UDC INTERPRETATION: Section 5.01.030 Determination of Unlisted Use

PROPOSED USE: Commercial Vehicle Sales, Parts Sales and Services Facility

EFFECTIVE DATE: The Director’s determination of the unlisted use shall become effective after 30 days unless appealed in accordance with UDC Section 3.14 within that timeframe (April 28, 2018).

Unified Development Code (UDC) Section 5.01.030 outlines a process for addressing unlisted uses. Any land use that is not listed as a Specific Use in the Chapter 5 Use Tables is reviewed by the Planning Director to determine whether it falls within the parameters of a listed Specific Use or requires consideration as a separate Specific Use. The Director shall then determine the appropriate classification of any unlisted use that warrants a separate Specific Use. The Director may determine that the use is permitted by right, permitted with limitations, permitted with approval of a Special Use Permit (SUP) by the City Council, or not permitted in a zoning district. UDC Section 5.01.030 sets out criteria to be used in making this determination as well as determining whether or not a use is a primary or accessory use.

DESCRIPTION OF UNLISTED USE
A commercial truck sales and service facility is proposed consisting of an approximately 18,600-square foot building with associated parking, outdoor display and outdoor storage areas. This use is proposed on a property that is currently zoned General Commercial (C-3) and Industrial (IN), and is located within the Highway Gateway Overlay District. According to the requestor, the proposed use will consist the sales, parts sales and services for Volvo/Mack Trucks.

STAFF ANALYSIS
The proposed use includes the sales and services of commercial vehicles. Similar specific uses include Automobile Sales, Rental or Leasing Facility, and Automobile Repair and Service, General. While the Specific Use “Automobile Repair and Service, General” includes the general repair and replacement services of commercial vehicles, the use “Automobile Sales, Rentals or Leasing Facility” specifically excludes commercial vehicles from its definition. Because of this, under the current UDC definitions, the sales of commercial vehicles are not included in any of the listed Specific Uses in Chapter 5.

Staff reviewed the criteria of UDC Section 5.01.030 in determining the appropriate zoning districts for the “commercial vehicle sales and parts sales” described use, and made the following findings:

1. **The definitions of similar primary uses** – Per UDC Section 16.02, the following definitions are provided for similar uses:
   
   **Automobile.** A self-propelled passenger vehicle that usually has four wheels and an internal-combustion engine, used for land transport. Also includes vehicle or motor vehicle.
Automobile Parts and Accessory Sales. Retail sales of automobile related parts and accessories. The outdoor storage or display of merchandise shall only be allowed in those districts where Automobile Parts and Accessory Sales, Outdoor is permitted. Indoor use is permitted with limitations in the C-1 zoning district, and permitted by right in the C-3 zoning district. Outdoor use may be permitted with approval of a Special Use Permit (S) in the C-3 zoning district, and is permitted by right in the IN zoning district.

Automobile Rental or Leasing Facility. A facility engaged in the rental of automobiles, noncommercial trucks or motorcycles, including incidental storage and limited servicing. This use may be permitted with approval of a Special Use Permit (S) in the C-3 zoning district, and is permitted by right in the IN zoning district.

Automobile Repair and Service, General. General repair or replacement services for any vehicles, including commercial. In addition to those services provided under limited automobile repair and service, general automobile repair and services includes rebuilding, reconditioning or replacement of engines, transmissions or power trains; collision services such as body, frame, or fender replacement, straightening or repair; steam cleaning, undercoating and rust proofing; major painting; or similar servicing, rebuilding or repairs that normally require significant disassembly or overnight on-site storage of vehicles, excluding dismantling, wrecking, or salvage. Outdoor storage of materials such as tires, auto parts, etc. is allowed. This use may be permitted with approval of a Special Use Permit (S) in the C-3 zoning district, and is permitted by right in the IN zoning district.

Automobile Sales Facility. The sale of automobiles, noncommercial trucks, or motorcycles, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships or motorcycle dealerships. This use may be permitted with approval of a Special Use Permit (S) in the C-3 zoning district, and is permitted by right in the IN zoning district.

2. The definitions of the use categories that include similar uses – The definitions of Automobile Repair and Service, General, Automobile Parts and Accessory Sales, and Automobile Sales Facility best fit the proposed use and activities as the services provided are the same with the exception of the vehicle type.

3. The actual or projected characteristics of the activity in relationship to the stated characteristics – The projected characteristics (sales and parts sales) of the proposed use are anticipated to be what has been stated by the requester, and similar to those for Automobile Sales and Automobile Parts and Accessory Sales uses.

4. The relative amount of site area or floor space and equipment devoted to the activity – The Commercial Vehicle Sales use has been determined to be a primary use on the site as its function will utilize the entire site and may function independently. The Commercial Vehicle Parts Sales has been determined to be an accessory use to the Commercial Vehicle Sales and Service Facility use.
5. **Relative amounts of sales from each activity** – The Commercial Vehicle Sales use has been determined to be a primary use on the site as the amount of sales and services provided will be greater than the amount of sales from the Parts Sales activity.

6. **The type of customer for each activity** - The type of customers for the proposed are similar to those for Automobile Sales, and Repair and Services, General uses.

7. **The relative number of employees in each activity** – The number of employees for the proposed use are similar to those for the Automobile Sales, and Repair and Services, General uses.

8. **Hours of operation** – The hours of operation, as proposed for this use, are similar to those for Automobile Sales, and Repair and Services, General uses.

9. **Building and site arrangement** – The proposed use will be subject to the development standards for the C-3 and IN zoning districts including setbacks, building height, and building design requirements. Additionally, any outdoor display or storage areas will be subject to the additional standards outlined in UDC Section 5.09. However, due to size of the vehicles, all outdoor storage areas should be limited to the side and rear yards of the property.

10. **Vehicles used and their parking requirements** – The proposed use is for the sales and services of commercial vehicles. Due to their size, larger parking and outdoor storage areas will be needed to accommodate these vehicles. Additionally, portions of the property dedicated for drop-off should provide ample stacking space to accommodate several commercial vehicles without blocking any entrances, driveways or parking aisles.

11. **The relative number of vehicle trips generated** – It is anticipated that the number of vehicle trips generated will be similar or less than those for Automobile Sales, and Repair and Services, General uses.

12. **Typical number of daily deliveries** - It is anticipated that the number of daily deliveries will be similar to those for Automobile Sales, and Repair and Services, General uses.

13. **Noise levels generated** - It is anticipated that the noise levels generated will be similar to those for Automobile Sales, and Repair and Services, General uses.

14. **Lighting required for the activity** - It is anticipated that the required lighting will be similar to those for Automobile Sales, and Repair and Services, General uses.

15. **The likely impact on surrounding properties** - This use has potential impacts on surrounding properties that should be considered based on the individual location and the specifics of each case.
16. **Whether the activity is likely to be found independent of the other activities on the site** – Staff has determined that the proposed Commercial Vehicle Sales and Services use is a stand-alone use.

**DETERMINATION**
Pursuant to UDC Section 5.01.020.C, the proposed Commercial Vehicle Sales use warrants a new use to be listed in Chapter 5 as this use is not included in the definition of exiting listed Specific Uses. The new use will be defined and listed in the UDC as shown below:

<table>
<thead>
<tr>
<th>Table 5.04.010 Commercial Uses</th>
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<tbody>
<tr>
<td>Specific Use</td>
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<tr>
<td>Commercial Vehicle Sales, Rental or Leasing Facility</td>
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</table>

**Section 5.04.020 Commercial Use Limitations**

**X. Commercial Vehicle Sales, Rental or Leasing Facility.**

Commercial Vehicle sales, rental or leasing facility is permitted in accordance with Table 5.04.010 and subject to the following standards and limitations:

1. **Lighting.**
   Fixed lighting shall be shielded or have cut-off fixtures to prevent direct glare of beams onto any adjacent public or private property or street. Light poles shall be placed no closer than 45 feet apart.

2. **Screening from Residential.**
   Screening, meeting the guidelines of a High Level Bufferyard, shall be provided along all lot lines abutting or adjacent to a Residential District, or when adjacent to an existing single-family home in the AG District, or when adjacent to an existing single-family home in the ETJ that is platted and planned for residential use on the Future Land Use Map.

3. **Outdoor Display and Storage.**
   a. Display and storage areas shall be clearly shown on the Site Plan and identified on the site.
   b. Outdoor display of commercial vehicles shall be set back a minimum of 25 feet from all lot lines abutting residentially zoned or developed property.
   c. Outdoor storage shall be located behind the front building façade of the primary structure.
   d. Permanent and temporary tent canopies may be erected over areas used for automobile sales display and shall not be considered buildings, but may not encroach into building setbacks, required parking spaces, drive aisles or bufferyards. All necessary building permits shall be required, but a revision to an existing Site Plan shall not be required if the tent canopy is located over an existing display area. All safety issues regarding fire and building codes shall be addressed.

4. **Accessory Uses.**
Automobile Repair and Service, Limited and General, and Automobile Parts and Accessory Sales, Indoor, shall be allowed accessory uses with a Commercial Vehicle Sales Facility. Automobile Repair and Service, General shall not be permitted on the premises of a Rental Facility and any allowed limited repairs shall be performed only within the principal building.

Section 16.02 Definitions

Commercial Vehicle. means a vehicle or combination of vehicles used to transport passengers or property that: 1. has a manufacturer's rated carrying weight equal to or greater than one and one-half tons; 2. is designed to transport 16 or more passengers, including the driver; 3. is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F, as amended; 4. is a "road tractor" as that term is defined in Chapter 541 of the Texas Transportation Code; 5. is a "truck tractor" as that term is defined in Chapter 541 of the Texas Transportation Code; 6. is a "pole trailer" as that term is defined in Chapter 541 of the Texas Transportation Code; or 7. is a "semitrailer" as that term is defined in Chapter 541 of the Texas Transportation Code.

Commercial Vehicle Sales Facility. The sale of commercial vehicles including incidental storage, maintenance, and servicing.

Determined By: Date: March 29, 2018

Sofia Nelson, CNU-A
Planning Director