

December 7, 2016

Via Certified Mail

Mohammad Yasin
6122 S 296th ST
Auburn, WA 98001

Re: MIS16-0020, Planning Director's Zoning Code Interpretation related to an "Enhanced Services Facility" in the R5, Residential Zoning District Zoning Code Section 18.07

Dear Mr. Yasin:

This letter is in response to your application for a zoning code interpretation by the Planning Director regarding the zoning code provisions for "Enhanced Services Facility" in the R5, Residential Zoning District. The use regulations of the R5, Residential Five dwelling units per acre district are found in ACC 18.07.020. As indicated in your application, the interpretation is requested in relation to the specific 0.56-acre property (Parcel number 0221049031) containing a single family house located at 6122 S. 296th ST.

The written interpretation is attached. This letter constitutes an official administrative interpretation of the zoning code in accordance with Auburn City Code (ACC) Section 18.02.060. This decision is final, subject to appeal to the Hearing Examiner. Should you disagree with this interpretation, administrative interpretations may be appealed to the Hearing Examiner as prescribed in ACC Section 18.70.050 within 14 days of the mailing of this decision, or December 22, 2016. If no appeals are received, then the decision is final. Appeals may be filed with the City Clerk's Office at 25 West Main Street, Auburn WA 98001 and accompanied by the appeal fee of \$1,000.00 and the written statement of the basis for the appeal. Additional fees for the Hearing Examiner process will apply.

If you have any further questions, please feel free to contact Jeff Dixon, Planning Services Manager at 253-804-5033 or by e-mail at jdixon@auburnwa.gov.

Sincerely,



Jeff Tate
Assistant Community Development Director

JT/JD/jo
CORR16-0298

Enclosures: Code excerpt on Administrative Appeals (ACC 18.70.050)
Decision with Attachment A

cc: James Webb, COA Transportation Engineer
Ingrid Gaub, COA City Engineer
Norm Golden, VRFA, Fire Marshall
File # MIS16-0020
Interpretation File (hard file and electronic)

18.70.050 Administrative appeals.

Appeals from any administrative decision made under this title may be appealed to the hearing examiner pursuant to Chapter 2.46 ACC.

A. Any person wishing to appeal an administrative decision shall first render in writing a request for an administrative decision from the appropriate city official. The city official shall issue in writing a decision within five working days of the written request.

B. If the requester seeks to appeal that decision to the hearing examiner, any such appeal shall be filed with the planning director within 14 days of mailing the city's written decision. The city shall extend the appeal period for an additional seven days for appeals that are accompanied by a final mitigated determination of non-significance or final EIS.

C. The planning director shall notify any other city official that may be affected by the appeal.

D. The appeal shall then be processed in the same manner as any other application for a hearing examiner decision pursuant to Chapter 2.46 ACC.

E. The examiner shall conduct a public hearing pursuant to ACC 18.70.040 and consider any facts pertinent to the appeal. The examiner may affirm the decision, remand for further proceedings, or reverse the decision if the decision is:

1. In violation of constitutional provisions;
2. In excess of the authority of the official;
3. Made upon an unlawful procedure;
4. Affected by other error of law;
5. Clearly erroneous; or
6. Arbitrary or capricious.

**Community Development & Public Works Department
Director's Administrative Zoning Code Interpretation**

File No. MIS16-0020

Date Issued: December 7, 2016

Subject: Zoning code interpretation by the Planning Director regarding the zoning code provisions for "Enhanced Services Facility" in the R5, Residential Zoning District. The use regulations of the R5, Residential Five dwelling units per acre district are found in ACC 18.07.020

Code References: Zoning Code Sections
ACC 18.07.010, 'Intent of the R5, Residential Five dwelling units per acre Zoning District'
ACC 18.07.020, 'Use Table for the Residential zoning districts'
ACC 18.02.060, 'Rules for administrative interpretations'
ACC 18.02.120, "Permitted land uses established"
ACC 18.21.020, "West Hill Zoning Overlay"

Zoning Designation(s): The site which is the subject of this request, is a 0.56-acre site developed site containing a single family residence located on the north side of S 296th ST. The site is identified as parcel number 0221049031 and is located within the SW ¼ of NE1/4 OF SEC 2-21-4, W.M.

Applicant: Mohammad Yasin
6122 S 296th ST
Auburn, WA 98001

I. Introduction

This interpretation is requested in relation to a specific parcel of property. However, the interpretation also has general applicability to all properties zoned R5, Residential Five Dwelling Units per Acre, within the City of Auburn. For this reason, this interpretation provides a comprehensive assessment of the request. The information contained herein applies equally to the specific request prompting this interpretation and to all properties within the same zoning classification.

II. Background

As identified in the Application, this interpretation request is in relation to a 0.56-acre developed site containing a single family residential structure located on the north side of S 296th ST. The site is identified as King County Parcel Number 0221049031. The site consists of a previously graded, filled and developed site. The parcel is rectangular in shape with the longer axis of the property oriented north and south and the south property line of approximately 133.9 feet borders S 296th ST.

Historically, it appears the site was developed with a house, detached garage and outbuilding. The garage was subsequently converted into living spaces and by building additions attached to the house (Building Permit No. ADD13-0049) and now represents a single structure. The building permit identifies the intended use as a single family residence. The King County Assessor's website identifies the structure as a single family residence containing 10 bedrooms and 4.25 bathrooms.¹ The property also has a Comprehensive Plan designation of "Single Family Residential."

Beyond the residential designation, the site is not part of any designated special area plan or sub-area plan established by the City's Comprehensive Plan. However, the Site is located within the "West Hill Zoning Overlay", ACC 18.21.020. The stated purpose of the overlay is to provide supplemental zoning standards that apply in addition to those of the standard zoning district. More specifically it says:

"The purpose of this section is to provide for additional development standards to address the area commonly referred to as the West Hill Annexation Area, as annexed under city of Auburn Ordinance No. 6122 (2008) and identified on the city of Auburn comprehensive zoning map. While the intent is that the development standards for zones in the West Hill annexation area will be similar to (if not the same as) corresponding zones in other areas of the city, some variations are needed to recognize previous development allowed by King County zoning. Unless otherwise provided for in this section, all other provisions and requirements of this title shall apply to properties within the West Hill overlay."

The overlay continues some of the zoning development standards that formerly applied from King County regulations prior to annexation of the land including lot size, yard setbacks and the keeping of animals.

The site is inventoried as Groundwater Protection Area 4, the least restrictive designation. The City's information shows the property is not inventoried as potentially containing any other critical areas such as geologic hazard critical area, wetlands or streams. Consequently, this interpretation does not address any implications created by these additional regulations that may affect other properties within the R5 Zone.

The request for an interpretation was submitted by Mohamad Yasin as co-owner of the property at 6122 S 296th ST, Auburn, WA 98001. The property owner also owns the adjacent property to the east and as identified in the letter dated August 5, 2016 is currently being operated as Emerald Care Adult Family Home.² Mr. Yasin has requested a determination as to a use not listed: Enhanced Services Facility.

¹ <http://blue.kingcounty.com/Assessor/eRealProperty/Dashboard.aspx?ParcelNbr=0221049031>.

² As provided in RCW 70.128.140, an "Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. Also, as provided in state law, an adult family home must be considered a residential use of property for zoning and public and private utility rate purposes. Adult family

III. Discussion/Analysis

The Auburn City Code authorizes the Planning Director to “interpret the meaning of words, phrases and sentences which relate to the determining of uses in the various zones.” ACC 18.02.060(A). In so doing, “the planning director may authorize uses in a zone other than those which are listed.” ACC 18.02.060(B). Interpretations by the planning director “shall be made in accordance with the intent or purpose statement of the specific regulation and the comprehensive plan.”³ ACC 18.02.060(A).

The city code contains a list of those land uses that are specifically allowed in each of the zoning districts. “Any use not specifically enumerated or interpreted by the city as allowable in that zone” is prohibited. ACC 18.04.752. Uses enumerated by interpretation are included as allowable uses because it is not possible for the code language to anticipate every future land use. Consequently, the planning director's limited authority to issue interpretations ensure the zoning codes remain adaptable to new developments in land use while still adhering to the core principles of the city code. “Upon inquiry by an applicant, an administrative interpretation shall be made by the planning director or designee” based on three criteria: (1) whether the use is “in keeping with the intent of the zone, and consistent with Auburn Comprehensive Plan policies,” (2) whether the use is “similar in nature to, and no more intense than, specifically listed permitted, conditional or accessory uses” and (3) whether the use, if determined to be permissible as an accessory use, is consistent with ACC 18.02.120(C)(4). ACC 18.02.120(C)(6)(a)(i, ii, and iii).

An Enhanced Services Facility (ESF) is “a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department [of Social and Health Services (DSHS)] to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.” RCW 70.97.010(12). This is a new category of licensed residential facility that provides a community placement option for up to sixteen individuals whose complicated personal care and behavioral challenges do not rise to a level that requires an institutional setting. Rather than extended and unnecessary stays in State Hospitals, patients who are no longer responding to active psychiatric treatment and who have been assessed as stable and ready for discharge can be referred to an ESF. ESFs use high staffing ratios, behavioral and environmental interventions to serve individuals who are no longer receiving active treatment at a state hospitals. These facilities offer behavioral health, personal care services and nursing, a combination that is not generally provided in other licensed long-term care settings.

Specifically, RCW 70.97.010 provides the following definitions related to this new use as follows:

“‘Enhanced services facility’ (ESF) means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have

homes are a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family.

³ The planning director must also prioritize “life, safety and public health regulations... over all other regulations.” ACC 18.02.060(A).

been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.”

“‘Department’ means the department of social and health services.”

In fact, the behavioral health, personal care services, and nursing provided by ESFs are subject to significant regulations meant to address the challenges inherent to such endeavors. These regulations are the best, and presently the only, indicators of the nature, scope and intensity of the requested use. For example, eligibility for treatment at an ESF requires a history of two or more characteristics, including, but not limited to:

- Self-endangering behaviors that are frequent or difficult to manage;
- Aggressive, threatening, or abusive behaviors that create a risk to the health or safety of other residents or staff, or a significant risk to property and these behaviors are frequent or difficult to manage;
- Intrusive behaviors that put residents or staff at risk;
- A history of offenses against a person or felony offenses that created substantial damage to property. WAC 388-107-0030(6).

Similarly, “a licensed nurse must be on duty in the facility at all times,” “a mental health professional must be on-site at least sixteen hours per day,” and “sufficient numbers of appropriately qualified and trained staff are available to provide necessary care and services.” WAC 388-107-0240. Finally, ESF’s may also contract with third party providers for housekeeping, food and laundry services. WAC 388-107-0550.⁴

IV. Findings of Fact

“Upon inquiry by an applicant, an administrative interpretation shall be made by the planning director or designee” based on three criteria: (1) whether the use is “in keeping with the intent of the zone, and consistent with Auburn comprehensive plan policies,” (2) whether the use is “similar in nature to, and no more intense than, specifically listed permitted, conditional or accessory uses” and (3) whether the use, if determined to be permissible as an accessory use, is consistent with ACC 18.02.120(C)(4). ACC 18.02.120(C)(6)(a)(i, ii, and iii). For this interpretation, an assessment of these criteria requires comparing ESFs to other uses within the R5 Zone, the West Hill Overlay, and the Single Family Residential and Housing Elements of the Comprehensive Plan.

A. An ESF is not in keeping with the intent of the zone, nor is it consistent with Auburn comprehensive plan policies.

There are three components of the Auburn City Code applicable to this interpretation: the R5 Zone, the West Hill Overlay and the Comprehensive Plan. These provisions are meant to be applied collectively to create a cohesive and harmonious land use plan for the City of Auburn, including residential areas for residents to call home.

⁴ Although these regulations directly effect the residential character of the use of any property, there are extensive additional regulations imposed on ESFs, including WAC 388-107-0200, 388-107-0210, 388-107-0230 388-107-0250, and 388-107-0260.

1. The R5 Zone

The intent statement of the R5 Residential zoning district as specified at ACC 18.07.010(D) is “to create a living environment of optimum standards for single-family dwellings” and to “achieve development densities of four to five dwelling units per net acre. This zone will provide for the development of single-family detached dwellings and for such accessory uses as are related, incidental and not detrimental to the single-family residential environment.” ACC 18.07.010(D). The “optimum standards” refers to maintaining a setting that is free from disturbances that interfere with the residential character and the quality of life within the zone. Detrimental influences could include, but are not limited to, such items as follows:

- Generation of an atypical amount of noise in type, volume, or duration
- Generation of light and glare not typically associated with single family residence
- An increase level of outdoor activity and disturbance such as increased level of coming and goings; not common to a single family residence
- Construction that differs in character by use of building materials or requiring internal or external alterations or involving construction features not commonly found in a dwelling.
- Hours of activity not typically associated with single family residence - generally 9:00am to 6:00 pm
- Generation of vehicle traffic not typically associated with single family residence by type of vehicle, time of day of trips or number of trips.
- Having and usage of electronic or mechanical equipment that is commonly or customarily used for domestic household or personal purposes associated with a dwelling unit.
- Having characteristics of a place of employment not typical of a single family residence.
- Having deliveries or pickups by commercial delivery services that are not typical of a single family dwelling.
- Include the development and operation of more parking or demand for parking than typically associated with a single family dwelling.
- Involve the display or signage (more than one square foot) not typical of a single family residence.
- Having a concentration of persons whose presence creates concerns for security or safety by neighbors.
- Having a concentration of persons that results in increased demand for medical or emergency response services not typical of a dwelling unit.
- Differing in residential character either by use of colors, materials, construction lighting, signs or the emission of sounds, noises, vibrations or odors or result in traffic impacts inconsistent with the character of the area. See, e.g. ACC 18.60.

Because, the use is a “new” land use that originated in response to state legislation and does not currently exist, there are not readily available examples that can serve as a basis for comparison. Therefore, the city must rely heavily on the state regulations promulgated by DSHS on what is allowed to understand and compare the use.

An ESF can accommodate up to 16 residents; a number that exceeds average household size for single family residences typical in the R5 Zone. The Applicant's request in their August 5, 2016, letter seeks to have 12 residents based on the future additional of three bedrooms within

the confines of the existing house.⁵ While the Applicant indicates he currently resides at the subject property, the state requires a maximum capacity of one resident per resident sleeping room (WAC 388-107-0810, Resident room). Consequently, the Applicant could not reside on the property if it were to be used as an ESF. The proposed use differs from a residential use because it would not be occupied by the resident owner, and would be occupied by a greater number of people than the average within the R5 Zone. Instead, the ESF would be continuously staffed by healthcare professionals.

Similarly, the ESF differs from an "Adult Family Home," which is statutorily permitted in the R5 zone, because the no one is required to reside on the premises as their principal residence. An adult family home is defined in state law as the regular family abode of a person who is providing personal care and board to more than one but not more than six adults who are not related by blood or marriage to the person providing the service. RCW 70.128.010(1)). The owner-occupied requirement for an adult family home is a critical distinction because adult family homes are designated as a residential use by the Washington legislature. RCW 70.128.140. Comparatively, RCW 70.97 does not include a legislative mandate that ESFs be deemed residential uses.

Just as the Washington legislature has recognized a difference between adult family homes within residential zones and ESFs within residential zones, the Planning Director finds that ESFs are not consistent with the R5 Zone. This finding is based on the lack of owner-occupation, but also on characteristics of the ESF that are not analogous to typical residential uses. Enhanced Services Facilities have the potential to include many of the detrimental influences listed in ACC 18.60 (Home Occupations). For example, the need for an ESF to be continuously staffed by healthcare professionals in rotating shifts, an ESF is substantially likely to increase the number of vehicle trips and parking over what is typical of a single family residence. Additionally, if the ESF were to contract for housekeeping services; food services; and laundry services for the residents as allowed, this would add to the number of vehicles to and from the site on a regular basis. Contracting for such services could also result in larger (non-passenger) type vehicle visiting the site on a routine basis.

ESF's are also more likely to have construction that differs in character by use of building materials or requiring internal or external alterations or involving construction features not commonly found in a dwelling. For instance, while not prohibited, most houses don't have 12-16 bedrooms. A greater amount of medical equipment is likely to be needed with increased demands for power supply and backup power supply. The additional number of persons, including residents, visitors and staff, equipment and facilities is inherently likely to generate an atypical amount of noise in type, volume, and duration, have deliveries not typical of a single family dwelling, concentrate persons whose presence creates concerns for security or safety by neighbors, concentrates persons whose presence results in an increased demand for medical or emergency response services not typical of a dwelling unit, and include signage not typical of a single family residence.

For these reasons, the proposed ESF use is not in keeping with the intent of the zoning district.

2. West Hill Overlay

⁵ No permits applications have been filed yet for these building changes for 3 bedrooms.

The purpose of the West Hill Overlay is “to provide for additional development standards to address the area commonly referred to as the West Hill Annexation Area.” ACC 18.21.020(A). The intent of the West Hill Overlay is to provide “some variations” to standard zoning requirements “to recognize previous development by King County zoning.” ACC 18.21.020(A). As a general matter, county zoning standards promote lower density of structures and rural or agricultural neighborhoods. The West Hill Overlay is no different. For example, ACC 18.21.020(E) provides for the keeping of farm animals on any residentially zoned property greater than one acre whereas pasturing and grazing is prohibited on any property in the R5 Zone not subject to the West Hill Overlay. See ACC 18.07.020. The increased density, traffic, lack of owner-occupation, and presence of multiple healthcare professionals created by an ESF that are discussed in the previous section is qualitatively distinct from the low-density, rural characteristics promoted by the West Hill Overlay. For these reasons, the planning director finds that the proposed ESF is not consistent with the purpose or intent of the West Hill Overlay.

3. Comprehensive Plan

The R5 zone is one of three zoning designations that implement the broad category of the Comprehensive Plan designation: “Single Family Residential”. Per Page 5 of this chapter, the description of this “Single Family Residential” designation is as follows:

Single Family Residential - This designation is the predominant land use category in the City. Maintaining and creating a diverse arrangement of interconnected subdivisions, neighborhoods and communities that have a mix of densities and housing types; linkages with other residential areas and commercial hubs through non-motorized modes, such as pedestrian and bicycling, and vehicular modes will be encouraged.

Relevant Policies from Comp Plan Volume 1, “Land Use Element” and specifically from the “Single Family Residential” comprehensive Plan designation, state:

Policy LU- 4. Public and institutional uses may be permitted as a conditional use if designed in a manner which enhances the residential character of the area. Special care shall be given to ensuring adequate parking, landscaping, and traffic circulation to avoid conflict with residential uses.

However, contrary to this general and broad policy statement of the Comprehensive Plan designation, ESF's are more institutional in operation; where the only similarity is that an ESF is conducted within a residential appearing structure. The intensity of the proposed ESF is likely to conflict with residential uses nearby.

Relevant Policies from Comp Plan Volume 2, “Housing Element”:

Policy H-9. When evaluating proposed developments, apply site and building design standards, require quality streetscape, landscape, onsite recreation and open space, and low impact development measures to improve community character and environmental quality. [Element audit, needs assessment, outreach]

Policy H-10. Provide a land use plan and zoning that offers opportunities to achieve a variety of housing styles and densities for private and non-profit housing providers.
[Element audit, needs assessment, outreach]

Policy H-33. Encourage and support human and health service organizations that offer programs and facilities for people with special needs. Support programs in particular that help people to remain within the community, including those that are veterans, disabled, seniors, single parent households, and the homeless.

However, this policy guidance is not limited to the R5 Residential or other residential zoning districts. Instead these policies also apply to all zones of the city including commercial and institutional zones to meet housing and service needs. Additionally, this policy is meant to “help people *remain* within the community” (emphasis added). The use of the word “remain” implies that the policy is a means of encouraging services that are provided on-site to residents to facilitate remaining in their own homes. Comparatively, the proposed ESF would relocate *new* residents to the community.

Although the general nature of the guidance within the comprehensive plan policies to not unequivocally contradict the use of ESFs within the R5 Zone, they are also not clearly supported by the Comprehensive Plan.

B. Whether the use is similar in nature to, and no more intense than, other, specifically listed permitted, conditional or accessory uses.

The proposed ESF use does not meet the criteria of being similar in nature to, and no more intense than, specifically listed permitted, administrative or conditional uses and their accessory uses; in the zoning district. Other uses allowed in the R5, Residential zone (ACC 18.07) include:

Permitted Uses:

- Accessory dwelling units (Mother-in-law units)
- Adult family home
- Bed and breakfast
- Communal residence (as specifically defined at ACC 18.04)
- Duplexes
- Foster care homes
- Group residence facilities (limited to 6 or fewer persons)
- Renting of rooms (limited to 2 persons in addition to owner-occupied)
- Home based daycare (RCW 35.63.185 “Family home child care)
- Home occupations
- Municipal parks and playgrounds
- Type 1-D Wireless communication facilities

Administrative Uses:

- Homeowner association building and facilities
- Daycare
- Privately owned parks and playgrounds
- Government facilities

- Religious institutions less than an acre

Conditional Uses:

- Private country clubs
- Religious institutions one acre or more
- Private utility facilities and substations

Other permitted uses (allowed outright) in the R5, residential zone have smaller limits on the number of persons residing on the premises, except where the use is pre-empted by state law when the legislature has determined there is a compelling state need.

As outlined in the comparison to City's Home Occupation standards, which are directed at protection of residential zoning districts, ESF's have the potential to be more intensive land use than uses allowed outright in the zoning district due to changes in the structure that are uncharacteristic of single family residential uses, hours of activity and noise, vehicle trips and parking demand. There also may be increased concern for a concentration of persons who represent security concerns for the neighborhood.

C. Whether the use, if determined to be permissible as an accessory use, is consistent with ACC 18.02.120(C)(4).

A residential accessory use is "a subordinate use which supports the principle residential use without displacing it." ACC 18.04.023. Examples of residential accessory uses include garages, guest cottages, recreation rooms, tool sheds, swimming pools, noncommercial greenhouses, private stables, barns, pens, and coops. ACC 18.04.023. In each instance, the examples of accessory uses provided by the City Code, the use or structure is not accessible to the general public or professionally staffed. Additionally, the examples provided by the City Code do not occur independently from a residential use. ACC 18.04.020. Because an ESF requires round-the-clock staffing, as described in the preceding sections, it is not an accessory use that supports the principle residential use of the property. In fact, in this specific case, Mr. Yasin does not intend to reside on the property at all; making the ESF a principle use generally, and in the specific request for an interpretation. Because the planning director has determined that an ESF is not an accessory use, no additional analysis of the requirements of ACC 18.02.120(C)(4) is necessary.

V. Decision/Conclusion

On the basis cited above, the Assistant Director of Community Development (Planning Director) interprets the zoning code section regarding the R5, residential zoning district as not allowing "Enhanced Services Facilities" as defined under State law. However, the inconsistency between the intensity of an ESF and the R5 Zone does not diminish the importance of the services offered by an ESF. Because of the importance of the services offered by an ESF, and the duty of the planning director to determine an appropriate location therefore, the planning director determines the use is consistent with the intent of the C3, Heavy Commercial and I, Institutional zones. The Planning Director bases this determination on his conclusion that an ESF is most similar to an institutional use as a place of employment and not a single family residence. The placement of ESFs within the C3 and I zones will ensure that critical services are provided without sacrificing the residential character of existing neighborhoods.

VI. 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 mailed on December 7, 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 December 22, 2016. 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.

Other Relevant Code References

“ACC 18.02.060 Rules for administrative interpretations.

- A. The planning director shall be authorized to interpret the meaning of words, phrases and sentences which relate to the determining of uses permitted in the various zones, approval or disapproval of development plans, or other related zoning actions. Any interpretations regarding implementation of this title shall be made in accordance with the intent or purpose statement of the specific regulation and the comprehensive plan. Life, safety and public health regulations are assumed to prevail over all other regulations.
- B. 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. Further guidance on administrative interpretations of land uses can be found in ACC 18.02.120.
- C. Administrative interpretations may be appealed to the hearing examiner as prescribed in Chapter 18.70 ACC.
- D. Administrative interpretations made by the planning director shall be documented, made available for public review, and docketed for inclusion to this title, when consistent with the title format and level of detail required. The city shall incorporate administrative interpretations upon approval of the legislative authority. (Ord. 6245 § 2, 2009; Ord. 5026 § 1, 1997; Ord. 4229 § 2, 1987. Formerly 18.02.040.)”

“ACC 18.02.120 Permitted land uses established.

C. Interpretation of Zone Use Tables.

6. Unclassified Uses. Upon inquiry by an applicant, an administrative interpretation shall be made by the planning director or designee to determine if a proposed use not specifically listed in any zone use table is allowed within a specific zone utilizing the criteria in this subsection. Should an interpretation be made that a proposed, unlisted use not be allowed in a specific zone, the planning director or designee shall indicate which zones, if any, do permit the use.

- a. Criteria for Unclassified Uses. In order to make a determination that an unclassified use is permitted, administratively permitted, conditionally permitted, or accessory, the planning director or designee must find that the use is:
 - i. In keeping with the intent of the zone, and consistent with Auburn comprehensive plan policies; and
 - ii. Similar in nature to, and no more intense than, specifically listed permitted, conditional or accessory uses; and
 - iii. Consistent with subsection (C)(4) of this section, if determined to be permissible as an accessory use. (Ord. 6269 § 1, 2009; Ord. 6245 § 2, 2009.).

Attachment A – Excerpt of the City's Zoning Code