



Summary: The Tentative Decision was distributed for public review between September 30, 2021 and October 14, 2021. The City did not receive any comments.

Staff has approved the Interpretation, finding that all criteria and standards based on the accepted facts shown below. Staff relied on facts from the Staff Report, the applicant's materials, the City's Comprehensive Plan, State Rules and Statutes, City Codes and Ordinances provisions for the basis of the decision. This final decision can be appealed within 15 days to the Planning Commission.

Matt Straite
City Planner

Proposal: The applicant is requesting a Code Interpretation to allow storage as a use in the Commercial Office (CO) Zone for 1190 NE Old Salem Road. Storage is currently not listed in the Zone as a permitted use.

I. BACKGROUND

- A. Applicant: Albany Self Storage, LLC
14020 SE Johnson Road, Suite 102
Milwaukie OR 97267
- B. Project Location: 1190 NE Old Salem Road
10S 3W 33CD Tax Lot 0800
- C. Review Type: Table 5.01.030 of the Millersburg Development Code explains that an interpretation requires a Type II review, which is a staff level review, with a 14-day notice provided to the neighbors.
- D. Public Notice: Notice has been provided pursuant to Chapter 5.07 and 5.18 of the Millersburg Development Code. Notice was provided to all neighbors within 200 feet and all responsible agencies on September 30, 2021. The notice provided 14 days to respond.
- E. Review Criteria: Chapter 5.15.040 Interpretations
- F. Current Zoning: Commercial Office (CO)
- G. Proposed Zoning: N/A

H. Property Size: Area of proposed storage facility- 1.46 Acres

I. Background: The City recently changed the zoning on several properties along the west side of Old Salem Road near the southern edge of the City from General Industrial (GI) to Commercial Office (CO). The zone change only revised the zoning along the frontage of the street to a depth of about 100 feet. The CO Zone was intended to address a continued request by the City Council to beautify Old Salem Road in the lower portion of the City. The intent was that any industry developing in this part of the City would place their offices up front and the industry behind. This development style matched most of the development that already existed at the time the City changed the zone.

Shortly after the zone change was adopted, the City had an applicant with an existing storage facility request to expand their use into a property that fronted Old Salem, which was now zoned CO. However, the CO Zone does not allow self-storage uses on the property. The City re-zoning created a split-zone on the applicant's parcel, allowing self-storage units only on the western portion of the parcel, in the GI Zone.

The applicant filled for a pre-application review. Staff explained at the time that three options existed: a zone change from CO to GI, a text change for CO to add storage, or an interpretation to clarify the intent of the zone. The applicant opted for the last because it was the fastest option.

II. **AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS**

Agencies:

This interpretation was not transmitted to any agencies for review because the uses within a zone are the sole discretion of the City. The Site Development Review that will follow will be transmitted to responsible agencies.

Public:

Notice of this tentative decision was sent out to neighbors of the site on September 30, 2021. The notice was mailed to all property owners within 200 feet of the property. Any comments received will be addressed in the final decision.

III. **CRITERION**

CITY OF MILLERSBURG DEVELOPMENT CODE

Chapter 5

Section 5.15.040 Interpretation Decision Criteria

The following analysis is in addition to any analysis included in the applicants' narrative, which is included here by reference. Approval of an Interpretation shall be subject to the following decision criteria:

(1) The interpretation is consistent with the purpose of the Code and any appropriate purpose statement in an underlying zoning district or development requirement.

ANALYSIS: The CO Zone is administered by Chapter 2.07 of the Development Code. The criteria above is broken into two elements - the purpose of the Code and the purpose of the zone.

The purpose of the Development Code is generally to assure that uses are harmonious with the neighboring uses and the environment, and to assure prosperity for all. As stated above, the intent of the zoning code change was to promote a higher level of aesthetics along Old Salem Road. This was considered an economic development change because a better-looking stretch of road along our southern entry would make the City more appealing to residents and businesses. The applicant is proposing a self-storage use on 1190 Old Salem Road. A storage use is traditionally not a use that would achieve a higher level of aesthetics along Old Salem, in fact, most storage facilities are fairly drab and include large expanses of walls that can be un-attractive. However, the applicant for this specific location is proposing a three-story building that is clad with windows and several different kinds of building materials that will have the structure resemble an office building. Landscaping is proposed for the stretch of the structure that fronts Old Salem, and all bay doors and storage lockers will be located on the west side of the structure, leaving the east, street facing, with the appearance of an office-like façade.

Because the structure proposed by the applicant specifically for this site meets the intent of the Code change, achieving a better-looking Old Salem Road, the proposed structure meets the purpose of the Code. This staff interpretation will allow the project to move forward with the self-storage use and structure proposed, pending approval of a Site Development Review and Conditional Use Permit.

Regarding the purpose of the zone, Commercial Office, the Code explains that the zone is intended to attract professional offices with limited supporting commercial retail activities. The individual proposed storage business on this specific site will meet this intent, and is similar to other permitted uses in the zone, because storage is not a retail use and because the proposed design will mimic a professional office building in appearance. Additionally, the frequency of visitors will be similar to uses proposed in the CO Zone, which is less than retail. Because the use will meet the two intents listed in the CO Zone, they meet the criteria.

It should be noted that this is being issued for this specific proposed project and is not intended to be a City-wide interpretation. This interpretation is being made on a case-by-case basis for this specific instance.

To address this in the future staff may propose a code text change that could allow additional uses in the CO Zone along Old Salem Road south of Conser Road subject to a Conditional Use Permit review and additional standards that would achieve the intent of the CO Zone in that part of the City, specifically that the

aesthetics are far more demanding than would typically be seen in the GI Zone. More specifically a proposed code text revision could look like this:

2.07.040 CO Conditional Uses

(3) Uses permitted in the Commercial Office Zone south of Conser Road may include those uses permitted in the General Industrial Zone subject to a Conditional Use Permit review. The following additional standards apply to any such Conditional Use:

- *Any structure shall be setback at least 35 feet from the right-of-way*
- *Parking shall not be placed between the structure and the right-of-way*
- *The area between the structure and the street right-of-way shall be landscaped in accordance with Chapter 3.09*
- *The façade of any primary structure (not including guard or gate houses) facing Old Salem Road shall meet all requirements of Chapter 3.26*

FINDING: Based on the analysis above, the project meets the criterion.

- (2) The resulting interpretation conforms to the applicable standards and limitations of the underlying zoning district. In approving an application for a similar use, the City may determine whether the use is prohibited or classified as permitted, special use or conditionally permitted in a specified zone.**

ANALYSIS: Applicable standards come from the CO Zone. The proposed structure does appear to conform to the Code requirements. A Site Development Review will carefully review all CO standards as part of that review process.

FINDING: Based on the analysis above, the project meets the criterion.

V. FINAL ACTION

Based on the above findings of fact, the proposed interpretation satisfies the applicable criteria and staff approves Interpretation No. 21-01, with the understanding that this interpretation only applies to the proposed storage building submitted as Site Design Review SP 21-05.

VI. EXHIBITS

- A. Applicant's Narrative