



MEMORANDUM

Date: August 9, 2017

To: Chair and Members of the Planning Commission

From: Planning Staff

Subject: **New Business: Zoning Conformity Determination for Durham School Services at 1326-1352 E. 9th St.**

Durham School Services, LP, has applied for a business license to operate at 1326-1352 E. 9th St. They provide school bus services to local school districts. The site would be used to park the buses and provide limited maintenance.

The Development Services Manager has determined that the business requires a Conditional Use Permit (CUP) since Charter Bus Companies are listed as conditionally permitted uses in the M-2 zone (see attachment). There is precedent for this decision related to this applicant. In 2012, the City determined that Durham School Services needed to apply for a CUP for the same operation in an M-2 zone on a property at 1415 E. Grand Avenue.

The applicant has challenged the need for a CUP (see their letter attached). The applicant cites language in the M-1 zone that "Transportation equipment yard and storage space for transit" is listed as a permitted use (M-1 permitted uses are also permitted in the M-2 zone). "Truck repairing and overhauling" is also listed as a permitted use. Truck storage yards are by definition industrial uses.

In the M-2 zone, the following language is also relevant:

421. B. Other manufacturing uses may be permitted in this zoning district subject to obtaining a conditional use permit from the planning commission, after a full and complete description of the processes of industrial operation is made. The decision of the planning commission shall be final unless a notice of appeal is filed pursuant to Section .560G1.

421. C. Where any doubt or uncertainty exists as to the proper zoning district classification of an industrial use, the planning commission shall determine such, based on the following conditions:

1. That field investigations have disclosed that the subject use and its operation are compatible with the uses permitted in the area wherein it is proposed to be located; and
2. That the subject use is similar to one or more uses permitted in the district within which it is proposed to be located; and
3. That the subject use will not cause substantial injury to the values of property in the neighborhood within which it is proposed to be located; and

4. That the subject use will be so designed, located and operated that the public health, safety and general welfare will be protected. The decision of the planning commission shall be final unless a notice of appeal is filed pursuant to Section .560G1.

School bus services like Durham arguably aren't the same as a charter bus company. Typically we think of charter buses in terms of Greyhound or bus lines taking gamblers to casinos. Section 421.B states that "other manufacturing uses" may be permitted to operate in the M-2 zone subject to a CUP. Although trucking, and bus, operations are industrial, they are not manufacturing uses.

Section 421.C is operative since there is a question as to the "proper zoning district classification of an industrial use." The applicant, in their attached letter, cites this section and provides arguments to support their case.

Since staff has previously determined a CUP is required for a similar operation in the zone, but there appears to be support for finding the business is in fact a permitted use, staff provides this memo and attachments to the Commission for a Zoning Conformity determination. A vote by the Planning Commission is required to make the Zoning Conformity determination.