

MINUTES
CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
TUESDAY, FEBRUARY 5, 2013
4:00 PM

MEMBERS PRESENT

Ernest Sutton, Chairman
Lena Council
Linda Etheridge
Suzanne Stallings
Don Witosky

Also present were Angela Cole, Sr. Planner and Dawn Harris, Secretary.

Chairman Sutton called the meeting to order. It was determined that there was a quorum present.

Chairman Sutton asked for a motion to approve the December 7, 2012 minutes. Mr. Witosky made a motion to APPROVE the December 2012 Planning Commission minutes. Ms. Etheridge seconded the motion. ***ALL IN FAVOR: COUNCIL, ETHERIDGE, STALLINGS, SUTTON and WITOSKY. MOTION PASSED.***

Chairman Sutton asked for a motion to adopt the agenda. Ms. Etheridge made a motion to adopt the agenda for February 5, 2013. Ms. Council seconded the motion. ***ALL IN FAVOR: COUNCIL, ETHERIDGE, STALLINGS, SUTTON and WITOSKY. MOTION PASSED.***

New Business for tonight was **CASE NO.: TA-01-13** – presented by City of Elizabeth City. This is proposed text amendment to the Unified Development Ordinance, specifically Article II Interpretations and Definitions; Article IX Zoning; and Article XI Development Standards, adding language to define and regulate banquet/reception hall establishments as a primary use on properties having a commercial zoning classification. Ms. Cole gave the following overview of the text amendment.

STAFF REPORT

TA-01-13 is a proposal to amend the Unified Development Ordinance. This text amendment comes to us after Staff has received several requests to operate banquet/reception hall type venues. At this time our ordinance is deficient on spelling out this use specifically or any similar use; thereby, it is not allowable to have or operate a stand alone banquet venue. This proposal amends Article II, IX and XI of the ordinance. Staff sent this package out over a month ago. Ms. Cole stated that she will assume everyone has had opportunity to review it.

Ms. Cole highlighted a couple of areas in the amended that she had received comments on; picking up in the middle of the definition, fourth line down: "...such entertainment includes but is not limited to: vocal and instrumental music, dancing, karaoke, comedy, and acting, whereby events are not advertised for attendance and/or participation by the general public...." Ms. Cole stated that a few of the PC members had questions as to whether this would make for a good regulation or practice. This amendment would severely limit nonprofit organizations from their

public appeal. Ms. Cole stated that she has let the text stand as originally drafted so the Commission can deliberate upon it. The subsequent pages of the amendment address the changes to the Table of Uses, creating a parking standard. On page 6, subsection (A) Purpose and Intent “ballroom” has been added to the description of types of dancing. Ms. Cole had placed the three amended sheets at each Commission member’s seat.

The other change is on page 8, subsection (J) Security. After sharing this amendment with both fire and police departments. The police department recommended this section to be updated to reflect “...The business shall provide in-house security using sworn law enforcement personnel or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest...” They did not have question regarding the level of security but felt having sworn law enforcement in this text was important.

This concluded Ms. Cole report and she offered to answer any questions the Commission may have.

Chairman Sutton asked Ms. Cole if there had been any specific concerns that Staff had as it relates to the proposal. Ms. Cole stated that Staff’s concern originates from one particular instance that has been dealt with as of late. Staff would like to assure that a backdoor is not created to a tavern, bar or nightclub type situation. Staff wants that clear line that this is not type of establishment.

Chairman Sutton asked for questions from the Commission. Mr. Witosky asked if there are 250 guests does the amendment require that there be five security guards. Ms. Cole stated yes. He stated that it seems like a lot and asked where the number came from and if the police department had suggested it. Ms. Cole stated that our police department felt that was a good number to work with. Chairman Sutton asked if the police department had talked about it in terms of numbers or did they talk about it in terms of percentages. Ms. Cole stated it was discussed with the police department in terms of numbers than percentages. If you have a head count of about 200 people, you break it up to how many people one officer could or security person keep their eye on at one time. Mr. Witosky stated that if it was suggested by the police department he would go with it but it just seems like overkill to him. Ms. Etheridge agreed. Ms. Council stated in speaking for nonprofits the only place that there is a venue for 300 people is at the university. There is no requirement there for security. Chairman Sutton stated that the difference is that the university has its own security. Ms. Council stated that there was never the presence of a security person. Mr. Witosky stated that this amendment does not regulate State property. Ms. Cole stated that is correct. It does not.

Ms. Cole stated that it is offered at the end of the section “...or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either...” Mr. Witosky asked what this part meant. Ms. Cole stated if you have 100 people, but the police department is aware of the event and you are going to have a well-known entertainer, police may ask for security. She stated that perhaps the amendment could not make security a requirement but say “if deemed by the Fire Marshall or Chief of Police such security shall be provided at a rate a less than...” Mr. Witosky asked how they would know if there was going to be an event. Ms. Cole stated that backs up to whether they are going to be allowed to publicly

advertise. She stated that she is sure somebody will pay attention and know. Ms. Council was concerned that charges for security would perhaps be passed on to nonprofits.

Ms. Etheridge stated that when the Arts Council has had 200 people events they may have personnel that works the event, but they are not licensed security people. Ms. Etheridge asked Ms. Cole if she had been able to look at similar ordinances in other localities. Ms. Cole stated as mentioned in the text amendment, that Staff looked at a Conditional Use process used by the City of Norfolk, but no this amendment is drafted from her own thinking and talking with the Director; using the definitions from the Planning text book and crafting it such that it fits Elizabeth City. Ms. Cole stated that the City does practice this level of security when public facilities are rented. Mr. Witosky stated that according to this text if you have 195 people attending you are not required to have a security guard, but if you have 205 people attending you have to have 4 security guards. Ms. Etheridge stated that she feels that they should work on this part. She also commented on the definition where it reads where the event can not be advertised for attendance. Ms. Etheridge stated that she thinks the Commission should consider deleting that part; unless you can interrupt it for lease by private groups. Ms. Council mentioned the Chamber of Commerce events that you see in paper and asked if that was called advertising. Ms. Etheridge stated that her concern is that we have a lot of gathering of more than 200 throughout the City without requiring this level of security. She stated that she understands the concerns with not wanting it to get out-of-hand or be a nightclub. Ms. Etheridge stated that she didn't think a banquet hall would have a rapper come in to perform. Ms. Cole asked the Commission to not limit their mind to the type of entertainment. Chairman Sutton stated that he thinks that a balance has to be created between making sure that there is security and making sure that individuals applying for the businesses are not overburdened. Mr. Witosky stated that he thinks it is reasonable to require security if it is over 200 people. He stated that just the idea of having security present helps out because people see that person. If something ever happens, immediately that security person will call the police. Mr. Witosky stated that he thinks the 200 number could be reasonable but this amendment requires four security guards. He thinks one security guard would be fine. Most of these people attending these events are well behaved people. Ms. Council agreed.

Ms. Etheridge stated that she thought a "banquet hall" was an empty building that the owner/operator did not provide the entertainment, but an empty building that the public can rent and use for private or semi-private events. She stated that in Manteo they have a banquet hall that is used for weddings, receptions and nonprofits use it. She stated that she had been to events there. It is an empty building most of the time unless someone calls and rents it and provides their catering and everything. The owner only provides the site/venue. Ms. Etheridge stated that she thinks that is what this should be, a venue. Ms. Council stated that there are venues where the owner offers a choice of catering or the renter can provide their own. Ms. Cole stated that the scenario that they presented is what she had envisioned as well. She asked a somewhat rhetorical question, does this text amendment answer this for the Commission. Ms. Council stated she still has issue with the advertising or letting people know about the event. Ms. Etheridge stated you could make it a Conditional Use Permit that they have to get and make it clear to them that it is a venue it is not where you have entertainment every week for the general public.

Ms. Stallings stated that whenever she has had to rent a banquet hall before they would have to make an application to the banquet hall and they would have to approve the use. She stated that she would totally agree with the Conditional Use part and then it would be up to the banquet hall whether it is suitable. Ms. Cole confirmed that they were talking about a Conditional Use Permit on the building owner not on the event. Once they have that Conditional Use Permit it would be up to the property owner to lease the facility as they see fit. As proposed now it is a zoning permit with development standards. Mr. Witosky stated that this would apply for profit and nonprofit ownership. Ms. Cole stated that the ownership she is sure would be for profit. Mr. Witosky stated if a church used their hall for a wedding reception would this apply. Ms. Cole stated no. The primary use is the church (place of worship) the fellowship hall would be secondary occasional use. Ms. Etheridge asked if the Arts Council was the same. Ms. Cole stated yes just as the Culpepper Inn, the Moose Lodge, etc. The use of the facility as a banquet or reception place is secondary to the primary use.

Chairman Sutton stated that he thinks that the Commission needs to address the security part of this amendment. He thinks that the number of licensed security guards is essential. Second the Commission needs to come up with language that clearly addresses the uses of the banquet hall. Ms. Cole asked if there could be agreement for at least two security persons when and ever occupancy shall exceed 200 persons or 75% of the maximum allowed occupancy, whichever is less. Chairman Sutton stated he likes the two security persons and Mr. Witosky agreed. Ms. Stallings confirmed that this security would be someone that you would contact in the police department and have prior arrangements to have them present. Ms. Cole stated yes. Mr. Witosky stated based on this language, if you have a banquet hall that would hold 100 people, 75% of 100 is 75 it would require a security guard. Ms. Etheridge stated it would require two. He asked if the last section could be eliminated and just say up to 200 people. Ms. Cole stated that she understands but that he is also talking about a capacity issue at that point. They have to be able in case of an emergency move people out effectively. Ms. Council asked if there weren't three options in the security section. The last part stated "or when otherwise..." she asked if that wasn't another option or choice. Ms. Cole stated that would give some power to the police chief or the fire marshal to say that they think it is better that they have security for the event.

Mr. Witosky stated that he did not want a situation where you have a banquet hall with capacity of 100 and have 80 people there and it requires two security guards. He stated that it is ridiculous.

Ms. Stallings stated that she would like an example. Let's say she would like to do this. There is a vacant building on Ehringhaus—a big warehouse. She stated if she wanted to achieve the permits for a banquet hall that she feels like she would be responsible as the banquet hall owner for providing security for the events as being included in the rental fees. Ms. Cole stated that if everybody is agreeing, the text would read "The business shall make available in-house security using sworn law enforcement personnel or retain the services of a licensed security firm to provide security services." Ms. Stallings stated that she thinks that it sounds very fair. Ms. Council agreed. Ms. Stallings stated that the banquet hall owner makes it very clear at the beginning what security would be needed. Mr. Witosky stated if the owner chose not to have security it would be their liability. Ms. Stallings stated based what it put in the amendment the owner would have to have security. Ms. Cole stated that if it reads "it shall be made available" then they would have to provide security. It would be up to the business owner to decide at what

rate to supply the security. Chairman Sutton stated that he likes that as long as the police department is ok with the arrangement. Ms. Cole stated that Mike Boone expressed to her that more often than not when events start to happen around town they call the police department to provide security anyway. So, you will be looking at having sworn personnel rather than a private security company anyway. Chairman Suttons stated that he is comfortable with that.

Ms. Cole read into the record the following text:

“The business shall make available in-house security using sworn law enforcement personnel or retain the services of a licensed security firm to provide security services.”

Ms. Council asked at whose cost and stated she was still confused. It will be the business owners expense whether the business absorbs the cost by hiring full-time security people or whether they pass the cost onto the person having the event. It will be the business owner’s choice. Ms. Cole stated that by deleting the last half of the paragraph it takes the City out of it. Chairman Sutton stated that he was satisfied with this text.

Ms. Cole stated that at least two of the Commission members would like to delete the section in the definition that states “whereby events are not advertised for attendance and/or participation by the general public.” She asked if she should delete it. It was determined it should be deleted. The sentence will end at “acting”.

Ms. Cole asked if the Commission would like for it to read as venue on page 1 of the report under definition. It was determined it was not to be changed.

It was suggested that a Conditional Use Permit be used instead of a Zoning Permit. Ms. Cole asked the pleasure of the Commission. Ms. Etheridge asked the difference between a Special Use and a Conditional Use. Ms. Cole stated that the Conditional Use is decided by City Council moving through the process of TRC, Planning Commission and then Council. Special Use Permits are evaluated the same but with the deciding body being the Board of Adjustment. You have to have public hearings for both and conditions can be set on both specific to the operation. What was suggested for this venue was a Zoning Permit with development standards. Staff would issue those permits. If the applicant is able to meet all of the items that was listed A-J. Ms. Etheridge stated that if Staff is concerned thinking there may be a problem it would give an extra layer of enforcement with the Conditional Use. Mr. Witosky stated that with everything an owner has to go through in the process he thinks a Conditional Use Permit is overkill. Ms. Cole stated that was a comment of the Planning Director. She did not see where these would be popping up all over town. There is a distance separation. Chairman Sutton stated that it was one of the items discussed in the Vision 2020—excessive red tape to go through when trying to get something done. He stated that the Commission needs to make sure that what needs to be done gets done, but they do not want to provide layers and layers to hold up the process for a business to operate.

Chairman Sutton asked for any other comments from the Commission. Ms. Stalling asked if this amendment would change how the VFW operates now. Ms. Cole stated no.

Chairman Sutton called for a motion. Mr. Witosky made a motion to APPROVE Text Amendment 01-13 for a banquet/reception hall establishment with amendments. Ms. Council seconded the motion. ***ALL IN FAVOR: COUNCIL, ETHERIDGE, STALLINGS, SUTTON and WITOSKY. MOTION PASSED.***

Chairman Sutton asked for Staff's report. Ms. Cole stated that she had received an email from the City Clerk that an ad will be running from Friday the 8th through Sunday the 10th and probably again thereafter announcing the Planning Commission's vacancies.

Ms. Etheridge stated that tonight's meeting is her last meeting. Her term ends February 28 unless there is a special called meeting. Ms. Cole stated that Ms. Etheridge and Mr. Turner have reached their maximum number of terms.

Chairman Sutton stated that he would like for the Commission to be more diligent of notifying Staff when they will not be able to attend a meeting. He stated that he realizes that sometime things come up that challenge us but to please be mindful.

Chairman Sutton thanked Ms. Etheridge for her services to the Commission and the City. Ms. Etheridge stated that she has enjoyed serving with everyone and getting to know everyone.

With no further business, meeting was adjourned.

Respectfully Submitted,
Dawn Harris, Secretary of the Board