

Exhibit I:
Interpretation

ZONING INTERPRETATION

Subject of Interpretation:

Public Parks and Recreation Facilities uses on a property located at 1439 N. Power Road

Zoning Ordinance Section Number:

Section 11-6-2, 11-86-3, and Chapter 87 of the MZO

Cause for Interpretation:

Land use classification of current activities occurring on the property located at 1439 N. Power Road and zoned Office Commercial

Interpretation:

Per Section 11-6-2 of the City's Zoning Ordinance (MZO), Public Parks and Recreational Facilities are allowed in the Office Commercial (OC) zoning district.

Section 11-86-3 of the MZO defines Public Parks and Recreational Facilities as, ***"Parks, playgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, all of which are noncommercial. This classification also includes playing fields, courts, gymnasiums, swimming pools, picnic facilities, tennis courts, and golf courses [sic], botanical gardens, as well as related food concessions or community centers within the facilities."***

The definition of Public Parks and Recreational Facilities does not restrict ownership of public parks to governmental entities nor does it specifically limit the number or amount of food concession uses in a public park. However, the definition outlines food concession as a "related" use to primary functions/activities in a public park. The term "related" as used in the Public Park and Recreational Facilities definition, indicates the nature of such food concessions as accessory to primary uses in a public park such as: playgrounds, recreational facilities, trails, wildlife preserves, etc.

Chapter 87 of the MZO defines an Accessory Use as, ***"A use customarily incidental to, related and clearly subordinate to a principal use established on the same lot or parcel of land, which accessory use does not alter said principal use nor serve property other than the lot or parcel of land on which the principal use is located."***

Section 11-86-3 of the MZO specifies that Public Parks and Recreation Facilities uses are noncommercial. Food concessions, however, are typically commercial in nature and are mostly operated for profit and in exchange of good and services for a monetary benefit; but are currently allowed in Public Parks and Recreational Facilities.

Based on the definitions of Public Parks and Recreational Facilities and Accessory Uses, food concessions are intended to be “accessory and incidental to” activities in a Public Park and Recreational Facilities and cannot be the primary or dominant use in such a use classification.

Regarding the question about the use classification of the current activities occurring on the property located at 1439 N. Power Road, the Planning Division received and responded to an email with the attached site plan (see attached exhibit) from the property owner’s representative on May 29, 2019. The purpose of the email was to confirm that the attached site plan showing various recreational activities and associated food concessions was an allowed use on the property. The site plan showed a majority of the property contained primary uses consistent with Public Parks and Recreational Facilities, such as a beach volleyball court, a splash pad, play area, and a significant area reserved as “turf area” for other recreational activities. Over the past months, the property, according to various pictures and complaints from the surrounding property owners, has been used primarily as a food truck park (i.e., food concessions). Based on the definition of a Public Park and Recreational Facilities, the current use of the property, primarily as a food truck park, does not conform to the requirements of the definition of Public Parks and Recreational Facilities.

Initials: <u>NKA</u>	Date: 6-16-21
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