## EXHIBIT C. MEMORANDUM FROM STAFF

From: Oksana Polhuy, Planning Administrator
To: Lapel Board of Zoning Appeals
Date: 10/4/2023
RE: BZA-2023-01

There were a few planning-related topics mentioned during the hearing and staff would like to address them in this memo.

## Submittal Documents

It was noted during the public comment that the sewer letter and the warranty deeds were missing from the applicant's packet posted online. The warranty deeds were linked in the title document. Staff extracted and attached them so that they are more obvious. The sewer letter was submitted by the applicant at the rezone application in June and staff attached that letter to the revised online packet.

## Conditions in the Staff Report

Staff has edited and added some conditions to the Staff report. Since the findings of fact are based on the petitioner's commitment to store only vehicle carcasses, the staff proposes to add an explicit commitment that that's the only kind of vehicle item that may be stored in the outdoor yard. The reason behind some of the changes are noted throughout this memo.

## Traffic Study

It was noted during the public comment that a traffic study would be needed. Lapel's UDO doesn't explicitly require it. Since this project is located on the State road, the state INDOT would have to review the permit application for any road improvements to this road. Typically, INDOT may require a traffic analysis or a study to determine what kinds of improvements are warranted based on the traffic level. This is done during the permitting stage.

## Fire Hydrant

A written testimony had concerns about the location of existing fire hydrants that may be too far away.

Lapel's UDO permits the use of dry fire hydrants on site in the General Industrial zoning district (V 10.2.9.I), "In locations where fire hydrants served by a public water system cannot be provided, dry hydrants shall be provided in all lakes and storm water retention and detention ponds subject to the specifications of the appropriate local fire department." This item would be reviewed during the permitting stage.

## Light Pollution

A concern about the light glare from the storage yard onto the surrounding uses was brought up during the public hearing. Lapel's UDO has the following regulations in place relevant to the storage yard (V 10.2.11):

- Lighting on each lot shall be designed to reduce light pollution while providing the maximum light necessary for security and safe pedestrian movements.
- All freestanding lights and lights mounted on walls or facades must have cut-off luminaries with 90 degrees or less of an angle (downlighting). (See Figure
 V10.2.11.1)
- Measurements of light readings shall be taken along any property line of the subject property with a light meter facing the center of the property at a height of six (6) feet.

The light standards do not explicitly go over the lighting in the storage yards and the regulations do not require a lighting plan explicitly during the permitting stage to ensure that the lighting is designed to produce little to no glare at the property line. Due to that, staff proposes to add the following condition to approval that would be enforceable during the permitting stage to safeguard the surrounding property uses from the noise pollution: "Where exterior lighting is provided, lighting levels for all areas shall be designed and located so that the illumination measured in foot-candles along the property lines shall be at or below 1.0 foot-candle. The applicant shall submit a lighting plan during the "Development Plan" / "Improvement Location Permit" stage showing a photometric layout indicating all photometric calculations including foot-candle levels on a regular grid across the site and extending beyond the lot; and the aiming direction of the light fixtures."

## Noise

Concerns were expressed about the noise produced by the operation. Lapel's Town Code has some noise provisions, but they may be a little too vague for this case. Staff proposes the following possible solutions:

1. Add a condition to limit operation hours. The range could be $7 \mathrm{am}-10 \mathrm{pm}$ on week days and a different range on weekends.
2. Add a condition about limiting blasting operations only on the week days and maybe giving a range of hours when that may occur.

Other communities handle noise differently. Noise regulations are typically noted in the town codes and then zoning ordinances may add additional standards to specific uses. Here are some examples:

- Indianapolis zoning ordinance has noise-specific regulations for mining operations, "The sound level created by any source shall not exceed $70 \mathrm{~dB}(C)$ and $60 \mathrm{~dB}(A)$, measured at the lot line except along a lot line contiguous to another property owned
by the same property owner and approved for mining operations. Sound pressures shall be measured with a sound level meter meeting the standards of the American National Standards Institute's "American Standard Specification for General Purpose Sound Level Meters.... The following uses and activities shall be exempt from noise level regulation: noises of safety signals, warning devices, emergency pressure relief valves, and other emergency activity." There is a separate section on noise regulations of blasting activities that limits surface blasting to happen between 10 am and 3 pm on Mondays-Saturdays and subsurface blasting between 1 pm and 6 pm .
- Fishers zoning ordinance has a noise-specific regulation for car washes located within 200 feet of a residential use, "All vacuuming and compression machines located outside of the enclosed building shall be of a design that does not exceed a noise level reading of $45 d B(A)$, as measured from the property line, between the hour of $6 A M$ to 7 AM and $55 \mathrm{~dB}(\mathrm{~A})$ at all other lawful hours of operation. Operation of the establishment shall be prohibited prior to 6 AM and after 11 PM on all days of the week."
- Noblesville's zoning ordinance has a certain maximum decibel level for industrial, commercial, and residential uses in general during the day and night measured at the property line, with some exceptions. For example, industrial uses shouldn't go over 65 dB during the day and 60 dB during the night. When the day and the night starts/ends is unclear.
While the examples above differ and aren't consistent, they show a general pattern of the items that could be included into a condition if the Board desires to add it:
- Limit on hours of operation.
- Limit on the noise created to be measured in $\mathrm{dB}(\mathrm{A})$ at a property line at different times.
- Exemptions of certain "momentary" activities that don't occur the whole day, but occur for a few minutes.

Generally known decibel levels:

- Subdivision at night: 40 dB .
- Human normal conversation: 60-70 dB.
- Washing machine: 70 dB .
- Gas-powered lawn mowers: 85 dB .

Prolonged exposure over time to constant noises over 70 dB may start damage to hearing per CDC.
If BZA would like to add a condition about the noises, staff recommends something along the lines of, "The noise of normal operations of the use shall not go over 70 dB (A) during the day on weekdays (defined hours) and 55/60 dB at night (define hours), weekends (define days) and holidays. The crushing activities shall be limited to the following days and time of operation: [define] .... The noise produced by crushing may exceed the noise of the normal operation by 10$20 \mathrm{~dB}(\mathrm{~A})$ for a single period no longer than [15-30] minutes a day. The noise level shall be measured at the property line with a sound level meter meeting the standards of the American

National Standards Institute. The instrument shall be set to the A-weighted response scale and the meter to slow response."

## Fence Material

Lapel's UDO states that the fence surrounding the vehicle junk yard should be made out of 100 \% wood, stone, or masonry fence. The general fence regulations in the General Industrial district ( $V$ 10.2.22) and fence regulations within the landscaping and screening portion of regulations (V 10.2.7) do not allow chain link and barbed/razor wire fencing (or do not allow unless a permit is applied for a chain link fence and a certain PVC coating is applied).

Finally, Lapel's UDO within "fences and walls" section states the following, "In instances when special uses in the Ig District require Fence \& Wall Standards that are different than those in this section (for reasons of public health, safety, and welfare), the Plan Commission or Town Council may modify the requirements of section V10.2.22 to accommodate the needs of the development."

Due to a variety of types of fences permitted in the General Industrial district for other uses, staff interpreted that the main goal of stating different material types within the "junk yard" section was to stress that the fence should be opaque to visually screen the view onto the yard. There is no such requirement for any other storage yards or other industrial activities. It is possible that at the time of passing the ordinance, a metal opaque fence was not a common material and was omitted from the list of permitted materials.

Staff believes that the choice of material for the fence would be best if it matched the overall architecture of the building so that the overall look of the site is consistent. An industrial building with "concrete panel" outside look and a wooden fence may look at odds, though the wooden fence would be permitted.

It is within the Board's power to interpret this regulation differently from staff and ask the applicant if they can provide a material listed in the ordinance.

## Water Quality

The biggest public concern about this proposal is how the proposed use could affect water quality in the area. Staff expressed a general opinion that a lot of environmental regulations come from the federal and state laws and are enforced by IDEM. When the applicant applies for the permits with IDEM, that would be the time when the petitioner would need to prove to the state that it can abide by those standards.

Additional conversations with IDEM resulted in the following findings:

- LKQ currently has stormwater runoff permits for all of its salvage yards in Indiana.
- LKQ has license to operate all salvage yards in Indiana.
- LKQ would need to apply for a "disturbance of more than 1 acre" permit, a state license to operate a salvage yard, and possibly a stormwater runoff permit depending on the type and scale of their activity.
- If any other environmentally sensitive areas like wetlands and floodplains are proposed to be disturbed, there would be an additional permit for that.
- IDEM doesn't test the groundwater before a use goes in. However, if a spill is reported, IDEM will send someone to investigate the spill.
- When IDEM looked at the water maps for the project site, it didn't find any special environmental sensitivities.


## Is the project site located over a Wellhead Protection Area?

A Wellhead protection area is an area that a public water supplier may establish around the wells that provide the water to the public. The water supplier creates a plan for managing water quality and contingency plans if the spills happen. Indiana Code also has a few more regulations that apply to certain uses located inside of the wellhead protection area.

LKQ's site is NOT located in any wellhead protection area (see Figure 1 and 2):

## 5. Indiana Department of Environmental Management

## Source Water Proximity Determination Tool



Figure 1

## E. Indiana Department of Environmental Management

## Source Water Proximity Determination Tool



Figure 2

In addition to the information above, staff added a map from South Madison Citizens water. They have a Wellhead Protection Area around their well located 0.65 miles north of LKQ's site.

How far are the community wells from LKQ's site?
Per the information from the map of "unconsolidated aquifers" of Madison County, there is a Citizen's well located 0.65 miles north of the project site and Town of Lapel's well 0.54 miles north of the project site (Figure 3).

## Aquifer Maps

Madison County Aquifer Maps show that there is some sort of bedrock or unconsolidated aquifer under every acre of land in the county. So, simply saying that a use should not be allowed because it's


Figure 3
"over an aquifer" would be impractical.
We can analyze the information on those maps to see if there anything else specific to the aquifers and the flow of water around the project site.
The bedrock and unconsolidated aquifer maps provide explanation for each "material", its thickness, ability to produce water, and its susceptibility to contamination. This is what the map states about the bedrock and the unconsolidated material under the project site:

- Bedrock. Silurian and Devonian Carbonates Aquifer System.
- This aquifer system is generally not very susceptible to surface contamination due to thick clay deposits over most of the county. However, there are localized areas, especially near the White River, where the bedrock surface is shallow. These areas, therefore, are at moderate to high risk to contamination.
- Unconsolidated Aquifer. Bluffton / New Castle / Tipton Till Aquifer Subsystem
- This subsystem is generally not very susceptible to surface contamination because intertill sand and gravel units are overlain by thick till deposits. Wells producing from shallow aquifers are moderately to highly susceptible to contamination.

The potentiometric maps can shows us an approximate direction of surface and ground water movement. In the vicinity of the project site as well as north and south of it, the water would generally move from east to west.

Since the most probably pollution source on LKQ's site, like on any parking lot or road, is the surface water runoff that then infiltrates into the ground is groundwater, it's prudent to look at where it's going to go. In general, the applicant already shows on the site plan the location of their retention/detention pond where stormwater will be collected before it's released into the nature. It's shown on the northwest side of the lot. Typically, sites need to be constructed in a way that the site would collect all stormwater produced by the activity and move and treat it in a way that doesn't negatively affect the surrounding properties. The reviews are done by the

Drainage Board (likely Madison County) and possibly by IDEM during the stormwater runoff permit review.

If the Board wants to know of the general direction of surface water flow, staff recommends looking at the topographic maps of Madison County (MCCOG's website). It shows that the ground elevations of the sites to the west of LKQ's site are higher than LKQ (862-864), SR 13 is generally 862 , and then the elevations reduce from 860 to 842 across LKQ's site until it reaches the creek. Then the elevations increase back up west of the creek. The elevations of the sites north and south of LKQ follow LKQ's overall pattern of elevation reduction east to west. So, the overall groundwater flow pattern is east to west. Also, creek's elevations are higher north of LKQ's site than south. So, the overall flow of the water in the creek is north to south.

## Citizens South Madison Wellfield Wellhead Protection Areas



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## POTENTIOMETRIC SURFACE MAP OF THE BEDROCK AQUIFERS OF MADISON COUNTY, INDIANA







## UNCONSOLIDATED AQUIFER SYSTEMS OF MADISON COUNTY, INDIANA





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## POTENTIOMETRIC SURFACE MAP OF THE UNCONSOLIDATED AQUIFERS OF MADISON COUNTY, INDIANA




[^0]:    Sources: Citizens Energy Group, U.S. Department of Transportation, U. S. Geological Society National Hydrography Database

