

# RECEIVED

JUN 25 2015

Community Development  
Planning Division

**PDG Planning Design Group**

**1335 SW 66<sup>th</sup> Ave. #201**

**Portland, Oregon 97225**

**PH: 503-329-5399**

**Fax: 503-327-8456**

**Email: pdgplanning@comcast.net**

March 20, 2015

Carl Metz  
City Hall  
501 SW Madison Ave.  
Corvallis, OR 97330

Dear Mr. Metz:

## Request for Directors Interpretation

Applicant is requesting a Director's Decision finding that cardlock fueling facilities are an allowed use within the City of Corvallis' "General Industrial" and/or "Wholesale, Storage, and Distribution - Light" zoning designations. The purpose of the request for the decision is to allow cardlock fueling facilities to be allowed within the above zoning designations. Applicant is requesting this decision for cardlock facilities only and is not requesting that retail fueling facilities be considered as as allowed uses within these zoning desingations

Cardlock Fueling Definition: A cardlock fueling facility provides petroleum products to serve fleet traffic primarily with diesel and gasoline products. Only fleet members have access to the facility and there is no retail availability. Most customers are contractors, agricultural service, delivery vehicles, over the road trucking and delivery and public services such as police, fire, and emergency vehicles. These uses would be considered as complying within the above zoning classifications as they are classified as Primary Uses permitted outright in the Limited Industrial and/or General Industrial zones.

Currently the Corvallis Development Code does not have a definition for cardlock fueling facilities. As such, it is unclear if these facilities can be considered industrial uses. Applicant is proposing to demonstrate that these facilities should be considered industrial in nature rather than retail.

During a pre-planning meeting with the City on January 21, 2015, City representatives confirmed that there is no clear zoning category for a cardlock facility. Staffs initial determination was that a Cardlock Fueling Facilities are "Wholesale, Sotage, and Distribution - Heavy. Staff informed the Applicant that they could request a Director's Determination if the Applicant believed that the LDC provisions should be

interpreted in a different manner. Staffs interpretation that the closest definition for a cardlock in the City Code is “Wholesaling, Storage, and Distribution - Heavy” as per section 3.27.30.01(a)(4))w) does not seem to take into account the operations of the facilities or the uses served, which are primarily industrial in nature. A discussion of how a cardlock facility may be determined as “Light” within this classification follows.

Within the code, fuel sales is the closest description of a cardlock, however, this definition fails to adequately address the cardlock other than as a retail facility. Since cardlock facilities do not provide any retail services that would typically be located at an automobile service station or truck stop, this definition does not describe the actual activities or operations of a cardlock facility.

Significant to this request, in the MUE zone, the following “Commercial Use Types may be considered as industrial uses for the purposes of calculating minimum Floor Area Ratios (FAR'S) as required by Section 3.27.40.01 and as addressed in Section 3.27.30.03.d, because they are Uses that are also classified as Primary Uses permitted outright in the Limited Industrial and/or General Industrial Zones.”

- Agricultural Sales and Services
- Building Maintenance Services
- Construction Sales and Services

These Commercial Use Types describe the majority of the users of the cardlock fueling facility and in fact make up over 70% of the sales. Cardlock facilities are typically designed to serve local, regional and long haul trucking uses, as well as local construction services, agricultural service and a variety of building maintenance services. Moreover, truck terminals are generally located in an industrial zone and a cardlock would be an accessory use. Local deliveries are made from these same truck terminals and the smaller tractor trailer units are used for local deliveries. Semi-trucks also utilize the facility. Therefore cardlock fueling facilities are commercial facilities that are complimentary to industrial uses.

Additionally, commercial contractors utilize the site for fueling both their on road vehicles and also their equipment. Cardlock facilities provide fuel for these users that is designated for and only allowed for off road use. Retail service stations are not allowed to provide this type of fuel. Vehicles that use the off-road fuel include farm equipment and earth moving equipment (dozers, back hoe's etc).

One use that could be determined to apply to a cardlock facility is **“Wholesale, Storage, and Distribution - Light - Wholesaling, storage, and warehousing services within enclosed structures. Typical Uses include wholesale distributors, storage warehouses and moving and storage companies.”**

A cardlock does not store its products within a building, but the product storage is contained within underground enclosed structures that would meet the intent of the language.

As highlighted on the attached list of customers that presently use the cardlock, approximately 70% of the users fit within either traditional industrial uses (such as manufacturing) or the commercial uses considered Primary Uses within the Limited Industrial and/or General Industrial zones. As such, the cardlock, too, should be classified as industrial in nature for purposes of the City's FAR calculation.

Another use that could be determined to apply to a cardlock is a General Industrial Use in association with sales.

### **General Industrial**

#### **1. Uses -**

**a) Production, processing, assembling, packaging, or treatment of food and non-food products; or**

**Attributes - General Industrial Uses may require state or federal air quality discharge permits, but do not have nuisance conditions that are detectable from the boundaries of the subject property. Nuisance conditions can result from any of the following:**

Card lock fueling facilities, are comprehensive fuel management systems with state-of-the-art locations that are safe, convenient and provide 24-hour fueling. Unlike retail gasoline stations, cardlock facilities are not manned and are designed to serve industrial and agriculture users, rather than the retail or commercial segment served by the traditional gasoline station. In fact, the primary fuel wholesaled at cardlock facilities is diesel, including off-road diesel. These products are used by industrial and agricultural users.

As a Packaging Center the card lock will be used for storage, or packaging, of petroleum products and as such fits within the City's codified definition of a General Industrial Use. Petroleum products are off-loaded into underground storage tanks and held either for immediate use by industrial customers, or stored for longer periods of time. Additionally, product is stored in these facilities in bulk for use by surrounding industry. As such, petroleum product is stored, or packaged, at the Distribution Center.

Bulk sales are also provided to other industrial or farm uses. Some customers buy in bulk such as a farmer that has storage at their facility, but their container is too small to receive direct delivery from a distribution center. In these situations, the customer brings in a small tank truck to purchase fuel that is then later off loaded at their individual facility for use by their off road vehicles.

Further, the attributes of the Distribution Center fit within the City's definition. Specifically, the Distribution Center requires a state issued air quality discharge permit and does not rise to the level of a "nuisance" as defined by the City Code, as

none of the attributes codified by the City are present at the Card lock Facility for increments greater than 15 minutes per day.

The Distribution Center could be considered a General Industrial Use under the City Code, as it is used for storage or packaging of petroleum products and displays the attributes of this use. The only difference between the above described uses is that all of the storage is underground and the assembling of the products are dispensed to each individual user by means of a fuel pump. Since the bulk of the products are sold to industrial users a cardlock facility should be considered either a Storage, and Distribution and/or a Light or a General Industrial use as defined within the Corvallis Development Code.

### **Summary**

Applicant respectfully requests that the City determine that a cardlock be classified as a Primary Use that would be allowed outright in either "Wholesale, Storage, and Distribution - Light" or as a "General Industrial" Use. Either of these designations, as discussed above, meet the intent of the code and would allow an interpretation of a cardlock to be considered industrial in nature for the purposes of FAR in the MUE zoning district. This interpretation furthers the stated purpose of the Mixed Use Employment Zone to "provide a variety of employment uses".

Specifically, should the cardlock facility be determined an industrial use (General Industrial or Wholesale Storage and Distribution - Light), more intense commercial development would occur on the balance of Applicant's site, generating revenue for the City and providing local residents with jobs. Both of these results further the goals of the City and as such should be considered by the City when making its determination as to whether the Distribution Center qualifies as an industrial use for purposes of the FAR for the Property redevelopment.

Sincerely,

David P. Kimmel