1. 3-21-16 Planning Commission Work Session & Regular Meeting

   Documents: 3-21-16 PC AGENDA.PDF

Don't forget - 6:00 pm Work Session

CITY OF POQUOSON

POQUOSON PLANNING COMMISSION

MARCH 21, 2016

AGENDA

POQUOSON PLANNING COMMISSION
Monday, March 21, 2016, 7:00 p.m.
COUNCIL CHAMBERS – 500 CITY HALL AVENUE

6:00 p.m. – Work Session (Comprehensive Plan Update)

A. CALL TO ORDER

B. INVOCATION & PLEDGE OF ALLEGIANCE

C. APPROVAL OF THE MINUTES

1. **Regular Session – February 18, 2016**
2. **Work Session – February 18, 2016**

D. AUDIENCE FOR VISITORS

E. PUBLIC HEARINGS

1. **A request by Poquoson Animal Welfare Sanctuary, Inc. (PAWS), applicant and property owner, to modify its existing Conditional Use Permit for a pet sanctuary at 181 Messick Road, Tax Map Parcel No. 32-01-00-0044, Zoned R-2 (Single-Family Residential) by increasing the maximum number of cats on-site from 50 to 75.**

    a. **Public Hearing**
    b. **Consideration by the Commission**

2. **A request by William N. Price (Price Electrical, Inc.), applicant, Mr. & Mrs. Freddie L. Binford, property owners, for a Conditional Use Permit to establish and operate an electrical contracting business from 834 Poquoson Avenue, Tax Map Parcel No. 19-01-00-0213, zoned R-1 (Single-Family Residential).**

    a. **Public Hearing**
    b. **Consideration**

3. **An ordinance amending Article I, Section 1-3, Definitions, of the City's Zoning Ordinance by amending the definition of "variance", Section 1-4, Board of Zoning Appeals, (b) by adding information pertaining to ex parte communications and (c) by amending and expanding the section pertaining to the powers and duties of the board.**

    a. **Public Hearing**
    b. **Consideration by the Commission**

4. **An ordinance amending Article XI.IV, Section 11.4-13(2) of the City's Zoning Ordinance by amending the exception application fee and providing for annual adjustment of the fee if necessary.**

    a. **Public Hearing**
    b. **Consideration by the Commission**

5. **An ordinance amending Article XI.IV, Section 11.4-6(1)(2) of the City's Zoning Ordinance amending the certification requirements of septic system inspectors.**

    a. **Public Hearing**
    b. **Consideration by the Commission**

F. NEW BUSINESS

1. **Comprehensive Plan Update Committee Composition and Appointments (Continuation of work session discussion)**
2. **Review of the Zoning Ordinance Variance Request**

G. COMMUNICATIONS AND CORRESPONDENCE

1. **Status of the Item from the February 18, 2016 Meeting**

H. ADJOURN

VIRGINIA: The Poquoson Planning Commission met in a regular meeting on Thursday, February 18, 2016 at 7:00 p.m. in the Council Chambers located at 500 City Hall Avenue.

PRESENT:
Commissioner Bonnie W. Shriver, Chairwoman
Commissioner William J. Travis, Vice Chairman
Commissioner Richard D. Clifton, Member
Commissioner James K. Titlow, Member
Commissioner Gustavus A. Goddin, Member
Commissioner Leigh Fenigsohn, Member
Commissioner Christopher R. Williamson, Member

Deborah L. Vest, Director of Community Development
Kevin M. Wyne, Planner
Victoria H. Diggs, Clerk

REGULAR SESSION

The regular session of the Planning Commission was called to order by Chairwoman Shriver.

INVOCATION AND PLEDGE OF ALLEGIANCE

Chairwoman Shriver led the audience in the invocation and the Pledge of Allegiance. She then welcomed the two newly appointed Commission members, Christopher Williamson and Leigh Fenigsohn.

APPROVAL OF THE MINUTES

Vice Chairman Travis moved, seconded by Commissioner Titlow, that the minutes of the January 21, 2016 regular session be approved as submitted. Recorded vote on the motion:

YES: Commissioners Titlow, Clifton, Travis and Chairwoman Shriver.

NO: None.

ABSTAIN: Commissioners Williamson, Fenigsohn and Goddin.

Commissioners Williamson and Fenigsohn based their abstention on not having been appointed to the Commission at that time and Commissioner Goddin's abstention was due to his absence at the January 21, 2016 meeting.

AUDIENCE FOR VISITORS

Chairwoman Shriver opened the Audience for Visitors, but as there were no speakers it was closed.

PUBLIC HEARING

1. **THE PROPOSED CITY OF POQUOSON'S CAPITAL IMPROVEMENTS PLAN FOR FY 2017 THROUGH FY 2021 AND BEYOND**

Chairwoman Shriver requested Deborah L. Vest, Director of Community Development, to introduce the City's Proposed Capital Improvements Plan (CIP) for FY 2017 through and beyond FY 2021. Ms. Vest stated that a work session was held prior to the meeting at which time the City Manager presented a detailed overview on the CIP. She suggested that the public hearing be opened so that the Commission may receive public input/comment on the Plan.

Chairwoman Shriver opened the public hearing, but as there were no speakers it was closed,

The Commission's only recommendation on the CIP was to encourage City Council to seriously consider reprioritization of the Middle School roof replacement and High School locker room shower repairs.

Vice Chairman Travis moved, seconded by Commissioner Clifton, to recommend to City Council adoption of the Proposed Capital Improvements Plan for FY 2017 though and beyond FY 2021. Recorded vote on the motion:

YES: Commissioners Travis, Clifton, Titlow, Goddin, Fenigsohn, Williamson and Chairwoman Shriver.

NO: None.

NEW BUSINESS

1. **Comprehensive Plan Update Discussion**

Kevin M. Wyne, Planner, provided a brief overview of the process used by the Commission in the past to update the City's Comprehensive Plan. He stated that although minor updates have occurred since its adoption, i.e. the Parks & Recreation Element was revised in 2011 and minor land use map

revisions have been incorporated, the City's current Comprehensive Plan was completed in 2009 and was based upon the 2000 Census numbers and available estimates. He reminded the Commission that the State requires each locality to review/update its Comprehensive Plan every five years; however, with the 2011 revisions to the City's Parks & Recreation Element and the numerous land use map revisions, the clock was reset giving the City sufficient time in which to update the Plan. Mr. Wyne stated that the current Plan consists of 343 pages to include ten chapters and an introduction which provides the foundation, vision and authority of the Plan.

Mr. Wyne pointed out that during the previous Comp Plan update process the following two committees were appointed:

- Community Participation Team consisted of five Planning Commissioners and six at-large citizens who focused on community outreach and public involvement in the Plan.

- Steering Committee comprised of five Planning Commissioners, one member of the Community Participation Team, one Economic Development Authority Director and one Council Member who were responsible for the primary development and implementation of the Plan.

Mr. Wyne asked the Commissioners to consider the following questions and to recommend the appropriate responder(s), i.e. the Commission, one of the aforementioned committees and/or the public:

- How should the plan be updated? One chapter or a sub-element at a time or all chapters simultaneously?
- How should participation on the two committees be solicited?
- How will applicants be evaluated? What process should be used to select the members of each committee?

Discussion by the Commission focused on the correlation between the CIP and the Comprehensive Plan and if the Comprehensive Plan was actually considered in decision making. In response, Ms. Vest stated that the Comprehensive Plan is referenced every time a zoning amendment or rezoning is requested. She also reminded the Commission that the City Manager had requested that during the process of updating the Comprehensive Plan that a suitable location for the proposed Public Safety Building be considered. Mr. Wyne stated that the CIP and the Comp Plan were stand-alone documents; however, he noted that adoption of the CIP each year could reflect the forecast and priorities outlined in *Chapter 4- Economics* of the Comprehensive Plan. Ms. Vest stressed that the age of the current Comprehensive Plan necessitated an update to indicate where the City has been

economically and what the plans are for the future; however, she pointed out that it does not need a complete rewrite, just an update of demographic information and community vision/goals.

The Commissioners, who had been provided a draft Comprehensive Plan Committee application by staff, offered the following possible revisions and suggestions:

- Include income range and age.
- Include queries so as why you want to serve on one of the committees and what makes you well qualified/suited to serve in this capacity?
- Make applications available on the website, promote it on the City's social media and announce it at upcoming City meetings (prior to the prescribed deadline).
- Give citizens sufficient time in which to apply, but issue a deadline for submittals prior to the next meeting so that the process will not be delayed.
- Evaluation of the applications and criteria used to make the selections should be discussed in a work session prior to the next regular meeting.

Subsequent to further discussion, the Commission agreed that the Comprehensive Plan should be updated a chapter at a time beginning with demographics, statistics and housing; however, they pointed out that the City's vision for our community will be the driving force behind the update. The Commission asked staff to coordinate a joint meeting with City Council as soon as possible so that they may share their vision for the future of our community with the Commission who would be overseeing the Plan update. In conclusion, it was agreed that the Commission would hold a 6:00 p.m. work session on Monday, March 21, 2016 to continue the forward momentum on the Comprehensive Plan update.

In conclusion, staff stated that they would confirm with the State that the City will be in compliance if the first chapter of the Plan is updated by June 2016.

2. Additional Zoning Ordinance Amendment Discussion as Requested by Vice Chairman Travis

Vice Chairman Travis reminded the Commissioners that Mr. Mark Andrews requested at the January 2016 meeting that an amendment similar to that recently approved for the General Commercial District that requires a Conditional Use Permit for various high traffic generating uses be extended to include the remaining zoning districts. The Vice Chairman requested input on how the Planning Commission should answer this query, i.e. should it be accomplished through the Comprehensive Plan update, a request to City Council to consider a similar ordinance amendment for the remaining zoning districts or should it be postponed until a later date. Following a discussion, the Commission decided to consider Mr. Andrews' request during the Comprehensive Plan update process.

In response to Commissioner Clifton's query about why City Council did not include the Planning Commission's recommendation that the number of trips generated by a business should determine when a Conditional Use Permit is warranted as offered by the Commission at its December 1, 2015 meeting. Ms. Vest directed the Commission's attention to pages three and four of the minutes of City Council's December 14, 2016 meeting when they took action on the referenced General Commercial Zoning District. She added that Council gave careful consideration to the Commission's recommendation on the ordnance amendment and that approximately 95% of the time Council does follow the Commission's recommendation; however, she reminded the Commission that they are a board of recommendation and that Council has the responsibility and authority to make the final decisions.

Vice Mayor Travis stated that his concern is not that Council did not follow the Commission's recommendation on the General Commercial District amendment, but rather that there was no feedback from Council on this issue. He stated that it would be extremely helpful if City Council would share their vision for our community with the Commission. In conclusion, he stated that the Commission needed and would welcome more interaction with City Council.

The Commission requested a joint work session with Council at their earliest convenience.

3. Review of the Zoning Ordinance Variance Request

The Commission made no comment on this item

COMMUNICATIONS AND CORRESPONDENCE

1. Status of the Item from the January 21, 2016 Meeting

Subsequent to a brief discussion, the Commission requested that staff provide a status memo with each agenda that includes details on City Council's actions on items for which the Commission has made a recommendation.

The Community Development Director welcomed the two new Commissioners, Christopher Williamson and Leigh Fenigsohn.

The City Planner thanked the Commission for a very productive discussion on the Comprehensive Plan update and stated that possibly three Conditional Use Permits would be included in their March agenda.

Commissioner Williamson thanked staff for the orientation which they had provided and the Commission Clerk, Victoria Diggs, for her assistance in securing appropriate training in the fall. Lastly he stated that he looked forward to working with everyone on the Commission.

Commissioner Fenigsohn expressed gratitude for the opportunity to serve her community.

Commissioner Goddin apologized for having been absent for the earlier work session.

Chairwoman Shriver also welcomed Commissioner Williamson and Fenigsohn and stated that she too looked forward to working with them to serve the community.

ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 8:28 p.m.

Bonnie W. Shriver, Chairwoman

Victoria H. Diggs, Clerk

The Poquoson Planning Commission met in a work session on Thursday, February 18, 2016 at 6:00 p.m. in the Council Chambers located at 500 City Hall Avenue.

PRESENT: Commissioner Bonnie W. Shriver, Chairwoman
Commissioner William J. Travis, Vice Chairman
Commissioner Richard D. Clifton, Member
Commissioner James K. Titlow, Member
Commissioner Leigh Fenigsohn, Member
Commissioner Christopher R. Williamson, Member

J. Randall Wheeler, City Manager
Deborah L. Vest, Director of Community Development
Kevin M. Wyne, Planner
Victoria H. Diggs, Clerk

ABSENT: Commissioner Gustavus A. Goddin, Member

Chairwoman Shriver called the work session to order at approximately 6:00 p.m. and welcomed the new Commissioners, Christopher R. Williamson and Leigh Fenigsohn. Chairwoman Shriver turned the meeting over to the City Manager, J. Randall Wheeler, who was presenting the City's proposed Capital Improvements Plan.

Proposed Capital Improvements Plan (CIP) FY 2017 - Beyond FY 2021

The City Manager presented a brief overview of the proposed Capital Improvements Plan for FY 2017 and beyond FY 2021 which included the following information:

- That during the recession, only high priority items in the CIP, i.e. school buses, etc., were purchased in order to prevent discontinuing services or increasing taxes.
- That due to the slight improvement in the economy the City is now able to focus on saving for capital items which have been in the CIP document for several years.
- That with City Council's endorsement, the City plans to reserve 10% of the increasing new revenue to assist in addressing the list of needed capital items and projects.
- That the proposed Plan includes the requests of City Departments and the School Board as well as the City Manager's recommended CIP.

Mr. Wheeler introduced the following four projects in the CIP which would collectively fall within the 10% of the new General Fund revenue budget for next year:

1. The replacement of the HVAC system at the Poquoson Primary School.

2. Refurbishment and/or replacement of the HVAC Variable Air Volume (VAV) system at the High School.
3. Replacement/upgrade of the Poquoson High School track to meet VHSL requirements.
4. A beach at Messick Point.

Mr. Wheeler pointed out that the much needed Public Safety Building which would house the Police Department and possibly the Fire Administration and the Emergency Operations Center (EOC) was included in the Plan for FY 2021 with a building needs assessment for the facility scheduled in FY 2018. He asked the Commissioners to consider an appropriate location for this structure during the update process of the City's Comprehensive Plan.

In conclusion, he displayed the current statistics with regard to the maximum capacity/enrollment for each school. He stated that the discussion on the renovation/replacement of the Middle School will likely commence again following the adoption of the City's FY 2017 budget.

In response to Commission queries about prioritization of the projects, the City Manager stated that: the Messick Point Beach was chosen because it is the most common request received from the public; refurbishment of the High School track is really important and will enable VHSL track meets to be hosted in the City; and the HVAC and VAV systems at the Primary and High School, respectively, are pupil safety items which need to be addressed as soon as possible.

In response to additional questions/concerns expressed by the Commission, the following information was provided by appropriate City and/or School staff:

- That the State and the Virginia Institute of Marine Science (VIMS) have and will provide information/guidance on how to counteract possible storm damage should a beach be established at Messick Point.

- That the proposed beach is not to enhance tourism, but to satisfy a recreational need expressed by residents.

- That, although not included in the current PHS track replacement cost figure, lights for the facility would be considered and a sidewalk for public access to the track would be provided.

- That the air quality at all four schools are tested regularly and are within the safe range.

- That not all of the High School locker room showers are inoperable and that they are seldom used.

- That the cost for the VAV system at the High School is relatively inexpensive because most of the work will be performed by School personnel.
- That the projected, mandated TMDL project is costly yet it has been significantly reduced from the original $90 million price tag.
- That the projected utility (sewer) projects are expensive, but are funded by an Enterprise Fund (Sewer Fund).
- That the requested Public Safety Building is needed for numerous reasons, the most prominent of which is the existing Police Station/Fire Administration Office are extremely old and inadequate to meet their needs.

There being no further discussion, the meeting was adjourned at approximately 6:57 p.m.

ADOPTE: _____

ATTESTE: _____
Victoria H. Diggs, Clerk

CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA 23662-1996
(757) 868-3040 TELEPHONE (757) 868-3105 FAX

MEMORANDUM

Date: March 21, 2016

To: The Honorable Chairwoman and Members of the Planning Commission

From: Kevin M. Wyne, Planner

Subject: **Conditional Use Permit For A Cat Sanctuary In A Residential District- Tax Parcel No. 32-1-44**

Introduction

The City has received a request from Poquoson Animal Welfare Sanctuary (PAWS) Inc., applicant and property owner, to amend their existing conditional use permit, issued on September 23, 2013, to request an increase in the number of cats allowed on their property. Presently, PAWS is permitted to have no more than 50 cats on average daily over the course of the month. The applicant is requesting to increase this number to 75. The cat sanctuary is located at 181 Messick Road and is further identified as Tax Map Parcel No. 32-1-44. The property is zoned R-2, Single Family Residential.

Public Notice

This application was advertised for public hearing in the Daily Press on March 4, 2016 and March 11, 2016. Adjacent property owners were notified of this request by letters mailed on March 1, 2016.

Applicant's Proposal

As mentioned above, the applicant is requesting an increase in the number of felines allowed on the property from 50 to 75. Since the issuance of the conditional use permit for this operation the City has received no complaints and the owner has operated the use in compliance with all specified conditions. Within the first year of the permit's issuance, a feature was installed on the top of the chain link fence surrounding the parcel that deters cats from leaving the property. This was installed to satisfy condition number two (2) of their issued use permit. The original staff report (dated September 16, 2013) and the approved resolution issuing the use permit (dated September 23, 2013) are attached for your convenience. If the Planning Commission recommends approval of the request to City Council, the following condition must be amended:

8. The use shall not house any more than ~~fifty (50)~~ seventy-five (75) cats daily on average over the course of a month.

Attachments

Tuesday Feb 23

City Poquoson
500 City Hall Avenue
Poquoson, Virginia 23662
(757) 868-3040

APPLICATION FOR A CONDITIONAL USE PERMIT

To the Planning Commission/City Council
of the City of Poquoson:

I/We, the Board of Directors of the Poquoson Animal Sanctuary

the undersigned owner(s) of the described property:

Shirley Myers - President
Karen P. Dyer, vice president Sol Cawley - Secretary
[signature] VICE PRESIDENT Tracy B Burnett co-manager

hereby apply for a conditional use permit for the following reasons:

We request to change Resolution Number 3877 adopted 9-23-2013, Section 1 Part 8, to increase the number of cats housed at 181 Messick Road from a maximum of 50 daily average over the course of a month to 100. Attached are statistics demonstrating our progress within the city from 2013-2015. During the height of kitten season there can easily be 30 on the property in our six "sheds" or "cottages" including moms and kittens. Even though we adopt increasing numbers, there are still many cases where we must take in stray single feral cats or we take in friendly abandoned cats. Although we adopt out all we can, there are cases where cats are simply not adoptable mostly due to health or behavioral issues such as friendly males who were not fixed as kittens and they spray. Just in the past two months we have taken in about a half dozen friendly abandoned cats. People move and just leave the cats. It is terribly sad. All of the cats are named, well cared for & we have a system in place to keep up with vaccines etc. plus two shifts daily to care for the cats.

(CONTINUED)

Revised 1/11/10

I HEREBY AUTHORIZE CITY REPRESENTATIVES TO HAVE ACCESS TO THE PROPERTY DURING REASONABLE HOURS.

SIGNATURE OF PROPERTY OWNER(S):

X Tracy B Burnett co-manager

X Karen P. Ayer co-manager

NAME: Tracy B Burnett Karen P. Ayer

ADDRESS: 181 Messick Rd Poquoson VA 23662

(Mrs. Burnett) (Mrs. Ayer)

TELEPHONE: 757-817-2826 757-287-4757

SIGNATURE OF PERSON REPRESENTING APPLICATION:
(IF OTHER THAN OWNER)

X _____

NAME: _____

ADDRESS: _____

_____

TELEPHONE: _____

INCLUDE WITH THIS APPLICATION:

1. A $500 FEE TO COVER ADVERTISING COST. MAKE CHECK PAYABLE TO "CITY OF POQUOSON".

2. A SURVEYED PLAT OF THE PROPERTY.

Our second request is to have 2 outbuildings placed on the property. One is a 16x10 wooden barn style which houses supplies + records. The second a 10x12 maximum barn style outbuilding we need to house our event supplies and yard sale donations. Other than those all other spaces are dedicated to cat care and housing.

Thank you for your consideration.

PAWS Statistics

	2013	2014	2015
Number of Cats Neutered:	114	200	340
Adopted:	76	116	159
Trapped/ Neutered Returned to the Wild:	38	48	185
Assisted Citizens with Cats:		16	15
Neutered and Permanent Residents of the Sanctuary:	9	9	9
Cats Deceased /Euthanized:	14	23	14
Pending Adoption:		10	

FY 2016, 2017 and 2018 Estimate

Number of Cats Neutered: 300-400

Overall goal is within 4 years, we have a limited numbers of unneutered cats.

Mission Statement

Dedicated to the protection, care and humane treatment of animals in the City of Poquoson "Committed to the Cause for PAWS"

A RESOLUTION RECOMMENDING CITY COUNCIL APPROVAL OF A MODIFICATION TO PAWS, INC. EXISTING CONDITIONAL USE PERMIT TO INCREASE THE MAXIMUM NUMBER OF CATS ALLOWED ON ITS PROPERTY LOCATED AT 181 MESSICK ROAD, POQUOSON TAX MAP PARCEL NO. 32-01-00-0044

WHEREAS, a request was submitted by Poquoson Animal Welfare Sanctuary, Inc. (PAWS), applicant and property owner, to modify condition #8 of its current Conditional Use Permit, approved by City Council on September 23, 2013, to increase the maximum number of cats housed on its property located at 181 Messick Road, specifically identified as Tax Map Parcel No. 32-01-00-0044, from 50 to 75; and

WHEREAS, a public hearing to receive public comments and review the request was held before the Planning Commission on March 21, 2016; and

WHEREAS, careful and thorough consideration was given the request.

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

Section 1: That the request of Poquoson Animal Welfare Sanctuary, Inc. (PAWS), applicant and property owner, to modify condition #8 of its current Conditional Use Permit for its property located at 181 Messick Road, specifically identified as Tax Map Parcel No. 32-01-00-0044 is hereby recommended for approval to read as follows:

8. The use shall not house any more than ~~fifty (50)~~ seventy-five (75) cats daily on average over the course of a month.

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

ADOPTED: _____

TESTE: _____
Clerk, Planning Commission

A RESOLUTION RECOMMENDING CITY COUNCIL DENIAL OF A MODIFICATION TO PAWS, INC. EXISTING CONDITIONAL USE PERMIT TO INCREASE THE MAXIMUM NUMBER OF CATS ALLOWED ON ITS PROPERTY LOCATED AT 181 MESSICK ROAD, POQUOSON TAX MAP PARCEL NO. 32-01-00-0044

WHEREAS, a request was submitted by Poquoson Animal Welfare Sanctuary, Inc. (PAWS), applicant and property owner, to modify condition #8 of its current Conditional Use Permit, approved by City Council on September 23, 2013, to increase the maximum number of cats housed on its property located at 181 Messick Road, specifically identified as Tax Map Parcel No. 32-01-00-0044, from 50 to 75; and

WHEREAS, a public hearing to receive public comments and review the request was held before the Planning Commission on March 21, 2016; and

WHEREAS, careful and thorough consideration was given the request.

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

Section 1: That the request of Poquoson Animal Welfare Sanctuary, Inc. (PAWS), applicant and property owner, to modify condition #8 of its current Conditional Use Permit by increasing the maximum number of cats housed on its property located at 181 Messick Road, specifically identified as Tax Map Parcel No. 32-01-00-0044, from 50 to 75 is hereby recommended for denial.

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

ADOPTED: _____

TESTE: _____
Clerk, Planning Commission

757862-1379
10-NOV

POQUOSO
MONDAY-
SATURDAY

757 868-1379
10-NOON

CAUTION: CATS WILL TRY TO EXIT PROPERTY
Please Close Completely
GATE OPENS TOWARDS THE HOUSE!

POQUOSON ANIMAL WELFARE SANCTUARY
757-868-1379
MONDAY-SATURDAY 10-NOON OR BY APPOINTMENT
WARNING
Security Cameras In Use
CAUTION: CATS WILL TRY TO EXIT PROPERTY
Please Close Completely
GATE OPENS TOWARDS THE HOUSE!

ROBINSON ANIMAL WELFARE SANCTUARY
757-868-1379
MONDAY-SATURDAY 10-NOON OR BY APPOINTMENT
WARNING
Security Cameras in use
CAUTION:

CITY OF POQUOSON
PLANNING DEPARTMENT
500 CITY HALL AVENUE, POQUOSON, VIRGINIA 23662-1996
(757) 868-3040 TELEPHONE (757) 868-3105 FAX

MEMORANDUM

Date: March 21, 2016

To: The Honorable Chairwoman and Members of the Planning Commission

From: Kevin M. Wyne, City Planner

Subject: **Conditional Use Permit for an Electrical Contracting Use at 834 Poquoson Avenue– Tax Parcel No. 19-1-213**

Introduction

The City has received a request by Mr. William N. Price on behalf of Price Electrical, Inc., applicant, and Mr. and Mrs. Freddie L. Binford, current property owners, for a conditional use permit to establish an electrical contracting business on property located at 834 Poquoson Avenue, further identified as Tax Parcel No. 19-1-213. The property, although it has housed commercial uses in the past, is zoned R-1, Single Family Residential district. As such, the operation of a commercial use on the property is classified as a legal, non-conforming use. Legal non-conforming uses are defined as uses that existed prior to the establishment of the property's current zoning. In this case, the property served as a commercial use prior to the establishment of the R-1, Single Family Residential district in the area. The zoning ordinance allows for the expansion of legal non-conforming uses, provided that they do not exceed 100 percent of the existing square footage. Price Electrical proposes to exceed the 100 percent rule, thus necessitating the need for a conditional use permit. The property is located on the southern side of Poquoson Avenue near its intersection with Cedar Road. The property, which consists of approximately .64 acres, is sandwiched between the old Municipal Building property to its west and the Claytor Rollins Funeral Home to its east. Directly across Poquoson Avenue from the property (to its north) lay the Tabernacle United Methodist Church property.

Public Notice

This application was advertised for public hearing in the Daily Press on March 4, 2016 and March 11, 2016. Adjacent property owners were notified of this request by letters mailed on March 1, 2016.

Applicant's Proposal

The applicant, who currently has the property under contract, proposes establishing an electrical contracting use on the site. The business would utilize the existing, 2,100 square foot building as office and storage

space supporting the electrical business. As a part of the applicant's proposal, Price Electrical would add a 1,500 square foot expansion to the existing building which would accommodate the needs of the operation. Additionally, plans call for the construction of a 3,000 square foot storage building at the rear of the property, approximately 100' feet from the main structure and approximately 20' from the rear property line. In addition to the proposed expansion, the business owner anticipates replacing and upgrading the façade of the existing building.

Site Character

The parcel is a parallelogram in shape, measuring approximately 380' on its western boundary with the old Municipal Building and 330' on its eastern boundary with Claytor Rollins. The property consists of approximately 80' of frontage on Poquoson Avenue. Additionally, the rear property line, which borders the Municipal Park Softball Field, measures 80' in width. The existing structure has a small parking area at its front and is setback approximately 45' from Poquoson Avenue.

The property currently houses a furnisher repair business/antique shop. The property has operated as such use since around 1995. Prior to 1995 it operated as the City's Postal Office. There are currently four (4) trailers in the rear yard of the property that have been used for storage purposes. These trailers range in length from 40' to 48' and are all 8' in width. These trailers, along with a metal carport at the front of the property and a small metal shed in the rear yard are planned for removal as a part of Price Electric's plans.

Zoning and Comprehensive Plan Considerations

The property is zoned R-1, Single Family Residential and an electrical contracting use is not a by-right use within this district due to its potential intensity and impact. As explained above, the current business that operates on the property, Professional Refinishing, is a legal, non-conforming use and thus grandfathered on the property. The continuation of a similar use is permitted on the property, however, because Price Electrical wishes to add approximately 4,500 square feet of building space to the property, its expansion proposals do not align with the provisions pertaining to legal non-conforming uses in the City's Zoning Ordinance. Specifically, Article III. Section 3-6. restricts the expansion of legal, non-conforming uses from increasing their size by more than 100 percent of what currently exists. As proposed, the business intends to expand the permanent square footage on the property by 214%.

Uses permitted in the R-1 district without a conditional use permit include single family residential structures and accessory buildings, playgrounds and parks of a non-commercial nature as well as public utilities. Schools and churches are permitted within this district with a conditional use permit. Commercial uses such as the electrical contracting business in question that generate activities inconsistent with the provisions set forth for home based businesses are not specifically permitted in this district.

The Comprehensive Plan 2008-2028 identifies the property as low density residential. Low density residential is described by the Comprehensive Plan as the following:

> *This category is for single-family residential areas in Poquoson that are intended to have a maximum of one and a half (1.5) to two (2) dwelling units per acre, as prescribed by the three current land use zoning districts: R-S, R-1, and R-2. Low Density Residential is the base layer of zoning for the City and is proposed for all parts of the City not designated for commercial, conservation, public use or medium to high density residential development. This designation may include open-space subdivisions in accordance with the Zoning Ordinance, not exceeding the maximum density allowed.*

Surrounding Characteristics

The property is surrounded by the R-1, Single Family district on all sides and six (6) properties housing single family dwellings are located within 500' of the parcel. While the property is located well within the R-1 district, the block in which it is located offers an eclectic mix of established non-residential uses, to include the adjacent funeral home and government building as well as the church across the street. Additionally, Municipal Park, which houses the City pool, a softball field and other recreational uses along with the City's Public Works compound, are located nearby.

Traffic and Access

The property has direct access from Poquoson Avenue. The property currently has about five (5) customer spaces out front and ample room on the property for the additional 10 spaces that will be required for the use upon completion of the proposed expansion. Additionally, on site circulation is anticipated to be sufficient to serve a use of this nature. The structure is setback far enough from Poquoson Avenue that staff does not anticipate any safety issues pertaining to ingress/egress.

Site Plan Required

Due to the proposed amount of increased square footage, the redevelopment of the site would require the submittal and approval of a plan of development. Site improvements are subject to the City's land use ordinances, and will be reviewed for compatibility at the time of site plan submittal. Additionally, State stormwater regulations pertaining to redevelopment would need to be met.

Utilities

The property is served by all necessary utilities.

Architectural Review Board

The site is located outside of the City's Architectural Review district, thus review by the City's Architectural Review Board is not required.

Relationship to the Comprehensive Plan/Staff Findings

As stated above, the property is designated for use as *Low Density Residential* as defined in the Comprehensive Plan. A detailed description of the purpose and intent of the *Low Density Residential* land use designation is outlined above in the section titled "Zoning and Comprehensive Plan Considerations."

The property has operated as non-residential since its construction in the 1960's. While an electrical contracting use is no more impactful than the current furnisher repair/antique shop use or the Post Office use it succeeded, the proposed redevelopment of the site (building expansion) necessitates the need for a conditional use permit. While the property is zoned residential and designated for residential use on the City's Future Land Use Map, it is surrounded by a handful of non-residential uses like itself. As mentioned above, this particular block of Poquoson Avenue offers an eclectic mix of non-residential uses, most of which were established in or before the 1960's. During the upcoming Comprehensive Plan update, the Planning Commission may want to re-evaluate the land use designations in this area. The property has operated as some form of commercial since its construction and its commercial operation has fit well into

the fabric of the neighborhood. Overall, staff anticipates the redevelopment of the site to transform a dated building into a more attractive business in this area of Poquoson Avenue.

If the Planning Commission recommends approval of the request to City Council, staff recommends that approval be subject to the following conditions:

1. The use must comply with all local, state and federal regulations. If at any time this use is operating in violation of any of the regulations set forth by the aforementioned agencies, the City Council may revoke this permit.
2. The operation of the use shall be restricted to the hours of 7 a.m. and 9 p.m. No activity supporting the use shall be conducted outside of this window.
3. All business activities conducted outdoors shall not produce any more noise or odor than what is reasonably expected from a single family residential property.
4. Any outdoor storage of equipment or materials must be screened by a solid fence, measuring at least 6' in height.
5. All improvements, as required by the City's Site Plan Ordinance and depicted as a part of the approved plan for redevelopment, must be perpetually maintained in good condition.
6. If at any time the specified permitted use on the property is discontinued for a period of two (2) or more years, this permit shall become null and void.
7. City Council reserves the right to review and amend the conditions of this permit as they see fit.

Attachments

City of Poquoson
500 City Hall Avenue
Poquoson, Virginia 23662
(757) 868-3040

APPLICATION FOR A CONDITIONAL USE PERMIT

To the Planning Commission/City Council
of the City of Poquoson:

I/We, William N. Price (Price Electrical, Inc.)

the undersigned owner(s) of the described property:
834 Poquoson Avenue, Poquoson, VA 23662

hereby apply for a conditional use permit for the following reasons:

For Construction & Operation
of Electrical Business

CITY OF POQUOSON
PAID
FEB 10 2016
TREASURER #3

(CONTINUED)

RECEIVED
FEB 10 2016
By

Revised 1/11/10

I HEREBY AUTHORIZE CITY REPRESENTATIVES TO HAVE ACCESS TO THE PROPERTY DURING REASONABLE HOURS.

SIGNATURE OF PROPERTY OWNER(S):

X William N. Price

X

NAME: William N. Price

ADDRESS: 105 E St., Ste. 100A
Hampton, VA 23669

TELEPHONE: (757) 342-6412 / (757) 912-4527

SIGNATURE OF PERSON REPRESENTING APPLICATION:
(IF OTHER THAN OWNER)

X

NAME: F L Bunford

ADDRESS: 834 - Poquoson Ave

TELEPHONE: 868-9802

INCLUDE WITH THIS APPLICATION:

1. A $500 FEE TO COVER ADVERTISING COST. MAKE CHECK PAYABLE TO "CITY OF POQUOSON".

2. A SURVEYED PLAT OF THE PROPERTY.

A RESOLUTION RECOMMENDING CITY COUNCIL APPROVAL OF A CONDITIONAL USE PERMIT TO ESTABLISH AND OPERATE AN ELECTRICAL CONTRACTING BUSINESS ON PROPERTY LOCATED AT 834 POQUOSON AVENUE, POQUOSON TAX MAP PARCEL NO. 19-01-00-0213

WHEREAS, a request was submitted by William N. Price (Price Electrical, Inc.), applicant, and Mr. & Mrs. Freddie L. Binford, property owners, for a Conditional Use Permit to establish and operate an electrical contracting business on property located at 834 Poquoson Avenue, specifically identified as Tax Map Parcel No. 19-01-00-0213; and

WHEREAS, a public hearing to receive public comments and review the request was held before the Planning Commission on March 21, 2016; and

WHEREAS, careful and thorough consideration was given the request.

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

Section 1: That the request of William N. Price (Price Electrical, Inc.), applicant, and Mr. & Mrs. Freddie L. Binford, property owners, for a Conditional Use Permit to establish and operate an electrical contracting business on property located at 834 Poquoson Avenue, specifically identified as Tax Map Parcel No. 19-01-00-0213 is hereby recommended for approval contingent upon adherence to the following conditions:

1. The use must comply with all local, state and federal regulations. If at any time this use is operating in violation of any of the regulations set forth by the aforementioned agencies, the City Council may revoke this permit.
2. The operation of the use shall be restricted to the hours of 7 a.m. and 9 p.m. No activity supporting the use shall be conducted outside of this window.
3. All business activities conducted outdoors shall not produce any more noise or odor than what is reasonably expected from a single family residential property.
4. Any outdoor storage of equipment or materials must be screened by a solid fence, measuring at least 6' in height.
5. All improvements, as required by the City's Site Plan Ordinance and depicted as a part of the approved plan for redevelopment, must be perpetually maintained in good condition.
6. If at any time the specified permitted use on the property is discontinued for a period of two (2) or more years, this permit shall become null and void.
7. City Council reserves the right to review and amend the conditions of this permit as they see fit.

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

ADOPTED: _____

TESTE: _____

Clerk, Planning Commission

A RESOLUTION RECOMMENDING CITY COUNCIL DENIAL OF A CONDITIONAL USE PERMIT TO ESTABLISH AND OPERATE AN ELECTRICAL CONTRACTING BUSINESS ON PROPERTY LOCATED AT 834 POQUOSON AVENUE, POQUOSON TAX MAP PARCEL NO. 19-01-00-0213

WHEREAS, a request was submitted by William N. Price (Price Electrical, Inc.), applicant, and Mr. & Mrs. Freddie L. Binford, property owners, for a Conditional Use Permit to establish and operate an electrical contracting business on property located at 834 Poquoson Avenue, specifically identified as Tax Map Parcel No. 19-01-00-0213; and

WHEREAS, a public hearing to receive public comments and review the request was held before the Planning Commission on March 21, 2016; and

WHEREAS, careful and thorough consideration was given the request.

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

Section 1: That the request of William N. Price (Price Electrical, Inc.), applicant, and Mr. & Mrs. Freddie L. Binford, property owners, for a Conditional Use Permit to establish and operate an electrical contracting business on property located at 834 Poquoson Avenue, specifically identified as Tax Map Parcel No. 19-01-00-0213 is hereby recommended for denial.

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

ADOPTED: _____

TESTE: _____
Clerk, Planning Commission

Professional
Refinishing
&

INSTALLED
GILMORE

INSTALLED IN JUST TWO WEEKS
CARPORTS
$495.00
PUBLIC AUCTION
SAT., MAR. 12 - 9 A.M.
HURROWS AUCTION
804-694-4312 804-815-2472

GILMORE

CITY OF POQUOSON
Department of Community Development

MEMORANDUM

Date: March 21, 2016

To: The Honorable Chairwoman and Members of the Planning Commission

From: Community Development Department

Subject: Code Amendments – Article I, Sections 1-3, 1-4(a), 1-4(b) and 1-4(c) As It Pertains To The Board of Zoning Appeals

Introduction

On July 1, 2015 the Commonwealth of Virginia adopted several amendments to its Code as it pertains to the Board of Zoning Appeals. Among other things, these amendments provide a slight relaxation of the criteria that must be followed in the granting of a variance. The City Attorney participated in a work session with the Board of Zoning Appeals on February 24, 2016 during which he outlined the changes and answered questions. These amendments are housekeeping items meant to synchronize the City Code with the Code of Virginia. The following is an outline of the amendments:

Article I, General Provisions, Section 1-3, Definitions

A new definition for "variance" was adopted to reflect the amended criteria for approval.

Article I, Section 1-4(a), Board of Zoning Appeals

This amendment is merely to correct the section cited from the Code of Virginia that allows for the appointment of three alternate members to the Board of Zoning Appeals. The section will be changed from §15.2-2309 to §15.2-2308.

Article I, Section 1-4(b)

A new section, which pertains to ex parte communications, was added to the Code of Virginia and therefore has been included in the Zoning Ordinance.

Article I, Section 1-4(c)

This section describes the powers and duties of the Board of Zoning Appeals and includes paragraphs numbered 1-8 as follows:

1) Amended to expand the existing language regarding the Board's process for considering appeals to determinations made by an administrative official in enforcing or administering the Zoning Ordinance.

2) Amended to note that the burden of proof shall be on the applicant for a variance and that the application must meet the standard for approval of a variance. Specifically a variance shall be granted if evidence shows that the strict application of the ordinance would unreasonably restrict the use of the property or if a physical condition of the property or improvements that existed at the time of the effective date of the ordinance could be alleviated by granting of a variance. Bulleted items A – E pertain to criteria for variance approval and are listed in paragraph 2 as amended. Letters F and G pertaining to criteria for granting an exception to the Environmental Management Area Overlay District were not amended but simply renumbered. An addition to the end of this portion of the amendments adds language regarding notification of adjacent property owners, conditions that may be imposed when granting a variance and restrictions on expansion of structures permitted by a variance.

3) Added to include the Board's power to hear and decide appeals from the decision of the zoning administrator.

4) Added to include the Board's power to hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary.

5) Added to note that the Board does not have the power to rezone property or base decisions on the intent of local ordinances.

6) Added to include the Board's power to hear and decide applications for special exceptions as may be authorized in the ordinance and with certain conditions, if deemed necessary.

7) Added to include the Board's power to revoke a special exception previously granted by the Board if noncompliance to the terms or conditions is determined.

8) Added to include the Board's power to create a schedule of regular meetings or in cases where weather or other conditions generate hazardous conditions, to continue scheduled meetings.

Public Notice

These Code Amendments were advertised for a public hearing in the Daily Press on March 4, 2016 and March 11, 2016.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE BY CHANGING ARTICLE I - GENERAL PROVISIONS

BE IT ORDAINED by the City Council of the City of Poquoson, Virginia:

Section 1: That the Zoning Ordinance of the City of Poquoson, Virginia be amended by modifying Article I General Provisions:

Section 1-3 Definitions

Variance: A *reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.* ~~relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance will work undue hardship on the property owner. A variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.~~

Section 1-4 Board of zoning appeals

(a) There is hereby established a board of zoning appeals consisting of no more than seven and no less than five residents of the city, but shall always be an odd number, appointed and renewable, removable as provided by the city charter and Code of Virginia, § 15.2-2308, as amended. Three alternates shall be provided as set forth in Code of Virginia, § 15.2-2309*8*, as amended.

(b) (1) The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

(2) Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under the Code of Virginia § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under the Code of Virginia § 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made pursuant to the Code of Virginia § 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of Code of Virginia § 2.2-3707.

(3) For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or the board, or who is appointed by special law or pursuant to the Code of Virginia § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.

(4) This section shall not apply to cases where an application for a special exception has been filed pursuant to subdivision 6 of the Code of Virginia § 15.2-2309.

~~(b)~~*(c)* The board of zoning appeals shall have the powers and duties and shall follow the procedures prescribed in Code of Virginia, § 15.2-2309, as amended and as follows:

(1) Hear and decide appeals from any order, requirements, decision, or determination made by an administrative official in enforcing or administering the zoning ordinance. *The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.*

(2) ~~Authorize,~~ *Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in the Code of Virginia §15.2-2201 provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in Code of Virginia §15.2-.2201 and the criteria set out in this section.* ~~upon request in specific cases, such variances from the terms of the zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of the zoning ordinance shall be observed and substantial justice be rendered. No variance shall be authorized by the board of zoning appeals unless:~~

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and;

a. ~~The strict application of the ordinance would produce undue hardship~~ *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*

~~b. The hardship is not shared generally by other properties in the same zoning district and in the same vicinity;~~

~~c.~~ *b.* ~~That~~ ~~t~~*The* ~~authorization~~ *granting of the variance will not be of substantial detriment to adjacent property and* ~~the character of the district will not be adversely affected by the variance granted~~ *nearby properties in the proximity of that geographical area;*

c. the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

d. the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;

e. the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of the Code of Virginia §15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of the Code of Virginia §15.2-2286 at the time of the filing of the variance application;

~~d.~~ *f.* Exceptions to the Environmental Management Area Overlay District (EMAOD) Special Performance Standards (article XLIV, EMA Overlay District, section 11.4-6) or RPA Buffer Requirements (article XLIV, EMA Overlay District, section 11.4- 12) shall be the minimum necessary to afford relief; and

e.*g.* Reasonable and appropriate conditions shall be imposed upon any exception to the EMAOD so that the purpose and intent of the Chesapeake Bay Preservation Act is preserved.

~~(c) The hardship is created by the physical character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardships shall not be considered as grounds for the issuance of a variance.~~

~~(e)~~ Additional exception criteria are provided for in section 11.4-13 of article XLIV, EMA Overlay District.

~~(f)~~ Any request for a variance, exception or appeal shall be accompanied by a processing fee of $250.00. Beginning January 1, 2010 the application fee will be adjusted annually, if necessary, to reflect the consumer price index as determined by the Federal Government rounded to the next dollar.

~~(d)~~ No variance ~~or appeal will be heard or authorized~~ *shall be considered* except after notice and hearing as required by Code of Virginia, § 15.2-2204, ~~as amended~~. *However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.*

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such a way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. *To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.*

8. *The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.*

Section 2: That this ordinance shall be in effect on and after 30 days from its adoption.

ADOPTED: _____

TESTE: _____

City Clerk

CITY OF POQUOSON
Department of Community Development

MEMORANDUM

Date: March 21, 2016

To: The Honorable Chairwoman and Members of the Planning Commission

From: Community Development Department

Subject: Code Amendment – Article XI.IV, Section 11.4-13(d)(2) Zoning Ordinance As It Pertains To Board of Zoning Appeals Application Fee

Introduction

The Community Development Department continues to update portions of the Zoning Ordinance as the need becomes apparent. We currently have one section in need of updating and have prepared it for presentation to you this evening. This section is as follows:

Article XI.IV, Environmental Management Area (EMA) Overlay District, Section 11.4-13.(d)(2) Relief from Requirements

In preparing the Board of Zoning Appeals code amendments it was noted that the processing fee listed in this section of the Zoning Ordinance is outdated. The listed Board of Zoning Appeals application fee is $200.00; however this fee was increased to $250.00 in 2009. In addition to updating the application fee it is proposed that the language be expanded to allow for an annual adjustment of the fee if necessary. This amendment would align with the existing application fee cited in Article I, Section 1-4(c)(2) of the City's Zoning Ordinance.

Public Notice

This Code Amendment was advertised for a public hearing in the Daily Press on March 4, 2016 and March 11, 2016.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE BY CHANGING ARTICLE XI.IV ENVIRONMENTAL MANAGEMINT AREA (EMA) OVERLAY DISTRICT

BE IT ORDAINED by the City Council of the City of Poquoson, Virginia:

Section 1: That the Zoning Ordinance of the City of Poquoson, Virginia be amended by modifying Article XI.IV. Environmental Management Area (EMA) Overlay District:

Section 4-13 – Relief from Requirements

(d)

Exceptions. A request for an exception shall be made in writing and contain the information required in section 11.4-13(c)(2)a., b. and c. of this ordinance. Exceptions to performance standards [section] 11.4-6, use regulations [section] 11.4-9 buffer requirements [section] 11.4-12 and for expansions of existing non-conforming accessory structures or construction of new accessory structures in the RPA may be granted, provided that reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Chesapeake Bay Preservation Act is preserved. No exception shall be granted until after public notice is given and after a single hearing is conducted as required by Code of Virginia, § 15.2-2204. Notice to adjacent property owners may be given by first-class mail.

(1)

A request for an appeal to the requirements shall be made in writing to the board of zoning appeals within 15 days as provided for in article I, section 1-4 of the zoning ordinance. The board of zoning appeals shall identify the impacts of the proposed request on water quality and on lands within the RPA through the review of a natural resources inventory and a water quality impact assessment which complies with the provisions of section 11.4-5. The inventory assessment shall be submitted by the applicant at the time of application.

(2)

The board of zoning appeals shall review the application for an exception and/or an appeal with supporting documents and a ~~$200.00~~ *$250.00* application fee. *Beginning January 1, 2010, the application fee will be adjusted annually, if necessary, to reflect the consumer price index as determined by the Federal Government rounded to the next dollar*. ~~and~~ *The board of zoning appeals* may grant such relief as it deems consistent with the purpose and intent of the Chesapeake Bay Preservation Act provided that the board of zoning appeals finds

a.

The exception request is not based upon conditions or circumstances that are self-created or self-imposed. The exception must pertain to alleviating requirements imposed by the implementation of the ordinance and shall not afford a special privilege or mere convenience sought by the applicant.

b.

The physical characteristics of the property and/or existing development must be such that, in the opinion of the board, there exists no other reasonable option or location outside of the required buffer area.

c.

The exception request shall be the minimum necessary to afford relief.

d.

Reasonable and appropriate measures shall be proposed in order to maintain or reduce the predevelopment pollutant loading index of the property. The proposed development shall not effectively increase the pollutant loading index.

e.

The exception request shall be consistent with the purpose and intent of the overlay district, and not injurious to the neighborhood, detrimental to the public welfare, or of substantial detriment to water quality.

f.

Granting the exception will not confer upon the applicant any special privileges that are denied by this part to other property owners who are subject to its provisions and who are similarly situated.

(3)

If the board of zoning appeals cannot make the required findings or refuses to grant the exception, the board of zoning appeals shall return the request for the exception together with the natural resources inventory and the written findings and rationale for the decisions to the applicant.

(4)

In granting an exception, the board of zoning appeals may impose reasonable and appropriate conditions, as the board deems necessary to further the purpose and intent of the section and the Chesapeake Bay Act.

(5)

Reviews of appeals may be taken from any decision of the board rendered under this article to the circuit court pursuant to established law.

Section 2: That this ordinance shall be in effect on and after 30 days from its adoption.

ADOPTED: _____

TESTE: _____

City Clerk

CITY OF POQUOSON
Department of Community Development

MEMORANDUM

Date: March 21, 2016

To: The Honorable Chairwoman and Members of the Planning Commission

From: Community Development Department

Subject: Code Amendment – Article XI.IV, Section 11.4-6(l)(2) As It Pertains To Septic System Inspection Procedures

Introduction

The Community Development Department has received notice from the Virginia Department of Environmental Quality (DEQ) of an amendment that has been made to the septic system pump-out procedures, which should be updated in local ordinances. The amendment is as follows:

Article XI.IV, Environmental Management Area (EMA) Overlay District, Section 11.4-6. Special Performance Standards, Section (l)(2)

This amendment allows for inspection of on-site septic systems by an operator or on-site soil evaluator licensed or certified as being qualified to operate, maintain, or design on-site sewage systems, rather than restricting such inspections to certification by the Virginia Department of Health.

Public Notice

These Code Amendments were advertised for a public hearing in the Daily Press on March 4, 2016 and March 11, 2016.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE BY CHANGING ARTICLE XI.IV ENVIRONMENTAL MANAGEMINT AREA (EMA) OVERLAY DISTRICT

BE IT ORDAINED by the City Council of the City of Poquoson, Virginia:

Section 1: That the Zoning Ordinance of the City of Poquoson, Virginia be amended by modifying Article III. Nonconforming Uses and Structures to read as follows:

Section 4-6.I(2) – Special Performance Standards

All on-site sewage treatment systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years. However:

(1)

If deemed appropriate by the local health department and subject to conditions the local health department may set, the owners of such systems, as an alternative to the mandatory pump out, have the option of installing a plastic filter in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system.

(2)

In lieu of requiring proof of septic tank pump-out every five years, owners of on-site sewage treatment systems may submit documentation every five years, certified by ~~a sewage handler permitted by the Virginia Department of Health~~, *an operator or on-site soil evaluator licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, maintain, or desing on-site sewage systems,* that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.

Section 2: That this ordinance shall be in effect on and after 30 days from its adoption.

ADOPTED: _____

TESTE: _____

City Clerk

CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON,
VIRGINIA 23662-1996
(757) 868-3040 TELEPHONE (757) 868-3105 FAX

MEMORANDUM

Date: March 21, 2016

To: Chairwoman and Members of the Planning Commission

From: Deborah L. Vest, Coordinator of Community Development

Subject: **Review of the Zoning Ordinance Variance Request**

The Board of Zoning Appeals has advertised a public hearing for March 23, 2016 at 6:30 p.m. to consider the following:

1. Variance request by Lester and Fimiah Pauls, property owners, for relief from the accessory structure regulations as prescribed in Article I, Section 1-23(3) of the Poquoson Zoning Ordinance for the construction of a detached garage on property located at 33 Bunting Lane, Tax Map Parcel No. 30-1-6, zoned R-2 (Residential).

DLV:vhd

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MEMORANDUM

Date: March 21, 2016

To: Chairwoman and Members of the Planning Commission

From: Deborah L. Vest, Director of Community Development

Subject: **Status of the Item from the February 18. 2016 Meeting**

The current status of the item considered by the Planning Commission at its February 18, 2016 meeting is:

1. City Council, at its February 22, 2016 meeting, by a vote of 7 to 0 approved the proposed City of Poquoson's Capital Improvements Plan for FY 2017 through FY 2021 and beyond. The Council made no changes or amendments to the CIP, but adopted it just as it was presented to and subsequently recommended by the Commission.

DLV:vhd