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Anthony J. Romanello, ICMA-CM

October 24, 2011

H. Clark Leming, Esq.

Leming & Healy P.C.

P. O. Box 445

Garrisonville, Virginia 22463

**Subject: Zoning Administrator Determination**  
Application 1100257 - Tax Map Parcel 21-58

Dear Mr. Leming:

This letter is in response to a Zoning Administrator Determination request submitted by you dated July 25, 2011 on behalf of your client, Smith Industries, Inc., regarding Assessor's Parcel 21-58. Because the subject property is currently zoned under two zoning classifications; M-2, Heavy Industrial and B-2, Urban Commercial, this determination request will consider two issues. The first issue is detailed in number 1.

1. Whether Smith's proposed use on the back portion of Tax Map 21-58, the portion closest to the I-95 Corridor, (a) constitutes a recycling facility/center, and (b) is permitted by-right in the zoning district.

The rear portion of the property is zoned M-2, Heavy Industrial. Recycling facilities are listed as a permitted use by right within this zoning designation. Currently, the Zoning Ordinance defines recycling center as, *a structure, or confined site or place where recycling activities such as the extraction and processing or reprocessing of useful materials from waste, refuse, garbage or other discarded materials take place.* At this time, the Zoning Ordinance does not define recycling facilities.

Currently, the definition of recycling center is being amended as follows to further clarify the use: *Recycling center facilities, a structure, or confined site or place where recycling activities such as the extraction and processing or reprocessing of useful materials from pre-sorted waste, refuse, garbage or other discarded materials take place.* While this change is minor, it is specific that the materials are generated from pre-sorted waste, refuse, garbage or other discarded materials.

If Smith Industries, Inc. proposes to separate and package the ferrous and nonferrous scrap metal material, they are allowed to do so as a by-right use within the M-2, Heavy Industrial zoning district. As long as the materials required for the operation are extracted and processed or reprocessed from useful materials generated from waste, refuse, garbage or other discarded materials, this use is in conformance with the current and proposed definition of recycling center and recycling facilities.



If waste, refuse, garbage, trash or other discarded materials are processed at this site and not delivered to the Stafford County Landfill, owned and operated by the County of Stafford and the City of Fredericksburg, the company would be considered a commercial hauler and in violation of Chapter 21 of the Solid Waste Ordinance.

The second issue is detailed below for the front portion of the property which is zoned B-2, Urban Commercial.

2. Whether Smith's proposed use on the front portion of Tax Map 21-58, the portion closest to the Jefferson Davis Highway Corridor, (a) constitutes medium intensity commercial retail, and (b) is permitted by-right in the zoning district.

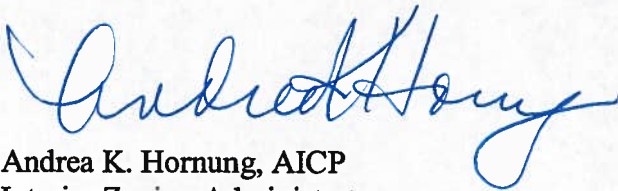
Medium intensity retail is defined as *commercial retail uses that generate between fifty (50) and one hundred (100) average daily trips per one thousand (1000) square feet of gross floor area as indicated by the current edition of Trip Generation published by the Institute of Transportation Engineers*. Smith Industries, Inc. proposes to sell scrap metals utilizing the front portion of the property zoned B-2, Urban Commercial. As long as not more than one hundred (100) average daily trips are generated per one thousand (1000) square feet of gross floor area, medium intensity commercial retail is a by right use in the B-2, Urban Commercial zoning district.

In summary and for the abovementioned reasons, the Zoning Administrator determination affirms that:

- provided the proposed use does not violate the Stafford County Code Section 21, Solid Waste Ordinance, the use of a recycling facility/center on the M-2, Heavy Industrial rear portion of the property constitutes a by-right use and allowed by the M-2 zoning district; and
- the sales of scrap metal on the B-2, Urban Commercial front portion of the property is a by-right use and allowed by the B-2 zoning district.

This determination may be appealed to the Board of Zoning Appeals within thirty (30) days of this decision, in accordance with 15.2-2311 of the Code of Virginia, or this decision shall be final and unappealable.

Sincerely,



Andrea K. Hornung, AICP  
Interim Zoning Administrator

Enclosures (3)

Cc: Anthony Romanello, County Administrator  
Keith Dayton, Deputy County Administrator  
Jeff Harvey, Director of Planning & Zoning  
Cardell Banks, owner