and providing social or recreational programs generally open to the public and designed to accommodate and serve segments of the community.*
- Per Table 21A.33.020, a Community Recreation Center is not a permitted use in the SR-1A zoning district.
- A Nonconforming Use is defined in Chapter 21A.62 as *any building or land legally occupied by a use at the time of passage of the ordinance codified herein or amendment thereto which does not conform after passage of said ordinance or amendment thereto with the use regulations of the district in which located.*
- Thus, this property is recognized as a legal nonconforming use.

The following findings are related to the proposed use:

- The applicant describes the proposed use as a “*corporate office, retail goods establishment, service and storage center*” for Magnum Bikes, which designs and sells electric bicycles and scooters.
- Based on the information provided, the existing building on site has approximately 8,000 square feet of usable space. Approximately 50% of the space would be used for offices, 25% for showroom, and the remaining 25% for service center and storage of parts.
- The uses most similar to the proposed uses are Office, Retail Goods Establishment and Retail Services Establishment.
- Office is defined in Chapter 21A.62 as *a type of business use, which may or may not offer services to the public, that is engaged in the processing, manipulation or application of business information or professional expertise. An office use is not materially involved in fabricating, assembling or warehousing of physical products for the retail or wholesale market, nor is an office engaged in the repair of products or retail services. Examples of professional offices include accounting, investment services, architecture, engineering, legal services and real estate services. Unless otherwise specified, office use shall include doctors' and dentists' offices. Office use shall not include any use or other type of establishment which is otherwise specifically listed in the table of permitted and conditional uses for the applicable zoning districts.*
- Retail Goods Establishment is defined in Chapter 21A.62 as *a building, property or activity, the principal use or purpose of which is the sale of physical goods, products or merchandise directly to the consumer. Retail goods establishment shall not include any use or other type of establishment which is otherwise listed specifically in the table of permitted and conditional uses found in chapter 21A.33 of this title.*
- Retail Services Establishment is defined in Chapter 21A.62 as *a building, property or activity, the principal use or purpose of which is the provision of personal services directly to the consumer. The term "retail service establishment" shall include, but shall not be limited to, barbershops, beauty parlors, laundry and dry cleaning establishments (plant off premises), tailoring shops, shoe repair shops and the like. Retail service establishment shall not include any use or other type of establishment which is otherwise listed specifically in the table of permitted and conditional uses found in chapter 21A.33 of this title.*

The following findings are related to the proposed change of use:

- Chapter 21A.38.040.H.1 states that *any change of an existing nonresidential nonconforming use to another nonconforming use that is listed as a permitted use in the small neighborhood business district or the neighborhood commercial district in section 21A.33.030, "Table Of Permitted And Conditional Uses For Commercial Districts", of this title, is permitted.*
- Office, Retail Goods Establishment and Retail Services Establishment are listed in Table 21A.33.020 as permitted uses in both the CN, Neighborhood Commercial, and SNB, Small Neighborhood Business, zoning districts.
- Thus, the proposed use is a permitted change of nonconforming use to another nonconforming use.

If you have any questions regarding this interpretation, please contact Mayara Lima at (801) 535-7118 or by email at mayara.lima@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.



Mayara Lima
Principal Planner

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