

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** E-Z Masonry Inc. **FILE #** 16-060-038
2. **APPLICANT:** E-Z Masonry Inc **HEARING DATE:** August 11, 2016
3. **TYPE OF APPLICATION:** NUP - Establishment
4. **LOCATION:** 500 Prior Ave N, SE corner at Oakley
5. **PIN & LEGAL DESCRIPTION:** 332923240051 and 332923240052, Hinkel's 3rd Amendment To Union Park Lots 205 And Lot 206
6. **PLANNING DISTRICT:** 13 **PRESENT ZONING:** T3
7. **ZONING CODE REFERENCE:** Sec. 62.109(a)
8. **STAFF REPORT DATE:** August 2, 2016 **BY:** Tony Johnson
9. **DATE RECEIVED:** July 8, 2016 **60-DAY DEADLINE FOR ACTION:** September 6, 2016
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- A. **PURPOSE:** Establishment of a legal nonconforming use for the outdoor storage for a contractor's shop.
- B. **PARCEL SIZE:** 14,810 sq. ft.
- C. **EXISTING LAND USE:** Contractor's workshop with outdoor storage
- D. **SURROUNDING LAND USE:**
North: Mixed-use residential, mini-storage
East: parking lot
West: Industrial
South: Light industrial (black smith)/ commercial services
- E. **ZONING CODE CITATION:** §62.109(a) lists the conditions under which the Planning Commission may grant a permit to establish legal nonconforming use status.
- F. **HISTORY/DISCUSSION:** In November of 2015 the Department of Safety and Inspections responded to a complaint that the applicant, EZ Masonry, had constructed a concrete wall without permits and that they had expanded their outdoor storage area without site plan approval. During the inspection it was observed that the business was storing building materials, vehicles, and tractor front loaders at 496 Prior Avenue (zoned T3), 500 Prior Avenue (zoned T3), 12 Oakley Avenue (zoned RM2), and 20 Oakley Avenue (zoned VP). Based on aerial photography, the outdoor storage at 496 and 500 Prior Avenue was established somewhere between 2001 and 2004 when the property was zoned I1, light industrial. Under §66.541, outdoor storage is permitted in an I1 light industrial district subject to the following conditions:

(1) Outdoor storage shall be at least three hundred (300) feet from a residential or traditional neighborhood district boundary, and in the IT transitional industrial district shall also be at least three hundred (300) feet from a park, parkway, or major thoroughfare, except that in reviewing a site plan for outdoor storage in industrial districts, the zoning administrator may permit outdoor storage to be within three hundred (300) feet of a residential or traditional neighborhood district, or of a park, parkway, or major thoroughfare, provided that: a) a visual screen, a minimum of six (6) feet in height, is placed between the outdoor storage and such district, park, parkway or major thoroughfare; b) the zoning administrator has considered the location and design of the outdoor storage area and visual screen in relation to any plans or guidelines approved by the city council and in relation to the design character and building materials of adjacent areas; and c) the zoning administrator has notified by mail the property owners within three hundred fifty (350) feet of the outdoor storage area at least ten (10) days before the administrator is to approve the site plan and has considered the property owners' comments.

(2) Outdoor storage shall be fenced or walled. Outdoor storage which abuts a thoroughfare, a business district or a PD district shall be behind a six-foot-high obscuring fence. However, an obscuring fence shall not be required if the outdoor storage is screened by a building or

topography. On sites where the topography renders an obscuring fence ineffectual as a screen, landscape screening shall be required.

The outdoor storage area at 496 and 500 Prior Avenue is within 300 feet of residentially zoned property. When the property was zoned I1, the applicant would have been required to submit a site plan and construct a visual screen to legally establish the outdoor storage area. Our records indicate that the no site plan was ever submitted or approved, and therefore the outdoor storage area was never legally established in accordance with the conditions of §66.541. In 2011 the property was rezoned to T3, traditional neighborhood, as a part of the central corridor zoning study. Outdoor storage is not a permitted use in a T3 zoning district resulting in this application for the establishment of a non-conforming use.

G. DISTRICT COUNCIL RECOMMENDATION: The District 13 Council recommended approval of the establishment of non-conforming use permit.

H. FINDINGS:

1. Section 62.109(a) of the zoning code provides that the Planning Commission may grant legal nonconforming status to uses or structures that do not meet the standards for legal nonconforming status in section 62.102 if the commission makes the following findings:

(1) *The use or a nonconforming use of similar or greater intensity first permitted in the same zoning district or in a less restrictive zoning district has been in existence continuously for a period of at least ten (10) years prior to the date of the application.* Based on aerial photography and the materials submitted by the applicant, the outdoor storage area was established in 2002 when the applicant purchased the property. This finding is met.

(2) *The off-street parking is adequate to serve the use.* There are no parking requirements for outdoor storage. This finding is met.

(3) *Hardship would result if the use were discontinued.* The subject properties are used for storing materials and equipment for the masonry business. According to the information submitted with the application, acquiring off-site storage for the materials that are stored at the site would cost anywhere from \$15,000 - \$20,000 annually and could potentially force them to relocate the business. The applicant acquired property in 2002 and has had the outdoor storage area since that time. Requiring them relocate the outdoor storage would result in a significant financial hardship. This finding is met.

(4) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* 496 and 500 Prior Avenue are adjacent to an I1 light industrial zoning district and rezoning the property would not result in spot zoning. Rezoning the property would however, be inappropriate, considering the property is in close proximity to a RM2 multi-family residential zoning district and that the property was recently rezoned to T3 from I1 as a part of the Central Corridor Zoning Study. The current T3 zoning serves as a transition between the I1 and RM2 zoning districts in the area and should remain intact. This finding is met.

(5) *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* The property is located adjacent to an I1 light industrial zoning district, and was zoned I1 prior to being rezoned T3. The majority of the businesses that are now zoned T3 are light industrial uses and commercial services, including a black smith shop and multiple repair shops. Allowing the applicant to continue to use the outdoor storage area would not change the existing character in the immediate area, provided that the outdoor storage area is not expanded and the stored materials are not visible from residentially zoned property. This finding is met.

(6) *The use is consistent with the comprehensive plan.* The Land Use chapter of the comprehensive plan identifies the subject properties as being within a Mixed Use Corridor. A mix of land-uses are appropriate in Mixed Use Corridors, including small scale industry. Strategy 2 of

the comprehensive plan calls for providing land for jobs, and recognizes the importance of having industrial land-uses available for providing living wage jobs. This finding is met.

(7) A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet the subject property has been submitted stating their support for the use. This finding is met. The petition was found sufficient on 6-16-2016: 11 parcels eligible; 8 parcels required; 8 parcels signed.

I. STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the establishment of legal nonconforming use status for the outdoor storage area, subject to the following conditions:

- 1) The applicant receives site plan approval from Department of Safety Inspections for the outdoor storage area.
- 2) The materials in the outdoor storage area shall be completely screened from view with an obscuring fence or wall that is at least six feet in height.
- 3) The outdoor storage area shall not be expanded to areas which are not approved in the site plan.
- 4) The height of the stacked materials shall not exceed the height of the obscuring fence or wall.



NONCONFORMING USE PERMIT APPLICATION
 Department of Planning and Economic Development
 Zoning Section
 1400 City Hall Annex
 25 West Fourth Street
 Saint Paul, MN 55102-1634
 (651) 266-6589

Zoning Office Use Only
 File #: 16-060038
 Fee: 700.00
 Tentative Hearing Date:
8-11-16

PD-13

332923240651
332923240052

APPLICANT

Name E-2 MASONRY INC
 Address 500 N PRIOR AVE - 496 Prior
 City ST PAUL St. MN Zip 55104 651-917-9329
 Name of Owner (if different) KEVIN RAMIREZ Daytime Phone
 Contact Person (if different) CHUCK REPKE Phone 651-214-8664

PROPERTY LOCATION

Address/Location 500 N PRIOR AVE
 Legal Description HINKEL'S 3RD AMENDMENT TO UNION PARK, RAMSEY CO,
MINN. LOTS 205 AND LOT 206 Current Zoning T3
 (attach additional sheet if necessary)

TYPE OF PERMIT: Application is hereby made for a Nonconforming Use Permit under provisions of Chapter 62, Section 109 of the Zoning Code:

The permit is for: Change from one nonconforming use to another (para. c)
 Re-establishment of a nonconforming use vacant for more than one year (para. e)
 Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)
 Enlargement of a nonconforming use (para. d)

SUPPORTING INFORMATION: Supply the information that is applicable to your type of permit.

Present/Past Use EXTERIOR STORAGE - CONTRACTOR'S YARD
 Proposed Use EXTERIOR STORAGE - CONTRACTOR'S YARD

Attach additional sheets if necessary
CITY DSI DOCUMENTS LOTS EXISTENCE SINCE AT LEAST 2004 AND WAS A LEGAL USE IN THE I1 DISTRICT AT THAT TIME.
STORAGE WILL BE SCREENED AS RECOMMEND/REQUIRED WHEN APPROVED.

Attachments as required Site Plan Consent Petition Affidavit

Applicant's Signature [Signature] Date 6/17/16 City Agent [Signature]

add
6-17-16

July 8, 2016

Paul Dubruiel
PED Zoning
25 4th Street
Saint Paul.

RE: 496-500 N. Prior – Establishment of legal non-conforming use

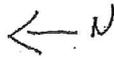
We are resubmitting the application with the following information.

1. Proof of existence for the last 10 years. The outside storage has existed at 496-500 Prior for a minimum of 14 years. The applicant Kevin Ramirez has owned the building continually since 2002 as a masonry company and has always had the outside storage. The contractor that occupied the building had outside storage when Mr Ramirez bought the building. Regular C of O inspections were done on the building when it was zoned I 1 and no issues were ever noted. Communication from Saint Paul DSI states, "the exterior storage was established sometime between 2001 and 2004 when the property was zoned I 1." The City has acknowledged the existence for over ten years.
2. Proof of hardship. Being required to remove the storage that was a permitted use when the applicant bought the building in 2002 would not only be a hardship but would reduce the value of the property. Without this storage applicant will be forced to relocate or acquire storage off site. These materials and equipment on site are essential to the day to day operation of the seasonal businesses. Not only would applicant incur the expense of daily transit and transportation but would have to take on additional rent. Nearby storage units at All American on Snelling cost \$500+/mth and storing the items that are outside would require a second fork lift for the new site and would easily cost 15-20K annually just for rent.
3. Site Plan (attached) - The outside storage at 500 Prior is and has always been fenced in (pink hash marks on the site plan). The Fencing for 496 N Prior would come from a fence and gate that extends across the back of the property and the neighbor's property and a gate at the front between the buildings. Applicant is willing to use whatever kind of reasonable screening the City would suggest.

It is my understanding that you still have on hand the originals of petition signatures. Please let me know if there is any additional information that you need.

Sincerely

Chuck Repke
651-214-8664
For – Kevin Ramirez, E-Z Masonry



EXISTING STORAGE

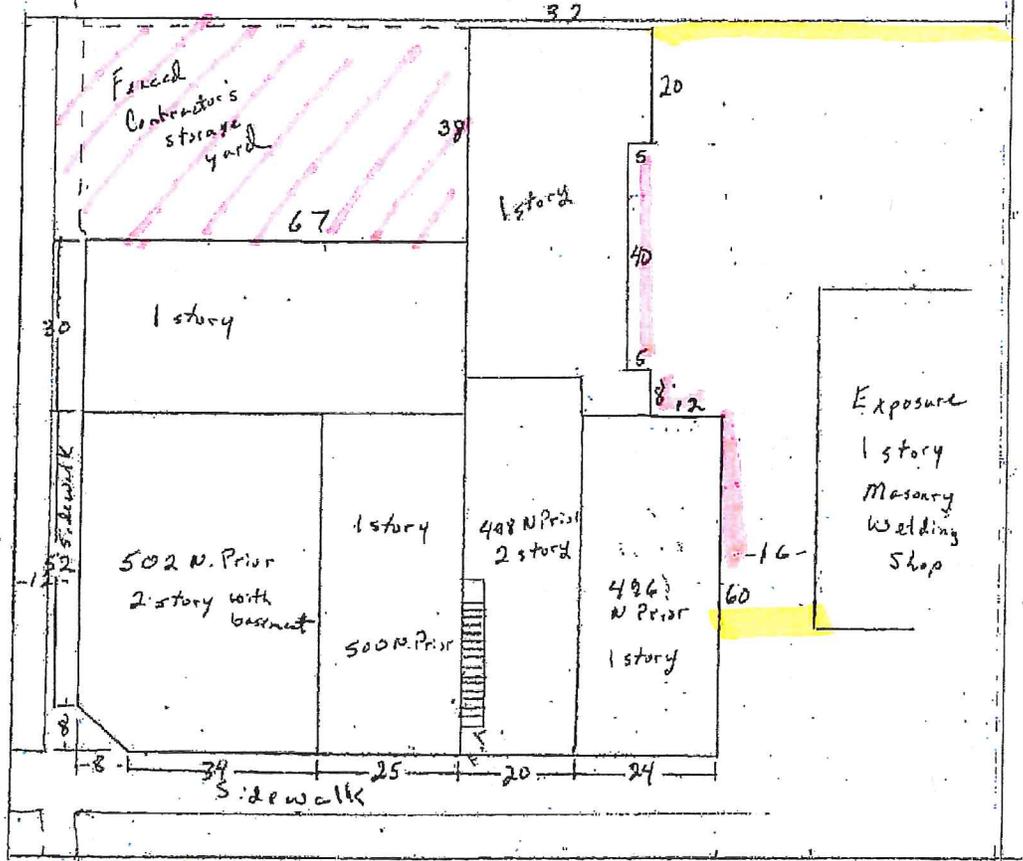
PROPOSED FENCING

Open lot

E-Z Masonry, Inc.
496-502 N. Prior Ave.
St. Paul, MN
BOP2720366

14

Public alley



Oakley Ave.

Prior Ave. N.

Area:

502 - 2488 sq ft / floor

500 & near 500 & 502 - 3310 sq ft

498 - 1320 sq ft / floor

496 - 1440 sq ft

near 496 & 498 - 1856 sq ft

DEPARTMENT OF SAFETY AND INSPECTIONS
Ricardo X. Cervantes, Director



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220
St Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

Thurs

November 12, 2015

Received November 20th

E-Z Masonry
Attn: Kevin Ramirez
1535 Grand Ave
Saint Paul, MN, 55105

Re: 500 Prior Ave

Dear Mr. Ramirez:

We have recently received a complaint regarding the exterior storage at the above location. This property is located in a T3 traditional neighborhood zoning district. The property was previously located in an I1 light industrial zoning district.

Inspection Observations:

The following was observed during a recent inspection of this property: the referenced property has exterior storage of building materials associated with the E-Z masonry business.

Pertinent Code Sections:

Under Chapter 66 of the City of Saint Paul Legislative Code, exterior storage is not permitted in a T3 zoning district. Exterior storage was permitted under the previous I1 zoning district, providing the conditions found in sec. 66.541 of The Saint Paul Legislative Code are met, which are as follows:

- Outdoor storage shall be at least 300 feet from a residential or traditional neighborhood district boundary.
- The outdoor storage area must have a visual screen of at least 6 ft in height.

The exterior storage area was established sometime between 2001 and 2004 when the property was zoned I1, however, at the time this exterior storage was established the two conditions listed above were not met.

Orders:

There's no record of this office approving, or having received a request to approve, the establishment of the exterior storage at the referenced location. Therefore, you must remove all exterior storage within 30 days from the date of this letter.

If you have any questions regarding this matter I may be contacted at 651-266-9067 or Tony.Johnson@ci.stpaul.mn.us.

Sincerely,

Anthony Johnson
DSI Zoning/Licensing Inspector I

Any person affected by this decision that believes it to have been made in error, may appeal the matter in writing to the Board of Zoning Appeals within 10 days of the date of this letter. Any appeal shall include the appropriate filing fee of \$435.

*11/23/15 12:14pm Kevin spoke w/ Jerome. Jerome said he would look into this issue r get back to Kevin. Anthony no longer works in that dept
man*

An Equal Opportunity Employer

ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP

NCUP

FIRST SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED: _____

DATE PETITION RESUBMITTED: _____

DATE OFFICIALLY RECEIVED: _____

DATE OFFICIALLY RECEIVED: _____

PARCELS ELIGIBLE: 15

PARCELS ELIGIBLE: _____

PARCELS REQUIRED: 10

PARCELS REQUIRED: _____

PARCELS SIGNED: 10

PARCELS SIGNED: _____

CHECKED BY: _____

Paul Dubourel

DATE: _____

6-27-16

CITY OF SAINT PAUL

**AFFIDAVIT OF PETITIONER FOR A CONDITIONAL
USE PERMIT OR A NONCONFORMING USE
PERMIT**

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

The petitioner, Darcia Tatham, being first duly sworn, deposes and states that the consent petitioner is informed and believes the parties described on the consent petition are owners of the parcels of real estate described immediately before each name; each of the parties described on the consent petition is an owner of property within 100 feet of the subject property described in the petition; the consent petition contains signatures of owners of at least two-thirds (2/3) of all eligible properties within 100 feet of the subject property described in the petition; and the consent petition was signed by each said owner and the signatures are the true and correct signatures of each and all of the parties so described.

Darcia Tatham
NAME

E-2 Masonry Inc.
1535 Grand Ave.
St. Paul, MN 55105
ADDRESS

651-917-9329
TELEPHONE NUMBER

Darcia Tatham

Subscribed and sworn to before me this
24th day of June, 2016

Beth Ann Johnson
NOTARY PUBLIC



CITY OF SAINT PAUL

CONSENT OF ADJOINING PROPERTY OWNERS

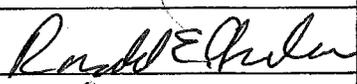
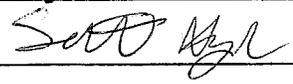
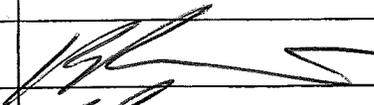
We, the undersigned, owners of the property within 100 feet of the total contiguous description of real estate owned, purchased, or sold by THE APPLICANT within one year preceding the date of this petition acknowledge that we have been presented with the following:

A copy of the application of E-2 MASONRY INC
(name of applicant)

to establish a LEGAL NON CONFORMING USE - OUTDOOR STORAGE/CONTRACTORS YARD
(proposed use)

located at: 500 N. PRIOR AVE ST PAUL M.N. 55104
(address of property)

requiring a variance along with any relevant site plans, diagrams, or other documentation. **We consent to the approval of this application as it was explained to us by the applicant or his/her representative.**

ADDRESS OR P.I.N. #	RECORD OWNER	SIGNATURE	DATE
19 Oakley Ave	Thomas Tulten		6/9/16
492 Prior Ave N	Ronald E Anderson		6-9-16
12 Oakley Ave	Seth Hayden		6-9-16
21 Oakley Ave			
31 Oakley Ave			
504 Prior Ave N			
496 Prior Ave N	Kevin Ramirez		6-16-16
500 Prior Ave N	Kevin Ramirez		6-16-16

NOTE: All information on the upper portion of this application must be completed prior to obtaining eligible signatures on this petition.

CITY OF SAINT PAUL

CONSENT OF ADJOINING PROPERTY OWNERS

We, the undersigned, owners of the property within 100 feet of the total contiguous description of real estate owned, purchased, or sold by THE APPLICANT within one year preceding the date of this petition acknowledge that we have been presented with the following:

A copy of the application of E-2 MASONRY Inc
(name of applicant)

to establish a LEGAL NON CONFORMING USE - OUTDOOR STORAGE/CONTRACTORS YARD
(proposed use)

located at: 500 N. PRIOR AVE ST PAUL MN 55104
(address of property)

requiring a variance along with any relevant site plans, diagrams, or other documentation. **We consent to the approval of this application as it was explained to us by the applicant or his/her representative.**

ADDRESS OR P.I.N. #	RECORD OWNER	SIGNATURE	DATE
19 Oakley Ave	Thomas Tulten		
492 Prior Ave N	Ronald E Anderson		
12 Oakley Ave	Seth Hayden		
21 Oakley Ave			
31 Oakley Ave			
504 Prior Ave N			
493 LYNNHURST AVE	ROBERT MCLEAN	<i>[Signature]</i>	22-JUNE-2012
494 W LYNNHURST AVE	Colwyn McLean	<i>[Signature]</i>	23-6-16

NOTE: All information on the upper portion of this application must be completed prior to obtaining eligible signatures on this petition.

CITY OF SAINT PAUL

CONSENT OF ADJOINING PROPERTY OWNERS

We, the undersigned, owners of the property within 100 feet of the total contiguous description of real estate owned, purchased, or sold by THE APPLICANT within one year preceding the date of this petition acknowledge that we have been presented with the following:

A copy of the application of E-2 MASONRY Inc
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to establish a LEGAL NON CONFORMING USE - OUTDOOR STORAGE/CONTRACTORS YARD
(proposed use)

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(address of property)

requiring a variance along with any relevant site plans, diagrams, or other documentation. **We consent to the approval of this application as it was explained to us by the applicant or his/her representative.**

ADDRESS OR P.I.N. #	RECORD OWNER	SIGNATURE	DATE
19 Oakley Ave	Thomas Tatten		
492 Prior Ave N	Ronald E Anderson		
12 Oakley Ave	Seth Hayden		
21 Oakley Ave	Prior Properties, LLC	<i>Ret</i>	6/15/2016
31 Oakley Ave	Prior Properties, LLC	<i>Ret</i>	6/15/2016
504 Prior Ave N	Prior Properties, LLC	<i>Ret</i>	6/15/2016

NOTE: All information on the upper portion of this application must be completed prior to obtaining eligible signatures on this petition.



- WATER
- Interstate
- Highway or County Road
- Local Road
- Ramp
- Other Street
- Interstate
- Highway or County Road
- Local Road
- Ramp
- Other Street
- PRIMARY
- SECONDARY
- OTHER
- UNOFFICIAL ALIAS
- LANDLOCKED
- Railroad
- PROVISIONAL

2007



Should be 1" when printed.
Scale 1:281
(1" ≈ 23')

This is not an official document or survey.

500 Prior Avenue North 2004 Street Views



Date: November 06, 2015
File #: 15 - 166523
Folder Name: 500 PRIOR AVE N
PIN: 332923240051



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PIN: 332923240051



Date: August 04, 2016
File #: 16 - 060038
Folder Name: E-Z Masonry Inc.
PIN: 332923240051



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File #: 16 - 060038
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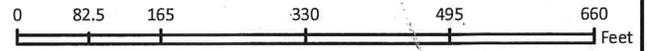


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FILE NAME: E-Z Masonary

Aerial

APPLICATION TYPE: Est. NCUP

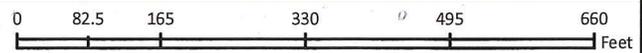
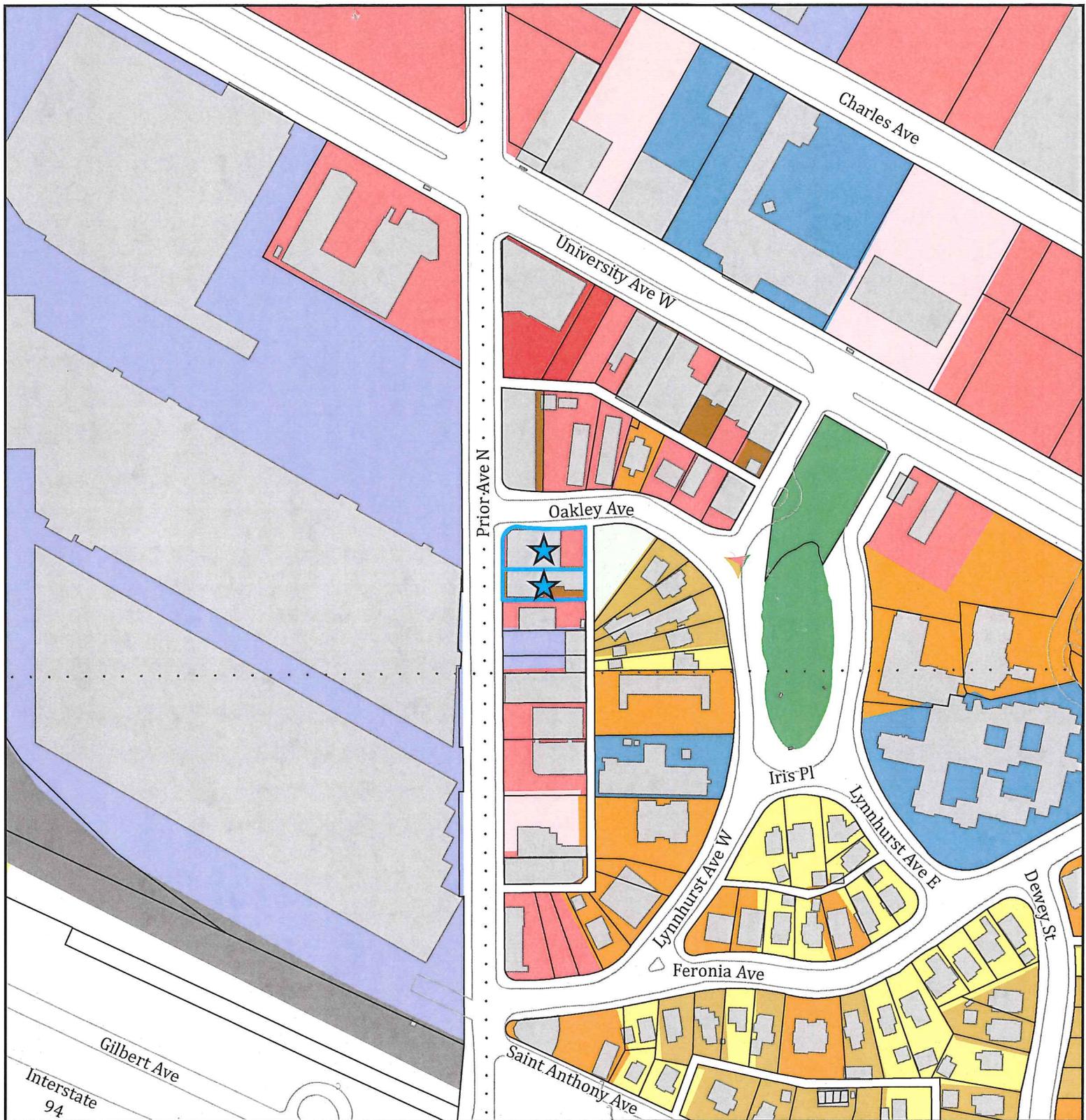
 Subject Parcels

FILE #: 16-060038 DATE: 7/20/2016

PLANNING DISTRICT: 13

ZONING PANEL: 7





FILE NAME: E-Z Masonary

APPLICATION TYPE: Est. NCUP

FILE #: 16-060038 DATE: 7/20/2016

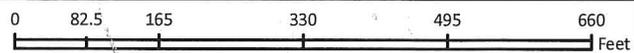
PLANNING DISTRICT: 13

ZONING PANEL: 7

Land Use

- | | |
|--|--|
|  Single Family Detached |  Industrial and Utility |
|  Single Family Attached |  Institutional |
|  Multifamily |  Park, Recreational or Preserve |
|  Office |  Railway |
|  Retail and Other Commercial |  Undeveloped |
|  Mixed Use Residential |  Subject Parcels |
|  Mixed Use Commercial and Other |  Section Lines |





FILE NAME: E-Z Masonary

APPLICATION TYPE: Est. NCUP

FILE #: 16-060038

DATE: 7/20/2016

PLANNING DISTRICT: 13

ZONING PANEL: 7

Zoning

- Subject Parcels
- Section Lines
- RT1 Two-Family
- RM2 Multiple-Family
- T3 Traditional Neighborhood
- T4 Traditional Neighborhood
- OS Office-Service
- I1 Light Industrial
- VP Vehicular Parking

