



COUNTY OF ALBEMARLE
Department of Community Development
401 McIntire Road, North Wing
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May 17, 2019

Kurt Keesecker
BRW Architects
112 4th Street NE
Charlottesville, VA

RE: OFFICIAL DETERMINATION OF USE – “maker space” and accessory dwelling unit uses at 2000 – 2010 Marchant Street, TMP 07800-00-00-021H0 (the “Property”)

Mr. Keesecker:

I have consulted with the Zoning Administrator and the County Attorney in response to your request for a determination of:

1. The applicability of “maker spaces” as a By Right Use within a Light Industrial district;
2. Whether proposed individual dwelling units attached to small “maker shop” establishments would constitute a by-right accessory use to the proposed “maker shop” establishments; and
3. Whether subordinate retail sales uses would be permitted by-right under Albemarle County Code § 18-26.2.

My determination findings are outlined below.

“Maker Spaces” within a Light Industrial District

Definition of “Manufacturing”

Albemarle County Code does not define the term “maker space,” used by the applicant in this request for determination. However, the term “maker space” as described would be classified as small scale manufacturing.

Albemarle County Code § 18-26.2(a) lists “Manufacturing/Processing/Assembly/Fabrication/Recycling” as a by-right use in Light Industrial zoned districts. The definition of “manufacturing” is listed in Albemarle County Code § 18-3.1 as: *The transformation of materials into an article or a product of substantially different character or use.*

You have provided the following examples as potential “maker space” uses: heating sand to create glass objects, using clay to make clay objects, using wood to make wood objects, using metals to make metal objects, using plastic or polymers to make plastic and other polymer objects, processing foodstuffs, assembling finished parts to create completed objects, and recycling objects into objects with different uses.

These examples, while not exhaustive, all involve transforming raw or discarded materials into finished goods with different characters or uses. These examples do fall within the definition of “manufacturing” as defined by the County Code.

While manufacturing is traditionally associated with large-scale machinery, factories, and large workforces, the definition of “manufacturing” in the County Code does not exclude small workshops employing 1-2 workers performing small-scale, hand-crafted manufacturing. While the performance standards for industrial uses (County Code § 18-4.14) require all operations to address the impacts associated with larger manufacturing operations, such as noise, air pollution, reflectivity, and vibrations, these performance standards are easily met by smaller operations.

Precedent for Small Scale Manufacturing Uses

A large industrial space located at 1740 Broadway Street, in the same Light Industrial zoning district as the Property and within 1,000 feet of the property, contains several small-scale industrial manufacturing workshops similar to the “maker spaces” you have described. These uses include:

- Instrument manufacturing
- Instrument repair
- Brewery
- Ceramics artisans
- Glass artisans

These uses are of similar nature to the “maker spaces” you have described and provide precedent for these “maker spaces” as industrial uses.

Dwelling Units as Accessory to Industrial Uses

History of Use

The use of “on-site dwellings and sleeping quarters accessory to commercial and industrial uses” as described in Albemarle County Code § 18-5.1.21 was initially adopted by the Board of Supervisors on April 17, 1985 as “dwellings in commercial and industrial districts.” The amendment was described as serving the public by permitting continuous security at industrial locations, and specified that dwellings be “limited to owners or employees of establishments including night watchmen.”

On April 3, 2013, the Board revisited the use, and amended the description to note that dwellings were to be “occupied only by owners or employees of the establishments, including on-site security officers, scientists and lab technicians.”

This expansion of the description indicates the evolution of industrial uses in the County to match the evolving nature of industrial uses to include research and development.

Local Precedents

The occupancy of “on-site dwellings and sleeping quarters accessory to commercial and industrial uses” as live/work spaces for artisans, craftspeople, and small workshop owners is unprecedented in Albemarle County, but the occupancy of live/work spaces by artists and artisans is widespread and customary, as evidenced by organizations like *artspace*, a national real estate developer focused on creating affordable living spaces with attached studio or workshop spaces for artists.

Notably, the County has approved dwellings accessory to commercial and industrial uses in other cases, as in the self-storage uses at Albemarle Self Storage on TMP 056A3-00-00-00700 and Charlottesville Self Storage on TMP 077E2-00-00-00200, among others.

Additionally, the Fairfax, Virginia Zoning Ordinance provides a similar accessory use to Albemarle County’s “on-site dwellings and sleeping quarters accessory to commercial and industrial uses.” The

Fairfax ordinance permits a “residence for manager or employee.” Previous versions of the Fairfax ordinance described the use as a residence for a “proprietor or storekeeper.”

Summary and Findings

1. “Maker spaces” as described by the application for artists and artisans manufacturing goods are a by-right industrial use in Light Industrial zoning districts. As the definition of “manufacturing” requires that materials be transformed into goods of a different nature or use, the “maker space” must involve the transformation of physical materials. Uses that would not be permitted as manufacturing uses include but are not limited to artists or artisans working digitally, musicians, performance-based art, minor assembly of pre-manufactured goods, or otherwise not producing material goods out of raw or recycled materials.

Additionally, as they would constitute individual establishments, each potential use would require a separate Zoning Clearance. These would be evaluated individually to determine whether the use constitutes a manufacturing use.

2. As the language of the ordinance does permit occupancy of dwellings accessory to commercial and industrial uses by owners of establishments, and live/work spaces for artists and artisans are customary in areas with many artists, the “maker space” described by the applicant would be a by-right use in Light Industrial zoned districts, subject to County Code § 18-5.1.21.

The two primary requirements for dwellings as accessory to commercial and industrial uses are:

- a. The dwelling must be clearly subordinate to the manufacturing “maker space” use, and
- b. The dwelling must be occupied by the owner or employee of an approved use.

The factors used to determine whether the use is subordinate to an approved industrial use may include: total area devoted to the dwelling compared to the total area devoted to the industrial use; frequency of the use; number of employees and work hours; and whether the dwelling unit use is truly subordinate. The Zoning Clearance approving each industrial “maker space” use will require additional verification of the subordinate nature of the dwelling unit prior to approval.

3. Subject to a floor area limitation and other limitations as specified in County Code § 18-5.1.24, a subordinate retail sales area would be permitted by-right for each approved industrial use.

Additional Note

Please note, this determination does not address the nonconforming status of the four residential units or residential cottage existing on the parcel.

If you are aggrieved by this determination, you have a right to appeal it within thirty (30) days of this notice, in accordance with *Virginia Code* § 15.2-2311. If you do not file a timely appeal, this determination shall be final and unappealable.

An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with Albemarle County Code § 18-34.3, along with a fee of \$258. Additionally, a separate fee is required for the cost of providing notice and advertising of the appeal for a public hearing.

Applications for Appeal of the Zoning Administrator’s Determination are available at the Department of Community Development located at 401 McIntire Road, Charlottesville, Virginia 22902 or online at

www.albemarle.org/cdapps. This form applies to the appeal of a decision of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance.

Regulations pertaining to the filing of an appeal to the Board of Zoning Appeals are located in Albemarle County Code § 18-34.3 of the Zoning Ordinance. They may be reviewed online at www.albemarle.org/countycodebza.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leah Brumfield".

Leah H. Brumfield
Senior Planner, Designee of the Zoning Administrator

Copy: Claudette Borgersen, Clerk of the Board of Supervisors
Bart Svoboda, Zoning Administrator