

**Interpretation of the Director  
Under Seattle Municipal Code Title 23**

**Regarding the Use of the  
Property at  
5001 First Avenue South**

**DPD Land Use Code  
Interpretation No. 12-003  
(DPD Project No. 3013506)**

**Background**

This interpretation was requested by Jessica Clawson on behalf of M&M Real Estate Holdings, LLC, which owns the property at 5001 First Avenue South. The owners seek to build a new structure on this property to be used as an “internet production” facility. The questions raised are how this use would be categorized for purposes of the Land Use Code, and whether this use may be permitted under the applicable zoning.

**Findings of Fact**

1. The property at 5001 First Avenue South, bounded by First Avenue South, Utah Avenue South, South Hudson Street and South Dawson Street, currently consists of two tax parcels, King County Assessor’s Parcel No. 357320-0790, a vacant parcel with an area of approximately 62,511 square feet, and KCA Parcel No. 357320-0820, a 56,785-square-foot parcel currently developed with an industrial building. The property is in an IG2 U/85 zone: Industrial General-2. (The “U/85” refers to structure height limits for buildings containing different uses.) The property is in the Duwamish Manufacturing and Industrial Center.
2. A new structure is proposed on the property, to be devoted to a use that has been characterized as an “internet commerce production” facility. The business is already in operation at a different location. A range of products are made available for sale via the internet. Products are acquired in limited quantities, and the mix of products being sold is constantly changing. At the proposed facility, samples of products would be evaluated, and those chosen would be photographed, sometimes using live models. Photos would be finished, and copy created for the internet ads, which would be posted on the company’s website.

3. The facility, as proposed, would include at least two loading docks, and warehouse/storage space, as well as the production areas where products are staged and photographed, and copy is written. Some accessory office space would be provided, and small retail areas, totaling no more than 25,000 square feet, would be provided in the building, primarily to serve employees.
4. Internet orders would not be taken at this location, and products would not be shipped to customers from this location. Instead, products would be shipped from out-of-state distribution facilities.
5. A substantial majority of the staff at the proposed facility will be involved in production rather than administrative duties. As reported by the proponents, 60 percent of the employees of the business at the company's current facility are a part of the processing operation (buyers, photographers, copy-writers) and 40 percent are administrative and management staff (including human resources, accounting, recruiting and technological support). As the company grows, it has been adding two or three "process" employees for each "administrative" employee.
6. The proposed facility would include multiple studios where samples of goods would be received, evaluated, styled and prepared for photographing, and photographed. Copy would be written to accompany the pictures, and the products would move to a holding area to be shipped back to suppliers. The floor plans are relatively open, allowing easy movement of the products. Samples of products would typically be on-site for about 72 hours. The studios would include minimal office and conference spaces for administrative functions. At its current level of operation, the business generates several truck trips per day.
7. Standards reflecting what uses are permitted in various industrial zones are found at Seattle Municipal Code Section 23.50.012, Table A. In an IG2 zone within the Duwamish MIC, light manufacturing, food processing and craft work, offices and general sales and service uses are all permitted outright.
8. Size of use limits for the industrial zones are provided at Section 23.50.027 Table A. In an IG2 zone, general sales and service uses and principal-use offices are each limited to 25,000 square feet. There is no size limit for light manufacturing or custom and craft work. Offices that are accessory to a use that is not subject to a size limit are also not subject to a size limit.
9. "Manufacturing," a use category that includes light, general and heavy manufacturing, is defined at Section 23.84A.025 as:
  - a use in which articles are produced by hand or by machinery, from raw or prepared materials, by giving to those materials new forms, qualities, properties, or combinations, in a process characterized by the repetitive production of items made to the same or similar specifications. Items produced are generally sold directly to other businesses, or are sold at wholesale. The retail sale of items to the general public is incidental to the production of goods. For the purpose of this definition, uses listed as food processing and craft work or high-impact uses are not considered manufacturing uses....

10. As a subcategory under that definition, "light manufacturing" is defined as:

a manufacturing use, typically having little or no potential of creating noise, smoke, dust, vibration or other environmental impacts or pollution, and including but not limited to the following:

a. Production, assembly, finishing, and/or packaging of articles from parts made at another location, such as assembly of clocks, electrical appliances, or medical equipment.

b. Production of finished household and office goods, such as jewelry, clothing or cloth, toys, furniture, or tents, from materials that are already refined, or from raw materials that do not need refining, such as paper, fabric, leather, premilled wood; or wool, clay, cork, semiprecious or precious metals or stones, fiber, or other similar materials;

c. Canning or bottling of food or beverages for human consumption using a mechanized assembly line or food processing for animal consumption;

d. Printing plants with more than five thousand (5,000) square feet of gross floor area.

11. "Food processing and craft work" is defined at Section 23.84A.012 as "a commercial use in which food items and craft work are produced without the use of a mechanized assembly line...." "Custom and craft work," a subcategory under "food processing and craft work," is defined as:

a food processing and craft work use in which nonfood, finished, personal or household items, which are either made to order or which involve considerable handwork, are produced. Examples include but are not limited to pottery and candlemaking, production of orthopedic devices, motion picture studios, printing, creation of sculpture and other art work, and glassblowing. The use of products or processes defined as high-impact uses shall not be considered custom and craft work.

12. "Office" is defined at Section 23.84A.028, as:

a commercial use that provides administrative or professional services to individuals, businesses, institutions and/or government agencies primarily by phone or mail, by going to the customer's home or place of business, or on the premises by appointment; or in which customers are limited to holders of business licenses, but not including facilities where medical services are provided or customer service offices. Examples of services provided include general contracting, janitorial and housecleaning services; legal, architectural, and data processing; broadcasting companies, administrative offices of businesses, unions or charitable organizations; and wholesalers and manufacturer's representatives' offices. Offices may include accessory storage, but not the storage of building materials, contractor's equipment or items, other than samples, for wholesale sale.

13. Section 23.42.010 provides:

Principal uses not listed in the respective zones of Subtitle III, Division 2 of SMC Title 23, Land Use Code shall be prohibited in those zones. If a use is not listed, the Director may determine that a proposed use is substantially similar to other uses permitted or prohibited in the respective zones, therefore, and should also be permitted or prohibited.

14. The following are among the goals provided in Seattle's Comprehensive Plan for industrial areas:

LUG25: Promote high-value-added economic development by supporting growth in the industrial and manufacturing employment base.

LUG27: Restrict or prohibit uses that may negatively affect the availability of land for industrial activity, or that conflict with the character and function of industrial areas.

LUG29: Accommodate a mix of diverse, yet compatible, employment activities in Seattle's industrial areas.

15. The following are among the use policies provided in Seattle's Comprehensive Plan for industrial areas:

LU141: Consider manufacturing uses, advanced technology industries and a wide range of industrial-related commercial functions, such as warehouse and distribution activities, appropriate for industrial areas.

LU142: Consider high value-added, living wage industrial activities to be a high priority.

LU143: Permit commercial uses in industrial areas to the extent they reinforce the industrial character, and limit specified non-industrial uses, including office and retail development, in order to preserve these areas for industrial development.

### **Conclusions**

1. The proposed facility differs from a typical office use, which is generally characterized by individual workers sitting at desks. It also differs from a typical manufacturing use, where many identical products are produced, often on an assembly line, and from a custom and craft work use, where personal and household items are produced. The use does not neatly meet the Land Use Code definition for any of these use categories. Under these circumstances, it is the practice of the Department, as reflected in Section 23.42.010, to regulate the use according to the standards for the use category that is most similar in nature and impact.
2. Although some desk-work would occur at the proposed facility, it is secondary in scope to the processing of materials that would be received, styled and prepared for photographing, photographed, then shipped out. The volume of truck traffic anticipated would not be characteristic of an office use, and not well-suited to zones where offices are more commonly located. The majority of the employees would be actively involved in processing the items received, as opposed to doing traditional office tasks.
3. Although the articles produced by this facility would be photographs and copy for a website, as opposed to more tangible products typically created by a manufacturing use, the process of creating these products is most akin to what occurs in a manufacturing or custom and craft work setting. Because of the variety of the products being processed, requiring individualized choices about how they are to be styled and presented, we conclude that the proposed facility is most appropriately regulated as custom and craft work.
4. Location of this use in an industrial zone is consistent with the goals and policies in the Comprehensive Plan. Based on the nature of the impacts, including truck trips, and the nature of the space required for the use to function, such as large open floor plans, and the fact that the use will generate hundreds of non-office, non-retail jobs, it is well-suited for an IG2 zone.

**Conclusion**

The business proposed for 5001 First Avenue South, based on the description provided by the proponents and as reflected in the Findings of Fact, is most similar to a custom and craft work use, and should be regulated accordingly. This use is permitted outright by the applicable zoning, and is not subject to a size limit.

Entered this 31<sup>st</sup> day of May, 2012.

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(signature on file)  
Andrew S. McKim  
Land Use Planner – Supervisor