

November 3, 2016

**Board of Supervisors**

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Mr. Robert B. Goodall  
Goodall, Pelt & Carper, P.C.  
1259 Courthouse Road, Suite 101  
Stafford, VA 22554

**Subject:        *Zoning Administrator Determination; Application ZON16151398; Tax Map Parcel No. 21-54F***

Dear Mr. Goodall:

This letter is in response to your request dated August 2, 2016, for a Zoning Administrator determination regarding the uses permitted on Tax Parcel 21-54F (the "Property"). You requested an interpretation with respect to Stafford County Code Section 28-35, Table 3.1 District Uses and Standards, specifically, whether a particular wholesale motor vehicle sales use falls within the definition of "wholesale business," a by-right use in the B-2, Urban Commercial, Zoning District.

You provided the following description of the use conducted on the Property :<sup>1</sup> motor vehicles are purchased and kept as inventory on site; they are cleaned and if needed, minor servicing and body work are performed to prepare the vehicles for sale; the vehicles are sold mostly to other vehicle dealers either directly, through an auto auction, or over the internet.

You suggest that all the following components are necessary for a retail vehicles sales lot, and since they are not present, the impact of the business is minimal and therefore the business should be considered a wholesale business which is permitted as a by-right use in the B-2, Urban Commercial, Zoning District: there are no advertising signs, "retail" salesmen, or display areas on the premises; customers rarely visit the premises and there are no negotiating of sales and arranging of financing.

The definition (County Code § 28-25) for "motor vehicle sales facility" in the Zoning Ordinance, on its face, is not limited to retail transactions. It is clearly and broadly written to capture all vehicle sales. The definition for "motor vehicle sales facility" is any "building, structure or land used for display, sales or lease of motor vehicles, other than boats." There is no limiting language which excludes motor vehicle sales that are wholesale or otherwise. There is no specification as to who purchases the vehicles, the displaying of vehicles, or if there is any



advertising on the site or the number of employees, which you state are requirements for a retail vehicles sales operation. Contrary to your interpretation, the language of the "motor vehicle sales facility" definition is controlling over the definition for "wholesale business" because it specifically encompasses vehicle sales, rather than "merchandise," which is a broader, less specific, class of goods.<sup>2</sup>

In addition, the Commonwealth of Virginia does not issue a license for a wholesale dealer. Even if it did, that fact alone would not be determinative in the context of interpreting the Stafford County Zoning Ordinance. There are only two types of motor vehicles dealer licenses issued by the Commonwealth, a franchise dealer or an independent dealer. The franchise dealer sells new vehicles from a manufacturer, such as Toyota, Volvo or Ford. The independent dealer sells used cars by any manufacturer.

In the B-2, Urban Commercial, Zoning District the Zoning Ordinance lists a motor vehicle sales facility as a specific use that requires a conditional use permit. As such use is not by-right, the activities described in your request letter cannot be conducted until a conditional use permit for such use is obtained. Additionally, to the extent motor vehicles are only being stored on the Property and not sold, such storage is a non-listed use which requires a conditional use permit pursuant to County Code § 28-37 to be lawful. Therefore, to consider the use conducted at 2951 Jefferson Davis Highway, parcel # 21-54F as a wholesale business permitted as a by right use would be in conflict with how the use of a motor vehicle sales facility is permitted in the B-2, Urban Commercial Zoning district as stated in the Zoning Ordinance.

This determination may be appealed to the Board of Zoning Appeals within 30 days from receipt of this letter, in accordance with Virginia Code § 15.2-2311, or this decision shall be final and not appealable.

If you have any questions or comments, I can be reached by phone at (540) 658-8668 or by email at [sblackburn@staffordcountyva.gov](mailto:sblackburn@staffordcountyva.gov).

Sincerely,



Susan W. Blackburn  
Zoning Administrator

<sup>1</sup> For the purposes of this interpretation, I do not state whether the description of activities accurately reflects the actual use on the Property.

<sup>2</sup> Because the definition of motor vehicle sales facilities controls in this determination, I do not render an opinion as to whether motor vehicles can be considered "merchandise" as that term is used in the definition for wholesale business.