

August 1, 2019

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2019-00645**



REQUEST:

Moon Lake Farms has requested an administrative interpretation to make the following two (2) determinations regarding industrial hemp uses:

1. Can industrial hemp cultivation (both indoor and outdoor) as regulated in Utah State Code §4-41 be considered an Agricultural Use as defined and regulated in the Salt Lake City Zoning Ordinance?
2. Can industrial hemp processing as regulated in Utah State Code §4-41 be considered a Light Manufacturing use as defined and regulated in the Salt Lake City Zoning Ordinance?

These two uses are being proposed at 2601 North 2200 West, which is currently zoned BP Business Park. Per Salt Lake City Zoning Ordinance, the Agricultural Use and Light Manufacturing use are both Conditional Uses in this zone.

DECISION:

The Zoning Administrator finds that the proposed use of outdoor and indoor industrial hemp cultivation is most similar to Agricultural Use as defined in the Salt Lake City Zoning Ordinance, which is a Conditional Use in the BP Business Park zoning district. In addition, the proposed use of industrial hemp processing is most similar to Light Manufacturing as defined in the Salt Lake City Zoning Ordinance, which is also a Conditional Use in the BP zone. Both uses are regulated by the Utah Department of Agriculture and Food. These determinations are pursuant to the findings below.

PROPOSED OPERATIONS/USES:

As detailed in the submitted application materials, Moon Lake Farms wishes to utilize property at 2601 North 2200 West to cultivate and process industrial hemp.

The **cultivation** component would take place both outdoors and indoors. The outdoor operations would involve growing crops within 200-gallon fabric bags that are placed above ground and irrigated via drip system. The indoor operations would be entirely enclosed within insulated, steel-frame buildings, and would involve drip irrigation and the use of various grow media, including hydroponic systems.

The applicant has requested that the City determine if the proposed hemp cultivation use can be considered an *Agricultural Use* as defined by Section 21A.52 of the Salt Lake City Ordinance:

Agricultural Use: *The use of a tract of land for growing crops in the open, dairying, pasturage, horticulture, floriculture, general farming uses and necessary accessory uses, including the structures necessary for carrying out farming operations and the sales of food products and agricultural goods grown on site; provided, however, such agricultural use shall not include the following uses: the feeding of garbage to animals, the raising of poultry or furbearing animals as a principal use, or the operation or maintenance of commercial stockyards, or feed yards, slaughterhouses or rendering facilities.*

The **processing** component would also be entirely enclosed within the insulated, steel-frame buildings, and may involve freezing, air drying, curing, pressing, extracting, or heating the industrial hemp and converting it into various forms, including tablets, capsules, concentrated oils, sublingual and topical preparations, or a gelatinous cube or lozenge. These products are regulated by the Utah Department of Agriculture and Food. The processing operations would also involve the packaging of the end products for the final consumer.

The applicant has requested that the City determine if the proposed hemp processing use can be considered a *Light Manufacturing* use as defined by Section 21A.52 of the Salt Lake City Ordinance:

Light Manufacturing: *The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place or where such processes are housed entirely within a building. Light manufacturing generally includes processing and fabrication of finished products, predominantly from previously prepared materials, and includes processes which do not require extensive floor areas or land areas. The term "light manufacturing" shall include uses such as electronic equipment production and printing plants. The term "light manufacturing" shall not include any use which is otherwise listed specifically in the table of permitted and conditional uses for the category of zoning district or districts under this title.*

ANALYSIS OF STANDARDS FOR USE INTERPRETATIONS:

The following standards shall govern the zoning administrator, and the appeals hearing officer on appeals from the zoning administrator, in issuing use interpretations:

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

Finding: The proposed Industrial Hemp Cultivation Facility and Industrial Hemp Processing Facility are not currently defined in chapter 21A.62 of the Zoning Ordinance.

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: The proposed Industrial Hemp Cultivation Facility and Industrial Hemp Processing Facility are not currently identified as a use in the Zoning Ordinance. The purpose of this interpretation is to determine if the uses are similar to uses allowed in the subject zoning district. It has been determined that the uses are similar to conditional uses allowed in the BP zone.

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: The Zoning Administrator has determined that the proposed uses are similar to agriculture and light manufacturing uses. Both of these uses are allowed as conditional uses in the BP zoning district. Therefore, the uses can/shall comply with the development standards established in the BP zone.

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 stated in the Finding above, the Zoning Administrator finds that the proposed uses are similar to agriculture and light manufacturing uses. Both of these uses are allowed in the BP zoning district as conditional uses.

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: As stated in the Findings above, the Zoning Administrator finds that the proposed uses are similar to agriculture and light manufacturing uses. Both of these uses are allowed in the BP zoning district as conditional uses. Conditional use approval by the Salt Lake City Planning Commission is required.

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 purpose of the BP zoning district is as follows:

“The purpose of the BP Business Park District is to provide an attractive environment for modern offices, light assembly and warehouse development and to create employment and economic development opportunities within the City in a campuslike setting. This district is appropriate in areas of the City where the applicable master plans support this type of land use. The standards promote development that is intended to create an environment that is compatible with nearby, existing developed areas.”

The Zoning Administrator finds that the proposed uses will function the same as uses that are allowed as conditional uses in the BP zoning district; therefore, it has been determined through adoption of BP zone land use table that these uses are consistent with the purpose statement of the BP zone.

In conclusion, it is determined that the outdoor and indoor cultivation of industrial hemp as regulated by Utah State Code §4-41 can be classified as an Agricultural Use as defined by 21A.52 of the Salt Lake City Zoning Ordinance.

In addition, the processing of industrial hemp as described in the application materials and regulated by Utah State Code §4-41 can be classified as Light Manufacturing as defined in 21A.52 of the Salt Lake City Zoning Ordinance.

Please note that these interpretations are in relation to the cultivation and processing of Industrial Hemp, which is defined by State Code §4-41-102(2) as *“any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.”* This document shall have no effect on the legality of cultivating or processing medical grade cannabis, which is regulated by State Code §4-41a.

If you have any questions regarding this interpretation please contact Ashley Scarff at (801) 535-7660 or by email at ashley.scarff@slcgov.com.

APPEAL PROCESS:

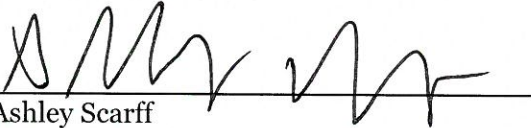
An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and 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 <https://www.slc.gov/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.

Dated this 1st day of August, 2019 in Salt Lake City, Utah.



Ashley Scarff
Principal Planner

Attachment: Narrative submitted by applicant

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