

April 10, 2014

Michael J. Coughlin, Esquire
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
4310 Prince William Parkway, Suite 300
Woodbridge, VA 22192

Subject: Zoning Determination
45 and 60 Ellington Road, Fredericksburg, VA 22406-4806
Assessor's Parcel 35-22, zoned M-1, Light Industrial
Owner - The Crucible II, LLC

Dear Mr. Coughlin:

On behalf of your client, Westlake Development LLC (Westlake), you submitted a request for a determination as to whether the uses your client believes are occurring on Assessor's Parcel 35-22 are in violation of Stafford County Zoning Ordinance. The uses included in your request are the following: the use of outdoor weapons training using live ammunition; the detonation of explosives outdoors as a simulation of improvised explosive devices (IED); and outdoor vehicle defense training.

You also requested that I make a determination on whether a conditional use permit application submitted by the Crucible II, LLC (Crucible) is approvable. Section 28-185 of the Zoning Ordinance states the procedure for submittal and review of a conditional use permit application in addition to the standards of issuance. The Board of Supervisors is charged with the authority to render a decision on the appropriateness of an application, not the Zoning Administrator. Therefore, whether or not an application for a conditional use permit is approvable will not be addressed in this response.

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The first use you listed is the use of outdoor weapons training using live ammunition. In 1999 Crucible submitted an application for a shooting/target range on this property and received approval from the Zoning Administrator. Due to that approval, Crucible continued to operate the shooting range on the property from 1999 until the present. According to County records, renewal of a certificate of approval has been approved for every year to the present except in 2001. To the best of my knowledge these approvals were done in accordance with County Code Section 26-31 through 34. The decision of the Zoning Administrator to allow the use of shooting range was not appealed within the sixty (60) day time period as described in VA Code Section 15.2-2311(c) and therefore the decision to allow the use of a shooting range and associated discharging of weapons on the range is determined to be an approved use on this property and is not in violation of the Zoning Ordinance.

The next use you listed is the detonation of explosives outdoors as a simulation of IEDs. Section 28-39 (b)(3) of the Zoning Ordinance states:

The storage, utilization, or manufacture of explosives on a site shall not exceed five (5) pounds without the written permission of the fire marshal, subject to such conditions as he deems necessary.

In accordance with this section of the Zoning Ordinance and according to County records, an application was submitted in 2005 to the Fire Marshall for a permit to store explosives exceeding five (5) pounds. The application was approved and a permit to store explosives was issued in accordance with regulations as set forth in the Fire Prevention Code. This permit is an annual permit and must be renewed every year in order to be valid. According to the County records, this has been done. This permit for the storage of explosives does not supersede the zoning requirement of County Code Section 28-39(b)(1) that states all uses shall be conducted within enclosed building(s) and I have not been able to determine that an approval for conducting the detonation of explosives outdoors has been granted. Therefore, the use of explosives outdoors is would not be in compliance with the zoning ordinance.

The third use you listed is the outdoor vehicle defense training. The Zoning Ordinance provides for the use of defense driving in the M-1, Light Industrial Zoning District, as part of the definition of an Industrial School which requires the approval for a conditional use permit. However, County Code Section 28-39 (b)(1) of the Zoning Ordinance, and to the best of my knowledge no other section of the County Code, provides for this use to be conducted outside of an enclosed building. After researching the County records, I have not been able to determine that approval for defensive driving conducted outside a building has been granted as a use for this property. Therefore, this use is not in compliance with the Zoning Ordinance.

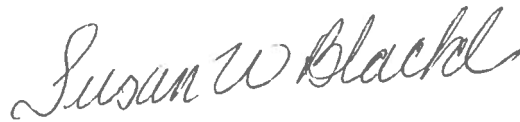
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This determination may be appealed to the Board of Zoning Appeals within thirty (30) days from receipt of this letter, in accordance with 15.2-2311 of the Code of Virginia, or this decision shall be final and unappealable.

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

A handwritten signature in cursive script that reads "Susan W. Blackburn".

Susan W. Blackburn
Zoning Administrator