

Department of Community Planning and Economic Development - Planning Division Report**Appeal of the Decision of the Zoning Administrator
BZZ-2159****Date:** January 20, 2005**Appellant:** Steven M. Minn**Address of Property:** 600 Main Street Southeast**Contact Person and Phone:** Steven M. Minn, (952) 888-2001**Planning Staff and Phone:** Tanya Holmgren, (612) 673-5887**Date Application Deemed Complete:** December 28, 2004**End of 60 Day Decision Period:** February 26, 2005**End of 120 Day Decision Period:** April 27, 2005**Ward: 2 Neighborhood Organization:** Marcy Holmes Neighborhood Association**Existing Zoning:** I2, Medium Industrial District

Appeal of the decision of the Zoning Administrator: Steven M. Minn on behalf of Bluff Street Development has filed an appeal of the decision of the Zoning Administrator regarding the determination that a parking lot in the I2 district requires a conditional use permit in order to establish the parking lot as a parking facility for the property located at 600 Main Street Southeast.

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within twenty (20) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

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Background and Analysis: The appellant has appealed the decision of the Zoning Administrator regarding the determination that a parking lot in the I2 district requires a conditional use permit in order to establish the parking lot as a parking facility for the property located at 600 Main Street Southeast.

The appellant states that they made improvements on an existing lot that has been in continuous use for over 40 years. The appellant states that the parking lot predates the 1963 zoning code. The appellant also states that due to the existence of this parking, no further land use review of the parking lot is required, including a conditional use permit.

On October 29, 2004 the appellant was sent a letter regarding the presences of construction vehicles parked on a property across Main Street from the approved Stone Arch Apartments. In this letter, the appellant is informed that in order to use this property for parking the appellant should receive City approvals for the development of the property into a parking lot. The appellant is also informed that any work prior to these approvals will result in further enforcement action.

On December 9, 2004 the appellant was sent a letter as a follow-up to the initial inspection. At this time the parking lot had been paved and no City approvals had been obtained including a conditional use permit which is required for a parking facility in the Industrial districts. The Zoning Administrator has determined that the applicant must submit an application for a conditional use permit or confirm grandfather rights for the parking at 600 Main Street Southeast.

The property has not received any prior land use reviews or approvals for its use as a parking lot. The City Planning Commission reviewed the Stone Arch Apartments as a Planned Unit Development and the approved site plans did not include the subject triangular parcel, 600 Main Street Southeast.

Due to the lack of sufficient information and facts provided by the appellant, staff has not determined non-conforming rights for the parking lot on the subject property. The appellant has also not sought a non-conforming use certificate from the Board of Adjustment. Without this establishment of non-conforming rights, the appellant is required to obtain a conditional use permit to establish the parking lot as an allowed use as a parking facility in the I2 district. A parking facility is defined below as well as an excerpt from the code identifying principal uses in the industrial districts.

Parking facility, off-street. An area, either a parking lot or garage, that provides off-street parking for motor vehicles. Off-street parking facility does not include commercial or industrial yard areas for storage, handling, processing, pickup or delivery of goods, materials or equipment, such as building materials sales yards, scrap/salvage yards, metal milling facilities, contractor yards and other similar uses.

Parking lot. A ground level, open area used for the parking of motor vehicles.

Excerpt from Chapter 550, Industrial Districts.

550.30. Principal uses for the industrial districts. (a) *In general.* Table 550-1, Principal Uses in the Industrial Districts, lists all permitted and conditional uses allowed in the industrial districts.

(b) *Permitted uses.* Uses specified with a “P” are permitted in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance.

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Persons wishing to establish a permitted use shall obtain a zoning certificate for such use as specified in Chapter 525, Administration and Enforcement.

(c) *Conditional uses.* Uses specified with a “C” are allowed as a conditional use in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional sue shall obtain a conditional use permit for such use, as specified in Chapter 525, Administration and Enforcement.

(d) *Prohibited uses.* Any use not listed as either “P” (permitted) or “C” (conditional) in a particular district or any use not determined by the zoning administrator to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district.

(e) *Specific development standards.* Permitted and conditional uses specified with a “check” under the Specific Development Standards column shall be subject to the specific development standards of Chapter 536, Specific Development Standards.

(f) *General use categories.* Table 550-1 employs general use categories for some types of industrial uses. A particular use may be determined to be within a general use category if not listed specifically elsewhere in Table 550-1 and if not determined to be within another less restrictive general use category. Determination of whether a particular use is included within a general use category shall be made by the zoning administrator in the manner provided for in Chapter 525, Administration and Enforcement, governing determination of substantially similar uses.

Excerpt Table 550-1, Principal Uses in the Industrial Districts.

Table 550-1 Principal Uses in the Industrial Districts

Use	I 1	I 2	I 3	Specific Development Standards
Generalized Use Categories				
Light industrial	P	P	P	
Medium industrial		P	P	
General industrial			C	
Specific Industrial Uses				
Concrete, asphalt and rock crushing facility				
Contractor yard		P	P	
Dry cleaning establishment		C	P	
Film, video and audio production	P	P	P	
Food and beverage products	P	P	P	
Furniture moving and storage	P	P	P	
Grain elevator or mill			C	
Greenhouse, wholesale	P	P	P	
Industrial machinery and equipment sales, service and rental	C	P	P	
Laundry, commercial	P	P	P	
Packaging of finished goods	P	P	P	

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Use	I 1	I 2	I 3	Specific Development Standards
Research, development and testing laboratory	P	P	P	
Recycling facility		C	C	
Scrap/salvage yard, metal milling facility			C	
Self service storage	P	P	P	
Wholesaling, warehousing and distribution	P	P	P	
Planned Industrial Development	C	C	C	
Automobile Services				
Automobile convenience facility	C	C	C	
Automobile rental	C	C	C	
Automobile repair, major	C	C	C	
Automobile repair, minor	C	C	C	
Automobile sales	C	C	C	
Car wash	C	C	C	
Transportation				
Ambulance service	C	C	C	
Bus garage or maintenance facility	C	C	C	
Horse and carriage assembly/ transfer site	C	C	C	
Intermodal containerized freight facility			C	
Limousine service	C	C	C	
Motor freight terminal		C	C	
Motor vehicle storage lot		C	C	
Package delivery service	C	C	C	
Railroad switching yards and freight terminal			C	
Taxicab service	C	C	C	
Towing service		C	C	
Truck, trailer, boat, recreational vehicle or mobile home sales, service or rental	C	C	C	
Waste hauler		C	C	
PARKING FACILITIES				
Parking facility	C	C	C	
Social, Cultural, Charitable, and Recreational Facilities				
Athletic field	P	P	P	
Club or lodge, with general entertainment	P	P		
Community center	P	P		
Community garden	P	P		
Development achievement center	P	P		
Educational arts center	P	P		
Mission	C	C	C	
Park	P	P	P	
Religious Institutions				
Place of assembly	P	P		

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Use. The purpose or activity for which the land or buildings thereon are designed, arranged, intended, occupied, or maintained.

Accessory use: A use of land or of a building or portion thereof incidental and subordinate to a principal use.

Conditional use: A use which, because of its unique characteristics, cannot be properly classified as a permitted use in a district but which may be allowed in such zoning district upon demonstrating that such use will comply with all of the conditions and standards of this zoning ordinance.

Permitted use: A use which may be established in a particular district or districts.

Principal use: The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

Based on the lack of proof of non-conforming parking rights, the definition of parking lot, parking facility, and the requirement of a parking facility being a conditional use in the I2 district, Planning staff agrees that the Zoning Administrator has correctly interpreted the zoning code.

Recommendation of the Department of Community Planning and Economic Development Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the decision of the Zoning Administrator.