



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of January 21, 2005

DATE: January 11, 2006

SUBJECT: Ordinance to amend, reenact, and recodify Section 33. Automobile Parking, Standing and Loading Space, Subsection A. General Requirements, Sub-subsection 8., and Section 36. Administration and Procedures of the Arlington County Zoning Ordinance to permit the following secondary use of parking lots that are accessory to places of worship or lodges and that are not operated primarily for commercial gain: (1) Parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use does not exceed (ten (10) percent to 50 percent) of the total number of spaces; and (2) Parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use is for no more than (one (1) day to 90 days) per calendar year; and (3) The County Board may, by use permit approval, as specified in Subsection 36.G. Use Permits, permit the use of parking spaces accessory to those uses to be leased or used under a verbal or written contractual agreement with off-site users to park non-commercial vehicles, when such use exceeds the parameters set forth in subparts 33.A.8.b(1) and 33.A.8.b(2) above. Such use permit may be approved where the County Board finds that such use promotes the effective use of the County's limited parking facilities and does not create adverse impacts on the adjacent neighborhoods and streets and will not result in parking being unavailable for the primary use of the site on which the parking is provided. The County Board may, through such use permit approval, allow spaces that are required by this Ordinance to be provided for the place of worship or lodge to also be used for other purposes pursuant to such use permit, if the findings above are made.

C. M. RECOMMENDATION:

Adopt, the amendment to Sections 33 and 36 of the Arlington County Zoning Ordinance to amend, reenact, and recodify the Zoning Ordinance provisions, to permit the following secondary use of parking lots that are accessory to places of worship or lodges and that are not operated primarily for commercial gain: (1) Parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use does not exceed either ten (10) percent of the total number of parking spaces or a total of twelve (12) parking spaces whichever is less; (2) parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use is for no more than four (4) days per 90 day period; (3) the County Board may, by use

County Manager: _____

County Attorney: _____

Staff: Sakura Namioka, Angie de la Barrera, Colleen Connor, Rasheda DuPree, CPHD/Planning Division
Sarah Stott, DES/Traffic Engineering

PLA-4210

permit approval, as specified in Subsection 36.G.Use Permits, permit the use of parking spaces accessory to those uses to be leased or used under a verbal or written contractual agreement with off-site users to park non-commercial vehicles, when such use exceeds the parameters above.

ISSUES: None.

SUMMARY: At their December 14, 2005 meeting, the County Board considered the proposed Zoning Ordinance amendment to allow off-site users to use the parking lots of places of worship and lodges. The County Board took no action and directed staff to prepare new language for advertising that would provide a broader range of options for final adoption. The current staff recommendation has been amended since the last County Board meeting to address issues raised by the Transportation and Planning Commissions and the Civic Federation. This change is as follows:

Secondary Uses of Church & Lodge Parking	Current Zoning Ordinance Requirement	Staff Recommendation 12.14.2005	Staff Recommendation 1.21.2006
Occasional temporary uses such as County Fair parking; overflow parking for nearby users	Not Allowed	Yes, by-right for two (2) days per calendar year and/or if non-commercial vehicles if either no more than 10% of the total parking spaces or 12 parking spaces total, whichever is less.	Yes, by-right for four (4) days per 90 day period and/or if non-commercial vehicles if either no more than 10% of the total parking spaces or 12 parking spaces total, whichever is less.
Regular Use of Parking by off-site users	Not Allowed	Yes, Use Permit required if more than 2 days per calendar year and if number of spaces used exceed 10% of total parking or 12 spaces total whichever is less.	Yes, Use Permit required if more than 4 days per 90 day period and if number of spaces used exceed 10% of total parking or 12 spaces total whichever is less.

The proposed Zoning Ordinance Amendment addresses the issue of underused accessory parking lots in the County. Many parking lots in the County are accessory uses to the primary use of the site. Only the occupants, employees or visitors to the primary use are permitted to park in the lots. Consequently, when the primary use on the site is closed, those accessory parking lots cannot be used by off-site users and stay vacant. The proposed Zoning Ordinance Amendment would:

1. Permit secondary use of parking lots that are accessory to places of worship or lodges that are not operated primarily for commercial gain and are located in "R" or "RA" Districts by right or through a special exception use permit.
2. Allow the use of the parking lot by off-site users as a matter of right, when such use does not exceed ten (10) percent of the total number of spaces, or twelve (12) total parking spaces, whichever is less, and

3. Allow parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use is for no more than four (4) days per 90 day period as a matter of right.
4. Allow by special exception use permit if the total number of spaces exceeds either 10% of the total parking or 12 spaces total, whichever is less, and/or if spaces are used more than four (4) days per 90 day period.

The proposed Zoning Ordinance Amendment addresses a number of concerns and provides for a broader range of options. Therefore, it is recommended that the County Board adopt the proposed Zoning Ordinance amendment.

BACKGROUND: Parking congestion on streets, demands for off-street parking spaces, and inefficient use of existing parking lots are growing issues in the County. Many parking lots in the County are accessory uses to the primary use of the site. Only the occupants, employees or visitors to the primary use are permitted to park in these lots. Consequently accessory parking lots stay vacant when the primary use on the site is closed. This under-use of existing parking lots is common with places of worship and lodges that frequently have large parking lots, while the hours of primary uses are relatively limited. In some cases these lots are being leased to provide additional parking for off-site users. The current Zoning Ordinance, however, does not allow this practice in “R” or “RA” Districts, unless it is specifically permitted by special exception. Some members of the community believe that, in certain circumstances, the secondary use of the parking lots may be appropriate, and have requested staff to study a Zoning Ordinance Amendment permitting the secondary use of parking lots. The proposal would permit the County Board to consider approving secondary parking uses on “R” and “RA” zoned sites either by right or with a special exception use permit.

The current Zoning Ordinance requires places of worship and lodges to provide accessory parking spaces. These accessory parking spaces are permitted to be used by any on-site users of the facility on the main site. For instance, many places of worship provide space for community or instructional uses, such as meeting spaces for civic associations, Boy Scouts, and Alcoholic Anonymous Program; spaces for the Food Pantry, the Meals on Wheels Program, senior citizens’ exercise classes, community choral groups practice, Children’s Clothing Exchange, day care centers, and athletic or music school uses. Parking generated by these uses is permitted to use the accessory parking as a matter of right. If a use on a main site is permitted by a use permit approval, such as schools or daycare centers located on the site, the use permit approval would include the use of accessory parking by the attendants and visitors of the school or daycare centers.

DISCUSSION: The proposed Zoning Ordinance Amendment will permit secondary use of parking lots in “R” or “RA” Districts, which are accessory to places of worship and lodges by off-site users, as a matter of right under certain criteria, including use of a limited number of spaces and for a limited period of time. The proposed Zoning Ordinance Amendment would also allow a use permit when the number of parking spaces used and time period would be exceeded.

The Zoning Ordinance amendment is proposed to address parking congestion; to amend, reenact, and recodify the Zoning provisions, to permit secondary use of parking lots that are accessory to places of worship or lodges and that are not operated primarily for commercial gain, as a matter of right, by off-site users: (1) Parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use does not exceed ten (10) percent of the total number of spaces or a total of twelve (12) parking spaces whichever is less, and (2) Parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use is for no more than four (4) days per 90 day period, and (3) The County Board may, by use permit approval, as specified in Subsection 36.G. Use Permits, permit the use of parking spaces accessory to those uses to be leased or used under a verbal or written contractual agreement with off-site users to park non-commercial vehicles, when such use exceeds the parameters set forth in subparts above.

A use permit may be approved where the County Board finds that such use promotes the effective use of the County's limited parking facilities, reduces traffic congestion, does not create adverse impacts on the adjacent neighborhoods and streets, and will not result in parking being unavailable for the primary use of the site on which the parking is provided. The County Board may, through such use permit approval, allow spaces that are required by this Ordinance to be provided for the place of worship or lodge to also be used for other purposes pursuant to such use permit, if the findings above are made.

Community Process: The current staff recommendation has been amended since the last County Board meeting to address issues raised by the Civic Federation, the Transportation Commission and the Planning Commission.

Civic Federation: The Civic Federation considered the proposed Zoning Ordinance Amendment at their January 3, 2006 meeting. Staff provided responses to written questions. Attached to this report are the questions and staff responses and a chart that was presented to the Arlington County Civic Federation outlining types of uses and what is currently allowed and what would be allowed by-right and with a special exception use permit under the proposed Zoning Ordinance Amendment. The Civic Federation also conducted a survey of its membership on the proposed Zoning Ordinance Amendment. The results are attached.

Transportation Commission: The Transportation Commission met on January 5, 2006 and voted unanimously to approve the recommend Zoning Ordinance Amendment with three conditions:

1. Add the phrase "consecutive or non-consecutive" and eliminate "per calendar year" so that staff's recommendation reads "three consecutive or non-consecutive days per quarter".

Staff Response: Staff concurs and changed the recommendation to four (4) days per 90 day period.

2. Amend the use permit process to assign non-transferable church parking use permits to a specific property owner and not grant a use permit to run with the land.

Staff Response: Staff does not agree with this recommendation. The use permit pertains to the use of the land and not to a license agreement. Special exception use

permits convey with the land and are granted either for a time period set by the County Board, or indefinitely unless they are discontinued by the County Board, or the use is altered in such a way as to intensify the use or if the hours of operation are expanded. These changes would require a use permit amendment and review by the County Board which would then take into account changes in site activity; new conditions and guidelines regulating the site can be imposed.

3. Request that the County Board require a formal Transportation Commission review of church parking use permit requests.

Staff Response: Staff concurs with this request.

Planning Commission: The Planning Commission heard this item at their January 9, 2006 meeting and voted 10-1 to recommend that the Zoning Ordinance Amendment, as proposed by staff, be approved. The Commission did express concern about polling places and staff ensuring that no potential conflicts arise with the use of the parking and people voting.

Staff Response: There are 49 polling places in the County and three are located in churches: Clarendon United Methodist Church at 606 N. Irving Street (Precinct 002), St. Agnes Church Parish Hall at 1914 N. Randolph Street (Precinct 007) and St. George's Parish Hall at 915 N. Oakland Street (Precinct 046). Parking is provided for these polling places on the lot or at marked spaces along the street. All polling places have to be reviewed and approved by the United States Justice Department.

CONCLUSION: The proposed Zoning Ordinance Amendment addresses numerous concerns and provides for a broader range of options for the County Board to consider. Therefore, it is recommended that the County Board adopt the proposed Zoning Ordinance amendment as contained in the attached resolution.

ORDINANCE TO AMEND SECTION 33. AUTOMOBILE PARKING, STANDING AND LOADING SPACE, SUBSECTION A. GENERAL REQUIREMENTS, SUB-SUBSECTION 8. USES OF PRIVATE PARKING AREAS; AND SECTION 36. ADMINISTRATION AND PROCEDURES, SUBSECTION G. USE PERMITS; OF THE ARLINGTON COUNTY ZONING ORDINANCE, TO AMEND, REENACT AND RECODIFY THE PROPOSED ZONING PROVISIONS; TO PERMIT SECONDARY USE OF PARKING LOTS THAT ARE ACCESSORY TO PLACES OF WORSHIP OR LODGES AND THAT ARE NOT OPERATED PRIMARILY FOR COMMERCIAL GAIN, AS A MATTER OF RIGHT, BY OFF-SITE USERS, WHEN SUCH USE DOES NOT EXCEED EITHER TEN (10) PERCENT OF THE TOTAL NUMBER OF SPACES OR TWELVE (12) PARKING SPACES, WHICHEVER IS LESS; AND (2) PARKING SPACES THAT ARE ACCESSORY TO THOSE USES MAY BE USED BY OFF-SITE USERS TO PARK NON-COMMERCIAL VEHICLES, WHEN SUCH USE IS FOR NO MORE THAN FOUR (4) DAYS PER 90 DAY PERIOD, AND (3) THE COUNTY BOARD MAY, BY USE PERMIT APPROVAL, AS SPECIFIED IN SUBSECTION 36.G.USE PERMITS, PERMIT THE USE OF PARKING SPACES ACCESSORY TO THOSE USES TO BE LEASED OR USED UNDER A VERBAL OR WRITTEN CONTRACTUAL AGREEMENT WITH OFF-SITE USERS TO PARK NON-COMMERCIAL VEHICLES, WHEN SUCH USE EXCEEDS THE PARAMETERS SET FORTH IN SUBPARTS ABOVE.

BE IT ORDAINED THAT; Section 33.A.8. and Section 36.G.2.j. of the Zoning Ordinance be hereby amended, reenacted, and recodified, to permit secondary use of parking lots that are accessory to places of worship or lodges and that are not operated primarily for commercial gain in order to encourage orderly and efficient land use development; to facilitate the creation of a convenient, attractive and harmonious communities and for other reasons required by the public necessity, convenience and general welfare, and good zoning practice.

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SECTION 33. AUTOMOBILE PARKING, STANDING AND LOADING SPACE

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A. General Requirements.

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8. *Use of Private Parking Areas:*

- a. No parking spaces located in a private parking area in “R” or “RA” Districts except in “RA-H” Districts shall be used by any persons other than persons engaging in the use for which the parking is provided such

as occupants of the premises, their visitors and employees at the site, except as specified in Subsection 33.A.8.a. (2).

- b. For places of worship or lodges, not operated primarily for commercial gain: (1) Parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use does not exceed either ten (10) percent of the total number of spaces or twelve (12) parking spaces, whichever is less; and (2) Parking spaces that are accessory to those uses may be used by off-site users to park non-commercial vehicles, when such use is for no more than four (4) days per 90 day period, and (3) The County Board may, by use permit approval, as specified in Subsection 36.G.Use Permits, permit the use of parking spaces accessory to those uses to be leased or used under a verbal or written contractual agreement with off-site users to park non-commercial vehicles, when such use exceeds the parameters set forth in subparts 33.A.8.b.(1) and 33.A.8.b(2) above. Such use permit may be approved where the County Board finds that such use promotes the effective use of the County’s limited parking facilities, reduces traffic congestion, and does not create adverse impacts on the adjacent neighborhoods and streets, and will not result in parking being unavailable for the primary use of the site on which the parking is provided. The County Board may, through such use permit approval, allow spaces that are required by this Ordinance to be provided for the place of worship or lodge to also be used for other purposes pursuant to such use permit, if the findings above are made.
- bc. Parking spaces in “C,” “C-O,” “M,” “RA-H” or “R-C” Districts located in a private parking area, which are provided in addition to those required by this ordinance to serve the premises, may be used by persons other than persons engaging in the use for which the parking is provided.
- ed. Parking spaces in “C,” “C-O,” “M,” “RA-H” or “R-C” Districts which are required by this ordinance may be used by persons other than persons engaging in uses on the site, provided that said spaces shall be made available at all times to persons engaging in uses on the site at least at the same rates as to persons not engaging in uses on the site, and provided that there is no demand for said spaces by persons engaging in uses on the site.

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SECTION 36. ADMINISTRATION AND PROCEDURES

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G. Use Permits.

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2. Written application for a use permit shall be filed with the zoning administrator. An application for Unified Residential Development approval shall comply with applicable portion of Administrative Regulation 4.11, Unified Residential Development Use Permit Approval Procedure, as amended. Use Permits shall be heard at the first regular meeting of each month, except the county board may establish, on its own motion, another time for the use permit hearing, which hearing may be at any county board meeting.

* * *

- j. Requests for use permits filed by places of worship or lodges permitting secondary use of parking lots that are accessory to these uses, as specified in Section 33.A.8. of the Zoning Ordinance, shall be accompanied by a fee of two hundred seventy-five dollars (\$275.00).

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Chronology of Events: A list of the Chronology of events is as follows:

- May 7, 2005: The County Board authorized advertisement of public hearings for the original proposal.
- June 2, 2005: The Transportation Commission recommended deferral to October County Board meeting to achieve community outreach with the Civic Federation and all civic associations.
- June 6, 2005: The Planning Commission reviewed the original proposal and recommended deferral to the October 15, 2005 County Board meeting.
- June 18, 2005: The County Board deferred consideration of the original proposal to the October 15, 2005 County Board meeting.
- July 7, 2005: The Zoning Committee (ZOCO) of the Planning Commission met and reviewed the proposed original Zoning Ordinance amendment for secondary use of parking lots that are accessory to places of worship and lodges. The key issue discussed was the pending case of the Board of Zoning Appeals associated with secondary uses of the parking lot that is accessory to the Masonic Temple. ZOCO requested staff to share the staff report/recommendation with the Planning Commission at its earliest availability.
- September 21, 2005: A community forum was held for the proposed Zoning Ordinance amendment.
- September 29, 2005: The Transportation Commission reviewed the proposal and recommended that the County Board take no action on the proposal.
- October 15, 2005: The County Board deferred the consideration of the proposed Zoning Ordinance amendment that was advertised on May 9, 2005, and authorized advertisement of the revised proposal for the County Board meeting on December 10, 2005.
- October 18, 2005: The ZOCO reviewed the proposal again and provided comments concerning duration of time for temporary use and frequency of the temporary uses. The responses to the comments were incorporated in this report.
- November 2, 2005: The Transportation Commission reviewed the proposed revised Zoning Ordinance amendment and recommended the County Board advertise the Zoning Ordinance amendment.
- November 15, 2005: The County Board authorized advertisement of public hearings for the revised proposal.
- November 28, 2005: The Planning Commission reviewed the proposal and recommended that the County Board defer the action to the March 2006 meeting.
- December 6, 2005: The Transportation Commission reviewed the proposal and recommended that the County Board defer the action to the March 2006 meeting.
- December 10, 2005: The County Board took no action on the proposed Zoning Ordinance amendment that was advertised on November 15, 2005, and on December 14, 2005, the recessed session of December 10, 2005, authorized advertisement of the third revision of the proposal for the January 9, 2006 Planning Commission and the January 21, 2006 County Board meeting.
- December 15, 2005: Staff sent e-mails to the Planning Commission, the Transportation Commission, NCAC, ZOCO, and the Arlington County Civic Federation and notified

them of the upcoming January 21, 2006 County Board meeting and the Zoning Ordinance amendment language authorized by the County Board in December.

- January 3, 2006: Civic Federation Meeting. Staff provided responses to written questions from the Civic Federation.
- January 5, 2006: Transportation Commission meeting: voted unanimously to approve the recommended ZOA with three conditions: 1) add the phrase “consecutive or non-consecutive” and eliminate “per calendar year” so that staff’s recommendation reads “three consecutive or non-consecutive days per quarter”. The commission also asked that staff define what is meant by quarter. 2) Amend the use permit process to assign non-transferable church parking use permits to a specific property owner and not grant a use permit to run with the land. 3) Request that the County Board require a formal Transportation Commission review of church parking use permit requests.
- January 9, 2006: Planning Commission voted to approve recommended ZOA as outlined in the staff report.