

April 26, 2021



**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2021-00232**

REQUEST:

A request by Mitch Dumke, representing Localvert Farms, for an administrative interpretation regarding a proposed use on property in the TSA-UC-T zoning district (Transit Station Area Urban Core Transition) at approximately 509 W 300 North. A determination is sought because initial discussions by the applicant raised questions about the classification of the proposed use. Per the submitted application, the proposed use consists of a shipping container used exclusively for growing produce. The applicant believes the container should be considered an urban farm or similar agriculture use for the purpose of receiving State exemptions, as it is economically burdensome to be classified as a traditional commercial building.

DECISION:

The Zoning Administrator finds that the proposed use as presented in the submitted request is considered "Artisan Food Production" as defined in section 21A.62 of the Salt Lake City Zoning Ordinance. As such, it is a permitted use in the TSA-UC-T zoning district and is allowed at the proposed location. The Zoning Administrator also finds that the proposed use is a principal use and is subject to the TSA Development Score as outlined in 21A.26.078 and 21A.37: Design Standards.

This interpretation is specific to the proposed use as it relates to the Salt Lake City Zoning Ordinance. Additional requirements associated with the use may be required from other divisions, such as Building Services and the Fire department.

FINDINGS:

Applicable Land Use

The applicant has described the proposed business as an 8' x 40' shipping container used exclusively for growing produce. The container, manufactured by Freight Farms, uses hydroponics to grow the produce. Hydroponics is an alternative farming method that grows plants without the use of soil. "Artisan Food Production" specifically refers to a facility, which speaks to the container/freight use, while "Urban Farm" is more general and is closer to traditional farming, such as a community garden. Therefore, a shipping container farm should be considered an "Artisan Food Production" land use.

Applicable definitions, Section 21A.62.040

ARTISAN FOOD PRODUCTION: A facility typically operated by a single business entity for the production of small-scale, hand-crafted specialty food and beverage products for on- and/or off-site sales and consumption. May include wholesale and/or retail sales.

URBAN FARM: A farm where food is cultivated, processed and distributed in or around a residential or commercial area. Urban farming is generally practiced for income earning or food producing activities.

The Salt Lake City Zoning Ordinance does not specifically define facility or farm. Any word not defined in the Zoning Ordinance shall be defined in Webster's Collegiate Dictionary (see 21A.62.010). The Webster's Collegiate Dictionary includes the following definitions:

Facility: Something (such as a hospital) that is built, installed, or established to serve a particular purpose.

Farm: A tract of land devoted to agricultural purposes.

These definitions support Salt Lake City's interpretation that "Artisan Food Production" is the appropriate land use classification, given the use of a container as a facility, rather than a tract of land.

Principal Structure & Applicable Zoning Code

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."

When reviewing the proposal against the definition of an accessory use, the proposed container farm is considered a principal use. The TSA-UC-T zoning district specifically lists "Artisan Food Production" as a permitted use, and it is not subordinate to a principal use. Additionally, the applicant made no indication that the container farm is directly associated with any other buildings on the parcel, or that it is to function as a "comfort, convenience, or necessity" of those working at a principal use. While the structure is intended to be temporary, the proposed container farm would be considered as a principal use and structure.

Since the structure is considered a principal structure, it would be subject all applicable sections of the Salt Lake City Zoning Code relevant to principal structures, including the TSA Development Score as outlined in 21A.26.078 and the Design Standards outlined in 21A.37.

Agriculture Exemption

The applicant seeks clarification on if the proposed container farm is exempt per Chapter 15A-1-204 and 15A-1-202 from the State Construction Code. While the proposal does not fit in the State's definition of agriculture, according to an email from the Division of Regulatory Services (attached), the proposal is considered a "farm growing agriculture products" and would be considered "qualified exempt." That said, even if the building permit exemption applied, the structure would still be subject to electrical, mechanical, and plumbing permits per 15A-1-204(11).

Use Interpretation

As defined in 21A.12.050: The following standards shall govern the use interpretation:

- A. *Any use defined in chapter 21.A.62 of this title, shall be interpreted as defined;*
Finding: "Artisan Food Production" is specifically identified by the code.
- 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: "Artisan Food Production" is specifically listed in the table of permitted and conditional uses within the TSA-UC-T zoning district as a permitted use (P).
- 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 proposed use will be required to comply with the development standards of the TSA-UC-T 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: See finding “B” above.

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 21.A.54 of this title

Finding: Not applicable. See finding “B” above.

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 stated purpose of the CG zoning district is as follows:

“The purpose of the TSA Transit Station Area District is to provide an environment for efficient and attractive transit and pedestrian oriented commercial, residential and mixed use development around transit stations. Redevelopment, infill development and increased development on underutilized parcels should include uses that allow them to function as part of a walkable, Mixed Use District. Existing uses that are complementary to the district, and economically and physically viable, should be integrated into the form and function of a compact, mixed use pedestrian oriented neighborhood. Each transit station is categorized into a station type. These typologies are used to establish appropriate zoning regulations for similar station areas. Each station area will typically have two (2) subsections: the core area and the transition area. Due to the nature of the area around specific stations, the restrictions of Overlay Zoning Districts, and the neighborhood vision, not all station areas are required to have a core area and a transition area.”

“Artisan Food Production” is specifically listed in the table of permitted and conditional uses within the TSA-UC-T zoning district as a permitted use (P), and is therefore considered consistent with the purpose statement of the TSA-UC-T zoning district.

If you have any questions regarding this interpretation, please contact Krissy Gilmore at 385-214-9714 or by email at kristina.gilmore@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.slcgov/planning/applications/](https://www.slcgov/planning/applications/) along with information about the applicable fee. Appeals may be filed in online at the following link:

<https://citizenportal.slcgov.com/citizen/Default.aspx>

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.

Kristina Gilmore, Principal Planner

A handwritten signature in cursive script that reads "Krissy Gilmore". The signature is written in black ink and is positioned above a horizontal line that extends to the right.

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

From: [Mitch Dumke](#)
To: [Gilmore, Kristina](#)
Subject: (EXTERNAL) Fwd: Farm Exemption
Date: Tuesday, April 6, 2021 3:55:45 PM

Afternoon Kristina,

I just spoke with Jay at UDAF and he provided this email as temporary proof of exemption while we wait for our certificate. I'm not sure if it makes a difference for your evaluation but wanted to provide that since it just came in. Thanks again for your help!

Cheers,
Mitch

----- Forwarded message -----

From: Jay Schvaneveldt <nschvaneveldt@utah.gov>
Date: Tue, Apr 6, 2021 at 12:25 PM
Subject: Farm Exemption
To: <mitch@localverde.com>

Hi Mitch

Thank you for signing up as a Qualified Exempt Produce Farm in Utah. As we discussed over our phone call, your business is considered as a farm growing agricultural products here in the State of Utah. I have added you to our farm list and you will receive a certificate in the mail in the next 10 days. I have also added you to our email list for an invitation to the Produce Grower Training.
thanks, Jay



Jay Schvaneveldt | Produce Safety Program Manager
Division of Regulatory Services
801-982-2265 office | 801-860-7078 mobile
[Website](#) | [Twitter](#) | [Facebook](#) | [Instagram](#)

PSP Registration form has been completed.

Contact Information

Name: Mitchell Dumke

Email: mitch@localverde.com

Phone: 801-971-0091

Address: 3578 E Suniland Cir, Salt Lake City, 84109

Preferred Method of Contact: email

Farm Name: Local Verde

Business Address: 3578 E Suniland Cir, Salt Lake City, 84109

Farm Size: VERYSMALL

Registration Type: QUALIFIED_EXEMPT

Registration Reason: User used the registration tool. User is qualified exempt.

Submitted Date: Tue Apr 06 12:01:25 MDT 2021