

**April 16, 2021**

**ADMINISTRATIVE INTERPRETATION  
DECISION AND FINDINGS  
PLNZAD2021-00221**



**REQUEST:**

A request for an administrative interpretation regarding a proposed business located within the M-1 (Light Manufacturing) zoning district. The proposed business, Nusano, Inc. is a life sciences company that produces and distributes radioisotopes for medical purposes.

**DECISION:**

The Zoning Administrator finds that the proposed use is not associated with permitted uses in the M-1 (Light Manufacturing) zoning district, rather the proposed use is similar to permitted uses in the M-2 (Heavy Manufacturing) zoning district, specifically *chemical manufacturing and/or storage*.

**BACKGROUND:**

Due to the lack of a specific land use that permits radioisotope manufacturing, the applicant believes that the most similar use is considered a combination of the following uses:

- **LABORATORY, MEDICAL, DENTAL, OPTICAL:** A laboratory processing on or off-site orders limited to medical testing and precision fabrication of dental/optical articles worn by patients.
- **LABORATORY, TESTING:** A use engaged in determining the physical qualities of construction, medical or manufactured materials. This use does not include research laboratories engaged in scientific experimentation.
- **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.

Additionally, the use is described by the applicant as the following:

Nusano, Inc. is a life sciences company that will produce and distribute radioisotopes for medical applications. Nusano will utilize Linear Accelerator ("Linac") technology to irradiate non-radioactive ("target") materials to create radioisotopes that will be the future of cancer diagnostics and therapy. Linac technology is commonly used, with over 2,300 in the United States, to drive radiation cancer therapy. Nusano will utilize this same technology as the production engine for medical diagnostic and therapeutic

radioisotopes. Nusano's final product(s) will be approved by the U.S. Food and Drug Administration and shipped to radiopharmacies around the country for incorporation into pharmaceuticals for patient use.

The facility will also house laboratories to extract and purify the radioactive material, as well as infrastructure to maintain superior quality control, and sophisticated packaging and shipping capabilities. The procedures for safe handling, processing of these radioisotopes is well understood by regulatory bodies across the country. All work with radioactive materials at the facility will be performed under strict monitoring and control in full compliance with established federal and state regulations. Nusano's medical isotope production does not entail the use of a nuclear reaction utilizing uranium-based nuclear material.

## **FINDINGS**

While there isn't a specific land use definition associated with radioisotope manufacturing, the Zoning Administrator finds that the following defined use is most similar to the use of radio isotope manufacturing.

**CHEMICAL MANUFACTURING and/or STORAGE:** A facility engaged in making and storing chemical products from raw or partially finished materials.

In order to aid in this requested use interpretation, the Webster's Collegiate Dictionary definition of chemical, isotope and radioisotope are provided below:

**Chemical:** A substance obtained by a chemical process or producing a chemical effect.

**Isotope:** Any of two or more species of atoms of a chemical element with the same atomic number and nearly identical chemical behavior but with differing atomic mass or mass number and different physical properties.

**Radioisotope:** A radioactive isotope.

The proposal to produce and sell radioisotopes is most similar to *chemical manufacturing and/or storage*, based on the provided definitions of *chemical manufacturing and/or storage*, as well as *chemical*, *isotope* and *radioisotope*. Additionally, the indicated use provided by the applicant does not fit the suggested definitions of laboratory, medical, dental, optical or laboratory testing, based on the use of manufacturing radioisotopes for future medical use and the associated chemical and radioactive waste.

The Salt Lake City Zoning Ordinance indicates that the defined use is permitted in the M-2 (Heavy Manufacturing) and not the M-1 (Light Manufacturing) zoning district.

## **Standards for Use Interpretation**

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:** The proposed use is most similar to *chemical manufacturing and/or storage*, based on the provided definition from Chapter 21A.62 of the Salt Lake City

Zoning Ordinance, and the definition of chemical, isotope and radioisotope from Webster Collegiate Dictionary.

- 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 listed use that best match the proposed use is a permitted use in the M-2 (Heavy Manufacturing) zoning district.

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

**Finding:** It has been found that the proposed use as described meets the definition of and *chemical manufacturing and storage*, which is not a permitted use in the M-1 zoning district. Therefore, the use may not be established in the M-1 zoning district.

- 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:** While the proposed use may have some similarities to uses allowed in M-1 district, it is substantially similar to a listed and permitted use in the M-2 zoning district, such as *chemical manufacturing and/or storage*. Therefore, this use is not permitted in the M-1 (Light Manufacturing) zoning district.

- E. If the proposed use is most similar to a conditional use authorized in the district 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 described in Standard C, the most similar land use is *chemical manufacturing and/or storage*. which is not a permitted use in the M-2 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 purpose of the M-1 Light Manufacturing District is to provide an environment for light industrial uses that produce no appreciable impact on adjacent properties, that desire a clean attractive industrial setting, and that protects nearby sensitive lands and waterways. This zone is appropriate in locations that are supported by the applicable Master Plan policies adopted by the City. This district is intended to provide areas in the City that generate employment opportunities and to promote economic development. The uses include other types of land uses that support and provide service to manufacturing and industrial uses. Safe, convenient, and inviting connections that provide access to businesses from public sidewalks, bike paths and streets are necessary and to be provided in an equal way. Certain land uses are prohibited in order to preserve land for manufacturing uses and to promote the importance of nearby environmentally sensitive lands.*

The proposed use, as described by the applicant, is inconsistent with the purpose statement. The proposed use is not appropriate in the M-1 (Light Manufacturing) zoning district.

If you have any questions regarding this interpretation please contact Kelsey Lindquist at (385) 226-7227 or by email at [kelsey.lindquist@slcgov.com](mailto:kelsey.lindquist@slcgov.com).

**APPEAL PROCESS:**

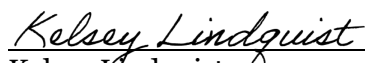
An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and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

<b>In Person:</b> Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT	<b>US Mail:</b> 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 16<sup>th</sup> day of April, 2021 in Salt Lake City, Utah.



Kelsey Lindquist  
Senior Planner

cc: Nick Norris, Planning Director  
Joel Paterson, Zoning Administrator  
Posted to Web  
Applicable Recognized Organizations