

April 9, 2020

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2020-00214**



REQUEST:

Jeffrey Tuft, AIA, representing Architectural Nexus, Inc., with authorization from PCC Owners Association, the owner of the subject property, is requesting an administrative interpretation regarding whether an area set aside to periodically construct and display a model “tiny home” is permitted as an accessory use to an office in the CB Community Business District. The property under consideration is located at 2505 East Parleys Way.

DECISION:

The Zoning Administrator finds that the proposed use described by the applicant does not meet the definition of an Accessory Use (see analysis and findings below).

FINDINGS:

The existing principal use on the subject property is an architectural office. The applicant describes the proposed accessory use as an area set aside to, “...build a tiny home annually in an existing fenced area of the property referenced above as a means to educate staff on construction realities that in turn increase their mastery as design professionals...Each finalized structure will be donated to a charitable foundation and relocated to another jurisdiction.”

Definition of an Accessory Use

Per section 21A.62.040 of the Salt Lake City Zoning Code, to be considered an “Accessory Use” the use must meet the following definition: “A use that: A. Is subordinate in area, extent and purpose to, and services a principle use; B. Is customarily found as an incident to such principal use; C. Contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use; D. Is, except as otherwise expressly authorized by the provisions of this title, located on the same zoning lot as such principal use; and E. Is under the same ownership or control as the principal use.” An analysis of the proposed use according to each element of the accessory use definition is provided below:

A. The use is subordinate in area, extent and purpose to, and serves a principal use;

Analysis: The proposed use is subordinate in area to the existing architecture office; however, the proposal is essentially an ongoing construction site. This exceeds the extent and purpose of an office use and is not considered an accessory function of an office. An office use is defined 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. (21A.62, SLC Zoning Ordinance)

This definition specifically states that an office is not involved in “*fabricating, assembling or warehousing of physical products...*” While the proposed use is not fabricating tiny homes for sale, the function is similar and, by definition of “office”, cannot be done in conjunction with the office.

The definition of office also states that an 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.*” The applicant states that an area of the lot would be used to build a tiny home for the purpose of educating staff on construction realities that in turn increase their mastery as design professionals. This is similar to a “School, Professional and Vocational (with outdoor activities)” use, which is not listed as an allowed use in the table of permitted and conditional uses for the commercial zoning districts in Salt Lake City (21A.33.030) and is defined as:

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

It is also important to note that section 21A.36.010.A specifically requires that “*all business activity, service, storage, merchandise, display, repair, processing, assembly and manufacturing shall be conducted wholly within an enclosed building except where specifically provided otherwise.*” A vocational school with outdoor activities is considered a more intensive use than a school where activities are “*conducted wholly within an enclosed building*” and is not specifically permitted in the CB zoning district, therefore it cannot be considered accessory to the primary office use.

B. The use is customarily found as an incident to such principal use;

Analysis: An ongoing construction site that would manufacture tiny homes for distribution is not customarily found as an accessory function of an office. In addition, and as stated above, Office uses are “*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.*”

C. The use contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use;

Analysis: Having a tiny home construction/display site on the property would help “educate staff on construction realities that in turn increase their mastery as design professionals”; however, this type of use is not contributive to the necessity of those working at the primary use and does not serve as an accessory function of an office as stated above.

D and E. The use is located on the same zoning lot as the principal use and is under the same ownership or control as the principal use.

Analysis: The use would be on the same lot and under the same ownership.

In summary, the proposed use described by the applicant does not fall within the definition of “Accessory Use” as the proposed use described does not meet all of the provisions required by the “Accessory Use” definition. The proposed use will not be subordinate in extent, is not customarily found incidental to an office use (the present primary use on site), nor is the proposed use contributive to the necessity of those occupying, working at or being serviced by the existing principal use.

Standards for Use Interpretations

Use interpretations are subject to the standards found in Section 21A.12.050 of the Salt Lake City Zoning Ordinance. The analysis of each standard is as follows:

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

Finding: “Accessory Use” is defined in Chapter 21A.62 of the Zoning Ordinance. The propose use does not meet the definition of an accessory use as stated 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: As stated above the proposed use does not meet the qualifications to be considered an accessory use. The use could be considered a “School, Professional and Vocational (with outdoor activities),” which is not an allowed use in the CB Community Business District.

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: This interpretation has determined that the proposed use is not allowed as an accessory use.

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: The subject property is located in the CB Community Business zoning district. The intent of the CB district is to allow a variety of residential and commercial uses in close proximity; however, uses that involve manufacturing or industrial assembly are not allowed in this district. The proposed accessory use involves the ongoing construction of tiny homes outdoors, which is inconsistent with the uses allowed in the CB district and is not considered accessory to an office.

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: Not applicable. The request is related to accessory uses.

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 CB Community Business District includes the following purpose statement (21A.26.030.A):

The CB Community Business District is intended to provide for the close integration of moderately sized commercial areas with adjacent residential neighborhoods. The design guidelines are intended to facilitate retail that is pedestrian in its orientation and scale, while also acknowledging the importance of transit and automobile access to the site.

The proposed use would allow the ongoing construction of homes in close proximity of the rear property line of the subject property (see regulations for Accessory Uses in Section 21A.40.050 of the Zoning Ordinance). The is inconsistent with the purpose statement of the CB district in that it could have a negative impact on adjacent residential neighborhoods.

If you have any questions regarding this interpretation, please contact Aaron Barlow at (801) 535-6182 or by email at aaron.barlow@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.sl.c.gov/planning/applications/> along with information about the applicable fee. Appeals may be filed in person or by mail at:

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

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.



Wayne Mills
Planning Manager



Aaron Barlow, AICP
Principal Planner

cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Wayne Mills, Planning Manager
Greg Mikolash, Development Review Supervisor
Posted to Web