

1. **ZOTA 2013-8: AMEND THE DEFINITION OF VEHICLE STORAGE YARD** – petition for a Zoning Ordinance text amendment to Article 1-11 to amend the definition of “vehicle storage yard” to allow inoperable vehicles to be stored no longer than 60 days in a vehicle storage yard.

REQUESTED BY: L. Roberts Properties, LLC

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS

VEHICLE STORAGE YARD – A place where vehicles which bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

STAFF ALTERNATIVE TEXT:

VEHICLE STORAGE YARD – A place where vehicles which have a current vehicle registration and bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

The Zoning Committee Recommended: Approval of the Staff Alternative text, for the reason provided by staff.

The Staff Recommends: Approval of the staff alternative text, for the following reason:

1. The proposed text amendment to modify the definition of “vehicle storage yards” to permit temporary storage of inoperable vehicles for a maximum of 60 days is logical and consistent with state law, as well as community and national business practices.

Staff Presentation: Ms. Wade presented the staff report, explaining that vehicle storage yards are currently permitted in the Light Industrial (I-1) zone as a conditional use. Vehicle storage yards were permitted in the I-1 zone as a principal use prior to 1985, and some of those facilities still exist today; and they are also currently permitted as a principal use in the Heavy Industrial (I-2) zone. The petitioner is requesting to amend the definition of “vehicle storage yard” in the Zoning Ordinance.

Ms. Wade stated that, currently a vehicle storage yard is a place where vehicles that bear a current license plate, and are not used in the conduct of a trade, business, or profession, are kept for 24 hours or longer. The definition excludes or differentiates between some of the other uses in the Zoning Ordinance. It notes that a vehicle storage yard is not a yard for storage of dismantled vehicles; a junkyard; a parking lot; truck terminal; or automobile wrecking yard.

Ms. Wade said that the petitioner is requesting to add a phrase to the existing definition of this use so that inoperable vehicles can be stored in a vehicle storage yard for up to 60 days. She stated that, currently, inoperable vehicles cannot be stored at all at a vehicle storage yard. Following roadway accidents, vehicles are often towed to vehicle storage yards, but that is not actually permitted in the Zoning Ordinance; and those vehicles must instead be stored at a junkyard or repair shop. The petitioner contends that the primary purpose of a vehicle storage yard is to hold vehicles that have been towed due to accidents, parking violations, or repossession. Ms. Wade explained that state law requires that vehicles must be held for 45 days in order to allow for the owner of the vehicle to obtain it; after that time, it is lawful to dispose of it. The proposed definition change would allow the owner of a vehicle storage yard an extra two weeks beyond that state law requirement, to provide for the advertisement and disposal of the vehicles, if necessary.

Ms. Wade stated that the petitioner has indicated that, on average, vehicles stay in the storage yard for only three days. The petitioner also noted that they make it a practice to work with vehicle owners in order for them to regain their property as soon as possible, so it is unusual for any vehicle to remain in the storage yard for the full 45 days.

Ms. Wade added that no work would be done on the vehicles while they were stored in a storage yard; the vehicles could not be dismantled; and the vehicles must have a current license plate. The staff is recommending additional language to require that vehicles also have a current registration, in addition to bearing a current license plate. Ms. Wade stated that the staff and the Zoning Committee are recommending approval of this request, for the reason provided by staff in the staff report.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He stated that the primary

* - Denotes date by which Commission must either approve or disapprove request.

reason for the proposed text amendment is to provide the petitioner with an extra 15 days to dispose of unwanted vehicles after the 45-day waiting period required by state law. He noted that the proposed text amendment would actually impact very few vehicles, since most are removed from the vehicle storage yard within a few days.

Mr. Murphy noted that the proposed text amendment does not relate in any way to the recent rezoning request filed by Pull-A-Part, which was for a junkyard. He said that, as a vehicle storage yard, the petitioner cannot work on cars, remove parts from them, or sell parts to customers. The petitioner's facility retains vehicles, usually for a few days, until they are reclaimed by their owners or inspected by insurance adjusters.

Mr. Murphy clarified, with regard to the staff's proposed additional language that would require stored vehicles to have a current registration, as well as a current license plate. However, the petitioner occasionally receives cars that do not have current registration stickers on their license plates. He explained that the petitioner had discussed that issue with the staff, and the staff agreed that, in emergency situations, it would be allowable for the petitioner's facility to receive such a vehicle.

Commission Questions: Mr. Wilson asked if a vehicle owner would be allowed to remove a part from a car that was stored at the petitioner's vehicle storage yard. Mr. Murphy answered that the vehicle would have to be removed from the premises prior to the removal of any parts.

Citizen Comments: Mike Markland, 1298 Viley Road, stated that he was concerned that text amendments such as this one could "blur the lines between Light Industrial and Heavy Industrial" uses, although he is not opposed to the petitioner's vehicle storage yard facility. He said that he did not want the proposed text amendment to be the first step toward allowing a junkyard in the Light Industrial zone.

Mr. Markland said that he had also attended the recent Pull-A-Part public hearing, during which one of the Commission members had commented that the nearby residents had moved into a subdivision near an industrial park. He stated that he and many of his neighbors had moved into the neighborhood years ago, and that the Planning Commission then allowed zone changes that permitted the industrial park to locate in his neighborhood. Mr. Markland said that he and his neighbors depended on the zoning that was in place when they bought their homes to protect their single largest investments. He asked the Commission members to "not forget the people who lived there before."

Todd Strecker, 1404 Parterre Court, stated that he was also concerned about that property that had been proposed for rezoning by the Pull-A-Part company. He said that he is not opposed to the proposed text amendment, but he is concerned about the loss of Light Industrial property, as well as the possibility of Heavy Industrial uses "creeping" into the Light Industrial zone. Mr. Strecker submitted a written statement for the record, and asked that the Commission not allow the lines between Light Industrial and Heavy Industrial uses to become blurred, which could allow a facility such as Pull-A-Part to locate in an I-1 zone.

Petitioner Rebuttal: Mr. Murphy stated that the petitioner is not proposing to change the zones in which vehicle storage yards are permitted, but is merely "tweaking" the definition of the use. He said that the petitioner understands the citizens' concerns about the possibility of the proposed text amendment altering the I-1 zone such that an automobile salvage yard could be located there. Mr. Murphy said that the applicant and the staff believe that the proposed text has been drafted in such a way that that would not occur.

Staff Rebuttal: Ms. Wade stated that the staff had discussed with the petitioner the necessity to secure a conditional use permit for their vehicle storage yard if they choose to locate in an I-1 zone. That would require a filing to the Board of Adjustment, with required mailed notice and a public meeting. She said that, should the petitioner choose to locate in an I-2 zone, the vehicle storage yard would be permitted as a principal use.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 8-0 (Blanton, Brewer, and Penn absent) to approve ZOTA 2013-8, for the reasons provided by staff, with the staff alternative text.