

Community Development Division Director's Administrative Code Interpretation

File No. MIS16-0026

Date Issued: December 7, 2016

Subject: Specialized Transportation Facilities

Code References: ACC 18.04 Definitions
ACC 18.23 Commercial and Industrial Zones

Zoning Designation(s): All relevant Commercial and Industrial Zones

Background:

City staff has received a number of inquiries regarding the use of vacant property for the storage of commercial vehicles as a stand alone use. Title 18 of the Auburn City Code does not specifically list this type of activity as a permitted, conditional, or prohibited use. However, there are a number of uses listed in the various commercial and industrial zones that can be used to determine which areas in the City can be utilized for commercial vehicle storage as a stand alone use. This interpretation relies on existing definitions and descriptions in making this determination.

Findings of Fact:

1. ACC 18.04 contains the definitions for terms used elsewhere in the zoning code.
2. ACC 18.04.245 defines a "Commercial Vehicle" as "semi-truck tractors and/or semi-trailers (over 26,001 pounds gross vehicle weight rating) that are used in any commercial enterprise."
3. Chapter 18.23 of the Auburn City Code establishes the list of uses that are allowed within each of the commercial and industrial zones and the intent statements of each commercial and industrial zoning district.
4. ACC 18.23.030 provides a table that identifies each commercial and industrial zone and a list of uses that are either permitted, conditional, administrative, or prohibited. The table provides a title for groupings of similar uses.
5. The Use Table of ACC 18.23.030 does not include commercial vehicle storage in the list of uses.
6. 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."

7. 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 nonwalled buildings. This definition includes junkyards as defined by ACC 18.04.500, but excludes outdoor sales as defined by ACC 18.04.672."
8. ACC 18.04.170 defines "Automobile, Trailer, Equipment Sales Area" as "an open area, other than a street, alley, used for the display, sale or rental of new or used automobiles, trucks, trailers or other equipment."
9. ACC 18.04.194 defines "Building Contractor, Heavy" as "businesses relating to the heavy construction trades including but not limited to: excavation work, highway and street construction; heavy construction, masonry and concrete work and water well drilling. These types of businesses generally have heavy equipment that may be stored outside."
10. ACC 18.04.692 defines "Parking Structure" as "a single or multi-level structure intended for the use of vehicular parking, as opposed to an uncovered surface parking lot. This definition includes both stand-alone parking garages and structured parking as incorporated into a building, the primary purpose of which is not parking (i.e., rooftop or basement parking areas)."

Analysis:

1. When analyzing the issue of the use of vacant property for the storage of semi-truck tractors and/or semi-trailers as a stand alone use and evaluating the list of uses displayed in the use table of ACC 18.23.030, titled groupings that were considered in this interpretation are "Industrial, Manufacturing and Processing, Wholesaling", "Retail", "Services", "Transportation, Communications and Infrastructure", and "Vehicle Sales and Services." Titled groupings that were not considered include "Recreation, Education and Public Assembly Uses" and "Residential."
2. Because commercial vehicle storage is not listed in the use table of ACC 18.23.030 it is appropriate to evaluate and compare other uses that are allowed within each zone to determine which zones commercial vehicle storage as a stand alone use is allowed.
3. Of the definitions listed in the previous Findings of Fact section, "Outdoor Storage" is a broad term that has application when determining if commercial vehicle storage is allowed. Outdoor Storage is not allowed in any of the commercial or industrial zones as a stand alone use. Outdoor Storage is allowed in the C-3, M-1, EP, and M-2 zones when it is incidental to a principal permitted use on the property. In order for commercial vehicle storage to be allowed in these four zones there would need to be a finding that storing vehicles is incidental to another use that is permitted on the property.
4. "Automobile, Trailer, Equipment Sales Area" is also a term that has application in this determination. This use is allowed in the C-3, M-1 and M-2 as a permitted use and in the C-1 zone as an administrative use. Commercial vehicle storage could be allowed within these zones if it is in conjunction with an active sales and/or rental business located on the property because it would fall under the ACC 18.23.030 category of "Auto/Vehicle Sales and Rental."
5. "Heavy Building Contractor" has application in this determination because the definition clearly states that these types of businesses generally have heavy equipment stored

outside. Heavy Building Contractor uses are permitted in the M-2 zone and allowed through an administrative use permit in the M-1 zone. It is clear from this definition that the outdoor storage of heavy equipment, which reasonably includes commercial vehicles, is incidental and supportive of the primary use of the property as a "Building Contractor, Heavy" use.

6. While not a defined term, "Specialized Transportation Facility" is included in the list of uses in ACC 18.23.030. It is listed as a permitted use in the M-1 and M-2 zone. Given that Specialized Transportation Facility is a term that is combined with ambulance and taxi services, it is reasonable to assume that it is not simply a location to store vehicles but is also a location where vehicles are dispatched or part of a business operation.
7. While not defined terms, "Parking Facility, Public or Commercial, Surface" and "Parking Facility, Public or Commercial, Structured" are uses that are included in the list in ACC 18.23.030. Whether parking within a structure or on surface, it can be assumed that a parking facility is intended to mean a location that provides parking supply for typical passenger automobiles. The reason that this can be assumed starts with the use of the word "structured." Parking structures are defined in ACC 18.04.692 as "a single or multi-level structure intended for the use of vehicular parking, as opposed to an uncovered surface parking lot." Parking structures do not typically serve the needs of commercial vehicles and/or heavy equipment. Accepting this assumption, it is appropriate to apply the same principal to "surface" facilities because the only distinction between the two terms is whether the facility is a building or the facility is limited to utilizing the ground. Commercial vehicles and/or heavy equipment are generally not stored in parking garages or in parking lots and are instead typically stored in a "yard." Yards that are used to store commercial vehicles are often characterized by fencing, barbed wire, gates, and noise from diesel engines. It is also important to note that there is a significant difference in the appearance of an area that is utilized to store commercial vehicles and an area that serves the parking needs of shoppers, commuters, residents and employees for their personal passenger vehicles. In other words, an area that stores semi trucks and trailers will take on a much different appearance and character than a typical parking lot used by cars, SUV's and pick up trucks.
8. While none of the terms defined in Title 18 or that are listed in ACC 18.23.030 specifically state that a commercial vehicle storage facility is allowed as a stand alone facility, there are a number of uses that allow or assume that some degree of commercial vehicle storage will serve another primary use of the property.
9. None of the uses listed in ACC 18.23.030 under the grouping of "Services" appear to have any similarity to commercial vehicle storage as a stand alone use.
10. Several uses listed in ACC 18.23.030 under the groupings of "Industrial, Manufacturing and Processing, Wholesaling", "Retail", "Transportation, Communications and Infrastructure", and "Vehicle Sales and Services" have elements that allow or assume some degree of commercial vehicle storage. When evaluating the uses in ACC 18.23.030 that allow commercial vehicle storage it is apparent that they are commonly permitted in the M-1 and M-2 zones. (e.g. Specialized Transportation Facility, Auto/Vehicle Sales and Rental, Heavy Building Contractor and Outdoor Storage). This is not the case for uses in the C-N, C-1, C-2, C-3, C-4 or EP zones.
11. Even if commercial vehicle storage is not listed as a stand alone permitted use in any zoning designation it is appropriate to identify zoning designations where this type of use

can be established and allowed. It is appropriate because it is reasonable to assume that this type of activity falls within the range of allowable uses within the City of Auburn and because there is a demand/need to provide locations where commercial vehicles can be legally stored. To prohibit this type of use within the City of Auburn will result in several legally established existing uses being classified as "non-conforming." Also, because there is a community and economic need to establish locations for commercial vehicle storage, failure to identify zoning designations that allow this type of use would likely lead to commercial vehicles being illegally stored in undesirable locations.

Conclusion:

1. Commercial vehicles storage consisting of semi-truck tractors and/or semi-trailers is not defined as an allowable or prohibited use within the City of Auburn.
2. There are a variety of uses that are allowed within the City of Auburn that include a component of commercial vehicle storage.
3. Standalone commercial vehicle storage is a use that lies within the range of allowable uses listed in the use table of ACC 18.23.030.
4. Standalone commercial vehicle storage is not allowable using the definition of "Outdoor Storage" because the term is very specific to require that there be a primary use that it is serving; and because the definition of "Outdoor Storage" includes vehicles which are not currently licensed or capable to operate on public streets or highways and most requests include commercial vehicles that are licensed and operational on public streets. An exception is trailers when separate from a tractors are not capable of operating on public streets.
5. Standalone commercial vehicle storage is not allowable using the definition of "Parking Facility, Public or Commercial, Surface or Structured" because this use is meant to serve the parking needs of personal or passenger vehicles.
6. Standalone commercial vehicle storage shares attributes that are most similar to the defined terms of "Specialized Transportation Facility", "Construction and Heavy Equipment Sales and Rental", "Heavy Building Contractor" and "Auto/Vehicle Sales and Rental." The similarity of these listed activities is that they are all allowed within the M-1 and M-2 (industrial) zones. The same cannot be said for any other zoning designations.

Decision:

Stand alone commercial vehicle storage consisting of semi-truck tractors and/or semi-trailers shall be treated as a permitted use in the M-1 and M-2 (industrial) zoning designations. A stand alone commercial vehicle storage location shall only be established after demonstrating conformance with all adopted development and engineering standards and obtaining all applicable permits and licenses. Stand alone commercial vehicle storage shall not be allowed in any other zoning designations within the City of Auburn.

Signature: _____



Date Issued: _____

12/20/16

Jeff Tate, Assistant Director

Appeals

Any person aggrieved of this decision may file an appeal with the Planning and Development Director within fourteen (14) days of mailing of the City's written code interpretation. This decision was rendered on December 20, 2016. The appeal must be filed at the Planning and Development Department at second floor, 1 East Main Street, Auburn, WA 98001 prior to 5:00 PM on or before January 4, 2017. The appeal must be accompanied with justification for the appeal required per ACC 18.70.050.E and include the required filing fee payable to the City of Auburn. Once filed, a hearing on the appeal is scheduled with the Hearing Examiner as prescribed in ACC 18.70.050.B.