

**AT THE SPECIAL MEETING AND PUBLIC HEARING OF THE HAMPTON PLANNING COMMISSION HELD IN THE COUNCIL CHAMBERS, 8<sup>TH</sup> FLOOR, CITY HALL, 22 LINCOLN STREET, HAMPTON, VIRGINIA, ON THURSDAY, JUNE 25 2020 AT 3:30 P.M.**

**I. CALL TO ORDER**

Chairman Carole Garrison called the meeting to order at 3:30 P.M.

**II. ROLL CALL**

A call of the roll noted Commissioners Ruthann Kellum, Tommy Southall, Vice-Chair Christopher Carter, Steven Bond, Trina Coleman, and Chairman Garrison as being present. Commissioner Steven Brown was noted as absent. Staff in attendance were Secretary to the Commission/Director of Community Development Terry O'Neill, Deputy City Attorney Bonnie Brown, Planning & Zoning Administration Manager Michael Hayes, Zoning Administrator Hannah Sabo, Property Maintenance & Zoning Enforcement Manager Kimberly Mikel, Assistant City Attorney Shannon Jones, Zoning Official Angela Leflett, and Recording Secretary/Senior Administrative Assistant Kristie Graves.

**III. MINUTES – FEBRUARY 20, 2020 WORK SESSION & PUBLIC MEETING**

A motion was made by Commissioner Tommy Southall and seconded by Vice-Chair Christopher Carter to approve the minutes of the February 20, 2020 Work Session and Planning Commission meeting.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

**IV. MINUTES – JUNE 4, 2020 WORK SESSION & PUBLIC MEETING**

A motion was made by Commissioner Trina Coleman and seconded by Commissioner Ruthann Kellum to approve the minutes of the June 4, 2020 Work Session and Planning Commission meeting.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

Chairman Garrison explained that the Planning Commission reviews land use applications that relate to zoning matters and not the disposition of a property; that would be addressed with City Council. The Planning Commission recommends approval or denial of an application to City Council. City Council makes the final vote to approve or deny an item. If an item is withdrawn from the Planning Commission agenda, the public hearing speakers signed up for that item may speak at the end of the meeting.

As a reminder, due to the COVID-19 pandemic, Facilities staff was on hand to sanitize the podium in between speakers. Public speakers have three (3) minutes to address comments to the Planning Commission.

## **V. PUBLIC HEARING ITEMS**

Secretary O'Neill read the key points of the Hampton Planning Commission Public Hearing/Comment.

### **A. RZ 20-00004 – BLUEWATER YACHT SALES, LC, 90 & 92 MARINA ROAD [LRSNs: 2002669 & 2002670, RESPECTIVELY], ONE FAMILY RESIDENCE (R-13) DISTRICT TO LIMITED MANUFACTURING (M-2) DISTRICT**

This item was withdrawn by the City of Hampton as the property owner. No action will be taken on this item, as it is no longer an active application.

Public comment on this item was moved to the end of the meeting.

With the Planning Commission's concurrence, the next two (2) public hearing items are related will be part of one presentation and public hearing item. A separate motion and vote are required for each item.

Mr. O'Neill read the public hearing notices on the next two (2) related agenda items.

### **B. ZOA 20-00003 – CITY OF HAMPTON, AMEND AND RE-ENACT CHAPTER 9, SECTION 9-43, "DEVELOPMENT STANDARDS", FRONT YARD SETBACK, INFILL HOUSING OVERLAY**

**Zoning Ordinance Amendment No. 20-00003:** This is a proposal by the City of Hampton To Amend and Re-Enact Chapter 9 of the Zoning Ordinance of the City of Hampton, Virginia Amending Section 9-43 Entitled, "Development Standards" Pertaining to the Front Yard Setback in the Infill Housing Overlay. Approval of this amendment would relax the setback requirements for lots where the average of the block is greater than 30'. This item is being brought forward in conjunction with Zoning Ordinance Amendment No. 20-00006. This item is also being advertised for the July 8, 2020 regular meeting of the Hampton City Council.

### **C. ZOA 20-00006 – CITY OF HAMPTON, AMEND AND RE-ENACT CHAPTER 2, "DEFINITIONS", AMEND SECTION 2-2, REMOVE INFILL LOT**

**Zoning Ordinance Amendment No. 20-00006:** This is a proposal by the City of Hampton To Amend and Re-Enact Chapter 2 of the Zoning Ordinance of the City of Hampton, Virginia Entitled, "Definitions" by Amending Section 2-2. Approval of this amendment would remove the definition of infill lot, which is no longer utilized. This item is being brought forward in conjunction with Zoning Ordinance Amendment No. 20-00003. This item is also being advertised with the July 8, 2020 regular meeting of the Hampton City Council.

Zoning Official Angela Leflett presented the staff report on the subject amendments, copies of which are attached to the original minutes. She stated that staff recommends approval of Zoning Ordinance Amendment No. 20-00003 and Zoning Ordinance Amendment No. 20-00006.

In response to a question from Commissioner Kellum, Ms. Leflett responded that a surveyor determines the front yard setback by averaging the distance of the front property line to the front of the structure. Structures must comply with the required side and rear yard setbacks. The only change with this particular amendment relates to the front setback.

In response to a question from Chairman Garrison, Ms. Leflett stated that staff would recommend that the structure be pulled as much as possible out of the IDA (Intensely Developed Area) or RPA (Resource Protection Area). The property owner would need to meet the building requirements and follow the Chesapeake Bay Preservation Act requirements. If Zoning determines that the application does not meet the Chesapeake Bay Preservation District requirements, then the applicant can request an exception to the Chesapeake Bay Preservation District and be heard by the BZA.

Planning & Zoning Administration Manager Mike Hayes commented that rules for development in Hampton have changed over time. A builder has to show that they cannot build outside of the Intensely Developed Area of the Chesapeake Bay Preservation District for staff to administratively approve development within that area. On the example in the presentation, the Infill Housing Overlay would have required a front yard setback of 110 feet, which would have given a developer the argument to request an exception and build into the buffer. The change would require the developer to build out of the IDA. Staff would be required to communicate that the structure needs to be built outside of the Chesapeake Bay Preservation District.

There being no further questions or speakers, the Planning Commission approved the following resolution:

WHEREAS: the Hampton Planning Commission has before it this day Zoning Ordinance Amendment No. 20-00003 by the City of Hampton to Amend And Re-Enact Chapter 9 of the Zoning Ordinance of the City of Hampton, Virginia Amending Section 9-43 Entitled, "Development Standards" Pertaining to the Front Yard Setback in the Infill Housing Overlay;

WHEREAS: this item is proposed in conjunction with Zoning Ordinance Amendment No. 20-00006;

WHEREAS: this proposal amends Chapter 9 Section 9-43 of the Zoning Ordinance of the City of Hampton, Virginia entitled "Development Standards" by changing the required front yard setback;

WHEREAS: The current average of the block standard occasionally creates excessive front setback requirements, including exceeding lot depth and pushing the building envelop into or further into Chesapeake Bay Preservation District Resource Protection Areas;

WHEREAS: the purpose of this amendment is to establish a minimum front yard setback when the average of the block exceeds 30';

WHEREAS: this proposal would maintain the development patterns in neighborhoods where the existing homes are setback less than the minimum standards in the ordinance as well as align with the base zoning districts where the infill housing overlay would apply; and

WHEREAS: no members of the public spoke.

NOW, THEREFORE, on a motion by Commissioner Ruthann Kellum and seconded by Vice-Chair Christopher Carter,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Zoning Ordinance Amendment No. 20-00003.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

Zoning Ordinance Amendment No. 20-00003 passed unanimously, and would be heard by City Council at the July 8, 2020 meeting.

The Planning Commission also approved the following resolution:

WHEREAS: the Hampton Planning Commission has before it this day Zoning Ordinance Amendment No. 20-00006 by the City of Hampton to Amend And Re-Enact Chapter 2 of the Zoning Ordinance of the City of Hampton, Virginia Entitled "Definitions" by Amending Section 2-2 Pertaining to Infill Lot;

WHEREAS: this item is proposed in conjunction with Zoning Ordinance Amendment No. 20-00003;

WHEREAS: the Infill Housing Overlay District references substandard lots, which is defined in our Zoning Ordinance;

WHEREAS: having the "infill lot" definition, which does not align with the overlay district, creates opportunity for confusion and serves no function within the ordinance;

WHEREAS: the definition should have been removed when the current form of the Infill Housing Overlay District was adopted; and

WHEREAS: no members of the public spoke.

NOW, THEREFORE, on a motion by Vice-Chair Christopher Carter and seconded by Commissioner Trina Coleman,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Zoning Ordinance Amendment No. 20-00006.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

Zoning Ordinance Amendment No. 20-00006 passed unanimously, and would be heard by City Council at the July 8, 2020 meeting.

With the Planning Commission's concurrence, the next two (2) public hearing items are related will be part of one presentation and public hearing item. A separate motion and vote are required for each item.

Mr. O'Neill read the public hearing notices on the next two (2) related agenda items.

**D. ZOA 20-00007 – CITY OF HAMPTON, AMEND AND RE-ENACT CHAPTER 1, ARTICLE II, “REGULATIONS APPLICABLE TO MANY OR ALL ZONING DISTRICTS”, PERTAINING TO FENCE AND WALL REGULATIONS**

**Zoning Ordinance Amendment No. 20-00007:** This is a proposal by the City of Hampton to Amend and Re-Enact Chapter 1 Article II of The Zoning Ordinance of The City of Hampton, Virginia entitled, “Regulations Applicable To Many Or All Zoning Districts,” pertaining to fence and wall regulations. Approval of this amendment would modify the City's fence regulations to make technical updates and, as part of adoption of a separate City Code amendment pertaining to enforcement of overgrown vegetation, would remove duplicative zoning regulations. This item is being brought forward in conjunction with Zoning Ordinance Amendment No. 20-00008. This item is also being advertised for the July 8, 2020 regular meeting of the Hampton City Council. .

**E. ZOA 20-00008 – CITY OF HAMPTON, AMEND AND RE-ENACT CHAPTER 2, “DEFINITIONS”, AMEND SECTION 2-2, ADD FENCES AND NATURAL FENCES**

**Zoning Ordinance Amendment No. 20-00008:** This is a proposal by the City of Hampton to Amend and Re-Enact Chapter 2 of the Zoning Ordinance of the City of Hampton, Virginia Entitled, “Definitions” by Amending Section 2-2. Approval of this amendment would add a definition of fences and natural fences. This item is being brought forward in conjunction with Zoning Ordinance Amendment No. 20-00007. This item is also being advertised for the July 8, 2020 regular meeting of the Hampton City Council.

Zoning Administrator Hannah Sabo and Property Maintenance & Zoning Enforcement Manager Kimberly Mikel presented the staff report on the subject amendments, copies of which are attached to the original minutes. She stated that staff recommends approval of Zoning Ordinance Amendment No. 20-00007 and Zoning Ordinance Amendment No. 20-00008.

In response to a question from Vice-Chair Carter, Ms. Mikel responded that the owner of record would receive a notice of violation to correct the violation. If the violation is not corrected, the City contractor would abate the violation and a lien would be placed on the property. A summons can also be requested to take the owner to court.

In response to a question from Commissioner Kellum, Ms. Sabo stated that easements are typically for storm water or utility. Not every property has an easement which is for access by an entity that is not the owner of the property.

Deputy City Attorney Bonnie Brown clarified that public and private streets abut most residential lots and grant access to the lots. Easements grant access onto a property and can be used for storm water, drainage, and utilities. If the City has a right on a property for a use, a fence cannot be placed in the easement without the property owner having an encroachment

agreement with the City. Easements can be shown on the property owner's deed or on a survey; some easements are shown in the City's GIS system. An easement is a legal document that is recorded with the deed. City staff uses the GIS system to approve fence permits.

Commissioner Coleman clarified that on the street where she lives, all of the houses have a storm water drain. A fence can be placed across the top of the storm water drain but cannot be placed inside of the drain.

Commissioner Kellum explained that her question was regarding the consistency of easements in the City, if an easement goes with each property.

In response to a question from Commissioner Coleman, Ms. Sabo stated that there are no exceptions to the 3-foot corner rule noted in Section 1-17.

In response to a request from Mr. O'Neill, Assistant City Attorney Shannon Jones further explained the Court enforcement process. The Court process greatly extends the time period between the violation and abatement of the violation. If the City is looking to clean up overgrown areas in a timely fashion, the Court process is not the quickest method as opposed to the City having the ability to send a contractor to correct the violation.

In response to a question from Vice-Chair Carter, Ms. Jones responded that giving the City the ability to regulate overgrown vegetation will allow the City to send a contractor to abate any such violations.

Mr. O'Neill added that several neighborhoods approached the City about the problem of overgrown vegetation in their neighborhoods. Hampton City Council has gone to the General Assembly repeatedly over the past five (5) years in an attempt to gain the added authority to regulate overgrown vegetation.

In response to a question from Commissioner Bond, Ms. Jones stated that in response to high grass violations, the City currently sends a contractor out to abate the violation. The same process can apply to overgrown vegetation violations. If the City were unable to have a contractor correct the violation, the Court process would be the other option.

Mr. O'Neill further stated that the City wanted to allow as many options as possible to correct the violations. The City's preference to respond to the neighborhood concerns as well as the feedback from City Council is abatement though the City contractor if we are unable to get the owner to comply voluntarily.

In response to a question from Commissioner Coleman, Ms. Sabo responded that the City does not enforce Home Owner Association (HOA) regulations; though the HOA would be required to apply for a fence permit and comply with the same fence regulations. If the HOA did not comply, they would receive a notice of violation. There is no contractor abatement for the 3-foot corner rule.

In response to a question from Mr. O'Neill, Ms. Sabo answered that the violation would be sent to the deeded owner of the property.

In response to questions from Chairman Garrison, Ms. Sabo stated that a property owner of a fence or hedge that is in violation would have to prove that the fence or hedge is legally non-conforming, or was in existence prior to the City's regulation. Ms. Mikel explained that vegetation not being adequately maintained is not the only basis for a violation; the overgrowth

must have other criteria that constitute a public health, safety, welfare, or fire hazard. A violation based solely on vegetation not adequately maintained would likely apply to a vacant property that is overgrown. The notice of violation would list all of the criteria for the violation. City staff would also work with the owner on correcting the violation.

In response to a question from Vice-Chair Carter, Ms. Sabo explained that shrubbery acting as a fence is enforced under the fence regulations. If it is legally non-conforming, it would not be affected by the zoning ordinance amendment. However, changes to the city code would apply.

There being no further questions or speakers, the Planning Commission approved the following resolution:

WHEREAS: the Hampton Planning Commission has before it this day Zoning Ordinance Amendment No. 20-00007 by the City of Hampton to Amend And Re-Enact Chapter 1, Article II Of The Zoning Ordinance Of The City Of Hampton, Virginia Entitled "Regulations Applicable to Many Or All Zoning Districts" By Amending Section 1-18 Entitled "Fence And Wall Regulations";

WHEREAS: this item is proposed in conjunction with Zoning Ordinance Amendment No. 20-00008;

WHEREAS: this item is proposed as part of adoption of a separate City Code amendment pertaining to enforcement of overgrown vegetation;

WHEREAS: this amendment is in response to additional authority granted localities by House Bill 549 (2020) and Senate Bill 340 (2020), which amended Section 15.9-901 of the Code of Virginia, which granted additional powers to regulate overgrown shrubs, trees, and other such vegetation;

WHEREAS: this amendment is primarily a technical amendment being brought forward as part of the adoption of a separate City Code amendment pertaining to enforcement of overgrown vegetation;

WHEREAS: this amendment includes clarification of standards related to hedges that act as a fence, allowing fences in residential setbacks, compliance with vision clearance on corner lots, prohibiting locating a fence in a City easement without approval, and clarification that fences are considered impervious area; and

WHEREAS: no members of the public spoke.

NOW, THEREFORE, on a motion by Commissioner Tommy Southall and seconded by Commissioner Ruthann Kellum,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Zoning Ordinance Amendment No. 20-00007.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

Zoning Ordinance Amendment No. 20-00007 passed unanimously, and would be heard by City Council at the July 8, 2020 meeting.

The Planning Commission also approved the following resolution:

WHEREAS: the Hampton Planning Commission has before it this day Zoning Ordinance Amendment No. 20-00008 by the City of Hampton to Amend And Re-Enact Chapter 2 Of The Zoning Ordinance Of The City Of Hampton, Virginia Entitled "Definitions" By Amending Section 2-2 Pertaining To Fences and Natural Fences.

WHEREAS: this item is proposed in conjunction with Zoning Ordinance Amendment No. 20-00007;

WHEREAS: this item is proposed as part of adoption of a separate City Code amendment pertaining to enforcement of overgrown vegetation;

WHEREAS: this amendment is in response to additional authority granted localities by House Bill 549 (2020) and Senate Bill 340 (2020), which amended Section 15.9-901 of the Code of Virginia, which granted additional powers to regulate overgrown shrubs, trees, and other such vegetation;

WHEREAS: this amendment is primarily a technical amendment being brought forward as part of the adoption of a separate City Code amendment pertaining to enforcement of overgrown vegetation;

WHEREAS: this amendment adds a definition for fence and natural fence, which are both referenced in Section 1-18, "Fence and Wall Regulations"; and

WHEREAS: no members of the public spoke.

NOW, THEREFORE, on a motion by Vice-Chair Christopher Carter and seconded by Commissioner Trina Coleman,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Zoning Ordinance Amendment No. 20-00008.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

Zoning Ordinance Amendment No. 20-00008 passed unanimously, and would be heard by City Council at the July 8, 2020 meeting.

The next two (2) public hearing items are related will be part of one presentation and public hearing item. A separate motion and vote are required for each item.

Mr. O'Neill read the public hearing notices on the next two (2) related agenda items.

**F. ZOA 20-00009 – CITY OF HAMPTON, AMEND AND RE-ENACT CHAPTER 3, SECTION 3-2, “TABLE OF USES PERMITTED” AND SECTION 3-3, “ADDITIONAL STANDARDS ON USES”, ADD USE PERMIT REQUIREMENT FOR CERTAIN RESTAURANTS AND MICRO-BREWERIES/DISTILLERIES/WINERIES WITH RETAIL ALCOHOLIC BEVERAGE LICENSES FROM VABC**

**Zoning Ordinance Amendment No. 20-00009:** This is a proposal by the City of Hampton To Amend and Re-Enact Chapter 3 of the Zoning Ordinance of the City of Hampton, Virginia Amending Sections 3-2 Entitled, “Table of Uses Permitted” and Section 3-3 Entitled, “Additional Standards On Uses.” Approval of this amendment would add a use permit requirement for certain restaurants and micro-breweries/distilleries/wineries with retail alcoholic beverage licenses from VABC, in response to additional authority granted by House Bill 731 (2020) & Senate Bill 676 (2020), which amended section 15.2-2286 of the Code of Virginia. This item is being brought forward in conjunction with Zoning Ordinance Amendment No. 20-00010. This item is also being advertised for the July 8, 2020 regular meeting of the Hampton City Council.

**G. ZOA 20-00010 – CITY OF HAMPTON, AMEND AND RE-ENACT CHAPTER 2, “DEFINITIONS”, AMEND SECTION 2-2, REMOVE ADD “RETAIL ALCOHOLIC BEVERAGE LICENSES”**

**Zoning Ordinance Amendment No. 20-00010:** This is a proposal by the City of Hampton To Amend and Re-Enact Chapter 2 of the Zoning Ordinance of the City of Hampton, Virginia Entitled, “Definitions” by Amending Section 2-2. Approval of this amendment would add a definition for “retail alcoholic beverage licenses.” This item is being brought forward in conjunction with Zoning Ordinance Amendment No. 20-00009. This item is also being advertised for the July 8, 2020 regular meeting of the Hampton City Council.

Zoning Administrator Hannah Sabo presented the staff report on the subject amendments, copies of which are attached to the original minutes. She stated that staff recommends approval of Zoning Ordinance Amendment No. 20-00009 and Zoning Ordinance Amendment No. 20-00010.

In response to a question from Commissioner Coleman, Ms. Sabo responded that if there is an existing live entertainment use permit in effect; the use permit would still be in effect. The exception would be if the use permit was not in use for two (2) years or longer.

Mr. O’Neill explained that if a previous operator had a “clean” record with no issues, and the new operator has the same conditions, a use permit would likely be issued. On the other hand, if a previous owner had chronic issues that were not controlled by the use permit conditions, the transfer of operator allows the City to attach a new condition that addresses the historical problem.

In response to a question from Commissioner Coleman, Mr. O’Neill clarified that if there was a previous “problem” operator that created problems that were not anticipated by the City; this mechanism allows conditions to be added to the permit that address the problems that we know the previous operator had. For example, if the City knows that a previous operator had chronic parking problems, they would work with the new operator to try to resolve the parking problem either through hours of operation or providing additional parking. If the use permits run with the land, it is more difficult for chronic problems to be addressed.

In response to a question from Commissioner Southall, Ms. Sabo responded that the new authority is to impose a condition on use permits that have them expire. Existing use permits do not have the condition that makes them expire; therefore they are "grandfathered" in. The condition could only apply to new use permits and use permits that are changing or expanding their use.

In response to a question from Chairman Garrison, Ms. Sabo replied that the condition would not apply if the use permit was issued prior to the ordinance amendment, and there was not a two year lapse in the use. The exception is if City Council chooses to revoke the use permit due to an extreme situation. A Zoning Administrator Permit can be appealed.

In response to a question from Commissioner Kellum, Mr. O'Neill answered that there have been enough "problem" operators that City Council directed staff to amend the zoning ordinance. The City of Norfolk was previously granted the authority by the State. City Council and business owner were interested in the City having the ability to revisit the conditions of a use permit.

Ms. Sabo added that staff worked closely with the Hampton Police Division (HPD) in creating the amendment. HPD assisted on the business hours of operation in helping differentiate between a Zoning Administrator permit and a use permit.

There being no further questions or speakers, the Planning Commission approved the following resolution:

WHEREAS: the Hampton Planning Commission has before it this day Zoning Ordinance Amendment No. 20-00009 by the City of Hampton to Amend And Re-Enact Chapter 3 of the Zoning Ordinance of the City of Hampton, Virginia Amending Sections 3-2 Entitled, "Table of Uses Permitted" and Section 3-3 Entitled, "Additional Standards On Uses";

WHEREAS: this item is proposed in conjunction with Zoning Ordinance Amendment No. 20-00010;

WHEREAS: this amendment is in response to additional authority granted by House Bill 731 (2020) and Senate Bill 676 (2020), which amended Section 15.2-2286 of the Code of Virginia. As of July 1, 2020, the City of Hampton is added to the localities that are authorized to impose a condition on use permits for businesses which have retail alcoholic beverage licenses, stating that the use permit will automatically expire upon any of the following: change in ownership of the property, change in tenant, change in operation or management of the facility (business entity change), or the passage of a specific period of time (e.g., 5 years). Under the previous law, use permits ran with the land and new operators may "step into the shoes" of former operators;

WHEREAS: this amendment adds a use permit or zoning administrator permit requirement to those restaurants with a retail alcoholic beverage license and breweries/distilleries/wineries;

WHEREAS: this amendment does not change which districts restaurants or breweries/distilleries/wineries are permitted in;

WHEREAS: restaurants which do not have a retail alcoholic beverage license are not affected by this amendment;

WHEREAS: restaurants with a retail alcoholic beverage license and breweries/distilleries/wineries are proposed to be permitted with a zoning administrator permit with the condition that the hours are limited to 6:00 a.m. – 10:00 p.m. in order to operate outside of those hours an approved use permit is required;

WHEREAS: existing, legally permitted restaurants and breweries, which would require a use permit or zoning administrator permit under the new regulations, would be considered legally non-conforming. This means they can continue to operate indefinitely. However, if operations cease for 24 months or longer, legal non-conforming status is lost and any new operation must adhere to the current requirements at that time; and

WHEREAS: no members of the public spoke.

NOW, THEREFORE, on a motion by Vice-Chair Christopher Carter and seconded by Commissioner Ruthann Kellum,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Zoning Ordinance Amendment No. 20-00009.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

Zoning Ordinance Amendment No. 20-00009 passed unanimously, and would be heard by City Council at the July 8, 2020 meeting.

The Planning Commission also approved the following resolution:

WHEREAS: the Hampton Planning Commission has before it this day Zoning Ordinance Amendment No. 20-00010 by the City of Hampton to Amend And Re-Enact Chapter 2 of the Zoning Ordinance of the City of Hampton, Virginia Entitled, "Definitions" by Amending Section 2-2 to Add a Definition for "Retail Alcoholic Beverage Licenses";

WHEREAS: this item is proposed in conjunction with Zoning Ordinance Amendment No. 20-00009;

WHEREAS: this amendment is in response to additional authority granted by House Bill 731 (2020) and Senate Bill 676 (2020), which amended Section 15.2-2286 of the Code of Virginia. As of July 1, 2020, the City of Hampton is added to the localities that are authorized to impose a condition on use permits for businesses which have retail alcoholic beverage licenses, stating that the use permit will automatically expire upon any of the following: change in ownership of the property, change in tenant, change in operation or management of the facility (business entity change), or the passage of a specific period of time (e.g., 5 years). Under the previous law, use permits ran with the land and new operators may "step into the shoes" of former operators;

WHEREAS: this amendment adds a definition for “retail alcoholic beverage licenses”; and

WHEREAS: no members of the public spoke.

NOW, THEREFORE, on a motion by Commissioner Ruthann Kellum and seconded by Vice-Chair Christopher Carter,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Zoning Ordinance Amendment No. 20-00010.

A roll call vote on the motion resulted as follows:

AYES:	Coleman, Kellum, Southall, Carter, Bond, Garrison
NAYS:	None
ABSTAIN:	None
ABSENT:	Brown

Zoning Ordinance Amendment No. 20-00010 passed unanimously, and would be heard by City Council at the July 8, 2020 meeting.

## **VI. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

### **A. UPCOMING ZONING ORDINANCE AMENDMENT PROPOSALS BRIEFING**

Planning & Zoning Administration Manager Mike Hayes briefed the Commission on upcoming proposed Zoning Ordinance Amendments listed below:

- Parking on Lawns
- Parking on Single Family Lots
- Required Green Area on Single Family Lots
- RV Parking (motor homes, boats, enclosed trailers, utility trailers)
- Vehicle Use Definitions (Alignment with DMV uses)
- Non-conforming Uses
- Multi-family Housing
- Limits on Impervious Surface

## **VII. ITEMS BY THE PUBLIC**

Jill Davis, 42 Wallace Road, is a member of a Facebook group dedicated to save Sunset Creek boat ramp and parking lot. Ms. Davis requested fully informed and transparent decision making. The group requests that the City provide information packages that address: a) address and document the perspectives of all people, organizations, businesses, etc. that are impacted by the recommended course of action for an application; b) provide an economic analysis; and c) copies of original source documents used by the City to make the recommendations. Ms. Davis stated that all documentation should be public record.

Claire Neubert, 405 Elizabeth Lake Drive, thanked the Planning Commission for deferring Rezoning Application No. 20-00008 for 90 and 92 Marina Road. Ms. Neubert suggested Commissioners join the Don't Sell Sunset Creek Ramp Facebook page to learn more about the importance of the Sunset Creek Boat Ramp to the community. Ms. Neubert requested transparency in decision making and respect for citizens as decision makers.

Jeff McMahon, 97 Alleghany Road, submitted a letter from the Old Wythe Neighborhood Association dated June 25, 2020, in opposition to the sale of the Sunset Creek Boat Ramp and associated properties. Mr. McMahon also noted that he did not see a public notice sign posted on the property for the rezoning of 90 and 92 Marina Road.

**VIII. MATTERS BY THE COMMISSION**

Commissioner Southall asked if there is any legal recourse if a property had been rezoned from residential to commercial use but the property was never put to commercial use. Mr. O'Neill responded that the property is considered legal non-conforming because it was never used for its intended use. The land owner can apply for a change in zoning. Ms. Brown stated that any use that legally existed at the time of the zoning change would be allowed to continue as a legal non-conforming use. She advised that she would speak with Mr. Southall further on the matter after the Planning Commission meeting.

Commissioner Southall also requested that the public speakers comments be forwarded to the Citizens Advisory Group.

In response to a question from Chairman Garrison, Ms. Brown responded that it is not uncommon to have a contract purchaser in partnership with the current owner. The sale of the property may be contingent upon the approval of a rezoning or use permit. Both parties would have to be consenting. For rezoning applications, both parties would sign the proffers. Mr. Hayes added that typically we only see the contract purchaser because the owner is not usually an active participant in the rezoning process. Mr. Hayes gave two examples – Compass 19 homes on Power Plant Parkway and the Dollar Tree store at the corner of Briarfield and Aberdeen Roads.

Commissioner Kellum thanked the staff for their hard work in keeping the meeting space and equipment sanitized, setting up the meeting, and those employees who have come in to City Hall every day during the Covid-19 Pandemic. She also thanked the audio-visual staff for their hard work televising the meeting.

**IX. ADJOURNMENT**

There being no further business, the meeting was adjourned at 5:12 P.M.

Respectfully Submitted,

  
Terry O'Neill  
Secretary to the Commission

APPROVED BY:

  
Carole Garrison  
Chairman