

NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

RE: 46 MIDDLETOWN AVENUE. Special Permit for operation of motor vehicle junkyard.
(Owner/Applicant: Elm City Properties, Inc.; Agent: Atty Bernard Pellegrino for the
Pellegrino Law Firm.)

REPORT: 1511-04

ACTION: Approval with Conditions

Note: Companion CPC Report 1511-02 for the same site.

Previous CPC Actions: CSPR, CAL, and Special Exception to permit recertification of motor vehicle junkyard (1071-12, 7/13/88); CSPR and CAL for new construction for used car dealer in an IH zone (1112-08, 5/9/90); CSPR, Special Exception, and CAL for motor vehicle junkyard and used card dealer (1152-10, 10/21/92); Special Permit and CSPR for existing motor vehicle junkyard in IH zone (1403-04, 5/16/07)

Submission: Received 9/9/15, including: SPR Application Packet including SPECIAL PERMIT, DATA, and CSPR forms; narrative; application fee of \$540 (including CSPR); existing site plan, drawing revision date November 28, 2006.

BACKGROUND

Per the City of New Haven zoning regulations Sections 46 and 64, Elm City Auto Wrecking, Inc. has applied for a Special Permit (and Site Plan Review including Coastal Site Plan Review: CPC Report 1511-02) for a motor vehicle recycling facility relating to an existing motor vehicle junkyard at 46 Middletown Avenue.

Current site conditions: At present there is one structure on the site, a combination office and warehouse for recovered parts. The north end of the site consists of a vehicle storage area, including outdoor storage of fluids. The site is not paved. The site is accessed through gates on Fawn Street. The site is fenced in with a mix of 8' corrugated metal and chain link fences. A diesel powered car crusher sits on a concrete pad on the east side of the rear yard. A concrete pad for vehicle dismantling lies directly north of the site structure.

Facility description: Elm City Auto Wrecking, Inc. takes in automobiles and small trucks that have reached the end of their useful life. Some vehicles are driven in, some arrive by tow truck or flatbed truck, and some arrive by car carrier. All vehicles that arrive have the gas, antifreeze, and oil drained. The liquids are placed in covered containers for reuse or disposal. Batteries are removed and put on a skid under covered storage for removal by a battery recycler. Once the antifreeze is removed, the radiators are stored within the building in a metal container and removed and scrapped by a metal recycler. Tires are removed and placed in a trailer that is removed when full.

Vehicles chosen to be saved for parts are placed in inventory and piled two high in the yard. Vehicles that are to be crushed are piled near the crusher. When the truck that removes the crushed vehicles arrives, the vehicles are crushed and placed directly onto the truck. Cars are stacked no more than two-cars high, and crushed cars are a maximum of twelve-feet high.

The applicant will prohibit idling of vehicles on site, and will inform vehicle operators of this prohibition by the posting of appropriate language.

Proposed Activity: The proposed activity consists of the continued operation of an automobile recycling facility. No changes are proposed to the site. A previous Special Permit (granted via CPC report 1403-04 on May 16, 2007) expired on May 15, 2012. A cease and desist order was issued on July 1, 2015 by the City Building Official for violating the term of the Special Exception that "no junk yard related business or activities shall be conducted on Fawn Street or Middletown Avenue."

SPECIAL PERMIT

Section 64 of the New Haven Zoning Ordinance states:

Statement of purpose. The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the *use* of land and *structures* and the bulk and location of *structures* in relation to the land are substantially uniform. It is recognized, however, that there are certain *uses* and features which, because of their unique characteristics, cannot be distinctly classified or regulated in a particular district or districts, without consideration, in each case, of the impact of such *uses* and features upon neighboring *uses* and the surrounding area, compared with the public need for them at particular locations. Such *uses* and features are therefore treated as special permits.

Special Permit Criteria	Comments
<p>a. <i>Burden of proof.</i> A special permit shall not be considered an entitlement, and shall be granted by the Commission only after the applicant has demonstrated to the satisfaction of the Commission that all ordinance requirements are met.</p>	
<p>b. <i>Ordinance compliance.</i> The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use as set forth in this ordinance. Any accessory use to a special permit must receive express authorization from the commission.</p>	<p>The proposed use is allowed by Special Permit only in an IH zone.</p>
<p>c. <i>Comprehensive Plan of Conservation and Development.</i> The Commission shall determine if the proposed special permit's use and improvements comply with the City's development plans.</p>	<p>The facility complies with the City's Comprehensive Plan's intended use for this area, which is industrial.</p>
<p>d. <i>Natural features.</i> Special permits must preserve trees and other natural site features to the greatest extent possible so as to minimize their impact upon surrounding properties and the district, and must not have an adverse impact on significant scenic vistas or on significant wildlife or vegetation habitat.</p>	<p>No natural features are impacted by the proposed site plan.</p>
<p>e. <i>Hazard protection</i> The proposed use shall not have a detrimental impact upon the use or peaceable enjoyment of abutting or nearby properties as a result of vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare, hazardous material use, storage, transportation or disposal, or similar conditions.</p>	<p>The exhaust from vehicular traffic (such as the particulate matter emissions) is a health hazard and should be minimized as much as possible. In particular, idling should be discouraged as much as possible through appropriate signage and active vigilance on the part of Elm City Auto. Idling is prohibited per RCSA §22a-174-18, and adherence to the idling prohibitions stipulated therein is necessary to satisfy the Hazard Protection requirement of the Special Permit.</p>

<p>f. <i>Historic preservation.</i> Features of historic significance shall not be significantly adversely affected by the granting of any special permit. If the subject property is within or abuts a historic district, the Commission may request a report from the Historic District Commission regarding those features essential to preserve the historical integrity of a building, district, or site or historical significance.</p>	<p>There are no historic structures on site and the site is not located in an historic district.</p>
<p>g. <i>Design and architectural compatibility.</i> The operational and physical characteristics of the special permit shall be compatible with the surrounding area and the neighborhood in which it is proposed. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access, and circulation, building style and height, bulk scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials, and colors.</p>	<p>The site is in an established commercial/industrial area. In July 2015, the City Building Official issued a cease and desist order to Elm City Auto Wrecking for unauthorized use of Fawn Street as a dumping ground for junked cars. Since that time, the applicants have removed cars from Fawn Street and stored cars on site in compliance with City regulations and terms of the site's 2007 Special Permit. Now that all activity is contained on site, it is compatible with the surrounding industrial/commercial land uses.</p>
<p>h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.</p>	<p>The site is in an established commercial/industrial area, and the continued use of this property as a motor vehicle recycling facility should not have a detrimental effect on surrounding property values.</p>
<p>i. <i>Traffic impact.</i> The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation on, adjacent, or nearby the site. The Commission may require a traffic impact study be submitted to it by the applicant for any special permit use of land. The study shall consider traffic patterns and adequacy of proposed off-street parking and loading resulting from the proposed development.</p>	<p>The site does not generate a disproportionate amount of traffic.</p>

Section 46 of the New Haven Zoning Ordinance states:

d. In evaluating an application made under this section for a special permit to continue the operation of an existing, nonconforming facility, the Commission shall take into consideration the health, safety and welfare of the public, in general, and the neighborhood, in particular. The Commission may grant a special permit with conditions attached thereto for the purpose of assuring compatibility with the neighborhood and protection of the health, safety, and welfare of the public in general. In so determining, the Commission shall consider the following operational criteria:

New Haven Zoning Ordinance §46 Criteria	Comments
1. Traffic and access to the site;	The site has adequate access and the traffic around the site is not anticipated to increase appreciably under the Special Permit.
2. Potential air and water quality impact;	See Comments for <i>e. Hazard Protection</i> with regards to air quality impact from idling vehicles at the site.

3. Potential for creating a nuisance;	The area is industrial and no nuisance is foreseen given the site use.
4. Facility size;	The facility size is consistent with the other uses in the area and does not pose a problem.
5. Proximity to sensitive receptors including but not limited to schools, community gardens, parks, playgrounds, day care facilities, health care facilities, nursing homes, and residences;	The site is not close to any sensitive receptors.
6. The effectiveness of screening available or to be provided, visibility from the highway, and the extent to which the operator's plans address health, safety and aesthetic concerns;	The fence around the perimeter of the site adequately screens the site if kept in good repair. However, the site is visible from I-91, and Elm City Auto is encouraged to keep the cars stacked in an orderly fashion in the yard, and minimize the number of cars in the yard.
7. Whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in improved parking areas specifically designated for this use;	All vehicles should be kept in the interior portion of the site. No cars awaiting dismantling or otherwise involved in the recycling operations of the site should remain outside the site fence on Fawn Street.
8. Presence of other potential nuisance sources and evaluation of the cumulative impacts on public health and safety;	N/A
9. Criteria set forth in section 64(e), as appropriate;	See previous table.
10. The degree to which the use can economically be made to comply with the requirements set forth in section 46(d)(3) hereof;	There are no comments specific to these criteria.

PUBLIC HEARING: To be summarized after public hearing.

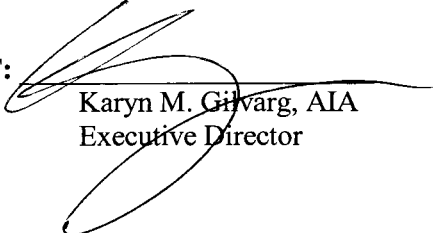
CONDITIONS OF APPROVAL:

The conditions of approval of the Special Permit under §64 and §46 of the New Haven Zoning Ordinance and the Coastal Finding are as follows:

1. Operations shall be conducted in a manner consistent with the plans and application submitted on September 9, 2015, unless modified herein. The Special Permit shall expire on October 21, 2020.
2. The special permit is granted to Elm City Auto Wrecking (Elm City Auto) for its sole use and is not transferable or assignable without the express approval of the Commission.
3. The applicant shall record on the City land records an original copy of this Special Permit report (to be provided by the City Plan Department) and shall furnish written evidence that the document has been so recorded (showing volume and page number) to the City Plan Department within 30 days of the date of publication of approval.
4. Cars shall be stacked no more than two cars high, and crushed cars a maximum of 12' high. With approval of the Director of City Plan, the applicant shall provide means for easily ascertaining the height of the metal piles on the site, such as two measuring poles installed in appropriate locations on the site.
5. No municipal solid waste as defined by the Connecticut General Statutes shall be accepted/handled/stored at the site.

6. No other materials otherwise regulated under §46d shall be accepted at the site, other materials associated with automobile recycling.
7. The applicant shall prohibit idling (per the guidelines in RCSA §22a-174-18) of vehicles on-site and inform vehicle operators of this prohibition through signage on the premises and enforcement by facility operators and/or the Livable City Initiative (LCI).
8. No hazardous wastes as defined by the Connecticut General Statutes shall be accepted, disposed, stored or otherwise handled at the facility other than those associated with automobile recycling. Storage shall be done in conformance with proper fire control measures.
9. Fire lanes on the site shall be 24' wide.
10. No trailer, trucks, or other equipment directly related to the scrap metal operation may be stored on Fawn Street. Any parking of employee or other vehicles on-street shall be parallel to the street.
11. The applicant shall maintain the fence along the perimeter of the site in good condition both structurally and aesthetically.

ADOPTED: October 21, 2015
Adam Marchand
Acting Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director