



Planning & Community Development Administrative Interpretation No. 2019-01

Business

ASSISTED LIVING FACILITY USE IN ~~COMMERCIAL~~ DISTRICT ZONING OUTSIDE SUBAREAS

1. **Authority**

The Department of Planning and Community Development has established procedural policies and guidelines authorized under Lake Stevens Municipal Code (LSMC) 14.04.120(a) which states that city departments may administratively adopt guidelines, standards, reference materials, forms, or other documents that aide the public, applicant, staff, or decision-maker in interpreting and administering the Lake Stevens Municipal Code (LSMC). Chapter 14.16C.035 of the LSMC provides a process for administrative interpretations, including that of determining whether a use is allowed in a particular zone.

2. **Intent**

Determine whether an assisted living facility is a permissible use in the Business District (BD) and Public/Semi-Public (P/SP) zoning districts inside the 20th St Subarea. Specifically, parcels: 29052600100100, 29052600104900, 29052600100400, 29052600100200, 29052600100300.

3. **Applicable Code Sections and Analysis: (codified language is italicized)**

- Chapter 14.08 LSMC includes the following applicable definitions:
 - *Health Care Services. Facilities that provide health care and social assistance for individuals, such as physicians, dentists, mental health and social health care specialists, nursing facilities, and clinics.*
 - *Level II Health and Social Service Facility (Level II HSSF). A Level II HSSF means a use which is licensed or regulated by the State to provide emergent medical treatment on a 24-hour-per-day basis or which houses persons in an institutional setting that provides chronic care or medical service on a regular recurring basis to its residents and which includes, but is not limited to, a:*
 - (a) *Hospital (including acute alcoholism/drug, psychiatric and State mental hospitals).*
 - (b) *Nursing home.*
 - (c) *Private adult treatment home.*
 - (d) *Mental health facility, adult and child residential.*
 - (e) *Soldiers' home and veterans' home.*
 - (f) *Large institutional boarding home for the care of senior citizens and the disabled (sometimes known as assisted living facilities).*
- The intent of the BD zone *is to promote community and regional employment such as medical clinics among other examples, per LSMC 14.38.020(a).*
- The purpose of the P/SP district *is to accommodate public and semi-public uses, such as schools, government facilities, public utilities, community facilities, parks, etc., as well as the other uses described in Table 14.40-I of Chapter 14.40, per LSMC 14.38.020(f)(2).*
 - Table 14.40-I lists Level II Health and Social Service Facilities as allowed with an Administrative Conditional Use Permit in the P/SP zone.

- Pursuant to LSMC 14.38.020(a)(1)(iii), Health care services are an allowed principal use in the BD zone.
- Pursuant to information provided by the applicant, the assisted living facility would employ approximately 55-60 people. The facility would include approximately 76 independent living suites, 60 assisted living suites, and 36 memory care suites.
- By omission in the list of permissible uses, residential uses are not allowed in the BD zone, per LSMC 14.38.020(a)(1).
- Pursuant to LSMC 14.38.030(a), *The Director has the authority to determine if uses comply with the intent of the zoning district and support the principal uses and objectives of the district following the methodology described in Section 14.40.040(a) and based on a review of specific use categories defined in the NAICS.*
- The most applicable NAICS code for the proposal is considered "Continuing Care Retirement Communities" which falls under the Health Care and Social Assistance category.
Sector 62 – Health Care and Social Assistance
Category 623 – Nursing and Residential Care Facilities
Category 623 NAICS Code Description: Industries in the Nursing and Residential Care Facilities subsector provide residential care combined with either nursing, supervisory, or other types of care as required by the residents. In this subsector, the facilities are a significant part of the production process, and the care provided is a mix of health and social services with the health services being largely some level of nursing services.

4. Interpretation Conclusion

The definition for a Level II Health and Social Service Facility overlaps with the definition for Health Care Services regarding an assisted living facility. Therefore, an assisted living facility is permitted in the BD zone as a Health Care Service.

The BD zone does not allow residential uses by omission in the permissible uses list in LSMC 14.38.020. A majority of the units are considered "independent units" in this specific proposal. According to the applicant the independent units have access to and routinely use services provided to the assisted living and memory care units. The independent units do not house the average apartment tenant. These independent units accommodate residents that rely on health care services provided by the development. After consideration of the LSMC and NAICS codes, the proposed development should be considered a Health Care Service and not a multi-family development.

The intent of the BD zone is to promote community and regional employment. The intent of the CD zone is to promote high-intensity retail needs of the community. An assisted living facility would be permitted in the CD zone with a Conditional Use Permit, because the use (assisted living) is not perfectly consistent with the intent (promote retail). Therefore, an assisted living facility in the BD zone should be permitted with an ACUP, because the intent of the zone (promote employment) is generally consistent with the use (assisted living). The assisted living facility is partially inconsistent with the intent of the BD zone only regarding the residential nature of the proposed independent

units. Through the ACUP process, the City will have the ability to condition the project to be more consistent with the intent of the BD zone.


Russell Wright,
Planning and Community Development Director

10/31/19.
Date of Administrative Determination

