

**Issue:** Is a Master Use Permit for a change of land use required when construction staging occurs on parcels adjacent to right-of-way construction areas.

**Analysis:** For a MUP to be required the staging would have to result in a “change of use” triggering either a type I MUP under SMC 23.76.006.B.2 or a type II MUP under SMC 23.76.006.C.2.a. Therefore the critical question becomes is staging a “use” and if so which one.

“Staging” is not a term defined by the land use code. In this situation it is intended to mean temporary storage of construction materials and equipment associated with an active construction site. Based on the definitions of the land use code, the two uses that most closely match the concept of staging are “Outdoor Storage” and “Construction Services.”

"Storage" means a use in which goods or products are stored more than (72) hours. Storage uses include but are not limited to the following uses:  
2. "Storage, outdoor" means a storage use in which an outdoor area is used for retention of materials, containers and/or equipment. Outdoor storage does not include sale, repair, incineration, recycling or discarding of materials or equipment. Outdoor storage areas are not accessible to the public unless an agent of the business is present. Outdoor parking areas for two (2) or more fleet vehicles of more than ten thousand (10,000) pounds gross vehicle weight shall also be considered outdoor storage. Temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or erect a structure and vehicle sales areas where motorized vehicles are stored for the purpose of direct sale to the ultimate consumer shall not be considered outdoor storage.

"Construction services" means a heavy commercial service use in which construction contracting services, including the final processing of building materials such as but not limited to the mixing of concrete or the heating of asphalt, are provided; or in which construction equipment is stored, either in conjunction with an office or as a separate use, but not including a construction site.

Both of these uses include the types of general activities associated with the concept of staging; however both uses also contain exceptions for when these activities are associated with construction activity. Outdoor storage does not include “temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or erect a structure.” Construction services do not include storage of construction equipment at a “construction site.”

Neither of these exception clauses purports to limit their scope to staging within a specific parcel. “Project permit” is defined to include “any land use or environmental permit or license required from a local government for a project action...,” and therefore could include a street use permit authorizing construction in the right-of-way. “Structure” includes “anything constructed or erected on the ground or any improvement built up or composed of parts joined together in some definite manner...,” and could include street improvements including the Alaskan Way Viaduct.

Therefore, because both outdoor storage and construction services exclude staging activities associated with construction activities and no other defined uses include staging activities, it should be concluded that staging is not a use as defined by the land use code. A MUP should not be required for staging because it is not a change of use but rather is a necessary activity to construct a separate use or right-of-way improvement.

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