



CITY OF POQUOSON

PLANNING DEPARTMENT

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

January 25, 2016

To: The Honorable City Council

Through: City Manager

From: Kevin M. Wyne, Planner

Subject: **Conditional Use Permit for Auto Sales Use at 346 Wythe Creek Road—Tax Parcel Nos. 27-1-75 and 27-1-77**

Presented for your consideration and a public hearing is a request by Mr. Joseph Gaita, applicant, and Ms. Kathleen Fairhurst, property owner, for a conditional use permit to establish an auto sales business on property located at 346 Wythe Creek Road, further identified as Tax Parcel Nos. 27-1-75 and 27-1-77. The property, although it has housed professional office uses in the past, is zoned R-1, Single Family Residential district. The zoning ordinance requires that a conditional use permit be acquired prior to the establishment of a use that is not specifically permitted within the property's specified zoning district (Ref. Article I. Section 1-8). The properties are located on the east side of Wythe Creek Road just south of its intersection with Huntlandia Way and consist of two (2) separate parcels totaling .25 acres in area.

The Planning Commission will hold a public hearing on this item at their January 21, 2016 meeting and their recommendation is forthcoming.

This application was advertised for public hearing in the Daily Press on January 1, 2016 and January 8, 2016. Adjacent property owners were notified of this request by letters mailed on January 4, 2016.

KMW

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO ESTABLISH AN AUTO SALES BUSINESS
ON PROPERTY LOCATED AT 346 WYTHE CREEK ROAD,
POQUOSON TAX MAP PARCEL NOS. 27-01-00-0075 AND 27-01-00-0077**

WHEREAS, a request was submitted by Joseph Gaita, applicant, and Kathleen Fairhurst, property owner, for a Conditional Use Permit to establish an auto sales business on property located at 346 Wythe Creek Road, specifically identified as Tax Map Parcel Nos. 27-01-00-0075 and 27-01-00-0077; and

WHEREAS, public hearings to receive public comments and review the request were held before the Planning Commission on January 21, 2016, and before City Council on January 25, 2016; and

WHEREAS, careful and thorough consideration was given the request.

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

Section 1: That the request of Joseph Gaita, applicant, and Kathleen Fairhurst, property owner, for a Conditional Use Permit to establish an auto sales business on property located at 346 Wythe Creek Road, specifically identified as Tax Map Parcel Nos. 27-01-00-0075 and 27-01-00-0077 is hereby approved contingent upon adherence to the following conditions:

1. All trash receptacles shall be screened from adjacent properties and right-of-ways.
2. 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.
3. This use permit shall be used solely for the establishment of an automobile sales use with on-site office facilities and shall not be interpreted for use of a business that cannot be classified as such. Any other use not specifically permitted within the property's zoning district shall require a separate use permit.
4. The operation of the use shall be restricted to the hours of 7 a.m. and 7 p.m. No activity supporting the use shall be conducted outside of this window.
5. No on-site vehicle repair or maintenance shall be permitted.
6. Washing and/or cleaning of vehicles on-site shall not produce any more noise or odor than what is reasonably expected from a single family residential property. Specifically, no industrial grade equipment or chemicals shall be used on-site for the purpose of cleaning vehicles. All

impacts related to this activity, including runoff, shall be contained to the property.

7. Vehicles stored on-site for sale or intended for sale shall be stored at the rear of the building and limited to no more than 10 at any given time.
8. Vehicles stored on-site shall be maintained in good working order and must maintain a valid inspection decal issued by the Commonwealth of Virginia.
9. Vehicles leaking any fluid must be repaired promptly or removed from the City within 48 hours of the leak being observed.
10. On-site lighting shall be shielded in a manner that prevents light trespass to adjacent properties but still allows for sufficient lighting on-site during evening hours.
11. The vegetation located on the property at its north boundary must be perpetually maintained in good condition. Additionally, vegetation must be planted, to the satisfaction of the Director of Community Development, within a year of the issuance of this permit, at the southern property boundary to calm impacts related to vehicle display.
12. Signage shall be permitted in accordance with the City's Sign Ordinance. Aside from the display of vehicle sale prices in and/or on a vehicle's windshield, no signage shall be displayed on vehicles.
13. No animated signs shall be permitted.
14. 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.
15. 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: _____

City Clerk

**A RESOLUTION DENYING A CONDITIONAL USE PERMIT
TO ESTABLISH AN AUTO SALES BUSINESS
ON PROPERTY LOCATED AT 346 WYTHE CREEK ROAD,
POQUOSON TAX MAP PARCEL NOS. 27-01-00-0075 AND 27-01-00-0077**

WHEREAS, a request was submitted by Joseph Gaita, applicant, and Kathleen Fairhurst, property owner, for a Conditional Use Permit to establish an auto sales business on property located at 346 Wythe Creek Road, specifically identified as Tax Map Parcel Nos. 27-01-00-0075 and 27-01-00-0077; and

WHEREAS, public hearings to receive public comments and review the request were held before the Planning Commission on January 21, 2016, and before City Council on January 25, 2016; and

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

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Section 2: That this resolution shall be in effect on and after 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: January 21, 2016

To: The Honorable Chairwoman and Members of the Planning Commission

From: Kevin M. Wyne, City Planner

Subject: **Conditional Use Permit for Auto Sales Use at 346 Wythe Creek Road–Tax Parcel Nos. 27-1-75 and 27-1-77**

Introduction

The City has received a request by Mr. Joseph Gaita, applicant, and Ms. Kathleen Fairhurst, property owner, for a conditional use permit to establish an auto sales business on property located at 346 Wythe Creek Road, further identified as Tax Parcel Nos. 27-1-75 and 27-1-77 . The property, although it has housed professional office uses in the past, is zoned R-1, Single Family Residential district. The zoning ordinance requires that a conditional use permit be acquired prior to the establishment of a use that is not specifically permitted within the property's specified zoning district (Ref. Article I. Section 1-8). The properties are located on the east side of Wythe Creek Road just south of its intersection with Huntlandia Way and consist of two (2) separate parcels totaling .25 acres in area.

Public Notice

This application was advertised for public hearing in the Daily Press on January 1, 2016 and January 8, 2016. Adjacent property owners were notified of this request by letters mailed on January 4, 2016.

Applicant's Proposal

The applicant proposes establishing a small auto sales business on the property. He would utilize the existing, 500 square foot building as office space and use the area behind the building to place approximately six (6) cars for sale. The anticipated hours of operation would be daily from 10:00 am to 5:00 pm.

Site Character

One (1) of the parcels is rectangular in shape and borders the other which is triangular in shape. The rectangular parcel, which maintains approximately 45 feet of frontage on Wythe Creek Road, houses the 500 square foot building that last operated as Beacon Electric in 2013. Beacon Electric was classified as a professional office use, traditionally a lower impact use than a retail operation with outdoor sales. The site lay approximately 150 feet south of Huntlandia Way and is largely cleared. Within 250 feet of the site lay seven (7) single family residential dwellings. Behind the building, which is located almost at the front property line at Wythe Creek Road, opens a narrow cleared field, which would allow the business owner an area for car placement.

Zoning and Comprehensive Plan Considerations

The property is zoned R-1, Single Family Residential and an automobile use is not permitted within this district due to its intensity. The last business use was Beacon Electric, which was a legal, non-conforming use and thus grandfathered on the property. Because Beacon Electric was a less intense, office use, the grandfathered status does not apply to this situation. If another office use were proposed for the property a conditional use permit would not be necessary.

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 auto sales 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 describe 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.

While the property is zoned R-1, due to its location on Wythe Creek Road, it is located near several other zoning districts. Properties to its immediate south, north and west are zoned R-1. However, one will find the R-3 district immediately across Wythe Creek Road to the site's west and the B-2, Business/Commercial district 150 feet to its north. Lastly, the Village Commercial district is located approximately 700 feet to the north west of the property.

Surrounding Characteristics

The property is surrounded by single-family residential uses and the R-1, Single Family Residential district. The property immediately to its south is an undeveloped parcel currently used as a large garden. To its north and west lay existing single family residences. A large, undeveloped, residentially zoned parcel is located to its east. In addition to the single family dwellings in the area, there are several higher impact developments in its vicinity. To its west, south west and north west is the Villas development. To its north are the Dr. Hunt Dentistry office and the Storage World of Poquoson complex.

Traffic and Access

The property has direct access from Wythe Creek Road. An auto sales use of this size is not expected to generate large numbers of customers, thus limiting the expected vehicular trips per day. Additionally, on-site circulation is anticipated to be sufficient to serve a use of this nature. The on-site structure's proximity to Wythe Creek Road could be problematic as visibility could be an issue for customers wishing to exit the site making a south bound movement onto Wythe Creek Road.

Environmental and Building Code

As no new development is taking place, no wetlands delineation is required. However, any new construction on the site that exceeds 750 square feet, would require the submittal of a new site plan, and thus require a delineation of wetlands on the property. Furthermore, the introduction of any impervious on-site materials would necessitate the need for a site plan submittal.

The most recent use of the building located on the property was as a professional office, meaning that the use categorization under recognized Building Codes would not change. This means that no change of use permit relative to building code s would be required and the new auto sales use would be grandfathered under the code that was in effect upon its construction.

Utilities

The property is served by all necessary utilities.

Relationship to the Comprehensive Plan/Staff Findings

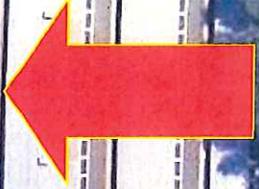
As stated above, the property is designated for use as *Low Density Residential* as defined in the Comprehensive Plan. A detailed description of the purpose and intent of the *Low Density Residential* land use designation is outlined above in the section titled "Zoning and Comprehensive Plan Considerations."

The property is small and, as such, expansion of any use is limited. The property has functioned in the past as a professional office use that functioned well within the fabric of the established residential uses that it surrounds. It is important to note; however, that the proposed use would be more intense than the lower traffic uses that operated on the property previously and thus, it may not fit as seamlessly into the existing neighborhood. With any type of use as intense as a retail establishment there are inherent impacts that may not make it desirable to neighbors. These impacts include increased vehicular traffic stemming from the creation of customers, potential noise pollution generated from these customers and outdoor sales, and potential visual clutter created by the outdoor storage of vehicle inventory. The property itself has shown in the past that it can successfully operate as a professional office with little to no issue. However, with on-site sales being introduced to the site, this use sets itself apart from previous users. Certain conditions would be necessary to mitigate this use's impact to the existing residential uses in the surrounding area. If the Planning Commission recommends approval of the request to City Council, staff recommends that approval be subject to the following conditions:

1. All trash receptacles shall be screened from adjacent properties and right-of-ways.
2. 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.

3. This use permit shall be used solely for the establishment of an automobile sales use with on-site office facilities and shall not be interpreted for use of a business that cannot be classified as such. Any other use not specifically permitted within the property's zoning district shall require a separate use permit.
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11. The vegetation located on the property at its north boundary must be perpetually maintained in good condition. Additionally, vegetation must be planted, to the satisfaction of the Director of Community Development, within a year of the issuance of this permit, at the southern property boundary to calm impacts related to vehicle display.
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13. No animated signs shall be permitted.
14. 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.
15. City Council reserves the right to review and amend the conditions of this permit as they see fit.

Attachments



NORTH

Dr. Hunt Dental
Office

Villas

HUNTLANDIA WAY

VILLA DR

WYTHE CREEK RD
472

BRICKHOUSE RD

Villas



Joe Gaita Auto Sales CUP

Legend

Tax Parcel Nos. 27-1-75 and 27-1-77 

Map prepared by the City of Poquoson Department of Planning.



Joe Gaita Auto Sales CUP Vicinity Zoning Map



Legend

- R1-Single Family
- R3 Multifamily Res.
- B2 Commercial
- Subject Parcels



Poquoson High School

NORTH

KEY OAK DR

TROTTWOOD DR

ROBERT BRUCE RD

LANKEFORD LN

JOSEPH TOPPING DR

PEGGY'S LN

KIRBY CT

PAGE PL

ODD RD

DORLIE CIR

LITTLE FLORIDA RD

SMITH ST

OLD POND RD

JEAN MAR DR

GAY LYNN DR

HASTING LN

HOPKINS CT

OXFORD MEWS

FIRTH LN

HUDGINS RD

ROWE DR

Joe Gaita Auto Sales CUP

Big Woods

Big Woods

WYTHE CREEK RD

ALPHUS ST

BETA ST

CITY HALL AVE

Poquoson Municipal Library

City Hall

HUNTLANDIA WAY

BRICKHOUSE RD

ASHLAND LN

Post Office



Joe Gaita Auto Sales CUP

Legend

Tax Parcel Nos. 27-1-75 and 27-1-77

Map prepared by the City of Poquoson Department of Planning.



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, JOSEPH GAITA (LEASOR)

the undersigned owner(s) of the described property:

346 WYTNE CREEK RD.
POQUOSON

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

TO OPEN A SMALL AUTO SALES BUSINESS
AT 346 WYTNE CREEK RD.
EXISTING BUILDING TO BE USED AS
OFFICE SPACE AND APPROXIMATELY SIX
CARS FOR SALE BEHIND BUILDING
BUSINESS HOURS WOULD BE BETWEEN
10:00 A.M. — 5:00 P.M.

Tax Map Parcel # 27-01-00-0075 + 27-01-00-0077
Zoned - R-1 Single-Family Residential
(CONTINUED)

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

SIGNATURE OF PROPERTY OWNER(S):

X 

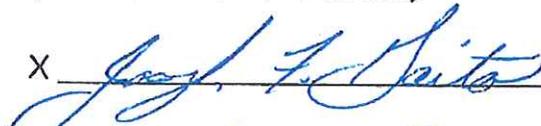
X _____

NAME: KAYLEED FAIRHURST

ADDRESS: 6 OAKLAND DR
DEWPORT NEWS

TELEPHONE: 757-591-7172

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

X 

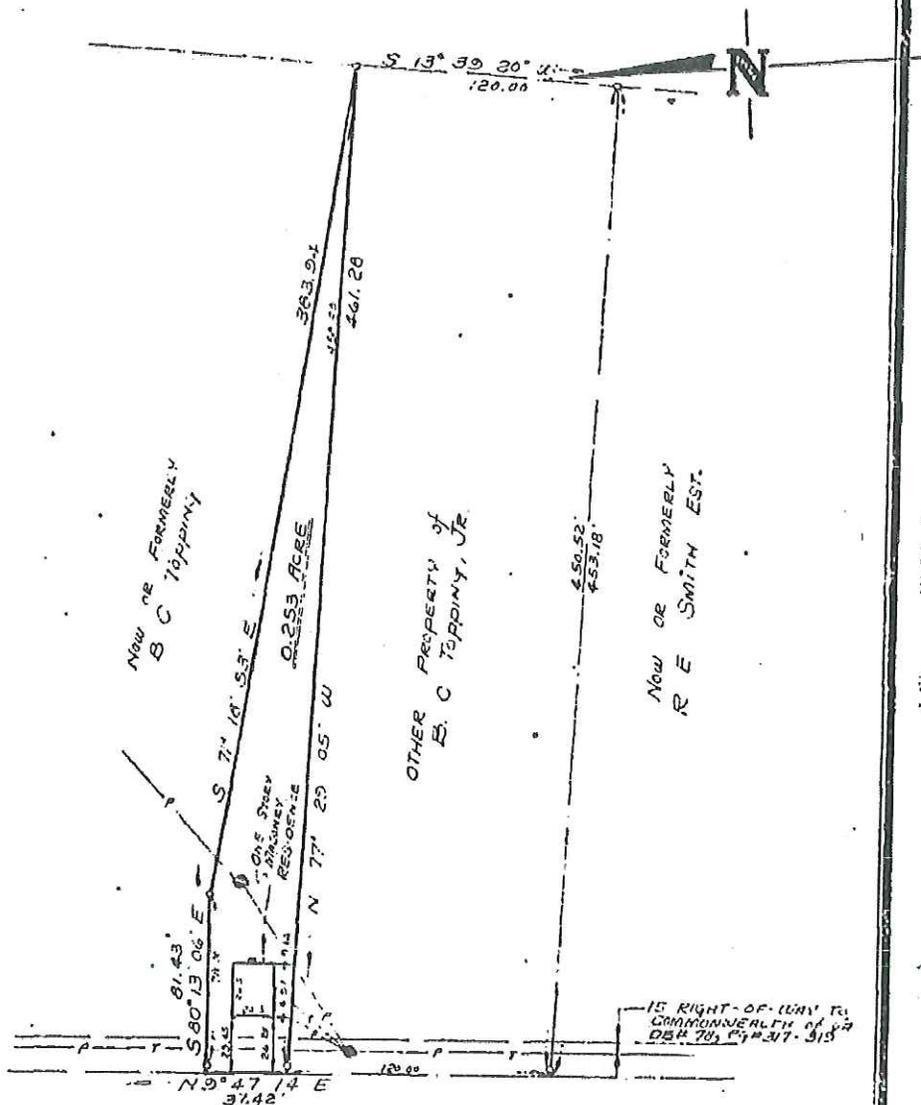
NAME: JOSEPH GAITA

ADDRESS: 806 CALTHROP NECK RD.
YORKTOWN VA. 23693

TELEPHONE: 257-870-2306

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.



SYMBOLS - DENOTE

- PIPE FOUND
- PIPE SET
- ROD FOUND
- CONC. MONUMENT

WYTHE CREEK ROAD



I, *Edward J. Keller*
 HEREBY CERTIFY THAT THE SURVEY REPRESENTED BY THIS PLAT WAS MADE BY ME ON THIS DATE AND IS CORRECT. THERE ARE NO ENCROACHMENTS UNLESS SHOWN HEREON

JOB LOCATION # **WYTHE CREEK ROAD**

PLAT OF THE PROPERTY OF:
B. C. Topping, Jr.

PARCEL OF LAND

CONTAINING
0.253 ACRE

CITY of **POPOUSON, VA.**

E. J. KELLER, INC.
 LAND SURVEYOR
 NEWPORT NEWS, VIRGINIA

CODE: 77-159

DWN. BY: *LU*

SCALE: 1" = 60'

TO: GIBSON

DATE: 9 MARCH 77