

Community Development Division

Director's Administrative Code Interpretation

File No. MIS20-0009

Date Issued: September 2, 2020

Subject Residential Office Zoning District Vehicle Storage

Code References: ACC 18.02 General Provisions

ACC 18.04 Definitions

ACC 18.23 Commercial and Industrial Zones

ACC 18.35 Special Purpose Zones

Zoning Designation(s): RO, Residential Office Zone

Background:

After review of a related business license application on 7/21/20 City staff has received an application for a director's interpretation regarding the use of a property in the RO, Residential Office zone for vehicle holding on an existing parking lot of a developed site. Title 18 of the Auburn City Code does not specifically list this type of activity as a permitted, conditional, or prohibited use in any zoning district. This interpretation relies on existing definitions, purpose statements, the list of allowed uses within the zone, and descriptions in making this determination.

Findings of Fact:

1. City Staff received an application for a director's interpretation on July 21, 2020. The application lists the proposed use as:

"The proposed use of existing parking spaces will only be used as short-term holding lots for vehicles for future delivery to an offsite sale destination. This is a stand-alone use as the existing building will not be used at all. No employees will live nor work nor stand by onsite at any times. Each vehicle would just stay on the parking spaces until they are hauled in a big grouping to an off-site destination after they have reached their 30 day holding. An approval of permitted use would authorize the use of the existing parking lots as 'outdoor vehicle holding lots.' Small trucks and passenger vehicles that are operable and in good conditions (sic) will be dropped and stored on the holding lots. There will be no outdoor sales and services, repair or modification, automobile wrecking, or wrecking yard parking on the premise. Vehicles will be towed by a hauler to the

holding lots and stored on the parking lots on a short term basis not to exceed more than 30 days.”

2. ACC 18.02.030.C (General Provisions) states that the zoning districts and associated regulations are deemed necessary and made with reasonable consideration “as to the character of each zone and its particular suitability for specific uses, the need for such uses, the common rights and interests of all within the zone as well as those of the general public, and with the view of conserving and encouraging the most appropriate uses of land through the city and to prevent and abate public nuisances.”
3. ACC 18.02.060 sets forth the rules for administrative interpretations of Title 18, the Zoning Code. More specifically, Section A states that “any interpretations regarding implementation of this title shall be made in accordance with the intent or purpose statement of the specific regulations and the comprehensive plan.”
4. ACC 18.02.060.B states that the “planning director may authorize uses in a zone other than those which are listed, if the planning director determines the use is consistent with the intent of the zone and is of the same general character of the uses permitted within the zone.”
5. ACC 18.02.060.C states that administrative interpretations may be appealed to the hearing examiner as prescribed in Chapter 18.70 ACC (Variances, special exceptions, and administrative appeals).
6. ACC 18.04 contains the definitions for terms used elsewhere in the zoning code.
7. ACC 18.35.020 states that “This section describes the intent for each of the city’s special purpose zones. These intent statements may be used to guide the interpretation of the regulations associated with each zone.”
8. ACC 18.35.020.B states the intent of the RO and RO-H zone as:

“The RO and RO-H are intended primarily to accommodate small-scale business and professional offices, medical and dental clinics, and banks and similar financial institutions at locations where they are compatible with residential uses. Some retail and personal services may be permitted if supplemental to the other uses allowed in the zone. This zone is intended for those areas that are in transition from residential to commercial uses along arterials or near the hospital. Conversion of residential uses to commercial uses is geared towards encouraging adaptive re-use of existing single-family structures that continue to appear in accord with the single-family residential character.”
9. ACC 18.35.030 provides a table that identifies each special purpose zone classification and a list of uses that are either permitted, conditional, administrative, or prohibited by zone.
10. The Table in ACC 18.35.030 does not include exterior vehicle holding or storage in the list of uses. Therefore the proposed use is “unlisted”.
11. ACC 18.04.676 defines “Outdoor Storage” as “the keeping of materials, supplies, equipment, machinery and vehicles which are not currently licensed or capable to operate on public streets or highways, in an open, uncovered yard or non-walled buildings. This definition includes junkyards as defined by ACC 18.04.500, but excludes outdoor sales as defined by ACC 18.04.672.”
12. ACC 18.04.020 defines “Accessory Use” as “a use, building or structure, part of a building or other structure, which is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot, including a residential garage. If an accessory building

is attached to the main building by a common wall or roof, such accessory building shall be considered a part of the main building. Parking areas will not be considered an accessory use under this definition.”

Analysis

1. The applicant has indicated that the proposed use would consist of a holding lot for new and used passenger and small truck imported vehicles; a total number of vehicles or square footage to be utilized was not indicated. Vehicles are proposed to be placed outside, on an improved parking area of a developed site that has a generous amount of parking based on historical use of the site that is no longer active. The vehicles are indicated to be unlicensed with ownership documents held by the business operator until release. Vehicles will be on site for a 30-day holding period before they are transported to another site for release. The applicant indicates the use consists solely of the vehicle holding, as the existing building will not be used at all. No employees will live, nor work, nor stand by onsite. Also, the use as presented, is not the more commonly-found outdoor sales and services, auto repair or modification, automobile wrecking, or wrecking yard. No additional information for the business activity or the use has been provided by the applicant.
2. The site is 4.96 acres with 125 marked parking spaces. The applicant has indicated that only existing parking spaces will be used. The existing building on site will not be used.
3. The code language in section ACC 18.02.030.C encourages interpretation of city code in a manner that seeks to preserve and protect the integrity of each zone. When making such interpretations the code specifically states that “the common rights and interests of all within the zone” should be considered.
4. The proposed use is not specifically listed as a use in ACC 18.35.030 (Uses (for the Special Purpose zones). Therefore the proposed use is “unlisted”. For those uses not listed, the code at ACC 18.02.060.B states “Other uses may be permitted by the planning director or designee if the use is determined to be consistent with the intent of the zone and is of the same general character of the uses permitted.”
To meet the second part of this, an appropriate question to consider is whether the holding of vehicles outdoors is comparable in design, location, and layout to the characteristics of other uses that would be typically found within the RO, Residential Office zone. The proposed use is not comparable and not compatible with the scale and activity of the uses listed in the intent statement of the RO zone ACC 18.35.020.B.
5. The exterior stockpiling or holding of unlicensed passenger vehicles fits the city’s definition of “outdoor storage” given in the previous Findings of Fact section, above. Outdoor storage is not allowed in any of the city’s commercial or industrial zones as a standalone use, and while it is a listed use, it is specifically omitted from and thus not allowed in the city’s residential zones. By contrast, outdoor storage is allowed in the C-3, M-1, EP, and M-2 zones only when it is incidental or secondary to a principal permitted use on the property. In order for vehicle storage to be allowed in any of these four more intensive zones, there would need to be a finding that the outdoor storage is incidental to another use that is permitted on the property. In general, outdoor storage, is minimally accommodated with the city’s zoning districts.

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6. The proposed use is not a "Parking Facility, Public or Commercial, Surface" and "Parking Facility, Public or Commercial, Structured". While not specifically defined in the city's zoning code, beyond their generally-accepted meaning, the terms: "Parking Facility, Public or Commercial, Surface" and "Parking Facility, Public or Commercial, Structured" are uses that are "listed", since they are included in zoning districts elsewhere in the city. Whether parking within a structure or on surface, these terms refer to managed parking to fulfil a public need, such as a public parking lot for commuter parking, or a private commercial for profit that serves the parking needs of shoppers, residents, or employees for their personal passenger vehicles.
7. The proposed use is not a "Specialized Transportation Facility". While not specifically defined in the city's zoning code, beyond its generally-accepted meaning, the term is used in conjunction with ambulance and taxi services, and thus gives an indication to its meaning. This term refers to land use activity focused on provision of transportation services and not simply a location to store vehicles.
8. The proposed land use activity is also not "Outdoor Displays and Sales" or a "Towing storage yard" as acknowledged in the statements in the application submitted.

Conclusion:

1. The stated intent of the RO, Residential office zoning district is to accommodate small-scale business and offices in a manner which is compatible with residential uses. The proposed use activity and scale is not compatible.
2. None of the uses specified in the intent statement ACC 18.35.020 or uses listed in ACC 18.35.030 appear similar to Vehicle Storage as a standalone use. The code states that "Other uses may be permitted by the planning director or designee if the use is determined to be consistent with the intent of the zone and is of the same general character of the uses permitted." The proposed use is unlisted and not compatible or similar enough in character to be allowed in the RO, Residential office zoning district. The use activity exclusively as exterior vehicle storage shares attributes that are similar to uses commonly found in more intensive, Heavy Commercial or Industrial zoning districts and are not appropriate for this lesser intensive zone.

Decision:

Exterior vehicle storage shall not be allowed within the Residential Office (RO) zoning designation within the City of Auburn.

Signature: Jeff Tate
Jeff Tate, Director of Community Development

Date Issued: September 2, 2020

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Appeals

Any person aggrieved of this decision may file an appeal with the Community Development Director within fourteen (14) days of mailing of the City's written code interpretation. This decision was rendered on September 2, 2020. The appeal must be filed electronically at the Community Development Department at second floor, 1 East Main Street, Auburn, WA 98001 prior to 5:00 PM on or before September 16, 2020. The appeal must be accompanied with justification for the appeal required per ACC18.70.050.E and include the required filing fee payable to the City of Auburn. Subsequent arrangements for payment with the permitcenter@auburnwa.gov within a reasonable timeframe will be allowed. Once filed, a hearing on the appeal is scheduled with the Hearing Examiner as prescribed in ACC 18.70.050.B.