



# CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA 23662-1996  
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September 12, 2016

**To:** The Honorable City Council

**Through:** City Manager

**From:** Kevin M. Wyne, AICP, Planner

**Subject:** **Land Use Map Amendment Request, Rezoning Request and Conditional Use Permit Request for Tax Parcel Nos. 27-9-2 and 27-18-2 and a Conditional Use Permit Request for Tax Parcel No. 27-1-87**

Presented for public hearing and your formal consideration are three (3) separate requests from Mr. Robert Moses, developer and Mr. John B. Graham. Mr. Graham is the property owner of two (2) of the parcels involved in the development proposal for which Mr. Moses is the developer. In addition, Mr. Moses is the owner and developer of the third parcel. The requests are for properties immediately adjacent to the Fountains of Poquoson development located south of Alphus Street and immediately south of the Poquoson Commons Shopping Center. The applications involve a request to amend the City's Future Land Use Map for Tax Map Nos. 27-9-2 and 27-18-2, both of which front on Wythe Creek Road and are owned by Mr. Graham, by changing their land use map designation from General Commercial to Village Commercial. Additionally, the applicants are requesting that these same two (2) parcels be rezoned from B-2, Business/Commercial to VC-Village Commercial. Lastly, the applicant is requesting a Conditional Use Permit for the parcels mentioned above as well as Tax Map No. 27-1-87, located immediately east of the City's Economic Development Authority pond and south of Alphus Street, to allow for over one half of the developed square footage to consist of residential. A rezoning and land use map amendment is not required on the last parcel as it is already zoned Village Commercial and designated for use as Village Commercial in the City's Future Land Use Map. Please find the table below which should offer clarity as to which parcels are involved and in what capacity.

Parcel	Owner	Current Zoning	Proposed Zoning	CUP Required
27-9-2 (Phase III, Mixed Use Site)	Mr. Graham	B-2	VC	Yes
27-18-2 (Phase III, Mixed Use Site)	Mr. Graham	B-2	VC	Yes
27-1-87 (Phase IV, Townhome Site)	Mr. Moses	VC	Will not change	Yes

The attached staff report prepared for the Planning Commission, dated August 15, 2016, outline the requests in detail. Additionally, there are several maps attached which may be helpful in identifying the various parcels involved.

The Planning Commission held a public hearing on this proposal at their Monday, August 15, 2016 meeting and has recommended approval of all three (3) land use applications by a vote of 5-1. As a part of their recommendation the Planning Commission did make one addition to the staff proposed conditions as it pertains to the developer's Conditional Use Permit request. Specifically, the Planning Commission's recommendation advances to you with the addition of the following condition:

10. Prior to the issuance of any building permit related to Phase IV (townhome site as depicted on the submitted plan), the developer must provide documentation to the City verifying that two-thirds of commercial and residential components of the entire development (to include Phases I, II and III) are occupied.

All other conditions as suggested by staff have been recommended by the Planning Commission and can be found in the attached report prepared for the Planning Commission dated August 15, 2016.

You may recall that a work session on this item was held during your Monday, August 22, 2016 meeting. During which staff was asked to look closely at the Planning Commission's proposed added condition (for the conditional use permit application) detailed above in an effort to make it clearer and more easily enforceable. As such, staff has reworked the condition to read as follows:

10. Prior to the issuance of any and all building permits related to Phase IV (townhome site as depicted on the submitted plan), the developer must provide documentation to the City, in the form of lease agreements and issued certificates of occupancy, verifying that two-thirds of commercial and residential components of the entire development (to include Phases I, II and III) have leaseholders at the time of building permit issuance.

Additionally, during your work session the need for Conditional Use Permit (CUP) condition eight (8) was discussed. After reviewing the other conditions, staff believes that Rezoning conditions one (1), two (2) and six (6) in collaboration with CUP conditions three (3) and four (4) provide sufficient assurance that the plans submitted in support of the application will be in alignment with the developer's final product, thus negating the need for CUP condition eight (8).

KMW

**A RESOLUTION APPROVING AN AMENDMENT TO THE  
FUTURE LAND USE MAPS OF THE CITY'S  
ADOPTED COMPREHENSIVE PLAN 2008-2028**

**WHEREAS**, Robert Moses, applicant, and John Graham et als, property owner, have requested an amendment to the City's Comprehensive Plan for 2008 through 2028 by designating the future land use for Poquoson Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002 from General Commercial to Village Commercial; and

**WHEREAS**, the requested map amendment is consistent with the City's vision for the future land use of this specific area; and

**WHEREAS**, the requested map amendment of the City's Comprehensive Plan 2008-2028 was reviewed by the Planning Commission in a public hearing on August 15, 2016 and by City Council on September 12, 2016; and

**WHEREAS**, careful and thorough consideration of the map amendment has been given.

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

**Section 1:** That the requested amendment to the Future Land Use Maps of the 2008-2028 Comprehensive Plan be and the same hereby is approved.

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

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

City Clerk

**A RESOLUTION DENYING AN AMENDMENT TO THE  
FUTURE LAND USE MAPS OF THE CITY'S  
ADOPTED COMPREHENSIVE PLAN 2008-2028**

**WHEREAS**, Robert Moses, applicant, and John Graham et als, property owner, have requested an amendment to the City's Comprehensive Plan for 2008 through 2028 by designating the future land use for Poquoson Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002 from General Commercial to Village Commercial; and

**WHEREAS**, the requested map amendment is consistent with the City's vision for the future land use of this specific area; and

**WHEREAS**, the requested map amendment of the City's Comprehensive Plan 2008-2028 was reviewed by the Planning Commission in a public hearing on August 15, 2016 and by City Council on September 12, 2016; and

**WHEREAS**, careful and thorough consideration of the map amendment has been given.

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

**Section 1:** That the requested amendment to the Future Land Use Maps of the 2008-2028 Comprehensive Plan be and the same hereby is denied.

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

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

City Clerk

**A RESOLUTION APPROVING THE REZONING OF 2.37 ACRES OF  
PROPERTY LOCATED ON THE WEST SIDE OF WYTHE CREEK ROAD,  
IMMEDIATELY TO THE SOUTH OF GEORGE'S RESTAURANT,  
TAX MAP PARCEL NOS. 27-09-00-0002 & 27-18-00-0002  
FROM B-2 (BUSINESS) TO VC (VILLAGE COMMERCIAL)**

**WHEREAS**, Robert Moses, applicant, and John Graham et als, property owner, have requested that the property located on the west side of Wythe Creek Road immediately to the south of George's restaurant, specifically identified as Poquoson Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002 be rezoned from B-2 (Business) to VC (Village Commercial); and

**WHEREAS**, the Planning Commission has found that the requested VC zoning is in accord with the City's revised Comprehensive Plan, and

**WHEREAS**, public hearings to receive public comments and review the request were held before the Planning Commission on August 15, 2016 and before City Council on September 12, 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 Robert Moses, applicant, and John Graham et als, property owner, for rezoning of the property located on the west side of Wythe Creek Road immediately to the south of George's restaurant, specifically identified as Poquoson Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002, from B-2 (Business) to VC (Village Commercial) is hereby recommended for approval with the following conditions:

1. The layout of any development of the site shall generally adhere to the conceptual plan dated March 17, 2016 and titled *Rezoning Plan, Phase III and Phase IV, The Fountains of Poquoson A Village Mixed Use Development*. All residential to commercial ratios shall conform to the addendum to this conceptual plan received by the City on July 12, 2016, titled *Addendum*.
2. At no time shall the development in its entirety exceed 9 units per acre.
3. Prior to site plan approval, a boundary line adjustment plat must be prepared and recorded vacating all property lines divide the properties in question.
4. All development located 200' or closer to Wythe Creek Road shall be reserved for only commercial use.

5. Setbacks from Wythe Creek Road and adjacent properties not zoned Village Commercial shall be consistent with the requirements of the B-2, Business/Commercial Zoning District.
6. Phase IV (the townhome site) shall in no circumstance be constructed prior to the issuance of a certificate of occupancy on the commercial structure located in Phase III, as depicted on the conceptual plan dated March 17, 2016 and titled *Rezoning Plan, Phase III and Phase IV, The Fountains of Poquoson A Village Mixed Use Development*.
7. Approval of this rezoning request does not constitute site plan approval. The proposal is subject to the City's Site Plan approval process and must meet all applicable City land use provisions.

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

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

City Clerk

**A RESOLUTION DENYING THE REZONING OF 2.37 ACRES OF PROPERTY  
LOCATED ON THE WEST SIDE OF WYTHE CREEK ROAD, IMMEDIATELY  
TO THE SOUTH OF GEORGE'S RESTAURANT, TAX MAP PARCEL  
NOS. 27-09-00-0002 & 27-18-00-0002 FROM B-2 (BUSINESS)  
TO VC (VILLAGE COMMERCIAL)**

**WHEREAS**, Robert Moses, applicant, and John Graham et als, property owner, have requested that the property located on the west side of Wythe Creek Road immediately to the south of George's restaurant, specifically identified as Poquoson Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002 be rezoned from B-2 (Business) to VC (Village Commercial); and

**WHEREAS**, the Planning Commission has found that the requested VC zoning is in accord with the City's revised Comprehensive Plan, and

**WHEREAS**, public hearings to receive public comments and review the request were held before the Planning Commission on August 15, 2016 and before City Council on September 12, 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 Robert Moses, applicant, and John Graham et als, property owner, for rezoning of the property located on the west side of Wythe Creek Road immediately to the south of George's restaurant, specifically identified as Poquoson Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002, from B-2 (Business) to VC (Village Commercial) is hereby denied.

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

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

City Clerk

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW  
RESIDENTIAL DWELLINGS ABOVE THE SECOND FLOOR IN A MIXED-USE  
BUILDING & RESIDENTIAL SEPARATE FROM A COMMERCIAL AND/OR MIXED  
USE STRUCTURE NOT TO EXCEED TWO-THIRDS OF THE COMMERCIAL FLOOR  
AREA OF THE DEVELOPMENT IN THE VILLAGE COMMERCIAL DISTRICT ON  
PROPERTIES SPECIFICALLY IDENTIFIED AS  
TAX MAP PARCEL NOS. 27-09-00-0002, 27-18-00-0002 & 27-01-00-0087**

**WHEREAS**, a request was submitted by John B. Graham et als, property owner, and Robert Moses, applicant, for a Conditional Use Permit in order to allow residential dwellings above the second floor in a mixed-use structure and to allow residential separate from a commercial and/or mixed use structure not to exceed two-thirds of the commercial floor area of the development in the Village Commercial District for the properties, identified as Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002, located immediately to the south of George's restaurant and a parcel located immediately south of the Poquoson Commons Shopping Center and west of the Economic Development Authority's regional stormwater pond, specifically identified as Tax Map Parcel No. 27-01-00-0087; and

**WHEREAS**, public hearings to receive public comments and review the request were held before the Planning Commission on August 15, 2016 and before City Council on September 12, 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 John B. Graham et als, property owner, and Robert Moses, applicant, for a Conditional Use Permit in order to allow residential dwellings above the second floor in a mixed-use structure and to allow residential separate from a commercial and/or mixed use structure not to exceed two-thirds of the commercial floor area of the development in the Village Commercial District for the properties, identified as Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002, located immediately to the south of George's restaurant and a parcel located immediately south of the Poquoson Commons Shopping Center and west of the Economic Development Authority's regional stormwater pond, specifically identified as Tax Map Parcel No. 27-01-00-0087 is hereby approved with the following conditions:

1. The developer must convey a 50' portion of the property at the northern side of Tax Map Parcel No. 27-1-87 to provide for a continuation of the Alphas Street right-of-way from the east of this property. The developer must provide improvements to Alphas Street on the portion fronting the development. Improvements include paving, sidewalk construction and installation of curb and gutter in accordance with VDOT standards to allow for the future acceptance of the street into the City's maintenance system. All improvements must be reviewed and approved by City staff.

2. Approval of the Architectural Review Board shall be required on all buildings, including the residential component, prior to site plan approval.
3. If the project is not constructed and fully operational within five (5) years of the issuance of this permit, the Conditional Use Permit shall become null and void.
4. The development shall not yield more than 9 dwelling units per acre.
5. All conditions as cited within the Conditional Use Permit dated May 14, 2012, amended June 27, 2016, shall be adhered to.
6. Any shared trash containers shall not be visible from public right-of-ways and shall be screened in accordance with City Site Plan and Zoning Ordinance requirements.
7. The applicant shall obtain all required local, state and federal permits.
8. If at any time the operation is in violation of any local, state or federal regulations, including the conditions set forth in this use permit, the City reserves the right to revoke the permit.
9. Approval of this use permit does not constitute site plan approval. The proposal is subject to the City's Site Plan approval process and must meet all applicable City land use provisions.
10. Prior to the issuance of any and all building permits related to Phase IV (townhome site as depicted on the submitted plan), the developer must provide documentation to the City, in the form of lease agreements and issued certificates of occupancy, verifying that two-thirds of commercial and residential components of the entire development (to include Phases I, II and III) have leaseholders at the time of the building permit issuance.

**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 ALLOW  
RESIDENTIAL DWELLINGS ABOVE THE SECOND FLOOR IN A MIXED-USE  
BUILDING & RESIDENTIAL SEPARATE FROM A COMMERCIAL AND/OR MIXED  
USE STRUCTURE NOT TO EXCEED TWO-THIRDS OF THE COMMERCIAL FLOOR  
AREA OF THE DEVELOPMENT IN THE VILLAGE COMMERCIAL DISTRICT ON  
PROPERTIES SPECIFICALLY IDENTIFIED AS  
TAX MAP PARCEL NOS. 27-09-00-0002, 27-18-00-0002 & 27-01-00-0087**

**WHEREAS**, a request was submitted by John B. Graham et als, property owner, and Robert Moses, applicant, for a Conditional Use Permit in order to allow residential dwellings above the second floor in a mixed-use structure and to allow residential separate from a commercial and/or mixed use structure not to exceed two-thirds of the commercial floor area of the development in the Village Commercial District for the properties, identified as Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002, located immediately to the south of George's restaurant and a parcel located immediately south of the Poquoson Commons Shopping Center and west of the Economic Development Authority's regional stormwater pond, specifically identified as Tax Map Parcel No. 27-01-00-0087; and

**WHEREAS**, public hearings to receive public comments and review the request were held before the Planning Commission on August 15, 2016 and before City Council on September 12, 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 John B. Graham et als, property owner, and Robert Moses, applicant, for a Conditional Use Permit in order to allow residential dwellings above the second floor in a mixed-use structure and to allow residential separate from a commercial and/or mixed use structure not to exceed two-thirds of the commercial floor area of the development in the Village Commercial District for the properties, identified as Tax Map Parcel Nos. 27-09-00-0002 and 27-18-00-0002, located immediately to the south of George's restaurant and a parcel located immediately south of the Poquoson Commons Shopping Center and west of the Economic Development Authority's regional stormwater pond, specifically identified as Tax Map Parcel No. 27-01-00-0087 is hereby denied.

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

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

City Clerk