

1. Planning Commission Agenda

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CITY OF POQUOSON



POQUOSON PLANNING COMMISSION

April 15, 2019

AGENDA

**POQUOSON PLANNING COMMISSION
MONDAY, APRIL 15, 2019, 7:00 P.M.
COUNCIL CHAMBERS – 500 CITY HALL AVENUE**

A. CALL TO ORDER

B. INVOCATION & PLEDGE OF ALLEGIANCE

C. APPROVAL OF THE MINUTES

- 1. Work Session – March 18, 2019**
- 2. Regular Session – March 18, 2019**

D. AUDIENCE FOR VISITORS

E. PUBLIC HEARING

- 1. Amendment to Article III. - Nonconforming Uses and Structures, Section 3-6.3(1) of the Zoning Ordinance to clarify fire rated material requirements and apply them consistently across the three single family zoning districts.**

- a) Public Hearing**
- b) Consideration by the Commission**

- 2. Amendment to Appendix A, Section 1-3 of the Zoning Ordinance to update the definition of “Financial Institution”.**

- a) Public Hearing**
- b) Consideration by the Commission**

F. COMMUNICATIONS AND CORRESPONDENCE

G. ADJOURN

The Poquoson Planning Commission met in a work session on Monday, March 18, 2019 in the Council Chambers located at 500 City Hall Avenue.

PRESENT: Commissioner Bonnie Shriver, Chairwoman
Commissioner William Travis, Vice Chairman
Commissioner Anjie Emmett, Member
Commissioner Olivia Griebel, Member
Commissioner Kevin Brennan, Member
Charles Horton, Director of Community Development
Dannan O'Connell, Planner
Karen Holloway, Clerk

ABSENT: Commissioner Gregory Deaver, Member
Commissioner Leigh Fenigsohn, Member

Chairwoman Shriver called the work session to order at 6:32 p.m., advising that there would be two discussion items. The first item was the proposed amendment of Article III, Section 3-6.3(1) regarding nonconforming structures.

Mr. Horton explained that the purpose of the amendment was to extend the same dispensation to all three single-family zoning districts by requiring fire rated materials to be used when a primary structure is to be built less than 15' from the side property lines. Additionally, as suggested by the Building Official, eliminating the need for fire rated doors and windows was proposed, since the Virginia Uniform Building Code would require their use any time a primary structure is proposed to be less than 5' from an adjacent primary structure.

After some discussion the consensus of the Planning Commission was that it would be a good idea to move forward with consideration of this code amendment in a public hearing during the regular April meeting.

The second discussion item was an amendment to last month's work session regarding the definitions of "Financial Institution" and "Financial Service Center". Mr. Horton noted that after last month's very constructive discussion he had decided that it made more sense to abandon the proposal to add a definition for "Financial Service Center" and instead, to amend the definition for "Financial Institution". The new definition would specifically note that pay day, title and pawn broker loan establishments would not be a "by right" use in any zoning district. Rather, a Conditional Use Permit would be required for these types of financial establishments.

The general consensus was that this definition change hits the nail on the head and that it should also move forward for public hearing at the April Planning Commission meeting.

ADJOURNMENT

There being no further discussion, the work session was adjourned at approximately 6:45 p.m.

ADOPTED: _____

ATTESTE: _____

Karen Holloway, Clerk

The Poquoson Planning Commission met in a regular session on Monday, March 18, 2019, in the Council Chambers located at 500 City Hall Avenue.

PRESENT: Commissioner Bonnie Shriver, Chairwoman
Commissioner William Travis, Vice Chairman
Commissioner Anjie Emmett, Member
Commissioner Olivia Griebel, Member
Commissioner Kevin Brennan, Member

Charles W. Horton, Director of Community Development
Dannan O'Connell, Planner
Karen Holloway, Clerk

ABSENT: Commissioner Gregory Deaver, Member
Commissioner Leigh Fenigsohn, Member

REGULAR SESSION

The regular session of the Planning Commission was called to order by Chairwoman Shriver at 6:59 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

Chairwoman Shriver led the audience in the Lord's Prayer and the Pledge of Allegiance.

APPROVAL OF THE MINUTES

Vice Chairman Travis moved, seconded by Commissioner Emmett, that the minutes of the February 21, 2019 work session be approved. Recorded vote on the motion:

YES: Commissioners Griebel and Emmett, Vice Chairman Travis and Chairwoman Shriver.

NO: None.

ABSTAIN: Commissioner Brennan.

Commissioner Emmett, seconded by Commissioner Griebel, that the minutes of the February 21, 2019 regular meeting be approved. Recorded vote on the motion:

YES: Commissioners Griebel and Emmett, Vice Chairman Travis and Chairwoman Shriver.

NO: None.

ABSTAIN: Commissioner Brennan.

AUDIENCE FOR VISITORS

Chairwoman Shriver opened the audience for visitors. There being no speakers, the audience for visitors was closed.

PUBLIC HEARING

1. Conditional Use Permit amendment request by Fountains of Poquoson, L.L.C.

Mr. Horton explained that The Fountains of Poquoson, LLC, property owner, is requesting a Conditional Use Permit amendment to extend the June 27, 2019 deadline for full construction/operational completion of the mixed use development on property located at 200 Fountains Lane. The new deadline is proposed to be September 12, 2021, which is the deadline for the other phases of the development. He then turned the floor over to Robert Moses, 89 Sandy Bay Drive, Fountains of Poquoson, LLC, who provided a Power Point presentation.

During the presentation Mr. Moses provided background of the Fountains development, explaining that he had completed Phase I, but Phase II has not been built yet although it has been approved by the City, contingent on fee payments, for some time. He reiterated Mr. Horton's comment that since Phases III and IV have completion deadlines of September 12, 2021 it makes sense that Phase II should have the same deadline.

The public hearing was opened and, there being no speakers, the public hearing was closed.

When asked if there appeared to be any downside to amending the expiration date as requested, Mr. Horton replied that he knew of no reason that the deadline should not be extended.

Mr. Moses proceeded to explain the layout of the project, site work details and pricing for apartment rentals. He then explained that much of the delay in completing the project has been due to various bank mergers, which caused him to go through the finance application process numerous times. He is currently trying to refinance the existing building in Phase I through a local bank that is very familiar with Poquoson. This bank will have to buy out the loan from the previous bank in the process of financing the buildings in Phase II. Mr. Moses will apply for one construction loan per building based on projected income and expenses. He explained that lending institutions look at stabilization and rental income verses expenses when determining whether to approve a loan. When asked, he replied that he expected both buildings in Phase II to be fully operational by September 12, 2021; however, Phases III and IV may require another deadline extension at that time. He stated that he cannot start the Phase IV townhomes until Phase III is complete and he needs four

pre-leases on the commercial buildings in Phase II before he can gain financing for Building Six in Phase III, adding that he already has two lease commitments.

Following the discussion Vice Chairman Travis moved, seconded by Commissioner Brennan, to recommend an amendment to the Conditional Use Permit by extending the June 27, 2019 deadline for full construction/operational completion of the mixed use development on property located at 200 Fountains Lane to September 12, 2021.

Recorded vote on the motion:

YES: Commissioners Brennan, Griebel and Emmett, Vice Chairman Travis and Chairwoman Shriver.

NO: None.

COMMUNICATIONS AND CORRESPONDENCE

Mr. Horton advised that he is expecting the Legacy of Poquoson plans to be submitted in another day or two, as AES, engineering firm for the Legacy, is currently working on a checklist for the combination site plan and development plan. In addition, he advised that review of a second submittal by Quarter Creek subdivision has been completed and a comment letter mailed on March 8th. Commissioner Emmett asked if Gaita Auto Sales on Wythe Creek Road, a Conditional Use Permit holder, would be unable to operate after the road widening and utility relocation occurs. Mr. Horton was unsure, but offered to check into it.

Ms. Holloway advised that the evening's two work session items would be the subject of a public hearing at the April 15, 2019 regular meeting. She was unsure whether a work session would be held in April, but promised to let everyone know as soon as possible.

Chairwoman Shriver introduced new Planning Commission member, Kevin Brennan, explaining that he had served on the Planning Commission several years before.

Commissioner Brennan stated that he was happy to be on the Planning Commission again and looked forward to future meetings.

Commissioner Emmett thanked Ms. Holloway for answering questions regarding nonconforming lots earlier in the day.

Vice Chairman Travis noted that Commissioner Fenigsohn was currently in New Zealand and hoped that she had not been affected by the recent terrorism there. He then stated that Randie Trestrail's comments from the February meeting regarding raised properties should be kept in mind,

although he felt sure that the properties that had been raised had been operating under approved permits.

ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 7:30 p.m.

Bonnie W. Shriver, Chairwoman

Karen Holloway, Clerk



CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA

23662-1996

(757) 868-3040 TELEPHONE (757) 868-3105 FAX

To: The Honorable Chairwoman and Members of the Planning Commission

From: Wally Horton, Director of Community Development

Date: April 15, 2019

Subject: Text Amendment to existing Zoning Ordinance (Article III) Section 3-6.3(1)

Overview

In 2012 Staff was tasked with creating an ordinance that would provide allowances for side setbacks on non-conforming lots, as this was one of the primary variance requests considered by the City's Board of Zoning Appeals (BZA). In considering a variance request the BZA must ensure that it meets six necessary findings as required by the State. One of those findings is that "the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the ordinance". With the number of setback requests increasing, it was apparent that such an amendment was in order.

Now, as the number of properties benefitting from this ordinance amendment has increased, it has been noted that the properties in the RS zoning district are at a distinct disadvantage. The criteria for reducing side yard setbacks in Article III, Section 3-6.3(1) currently reads as follows:

- (1) The exterior portion of the structure nearest the adjacent property neighboring the side yard, must be constructed using two hour rated fire materials, as defined by the Virginia Uniform Statewide Building Code.

As written, this allows the side setbacks on properties in the R-1 and R-2 zoning districts, which typically require two 15-foot side yard setbacks, to be reduced to anywhere from 14 feet to 10 feet before requiring the two hour fire rating; however, properties in the RS zoning district, which requires two 20-foot side yard setbacks, must use two hour fire rated materials if the side property lines are reduced to anywhere from 19 feet to 10 feet. Since the fire rating requirement is a more of a safety than a zoning item it seems logical to provide consistency across all three single-family zoning districts by requiring the fire rated materials for any setback less than 15 feet.

In writing the original Article III, Section 3-6.3(1), Staff consulted with the Fire Department and Building Official to determine whether any consideration should be given to the potential proximity of one primary structure to another. It was agreed that a provision for the requirement of fire rated materials to prevent potential fire safety issues should be added; however, this requirement was intended for walls, not doors and windows. Therefore, to clarify this requirement, the exclusion of fire rated doors and windows has been added to the amendment.

With this amendment Article III would read as follows:

ARTICLE III. - NONCONFORMING USES AND STRUCTURES

Section 3-6.3. - Lots not meeting minimum lot frontage and lot area requirements in residential districts.

- (a) Primary structures, located on residential lots not meeting the minimum lot frontage or lot area requirement for their district, may encroach into the required side yard area provided that they maintain a side yard setback of no less than ten feet. Additionally, for lots fronting on more than one street that have at least one front of insufficient width, primary structures may encroach into any required side yard area on the property provided that they maintain a side yard setback of no less than ten feet.

In addition, the following criteria must be met:

- (1) The exterior portion of ~~the~~ any primary structure that will be located less than 15 feet from the side property line through this provision, nearest the adjacent property neighboring the side yard, must be constructed using two hour rated fire materials, excluding doors and windows, as defined by the Virginia Uniform Statewide Building Code.
- (2) No principal structure shall exceed the maximum allowable width for a principal structure located on a minimally conforming lot in its respective zoning district.

Lots meeting the minimum lot frontage and lot area requirements are not subject to these allowances and must meet the minimum side yard setback requirements established for their zoning district.

Comprehensive Plan Guidance

There is guidance in the City of Poquoson 2018-2038 Comprehensive Plan for this revision.

Under Chapter 8 – Land Use (Beginning on Page 8-17) strategies include:

- #21. Review and update City Zoning, Subdivision, Site Plan, and Sign ordinances to ensure coherence, clarity and compliance with current law and development practices.

Staff Recommendation

It is staff's opinion that the proposed change would provide consistency across the three single-family zoning districts and a more practical fire safety requirement. Staff would respectfully ask that the Planning Commission recommend approval to the City Council for this change at the April, 2019 Planning Commission public hearing.

CWH

RESOLUTION RECOMMENDING APPROVAL

A RESOLUTION RECOMMENDING APPROVAL TO AMEND THE ZONING ORDINANCE BY REVISING APPENDIX A, ARTICLE III, SECTION 3-6.3(1) PERTAINING TO NONCONFORMING USES AND STRUCTURES

WHEREAS, a proposed amendment of Appendix A, Section 3-6.3(1) of the Zoning Ordinance pertaining to Nonconforming Uses and Structures has been submitted to read as follows:

Appendix A, Article III, Section 3-6.3. - Lots not meeting minimum lot frontage and lot area requirements in residential districts.

- (a) Primary structures, located on residential lots not meeting the minimum lot frontage or lot area requirement for their district, may encroach into the required side yard area provided that they maintain a side yard setback of no less than ten feet. Additionally, for lots fronting on more than one street that have at least one front of insufficient width, primary structures may encroach into any required side yard area on the property provided that they maintain a side yard setback of no less than ten feet.

In addition, the following criteria must be met:

- (1) The exterior portion of ~~the~~ any primary structure that will be located less than 15 feet from the side property line through this provision, nearest the adjacent property neighboring the side yard, must be constructed using two hour rated fire materials, excluding doors and windows, as defined by the Virginia Uniform Statewide Building Code.
- (2) No principal structure shall exceed the maximum allowable width for a principal structure located on a minimally conforming lot in its respective zoning district.

Lots meeting the minimum lot frontage and lot area requirements are not subject to these allowances and must meet the minimum side yard setback requirements established for their zoning district.

WHEREAS, a public hearing to receive public comments and review the amendments was held before the Planning Commission on April 15, 2019; and

WHEREAS, careful and thorough consideration was given the amendment; and

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Poquoson, Virginia:

Section 1: That the proposal to amend Appendix A, Article III, Section 3-6.3(1) of the Zoning Ordinance pertaining to Nonconforming Uses and Structures, is hereby recommended for approval.

Section 2: That this resolution shall be in effect on and after its adoption.

ADOPTED: April 15, 2019

TESTE: _____
Clerk, Planning Commission

RESOLUTION RECOMMENDING DENIAL

A RESOLUTION RECOMMENDING DENIAL TO AMEND THE ZONING ORDINANCE BY REVISING APPENDIX A, ARTICLE III, SECTION 3-6.3(1) PERTAINING TO NONCONFORMING USES AND STRUCTURES

WHEREAS, a proposed amendment of Appendix A, Section 3-6.3(1) of the Zoning Ordinance pertaining to Nonconforming Uses and Structures has been submitted to read as follows:

Appendix A, Article III, Section 3-6.3. - Lots not meeting minimum lot frontage and lot area requirements in residential districts.

- (a) Primary structures, located on residential lots not meeting the minimum lot frontage or lot area requirement for their district, may encroach into the required side yard area provided that they maintain a side yard setback of no less than ten feet. Additionally, for lots fronting on more than one street that have at least one front of insufficient width, primary structures may encroach into any required side yard area on the property provided that they maintain a side yard setback of no less than ten feet.

In addition, the following criteria must be met:

- (1) The exterior portion of ~~the~~ any primary structure that will be located less than 15 feet from the side property line through this provision, ~~nearest the adjacent property neighboring the side yard,~~ must be constructed using two hour rated fire materials, excluding doors and windows, as defined by the Virginia Uniform Statewide Building Code.
- (2) No principal structure shall exceed the maximum allowable width for a principal structure located on a minimally conforming lot in its respective zoning district.

Lots meeting the minimum lot frontage and lot area requirements are not subject to these allowances and must meet the minimum side yard setback requirements established for their zoning district.

WHEREAS, a public hearing to receive public comments and review the amendments was held before the Planning Commission on April 15, 2019; and

WHEREAS, careful and thorough consideration was given the amendment; and

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Poquoson, Virginia:

Section 1: That the proposal to amend Appendix A, Article III, Section 3-6.3(1) of the Zoning Ordinance pertaining to Nonconforming Uses and Structures, is hereby recommended for denial.

Section 2: That this resolution shall be in effect on and after its adoption.

ADOPTED: April 15, 2019

TESTE: _____
Clerk, Planning Commission



CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA

23662-1996

(757) 868-3040 TELEPHONE (757) 868-3105 FAX

To: The Honorable Chairwoman and Members of the Planning Commission

From: Wally Horton, Director of Community Development

Date: April 15, 2019

Subject: Text Amendment to existing Zoning Ordinance (Appendix A) Section 1-3 (Definitions).

Overview

As part of a systematic review of the City Land Use Ordinances, Staff has noted that the definition of “Financial institution” casts a wide net that could be interpreted to include Pay Day Loan and Pawn Broker operations. While this may not be the intent of the definition it nevertheless would be advisable to revise the definition of “Financial institution” in the definition section of the Zoning Ordinance. Recently, Staff has been queried in regard to pay day loans, title loans, and pawn brokerage establishments and opined that the intent of the definition of “Financial institution” is not intended to include such uses.

The current definition is as follows:

“Financial institution: The retail offices of banks, savings and loan offices and other financial service institutions, with or without automatic teller machines, providing walk-in service to customers. Drive-through facilities are a separately designated and regulated component.”

The Planning Commission discussed a proposed amendment at its February 22, 2019 work session, which would have included breaking out “Financial institutions” from “Financial service centers” in the definitions section of the Zoning Ordinance. Discussion indicated confusion as to how consignment shops, cash for gold shops, wire transfer services offered by grocery stores, and investment services, might fall under the proposed definition of “financial service center”. The question was then posed as to what a reasonable-rate loan is since this could be interpreted in different ways. Having received input, Staff took into account all of the comments and questions under consideration in reworking the proposed definition.

In an effort to keep the change as simple as possible and to avoid confusion, Staff is now advocating a change in the financial institution definition and not adding a definition for a financial service center, which was recommended, at the March 18, 2019 Planning Commission work session, for Public Hearing at the Commission’s April 15, 2019 meeting.

The definition of financial institution would read:

ARTICLE I. - GENERAL PROVISIONS

Section 1-3. - Definitions.

Financial institution: The retail offices of traditional banks, savings and loan offices and other financial service institutions, with or without automatic teller machines, providing walk-in service to customers. Services include but are not limited to accepting deposits, cashing checks and offering loans. Does not include pay day loans, title loans, money lending associated with a pawn shop-type establishment and/or similar uses. Drive-through facilities are a separately designated and regulated component.

This change would boil down what is meant as a financial institution succinctly and be in keeping with the intent of the definition.

Comprehensive Plan Guidance

There is guidance in the City of Poquoson 2018-2038 Comprehensive Plan for this revision.

Under Chapter 8 – Land Use (Beginning on Page 8-17) strategies include:

#21. Review and update City Zoning, Subdivision, Site Plan, and Sign ordinances to ensure coherence, clarity and compliance with current law and development practices.

Staff Recommendation

It is staff's opinion that the proposed change would increase clarity on the issue of Financial Institutions. Staff would respectfully ask that the Planning Commission recommend approval to the City Council at the April, 2019 Planning Commission public hearing.

CWH

RESOLUTION RECOMMENDING APPROVAL

A RESOLUTION RECOMMENDING APPROVAL TO AMEND THE ZONING ORDINANCE BY REVISING APPENDIX A, SECTION 1-3 PERTAINING TO THE DEFINITION OF FINANCIAL INSTITUTION

WHEREAS, a proposed amendment of Appendix A, Section 1-3 of the Zoning Ordinance pertaining to the definition of “Financial Institution” has been submitted to read as follows:

Appendix A, Section 1-3. – Definitions.

Financial institution: The retail offices of traditional banks, savings and loan offices and other financial service institutions, with or without automatic teller machines, providing walk-in service to customers. Services include but are not limited to accepting deposits, cashing checks and offering loans. Does not include pay day loans, title loans, money lending associated with a pawn shop-type establishment and/or similar uses. Drive-through facilities are a separately designated and regulated component.

WHEREAS, a public hearing to receive public comments and review the amendments was held before the Planning Commission on April 15, 2019; and

WHEREAS, careful and thorough consideration was given the amendment; and

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Poquoson, Virginia:

Section 1: That the proposal to amend Appendix A, Section 1-3 of the Zoning Ordinance pertaining to the definition of “Financial Institution”, is hereby recommended for approval.

Section 2: That this resolution shall be in effect on and after its adoption.

ADOPTED: April 15, 2019

TESTE: _____
Clerk, Planning Commission

RESOLUTION RECOMMENDING DENIAL

A RESOLUTION RECOMMENDING DENIAL TO AMEND THE ZONING ORDINANCE BY REVISING APPENDIX A, SECTION 1-3 PERTAINING TO THE DEFINITION OF FINANCIAL INSTITUTION

WHEREAS, a proposed amendment of Appendix A, Section 1-3 of the Zoning Ordinance pertaining to the definition of “Financial Institution” has been submitted to read as follows:

Appendix A, Section 1-3. – Definitions.

Financial institution: The retail offices of traditional banks, savings and loan offices and other financial service institutions, with or without automatic teller machines, providing walk-in service to customers. Services include but are not limited to accepting deposits, cashing checks and offering loans. Does not include pay day loans, title loans, money lending associated with a pawn shop-type establishment and/or similar uses. Drive-through facilities are a separately designated and regulated component.

WHEREAS, a public hearing to receive public comments and review the amendments was held before the Planning Commission on April 15, 2019; and

WHEREAS, careful and thorough consideration was given the amendment; and

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Poquoson, Virginia:

Section 1: That the proposal to amend Appendix A, Section 1-3 of the Zoning Ordinance pertaining to the definition of “Financial Institution”, is hereby recommended for denial.

Section 2: That this resolution shall be in effect on and after its adoption.

ADOPTED: April 15, 2019

TESTE: _____
Clerk, Planning Commission

