



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Eric Campbell, City Manager
From: Adam Fletcher, Director – Department of Community Development and Harrisonburg Planning Commission
Date: June 8, 2021 (Regular Meeting)
Re: Special Use Permit – 1207 North Liberty Street (To Allow a Junk Yard in the M-1 District)

Summary:

Public hearing to consider a request from Ahmed Abdullah for a special use permit per Section 10-3-97 (14) of the Zoning Ordinance to allow a junk yard, which shall be screened within the M-1, General Industrial District. The +/- 2-acre property is addressed as 1207 North Liberty Street and is identified as tax map parcel 46-B-6.

Staff and Planning Commission (6-0) recommended denial of the special use permit.

Background:

The Comprehensive Plan designates this site as Industrial. These areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities. They include the major existing and future employment areas of the City.

The following land uses are located on and adjacent to the property:

Site: Vehicle sales and illegal vehicle salvaging/junk yard, zoned M-1
North: Vacant lands, zoned M-1
East: Rockingham County Public Schools Bus Facility, zoned M-1
South: Vehicle repair and parts fabricator, and towing service, zoned M-1
West: Self-storage, zoned M-1

A junk yard is defined in the Zoning Ordinance as “[a]ny space or area or portion of lots used for the storage, sale, keeping or abandonment of junk or waste materials, including used building material, or for the dismantling, demolition, sale or abandonment of automobiles and other vehicles, machinery or parts thereof” and is currently only allowed in the M-1 district by special use permit.

On August 26, 2014, City Council approved a request from Gerdau, a producer and supplier of steel, who requested to amend the Zoning Ordinance to allow junk yards by special use permit within the M-1

General Industrial District. Gerdau was interested in locating a scrap metal recycling yard in Harrisonburg. Prior to 2014, junk yards were prohibited in all zoning districts. Staff supported the text changes for amendments stating that “[s]taff believes that junk yards may be acceptable in some areas of the Industrial District under certain circumstances and with the ability to set conditions as warranted.” After the Zoning Ordinance amendment was approved, Gerdau did not pursue plans to locate a scrap metal recycling yard in Harrisonburg and no special use permit application for a junk yard has been applied for in the City until the request presented herein.

Within this staff report, the terms “junk,” “inoperable vehicle,” and “salvage vehicle” are used interchangeably. The term “junk” is used in Title 6, Chapter 2 – Solid Waste Collection and Disposal and is defined in that chapter as “[s]crap, or discarded material, or ferrous or nonferrous metals including, but not limited to, dismantled, wrecked or inoperable vehicles or farm machinery, or parts of any of the foregoing, or furniture, inoperable appliances or fixtures, where such furniture, appliances or fixtures are normally found inside a residence or building, or parts of any of the foregoing.” The term “inoperable vehicle” is used in the Zoning Ordinance and is defined as “[a]ny vehicle not capable of being used on public streets or roads and/or on which a state inspection and/or license is not displayed or has expired for more than thirty (30) days.” Know that the ZO allows vehicle sales uses to include the storage of inoperable vehicles for a period not to exceed 90 days. The term “salvage vehicle” is used by the Virginia Department of Motor Vehicles and is defined in State Code Section 46.2-1600 as “(i) any late model vehicle that has been (a) acquired by an insurance company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii) any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle that is determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.” Furthermore, “[s]alvage certificate’ means a document of ownership issued by the Department [of Motor Vehicles] for any salvage vehicle upon surrender or cancellation of the vehicle’s title and registration.”

Key Issues:

The applicant is requesting a special use permit (SUP) per Section 10-3-97 (14) of the Zoning Ordinance (ZO) to allow a junk yard in the M-1, General Industrial District. The property is located along North Liberty Street approximately 225 feet from the intersection of Mt. Clinton Pike. If approved, the applicant describes that “[t]he land will be used for mechanical and dealership purposes.” The applicant states in their letter that they “buy damaged cars from salvage auctions to repair them for reselling or sending them overseas.” The applicant has also described that they plan only to store the salvage vehicles behind the principal building in an area that would be screened with fencing. The area between the principal building and North Liberty Street is planned to be used to display operable vehicles for sale and is not planned to be fenced. It should be understood that vehicle sales, repair, storage, and vehicle body shops, which among other things includes over the road tractors, their trailers, and heavy equipment, are permitted by right in the M-1, General Industrial District.

In February 2019, the property was issued a notice of violation of City Code Section 6-2-6, for having junk in the form of wrecked and inoperable vehicles not located within a structure to hide it from view. In November 2020, it became known to the Zoning Administrator that in addition to repairing and

selling vehicles, which are permitted uses, the owner of the property was storing and dismantling inoperable or salvaged vehicles. The property owner was informed at that time that storage of inoperable and salvaged vehicles outside is not an allowed use and would require approval of a junk yard SUP. The property remains in violation of City Code Section 6-2-6 and in violation of the Zoning Ordinance's use regulations within the M-1 district. The City continues to work through the court system regarding this matter.

In addition to compliance with City Codes, approval of the SUP is necessary for the applicant to obtain a Salvage Dealer License from the Virginia Department of Motor Vehicles (DMV) to operate at this location because the locality must certify for the DMV that the application and business location complies with local zoning requirements and/or ordinances.

The applicant has informed staff that they desire to apply for the following Salvage Dealer License types with the DMV as defined by State Code (full definitions can be reviewed in State Code Section 46.2-1600):

- *Rebuilder* – to acquire and repair, for use on public highways two or more salvage vehicles in a 12-month period;
- *Salvage Dealer* – to acquire any vehicle for the purpose of reselling any parts thereof; and
- *Salvage Pool* – to provide storage service for salvage vehicles or non-repairable vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or non-repairable vehicles.

In general, staff is concerned about the impact of outside storage of salvaged and inoperable vehicles along and near two heavily traveled corridors, North Liberty Street and Mt. Clinton Pike and the impact to surrounding properties. As noted in 2014 when the SUP for junk yards was created, “[s]taff believes that junk yards may be acceptable in some areas of the Industrial District under certain circumstances and with the ability to set conditions as warranted.” We continue to believe this today and do not believe this location is appropriate for a junk yard given its high visibility along and near the heavily traveled corridors as well as the precedent it might set from a location perspective of where such uses are appropriate. Staff acknowledges that there is a fine line between the different types of vehicular sales, repair, storage, and salvage uses, the latter which is not a use permitted by right in any zoning district. For example, there are vehicle sales, repair, and towing businesses that as part of their business operations store inoperable, wrecked, or salvage vehicles for a period of time. However, the storage of these vehicles appears to be more accessory to their sales, repair, or towing business operations and generally includes fewer inoperable, wrecked, and salvage vehicles and which appear to be stored on a shorter-term basis. The proposed use herein would be a principal use of the site.

Staff recommends denial of the special use permit request.

If, however, there is a desire by Planning Commission or City Council to approve the request, staff believes the following conditions should be attached to the request:

- 1) The SUP is limited only to the type of rebuilder, salvage dealer, and salvage pool operations proposed in this application.
- 2) The junk yard shall be restricted the storage area illustrated in the attached Exhibit A.

- 3) Screening of the junk yard must include a fence or wall and shall not consist solely of plant materials as otherwise allowed by the Zoning Ordinance for screening purposes. Screening materials shall not consist of tarps or other similar material.
- 4) If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 is intended to limit the uses to those proposed by the applicant and to prohibit operations such as demolishers, recycling facilities, scrap yards, and other operations typically considered junk yards. Condition #2 will limit outside storage and repair of inoperable and salvage vehicles to the area behind the existing principal building. If a second building is constructed closer to North Liberty Street, the area behind that new building could not be used for storage and repair of inoperable and salvage vehicles. Condition #3 adds additional requirements related to screening. Know that the ZO already requires junk yards to be screened by fences, decorative walls, or other physical or structure enclosures that are opaque to obstruct the view of storage materials that shall be at least six feet in height with a maximum of eight feet in height. It also allows plant materials to be used for screening purposes if they are three- to four-feet in height at the time of planting and meet the same intent to obstruct view of storage materials; however, staff is suggesting that in this case, plant materials alone cannot be used to meet the screening requirement as staff believes an immediate screen would be needed. Finally, condition #4 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the special use permit request as submitted;
- (b) Approve the special use permit request with suggested conditions;
- (c) Approve the special use permit with other conditions(s); or
- (d) Denial of the special use permit request.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing and twice advertising for the City Council's public hearing. The advertisement was published as shown below:

Special Use Permit – 1207 North Liberty Street (To Allow Junk Yard in the M-1 District)

Public hearing to consider a request from Ahmed Abdullah for a special use permit per Section 10-3-97 (14) of the Zoning Ordinance to allow a junk yard, which shall be screened within the M-1, General Industrial District. The Zoning Ordinance defines junk yards as “[a]ny space or area or portion of lots used for the storage, sale, keeping or abandonment of junk or waste materials, including used building material, or for the dismantling, demolition, sale or abandonment of automobiles and other vehicles,

machinery or parts thereof.” The +/- 2-acre property is addressed as 1207 North Liberty Street and is identified as tax map parcel 46-B-6.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City’s website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (d) denial of the special use permit request.

Attachments:

1. Extract from Planning Commission
2. Site maps
3. Application, applicant letter, and supporting documents
4. Exhibit A. Illustration of Condition #2

Review:

Planning Commission recommended (6-0, Orndoff not present) alternative (d) denial of the request.