



Legislation Details (With Text)

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Title:	Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 3, Section 3-2 Entitled, "Table of Uses Permitted" to Add "Mitigation Bank" as a Permitted Use Within all Zoning Districts				
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Date	Ver.	Action By	Action	Result
2/14/2024	1	City Council Legislative Session		

Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 3, Section 3-2 Entitled, "Table of Uses Permitted" to Add "Mitigation Bank" as a Permitted Use Within all Zoning Districts

Background Statement:

This proposed amendment adds a new use within the "Table of Uses Permitted" for mitigation banks in all zoning districts only with the approval of a Use Permit. Mitigation banks are commercial enterprises which receive money from developers to create new wetlands in order to offset loss of wetlands from development in other areas. This amendment is in conjunction with ZOA No. 24-0007, which establishes a definition for mitigation bank.

Mitigation banks are regulated at the state level by either the Virginia Department of Environmental Quality or the Virginia Marine Resources Commission, depending on the type of wetlands being created. The use is regulated at the federal level by the U.S. Army Corps of Engineers and, depending on the project type, may also require approval from the Hampton Wetlands Board. The creation of the wetlands requires extensive construction activity which can be conducted all at once, or could be phased over a number of years, depending on the enterprise and funding for the mitigation. The created wetlands are required to be maintained in perpetuity. If the created wetlands are tidal or else non-tidal but connected to tidal wetlands, their establishment would expand the Chesapeake Bay Preservation Overlay (O-CBP) area, which would potentially limit the use of neighboring properties.

While the creation of new wetlands is desirable and in accordance with City policies on resiliency and living with water, there are potential impacts of the use which need to be accounted for. Potential impacts on neighboring properties could include construction activity wear of roads, traffic, noise, and O-CBP (Chesapeake Bay overlay district) buffer expansion. Therefore, staff recommends that any mitigation bank must have approval from City Council via the Use Permit process, so that site- and enterprise-specific conditions can be tailored to the proposed mitigation bank.

Recommendations:

Staff Recommendation:

Approve

Planning Commission Recommendation:

Approve

WHEREAS, the public necessity, convenience, general welfare and good zoning practice so require;

BE IT ORDAINED by the City Council of the City of Hampton, Virginia that Chapter 3, Section 3-2 of the Zoning Ordinance of the City of Hampton, Virginia be amended to read as follows:

CHAPTER 3 - USES PERMITTED

...

Sec. 3-2. - Table of uses permitted.

(a) *Table of Uses Permitted in Standard Zoning Districts.*

[See attached use table for changes.]

(b) *Table of Uses Permitted in Special Zoning Districts.*

[See attached use table for changes.]

[The attached Tables, entitled, "Table of Uses Permitted in Standard Zoning Districts" and "Table of Uses Permitted in Special Zoning Districts" is hereby declared to be a part of this ordinance as if fully set forth herein.]