

CODE INTERPRETATION 2007-01

Commercial Driveways in Residential Zones

Background: A commercial development zoned C2/C3 bought an adjacent residentially zoned property and proposed to put a driveway on the residential lot in order to gain access to a public road. There is some question as to whether a “commercial driveway” is an allowed use in a residential zone.

Code:

BLMC Title 18: Neither a “driveway” nor a “private road” are listed as primary or accessory uses in any of the zoning categories of the Bonney Lake municipal code.

The BLMC does not define a driveway.

BLMC 18.040.200: The definition of a street is: “Any right-of-way designed and dedicated for general public use to provide a principal means of travel for vehicles or pedestrians, and includes public and private easements and land over which the public has acquired by use prescriptive rights-of-way.”

BLMC 8.08.040: The definition of a road: “ ‘Road’ is synonymous with and includes street, highway and alley.”

BLMC Title 18: Driveway not listed as a use.

Driveways are not a regulated use in the Bonney Lake Municipal Code. Roads and parking lots are also not regulated uses in the Bonney Lake Municipal Code. We regulate the design of these uses but the code doesn’t speak to the issue of whether or not roads, parking lots or driveways (all means of vehicle travel) are allowed uses.

When a single-family home is built, zoning doesn’t tell us that a driveway on that lot is allowed or not allowed. The code is silent, and precedent is that we allow them. The only regulation of the driveway is impervious surface for the whole lot. Likewise, when a commercial development is built, zoning does not regulate whether or not a parking lot, driveway or other means of travel for vehicles is allowed or not allowed. So precedent dictates that roads, parking lots and driveways associated with commercial development are allowed.

Because the code is silent on the regulation of a driveway as a use, and precedent dictates that we do not review driveways for use, we must conclude that the zoning designation of land used for a driveway is not relevant.

City Precedent

The area proposed for development is commercially zoned and already accesses a public road by way of a private driveway over residentially zoned property (200th Ave. E.). The residentially zoned property at one time was zoned commercially and the City approved a rezone to residential without considering the issue of the private driveway, thereby tacitly approving a private driveway on residentially zoned property accessing commercial property.

Another example in the City is 89th Street East in the Downtown. 89th Street East is a private road that gives a commercially zoned property driveway access to a public road through residentially zoned property. The City assigned the commercial zoning designation without consideration of it’s access through residential zones, and therefore also tacitly approved the access of this commercially zoned property through a driveway over residentially zoned property.

(Include Jeff’s rationale)

Future questions:

If the City decides that Commercial properties cannot access public roads through residential zones, Wal-Mart will not be allowed to access 192nd through one of the R-2 properties currently abutting 192nd.

Also in question is Eastown and the mapped streets ordinance. Right now we have a residential development going in in Eastown that based on the mapped streets ordinance, we are requiring to design so that it may connect it's private driveway to what will most likely be a commercial development. Will the mapped streets ordinance be deemed null and void based on this decision?

Timing

The Hearing on the appeals for Lowe's is June 4th.

Question: Can a commercial development or commercially zoned property access a public road with a private driveway on property zoned residential or with a residential use?

Determination:

Yes – as long as it meets all other applicable requirements. (i.e. landscape buffering.)

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Marvin Vialle, Interim Director

Date