

## DUMFRIES, VIRGINIA

Virginia's Oldest Continuously Chartered Town  
CHARTERED 1749 INCORPORATED 1961

John Wilmer Porter Building  
17755 Main Street  
Dumfries, Virginia 22026-2386  
Tel: 703-221-3400 / Fax: 703-221-3544  
www.dumfriesva.gov

### MEMORANDUM

---

TO: Town of Dumfries Planning Commission  
FROM: Nick Rogers, AICP, Community Development Director  
DATE: August 3<sup>rd</sup>, 2016  
MEETING: **Monday, August 8<sup>th</sup>, 2016**  
RE: ZTA 2015-002 Review and Recommendation

---

#### Executive Summary

Town Council has requested review and recommendation from the Planning Commission on whether the Zoning Ordinance should be amended to add the following use as an allowable use under §70-247(A) in the B-1 District provisions:

(34) Parking lots as a principal use, provided that the parking lot shall have a maximum of four parking spaces and shall be limited to vehicles with a gross vehicle weight rating (GVWR) of no more than 10,000 lbs.

The proposed text is tailored to the proposed use of the property by the applicant. Based on the action taken by the Board of Zoning Appeals on September 16<sup>th</sup>, 2015, the applicant would still need to secure approvals for a minor Water Quality Impact Assessment and a Stormwater Pollution Prevention Plan prior to establishing the use. The applicant still seeks to establish a fenced parking lot for the use of a contractor establishment headquartered at a separate location. The parking lot would serve as remote parking for the contractor's vehicles.

Staff recommends that the Commission review the text in advance of a public hearing to be advertised for the September 12<sup>th</sup>, 2016 Commission meeting. The Commission can hold the hearing and adopt a motion with its recommendation to Town Council to either approve or deny the text.

#### Standard of Review

Section 70-646 of the Zoning Ordinance gives Town Council the authority to adopt an ordinance to amend, supplement, or change the regulations prescribed in the Zoning Ordinance. Such amendments to the Zoning Ordinance may be made whenever required by public necessity, convenience, general welfare, or good zoning practice.

## Background

On July 31<sup>st</sup>, 2015, Dorothea Barr submitted a Variance application requesting relief from the B-1 use regulations in §70-247(A) and (B) as well as the Resource Protection Area (RPA) regulations found in §70-444, 448, 451, 451, and 453 of the Zoning Ordinance pertaining to plans of development, redevelopment performance, erosion and sediment control, and water impact studies. The Variance was requested to allow for the construction of a security fence and for the establishment of a parking lot for commercial vehicles at 17785 Fraley Boulevard. A portion of this property lies within the Resource Protection Area (RPA), and the proposed construction would encroach into the RPA. Since parking lots are not uses allowed by-right or by Conditional Use Permit in B-1 Districts, and since the proposed use and development would not be permitted under the provisions of the Chesapeake Bay Preservation Act Overlay District, the applicant sought relief from compliance with these regulations through the Variance.

The Variance application also outlined the applicant's preferred changes to the B-1 District provisions. The applicant's preference was to change *garages and public parking* from a use only allowable with a Conditional Use Permit to an allowable use by-right listed under §70-247(A) of the Zoning Ordinance. The applicant also requested the addition of *contractor parking and equipment storage* as an allowable, by-right use in B-1.

On September 16<sup>th</sup>, 2015, the Board of Zoning Appeals (BZA) held a public hearing for the Variance request. The BZA approved the Variance subject to the following conditions:

- That a Zoning Text Amendment pertaining to parking in the B-1 District is approved by Town Council; and,
- That a minor Water Quality Impact Assessment report is conducted and satisfactorily reviewed and approved by the Town's Director of Public Works; and,
- That a Stormwater Pollution Prevention Plan is submitted and approved.

On October 19<sup>th</sup>, 2015, the Planning Commission reviewed and discussed the applicant's preferred changes to the Zoning Ordinance as outlined in the variance application. The discussion took place during the Commission's work session with the applicant and the subject property's owners present.

On October 26<sup>th</sup>, 2015, the applicant filed the application form and supporting documents for a Zoning Text Amendment (ZTA) to change the B-1 District provisions in the manner previously described. In the event that the ZTA was not approved by Town Council, the applicant noted on the application form that they would like to apply for a Conditional Use Permit (CUP) for the ability to use the property as a *garage or public parking* as well as *contractor parking and equipment storage*. Since neither use was listed at the time as uses allowable by CUP in §70-247(B), no CUP review was initiated by staff or presented to the Planning Commission or Town Council.

On November 9<sup>th</sup>, 2015, the Planning Commission held a public hearing for the ZTA and unanimously voted, with Mr. Gary West abstaining, to recommend denial of the ZTA to Town Council.

On January 19<sup>th</sup>, 2016, Town Council reviewed the ZTA at its work session and directed staff to move forward with the scheduling of a public hearing for the ZTA.

On March 1<sup>st</sup>, 2016, Town Council held a public hearing on the proposed ZTA. Staff recommended denial of the amendment due to the lack of appropriateness for parking lots as a primary use in the B-1 District. Staff concluded that such a use was not aligned with the purposed and intent of the B-1 District provisions. Staff was concerned with the ability of any property owner with B-1 zoned property establishing a parking lot, not just the property owners of 17785 Fraley Boulevard. After discussing the request, Council denied the ZTA for the parking of private work trucks and related equipment to be added as an allowable use to the B-1 District. Council also adopted a motion directing staff to draft a text amendment that was more restrictive than what was initially presented and to bring the item back to Council for review at a work session.

Staff met with the applicant on May 13<sup>th</sup>, 2016 to discuss the progress of bringing draft text language back to Town Council for review. Staff directed the applicant to confirm the desired use of the property in writing so that a determination letter could be issued for the proposed use.

On June 17<sup>th</sup>, 2016, staff issued a use determination for the applicant's proposed use of the property. The determination letter is enclosed as Appendix 1. Staff's determination is that the proposed use would be considered a *parking lot* per the definition listed in §70-1 of the Zoning Ordinance.

Based on this determination and Council's direction from the March 1<sup>st</sup>, 2016 meeting, staff wrote draft text language Staff met with the applicant on June 27<sup>th</sup>, 2016 to discuss the draft language prior to Council's review of the new language. The draft language is enclosed as Appendix 2.

On July 19<sup>th</sup>, 2016, Town Council reviewed the draft text and adopted a motion directing the Planning Commission to review the draft text that Council had asked for and to solicit a recommendation on whether the text should be approved. The Council's motion directed the Planning Commission to make the recommendation at a public hearing to be scheduled for the Commission's September 12<sup>th</sup>, 2016 meeting.

--

As always, please feel free to contact me at [nrogers@dumfriesva.gov](mailto:nrogers@dumfriesva.gov) or at 703-221-3400 (ext. 146) with questions or other discussion matters.

## **Appendices**

1. June 17, 2016 Use Determination Letter
2. Proposed Zoning Text



## DUMFRIES, VIRGINIA

Virginia's Oldest Continuously Chartered Town  
CHARTERED 1749 INCORPORATED 1961

John Wilmer Porter Building  
17755 Main Street  
Dumfries, Virginia 22026-2386  
Tel: 703-221-3400 / Fax: 703-221-3544  
[www.dumfriesva.gov](http://www.dumfriesva.gov)

June 17, 2016

### Via Email

Dorothea Barr  
Barco Realty  
Montclair, VA 22025

RE: Zoning Use Determination for 17785 Fraley Boulevard (GPIN 8189-91-2342)

Dear Ms. Barr:

This letter is in response to your May 13<sup>th</sup> email request, further clarified by your May 16<sup>th</sup> email, for a Zoning Use Determination for the above mentioned property. As I understand it, you are asking for clarification on how the Zoning Ordinance would define the parking of commercially used vehicles on the aforementioned property. The determination would be associated with the review of a Zoning Text Amendment related to this type of use to be reviewed by Town Council.

As I understand it, the property would be used by a contractor establishment headquartered at a separate location as remote parking for its vehicles. Employees would travel to 17785 Fraley Boulevard ("the subject property") from their homes, park their personal vehicles, and then drive commercial vehicles typically parked on the subject property to a contracted job site. The employees would return to the subject property at the end of their shift, park the vehicles associated with the contractor establishment, and then drive home in their personal vehicles.

You have indicated that the contractor establishment would seek to construct a fence that would enclose the area on the subject property with the parked commercial vehicles. In discussions with Town staff and at Town Council meetings, you have referenced the contractor establishment's intent to park approximately four commercial vehicles on the subject property. No other structures would be constructed on the subject property, and the contractor's establishment does not intend to relocate its other business operations to the subject property.

Based on the information provided and outlined above, it is my determination that the proposed use of the property would be defined as a *parking lot* by the Town of Dumfries Zoning Ordinance. Section 70-1 of the Ordinance defines a parking lot as described on the following page:

*Parking lot.* An off-street (i.e., not a public street or alley), ground level area, paved in accordance with town parking lot standards, for the short- or long-term storage of motor vehicles.

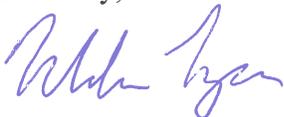
The subject property is zoned B-1: General Business. Parking lots are not listed among the allowable uses for the B-1 District (§70-247(A)), and they are not listed among the uses allowable pursuant to a conditional use permit (§70-247(B)). Parking lots are listed in §70-247(C) as a permitted *accessory use*, which is defined in §70-1 as a “use of a nature customarily incidental and subordinate to the principal use and, unless otherwise specifically provided, on the same lot.” Based on these regulations, a parking lot may not be established at the subject property unless it is customarily incidental and subordinate to a principal use.

The subject property is also subject to the provisions of the Chesapeake Bay Preservation Area Overlay District (CBPA-OD) and the Floodplain District (FP-1). Use and development of the property shall also conform to the provisions of these two districts.

This determination has been made in my capacity as the appointed Zoning Administrator for the Town of Dumfries, and addresses only the issues discussed herein. As outlined in Article VI of the Zoning Ordinance, anyone aggrieved of this determination may appeal the decision to the Board of Zoning Appeals. The filing fee for an appeal is \$600. Applications for an appeal are available in Town Hall and on the Town’s website. Such appeal shall only be taken within 30 days after the decision appealed from by filing with the Zoning Administrator and the Secretary of the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. Appeals will be scheduled and advertised for a public hearing for the Board of Zoning Appeals within 90 days to consider the appeal.

Should you have any questions, please contact Nick Rogers at 703-221-3400 (x146).

Sincerely,



Nick Rogers, AICP  
Director of Community Development

Enclosures

Cc: Property Owner  
Douglas V. and Danila J Gonzalez  
1601 Maurice Dr.  
Woodbridge, VA 22191

**AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL HELD ON TUESDAY, \_\_\_\_\_, 2016, IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA: ON A MOTION DULY MADE BY \_\_\_\_\_, AND SECONDED BY \_\_\_\_\_, THE FOLLOWING RESOLUTION WAS ADOPTED BY THE FOLLOWING VOTE:**

Charles C. Brewer, \_\_\_\_\_;  
Brian K. Fields, \_\_\_\_\_;  
Gerald M. Foreman, II, \_\_\_\_\_;  
William A. Murphy, \_\_\_\_\_;  
Gwen P. Washington, \_\_\_\_\_;  
Melva P. Willis, \_\_\_\_\_;  
Derrick R. Wood, \_\_\_\_\_;

**ORDINANCE AMENDING SECTION 70-247(A), B-1 ALLOWABLE USES OF THE CODE OF ORDINANCES OF THE TOWN OF DUMFRIES PROVIDING ALLOWABLE USES IN THE B-1 GENERAL BUSINESS DISTRICT**

**WHEREAS**, the Town Council for the Town of Dumfries (hereinafter “Council”) has received a Zoning Text Amendment request to allow for the private parking of work vehicles as an allowable use in the B-1 General Business District in the Town of Dumfries; and

**WHEREAS**, the Council desires to adopt revised regulations in the B-1 General Business District to allow for the private parking of work vehicles as an allowable use in the B-1 General Business District in the Town of Dumfries.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Dumfries, Virginia, as follows:

Chapter 70, Article I, Section 247(A) of the Code of Ordinances of the Town of Dumfries, Virginia are hereby created to read as follows on this \_\_\_\_\_ day of \_\_\_\_\_ that the Code of Ordinances, Town of Dumfries, VA, as amended:

**Section 70-247(A). -Allowable Uses**

Structures to be erected or land to be used shall be for one of the following uses. Only one main structure and its accessory building shall be erected on any lot or parcel of land in this district.

- (1) Antique shop.
- (2) Apparel, clothing store.
- (3) Art gallery.
- (4) Art supply store.
- (5) Bakery, provided all products produced on the premises shall be sold at retail on the premises.
- (6) Banks and financial institutions without drive-through windows.
- (7) Barber, beauty shop.

- (8) Beauty supply and accessories.
- (9) Bookstore, newsstand.
- (10) Bowling alley.
- (11) Candy store.
- (12) Clock shop sales and repair.
- (13) Computer store or personal electronic sales and service.
- (14) Data or computer services.
- (15) Dog grooming, with indoor kennel facilities.
- (16) Drug store without a drive-through window.
- (17) Fast food restaurants without a drive-through window.
- (18) Fire station.
- (19) Florist, gift shop.
- (20) Food store: Grocery store, supermarket (excluding convenience or quick service food stores).
- (21) Furniture store.
- (22) Government offices.
- (23) Hardware, paint and wallpaper store.
- (24) Hobby, craft shop.
- (25) Hospitals.
- (26) Hotels and motels.
- (27) Jewelry, engraving store.
- (28) Library.
- (29) Locksmith.
- (30) Medical and/or dental office and clinic.
- (31) Museums.
- (32) Musical instruments, sheet music, and recorded music sales.
- (33) Office, general business or professional.
- (34) Parking lots as a principal use, provided that the parking lot shall have a maximum of four parking spaces and shall be limited to vehicles with a gross vehicle weight rating (GVWR) of no more than 10,000 lbs.
- ~~(34)~~ (35) Photographic equipment sales and service and photographic studio.
- ~~(35)~~ (36) Printing, photocopying, photographic processing or blueprinting.
- ~~(36)~~ (37) Repair services or businesses, including repair of lamps, microwave ovens, radios, shoes, television sets, toasters, toys, watches, and similar items.
- ~~(37)~~ (38) Rescue squads.
- ~~(38)~~ (39) Research and development (Non-hazmat).
- ~~(39)~~ (40) Restaurant, full-service, cafe, catering business, delicatessens or ice cream parlors, for service of food for consumption primarily on the premises, including outdoor eating area, but not drive-in or fast food restaurants.
- ~~(40)~~ (41) Retail stores and businesses.
- ~~(41)~~ (42) Roller rinks.
- ~~(42)~~ (43) Shoe sales and repair store.
- ~~(43)~~ (44) Sporting goods store.
- ~~(44)~~ (45) Stamp and coin stores.
- ~~(45)~~ (46) Stationery store.
- ~~(46)~~ (47) Tailor, seamstress shop.

- ~~(47)~~ (48) Tanning salon.  
~~(48)~~ (49) Tobacco store.  
~~(49)~~ (50) Tourist information and orientation facilities.  
~~(50)~~ (51) Toy store.  
~~(51)~~ (52) Universities, colleges, and seminaries.  
~~(52)~~ (53) Veterinary hospital, state licensed, with indoor boarding kennels and outdoor exercise runs.

**By Order of Council:**

---

Gerald M. Foreman, Mayor

**ATTEST:**

---

Dawn Hobgood, Town Clerk