

VIRGINIA: The Poquoson Planning Commission met in a regular meeting on Monday, October 21, 2013 at 7:00 p.m. in the Council Chambers located at 500 City Hall Avenue.

PRESENT: Commissioner Bonnie W. Shriver, Chairwoman
 Commissioner Richard D. Clifton, Member
 Commissioner James K. Titlow, Member
 Commissioner Gustavus A. Goddin, Member

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

ABSENT: Commissioner William J. Travis, Vice Chairman
 Commissioner Gregory N. Grady, Member
 Commissioner Shawn M. Avery, Member

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.

APPROVAL OF THE MINUTES

Commissioner Clifton moved, seconded by Commissioner Goddin, that the minutes of the September 16, 2013 regular session be approved as submitted. Recorded vote on the motion:

YES: Commissioners Titlow, Clifton, Goddin and Chairwoman Shriver

NO: None.

AUDIENCE FOR VISITORS

No one in the audience spoke.

PUBLIC HEARINGS

1. A REQUEST BY SHIRLEY W. BELLAMY, PROPERTY OWNER, AND J. MARK BELLAMY, APPLICANT, TO ESTABLISH A STORAGE YARD AT 426 WYTHE CREEK ROAD, TAX MAP PARCEL NOS. 27-04-00-0002 AND 27-04-00-0003, ZONED B-2, BUSINESS.

This request for a Conditional Use Permit was advertised for a public hearing in the Daily Press on October 3, 2013 and October 10, 2013. Adjacent property owners were notified by letters mailed on September 30, 2013.

Mr. Kevin Wyne, Planner, presented a brief presentation on this request which highlighted the following points:

- A gas station and convenience store currently operate on the subject site which is located on and adjacent to 426 Wythe Creek Road and consisting of two parcels totaling approximately .888 acres.
- The subject property is zoned B-2 (Business Commercial) and is adjacent to R-1 (Single-Family Residential) properties on the east, B-2 on the southeast and GC (General Commercial) to the north, south and west.
- This property does not meet the definition of a storage yard as the applicant is requesting miscellaneous items to be kept on the property which do not support the on-site gasoline and retail operation.
- The City has received complaints from adjacent property owners and has been working with the property owner/applicant for the past nine (9) years to bring this property into compliance with the City Code.
- The applicant is requesting a Conditional Use Permit in order to bring the property into compliance and to negate any court imposed penalties.

Although staff is hesitant to recommend approval of this application in part due to its location on one of the City's main thoroughfares and being adjacent to a well established single-family residential neighborhood, Mr. Wyne provided the Commission with the following suggested conditions should the Commission choose to recommend its approval:

1. All area used for storage purposes must be screened from public view on all sides by solid wood, vinyl, masonry fencing or other material deemed appropriate by the Zoning Administrator with a minimum height of no less than six (6) feet. The fence shall be screened by a vegetated buffer of no less than five (5) feet. This buffer must be vegetated with evergreens or shrubbery suitable for the purpose of screening and pursuant to Article X., Section 10-8 of the City's Zoning Ordinance. Screening shall be perpetually maintained in good condition to assure that its intended purpose is accomplished.
2. All vehicles and equipment kept on the property shall be kept in good repair and working condition. The keeping of abandoned and/or unlicensed vehicles or equipment is prohibited.
3. The outdoor keeping of miscellaneous household items, including appliances, furniture lawn equipment, landscaping materials and automobile parts shall not be visible from adjoining properties.
4. Propane tanks shall be kept securely and in compliance with all local, state and federal regulations, including all building code requirements.

5. Removing items from the site for storage at other locations throughout the City shall be prohibited.
6. The operation shall obtain all required local, state and federal permits and/or licenses.
7. Upon the discontinuance of such use for a contiguous period of two (2) years or more, the Conditional Use Permit shall become null and void.
8. If at any time the operation is in violation of any local, state or federal regulation, including the conditions set forth in this use permit, the City reserves the right to revoke the permit.
9. This use permit may be subject to renewal after a three (3) year period. City Council may opt to renew this permit indefinitely through inaction provided the business is operating in good standing and within all the above outlined conditions.

Chairwoman Shriver opened the public hearing.

Barbara Cawley, 10 Alphus Street; Virginia Slonina, 1 Alphus Street; and Ben Wilson, 13 Alphus Street, spoke in opposition to the requested Conditional Use Permit. They based their opposition on the unkempt condition of the property; its adverse affect on their quality of life and past and current property values; and its adverse affect on the City's primary business district. They presented a petition, with the signatures of 18 Alphus Street residents, requesting the Commission to recommend denial of the Conditional Use Permit.

J. Mark Bellamy, the applicant, stated that he was unaware that he could not have open storage and that it had not been a problem in the past. He explained that he wanted to keep several items on the property that are not business related so that he may recycle the items to raise funds for the Boy Scouts. He presented the Commission with a list of the vehicles located on the subject property and explained that each had current tags and that all personal property taxes on the vehicles are current. Lastly, he stated that he would do whatever the Commission asked in order to be in compliance and to avoid any court imposed penalties.

As there were no other speakers, Chairwoman Shriver closed the public hearing.

In response to a Commission query, the Planner stated that it is illegal to store vehicles on this property even when they are properly licensed.

During the Commission's discussion, concern for the adjacent property owners took precedence. They also discussed the unsightly collection of debris not associated with the business and its detrimental impact on the Wythe Creek Road corridor. It was agreed that fencing the property was not a satisfactory solution due to the history of Mr. Bellamy's non-compliance over many years.

Commissioner Clifton moved, seconded by Commissioner Goddin, to recommend denial of the proposed Conditional Use Permit request. Recorded vote on the motion:

YES: Commissioners Clifton, Titlow, Goddin and Chairwoman Shriver

NO: None.

NEW BUSINESS

1. Review of Zoning Ordinance Variance Requests

The Commission made no comment.

COMMUNICATIONS AND CORRESPONDENCE

Deborah L. Vest, Director of Community Development, updated the Commission on the Planned Unit Development-Mixed Use Overlay District Ordinances which had been well received and approved on first reading by City Council. She stated that she expects Council to adopt these ordinances on second reading at its October 28th meeting.

Ms. Vest advised the Commission that staff had received an informal request to extend the PUD-MU Overlay District on the south side of Victory Boulevard and would apprise them if and when a formal application is submitted. She stated that staff is also considering possible amendments to the City's Planned Open Space Conservation District Ordinance (POSCD) by introducing a provision to acquire additional wetlands credits. Ms. Vest explained that the proposed changes would allow for greater flexibility for development and that she plans to have a working document available for the Commission's review at their next meeting. In conclusion, she stated that staff would present a draft POSCD ordinance amendment and a draft ordinance amending the Sign Ordinance at its December 2nd meeting.

Victoria H. Diggs, Clerk, reminded the Commission that, in accordance with their By-laws, the November and December meetings would be combined with the next meeting occurring on December 2, 2013.

The Commission had no comment.

ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 8:30 p.m.


Bonnie W. Shriver, Chairman


Victoria H. Diggs, Clerk