

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2019-00828**



REQUEST:

A request by Jessica Burluson, owner of Top Coat Nail Bar, the tenant of the property, for an administrative interpretation regarding whether the proposed use as described by the applicant to provide on the job training is considered a Professional and Vocational School or Retail Services. The property is located at approximately 1311 South 900 East in the CN (Neighborhood Commercial) zoning district.

DECISION:

The Zoning Administrator finds that the proposed use as described by the applicant is considered a Professional and Vocational School. A Professional and Vocational School is not a permitted use in the CN zoning district where the property is located.

FINDINGS:

As described by the applicant, *"We are seeking additional business licensure so that we may provide further on the job training for employees conducting manicures and pedicures on site. To obtain licensure through the Division of Occupational and Professional Licensing, they require us to obtain an additional business license as a "school" although we are operating as a business that is providing on the job training to its employees."*

The Salt Lake City zoning ordinance defines a "Professional and Vocational School" as:

"An institution offering occupational and vocational training, the courses of which are not generally transferable toward a bachelor's degree."

The proposed use is for a pending Salt Lake City business license (LIC2019-02059), Topcoat School of Nail Technology, LLC, to provide on the job training for employees conducting manicures and pedicures on site.

The Salt Lake City zoning ordinance defines a "Retail Service Establishment" 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."

Providing manicures and pedicures on site directly to the consumer does fall within the definition of Retail Services, however, the definition states that retail services shall not include any use which is otherwise specifically listed in the table of permitted and conditional uses. Staff finds the proposed use for on the job training, as described by the applicant, meets the definition of a Professional and Vocational School, which cannot be included as Retail Services because its specifically listed in the table of permitted and conditional uses in chapter 21A.33. A Professional and Vocational School is not an allowed use in the CN zoning district.

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

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

Finding: Professional and Vocational School is defined in chapter 21A.62 and Staff finds the proposed use as described meets this definition. Staff finds the proposal does not meet the definition of retail services as 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: A Professional and Vocational School is specifically listed without a "P" or "C" in the table of permitted and conditional uses for the CN zone and therefore is not an allowed use in the CN zone where the property is located.

- 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: Staff finds the proposed use as described is a Professional and Vocational School which is not allowed in the CN zoning district. The proposed use cannot be established at this location.

- 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, the use as described is most similar to a Professional and Vocational School, which is a not allowed in the CN zoning district.

- 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 noted above, the use as described is most similar to a Professional and Vocational School, which is a not allowed in the CN zoning district.

- 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 CN zoning district has the following purpose statement:

"The CN Neighborhood Commercial District is intended to provide for small scale, low intensity commercial uses that can be located within and serve residential neighborhoods. This district is appropriate in areas where supported by applicable master plans and along local streets that are served by multiple transportation modes, such as pedestrian, bicycle, transit and automobiles. The standards for the district are intended to reinforce the historic scale and ambiance of traditional neighborhood retail that is oriented toward the pedestrian while ensuring adequate transit and automobile access. Uses are restricted in size to promote local orientation and to limit adverse impacts on nearby residential areas.

The use as described by the applicant is a Professional and Vocational School which is not a use that is allowed in the CN zoning district. The proposed use is not consistent with the purpose statement of the zoning district which supports small scale low intensity uses.

In summary, the proposed use is a Professional and Vocational School providing on the job instruction and training for individuals seeking to obtain state licensure as a nail technician. A Professional and Vocational School is not an allowed use in the CN zoning district where the subject property is located and therefore the proposed use cannot be established at the proposed location.

If you have any questions regarding this interpretation, please contact Amy Thompson at (801) 535-7281 or by email at amy.thompson@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
--	--

Dated this 23rd day of September, 2019.



Amy Thompson
Senior Planner

cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Greg Mikolash, Building Services
James Allred, City Licensing Manager
Applicable Recognized Organizations
Posted to Web – [Zoning Interpretations](#)