

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
SPECIAL CALLED MEETING
Tuesday, March 8, 2016
4:00 PM**

MEMBERS PRESENT

Ernest Sutton, Chairman
Sonny DiGirolamo
Carlton O'Neal
Suzanne Stalling
Gary White
Don Witosky

Also present were June Brooks, Planning Director; Kaitlen Alcock, Planner, Dawn Harris, Secretary to the Board; applicant and members of the audience.

Chairman Sutton called the meeting to order and stated that there was a quorum. He asked for a motion to approve the minutes from the December 2015 meeting. Mr. White made a motion to **APPROVE** the minutes as read from the December 16, 2015 Planning Commission Special Called meeting. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL, STALLINGS, WHITE AND WITOSKY. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton asked for a motion to approve the agenda as presented for tonight's meeting. Mr. Witosky made a motion to **APPROVE** the agenda as written for the March 8, 2016 Special Called meeting. Mr. O'Neal seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL, STALLINGS, WHITE AND WITOSKY. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton asked for Ms. Harris to read the Statement of Disclosure as follows.

Elizabeth City Code of Ethics provides that public officials and employees be independent, impartial and responsible to the public; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals and in keeping with the ethical standards of conduct for city public officials and its employees, disclosure of interest in legislative action must be stated for the public record, as per City of Elizabeth City Code of Ordinances Section 2-113. Any member of the Planning Commission who has an interest, as defined in Section 2-111 of the City of Elizabeth City Code of Ordinances, in any official act or action before the Commission shall publicly disclose on the record of the Commission the nature and extent of such interest, and shall withdraw from any consideration of the matter if excused by the Commission pursuant to G.S. 160A-75.

First item of new business on the agenda was CASE NO.: RZ-01-16 filed by Mark Gregory of MaSuKi, Inc. for property located on the southwest side of Halstead Boulevard abutting Millbrook Circle and Body Road. The applicant is requesting a rezoning from Residential (R-15) to Apartment District (AD) for a total of 21.265 acres. (5.243 acres of map and lot number

P90-29-2; a portion to total 14.193 acres of map and lot number P90-29-C; and 1.829 acres of map and lot number P90-29-1). Chairman Sutton asked for Staff's report. Ms. Alcock gave the following report:

STAFF REPORT

The request today is RZ 01-16, made by Mark Gregory on behalf of MaSuKi, Inc. to rezone a 21.265 acre tract from Residential R-15 to Apartment District. The property in question is located southeast of the intersection of Halstead Boulevard and Millbrooke Circle, adjacent to the Millbrooke Subdivision. Since only a portion of the property lies within City Limits, the applicant is seeking City Council's approval to annex 16 acres into the City's jurisdiction. The annexation request will be heard by City Council in March along with the rezoning request. Staff does point out that this is a resubmittal of RZ 02-15 which was heard by the Commission in December, no changes have been made from the original petition. The request was heard by City Council in February; however the applicant withdrew the rezoning request following Council's denial of the annexation.

The Joint Pasquotank County and Elizabeth City Land Use Plan classifies the majority of the tract as low density residential with a small section of general commercial at the northern edge of the property. The low density residential classification is described as lands where the predominate land use is low density detached residences. The Land Use Plan further states that some areas adjacent to more intense land uses may transition into a medium/high density residential land use and density over time which would be considered generally consistent with the Apartment District Zoning. Due to the properties location off of Halstead Boulevard, the mix of land uses in the immediate area, including a car dealership, several auto part and repair shops, a restaurant, and gas station, as well as the availability of public water and sewer, Staff is of the opinion that the property is conducive to the medium/high density residential land use referenced in the Land Use Plan. In making this determination, Staff also considered the generally accepted principles of development and land-use in which higher intensity commercial uses tend to occur along major transportation corridors with land uses becoming gradually less intense the further you get from the corridor. A diagram illustrating this transition was included on page 8 of the staff report provided to the Commission.

The applicant held a community meeting on February 2nd in the City Council Chambers. 22 community members, the applicant's engineer, planning staff, the City Manager, and 3 Council members were in attendance. During the meeting the applicant and his engineer addressed citizen concerns including traffic circulation and flooding. Items discussed included limiting access from Millbrooke Circle to a gated emergency ingress/egress point and utilizing Body Road as the primary means of ingress and egress; as well as the installation of a stormwater retention pond which would reduce runoff onto neighboring properties (including Millbrooke Subdivision).

When making a determination on a rezoning request, Staff considers the area's zoning pattern, adjacent land uses, the joint Pasquotank County and Elizabeth City Land Use Plan as well as the impact on City infrastructure including roads and utilities. Staff also takes into account the impact the proposed rezoning will have on adjacent property owners. In response to citizen concerns regarding compatibility between the single-family residences and the proposed multifamily units, particularly with regards to increased crime rates, greater traffic generation, and decreased property values, Staff referenced a report by the Urban Land Institute which

researched these claims. The Institute found no evidence to support the assertion that multi-family developments negatively impact single-family neighborhoods.

Considering the aforementioned elements, Staff recommends **APPROVAL** of the request as presented, including the adoption of the following consistency statement:

“In considering the mix of commercial and residential land uses along this portion of Halstead Boulevard, the consistency of the proposed rezoning with the Joint Elizabeth City and Pasquotank County Land Use Plan, the research conducted by the Urban Land Institute regarding the effects of multifamily developments on single-family developments, and the availability of City water and sewer to the subject site, the rezoning request is reasonable and in the public interest.”

Chairman Sutton asked for the representative of this application to come forward if they wished to speak. Mr. Tom Nash came forward and gave his address as 117 Nixonton Loop Road. He stated that he has lived here all his life and is here on behalf of Mr. Gregory and MaSuKi, Inc. Mr. Nash stated that obviously this [rezoning] has been before the Commission once. Having said that, they do not take anything for granted. They are here asking that the Commission allows this 21 plus acres be rezoned R15 to apartments. He stated that since Mr. Gregory was here last time there have been some additions and changes to the plans in efforts on the part of Mr. Gregory to meet with the residents of Millbrooke Subdivision. There was a community meeting that took place so that the members of that community could voice their concerns, which that did take place. As a result of that, there have been some changes. Mr. Nash pointed those changes on the plans. Mr. White asked that he bring the plans forward to the Commission. Mr. Gregory held the plans while Mr. Nash explained the following changes.

There were concerns from Millbrooke Subdivision about what this apartment complex would generate. As a result of the meeting there were several changes that were made. Mr. Nash stated that the most important is that the entrance off of Millbrooke Circle will be a gated entrance. It will not be used except in the event of an emergency. All the traffic is going to flow out onto Body Road such that it will not inconvenience the members of the Millbrooke Subdivision. In addition, Mr. Gregory has agreed to put a berm and trees as a buffer and to allow privacy to the Millbrooke residents. The garages will face so that the back are toward to the subdivision and there will be no lighting pointing toward the subdivision. Mr. Nash stated that the biggest thing is that the traffic will be flowing out Body Road as opposed to the Millbrooke Circle entrance. All of this was done in an effort to assuage the people of Millbrooke.

Mr. DiGirolamo asked if the people of Millbrooke were responsive to this. Mr. White asked Mr. Nash if he could tell the Commission a little bit about the community meeting. Mr. Nash stated that he was not in attendance, but Mr. Gregory. Mr. Gregory stated that there were several people that came to the community meeting. Their main concern was the traffic and the other concern was safety as far as the apartment complex. He stated that he has met with Ms. Brooks and the Chief of Police regarding the updates and the management of the complex. He stated that they actually do credit checks, background checks and sex offender checks. They also do quarterly inspections of their units. This gives them a chance to change out the air filters in each units, but it also gives their staff opportunity to make sure that everyone is in compliance with their rules and regulations. In the parking area of the complex they will be installing security cameras. This was discussed with the Chief of Police. City Council had some concerns regarding Halstead Boulevard and Body Road crosswalk. He stated that these issues have been

addressed. Mr. Gregory stated that they had pushed everything they could up on this property to help minimize the impact to the Millbrooke Subdivision.

Ms. Brooks asked Mr. Gregory if he would like to mention the stormwater. He stated yes. The residents brought up stormwater runoff at the meeting. He stated that they had hired an engineer based on the City wanting it all done—all the modules for downstream flow, etc. The engineer did all the engineering work and the City's engineer reviewed it and approved it. Mr. Gregory stated that they will be creating a 25 year retention pond that holds back the water. He stated that they will actually be cutting back the runoff on the land and help the flooding on this property with this pond. The pond is supposed to actually be a little larger than a 25 year. Mr. Gregory told his engineer that he would like to have a little more room in the pond. Mr. Witosky asked if Millbrooke had their own retention pond. Mr. Gregory stated yes and pointed it out on the plans where they have two ponds. Mr. White asked Ms. Brooks who the City uses as an engineer to sign off on this. Ms. Brooks stated that Greg Johnson, County Engineer has reviewed it and Paul Fredette has reviewed it. Hyman and Robey is who designed it. So, it has been through the process. Ms. Brooks stated that she would also like to mention that when Millbrooke was constructed the storm retention was at 10 years. Millbrooke's runoff is not as great as the 25 year will be. She stated that she believes that was explained in the Staff Report.

Mr. DiGirolamo asked of the people at the community meeting how many was Millbrooke residents. Mr. Gregory stated that there were a total of approximately 22 people. That included some Council members and others at the meeting. Kim Hamby was present. There were about four or five actually spoke at the meeting. Chairman Sutton asked how many household were in Millbrooke. It was stated approximately 27 households. Mr. Gregory stated that there are a few of the houses in Millbrooke that are rentals.

Ms. Stallings wanted clarification on the Millbrooke Circle entrance. She stated that in December that entrance was proposed to be an in and out, but to appease the residents the entrance has been gated and will not be used. Mr. Gregory stated yes and that they had met with the City to make sure they could put this emergency gate there. In essence this gated entrance will only be used for emergency vehicles: fire and police, etc. He stated that they have put all the traffic going in and out off of Body Road. Mr. Gregory stated that they have met with NCDOT regarding what they are going to have to do on Body Road. They are going to have to do a traffic study. DOT requires that the traffic study be done; however, it does look like they will have to put a deceleration lane on Body Road to turn into the complex.

Mr. O'Neal asked how many entrances/exists will they have on Body Road. Mr. Gregory stated that it will be one. When coming out of the complex you will have a left hand turn and a right hand turn. Coming into the complex you will have the deceleration lane for turning.

Ms. Stallings asked why City Council denied the annexation. Mr. Gregory stated that was a good question. Ms. Stallings stated that she didn't know if Council had given a reason. Mr. Nash stated that he would try to address that question. He stated that he was not at the meeting, but apparently there was some concern about crime. Mr. Nash stated that this complex is what you call a "market value" apartment complex; which means, that the rental rates are going to be somewhere between \$1,000 to \$1,300. There are two other market value apartments in Elizabeth City. They are Emerald Lakes and Tanglewood. One has a vacancy rate of 1% with the other complex being 10%. This is an upscale apartment complex. Mr. Nash stated that they had met with Chief Buffalo. Chief Buffalo provided them with a report that shows the last three years in

this section 4 [as the police call it]. There has been a reduction in incidents reported of 27% and a reduction in disturbance calls of 32%, which obviously speaks well of the police department. Mr. Nash stated that this complex is not going to have an effect on the crime rate. It will not be significantly different. Mr. Gregory has already addressed the manner in which he is going to have some pretty serious background checks and quarterly visit each unit. This will give opportunity to make sure nothing adverse is going on. The other matter that was generated, but no facts were given, is that somehow this apartment complex will injure and adversely affect the value of the houses in Millbrooke. Mr. Nash stated that he submits to the Commission that it is not the case. First of all, as cited by the Planning Staff and this Urban Land Institute report there are some instances that well placed market value apartments actually increases the value. The report points out that new apartments become an indicator of the economy area. The economy is vibrant. That multi-family housing increases the pool of prospects for residential single-family units and a market value apartment actually makes the area attractive. Mr. Nash stated that they submit that this particular project is going to be in harmony with the area, especially when you take into account what is on Halstead Boulevard. He stated that he thinks this apartment complex will enhance the area and Staff has indicated to the Commission that the proposed development would be in conformity with the Joint City and County Land Use Plan, which is one of the requirements.

In summary, Mr. Nash stated that they respectfully request that the Commission approve rezoning request. They feel that they have met the requirements and also feel that there have been no facts brought forward that this complex would adversely affect any area around the complex.

Mr. White asked if Council fails to annex this property this is all a moot point. Mr. Nash stated that is correct. Mr. Nash stated that this is going be the City Council again with the actual public hearing scheduled in March and they are looking forward to that.

Mr. Witosky asked Ms. Brooks why the Commission had to hear this again. Ms. Brooks stated because Mr. Gregory withdrew the application before Council took any action on it the application starts over as a new application. Mr. White asked if by policy. Ms. Brooks stated that it is by State code.

Chairman Sutton asked if there were any other speakers. Mr. Paul E. Jones, Jr. of 517 Millbrooke Circle came forward in opposition of this application. Mr. Jones stated that he had spoken before to the Commission as well as City Council regarding this application as a resident of Millbrooke of property that abuts this proposed project. He stated that it has been mentioned a couple of times that the subdivision has several rental properties in Millbrooke. He only knows of two out of 27. So, that is not much of a concern to him. He stated that traffic has been addressed or has it. He asked if NCDOT had done a traffic study and if so he would like a copy of the study. He stated that the entrance into Millbrooke that is to be gated—he would like assurance in writing that this entrance will be gated during construction. Regarding stormwater runoff—one of Mr. Jones' neighbors had requested a copy of that report but has failed to receive it. He stated that the value of their property going down or going up is speculation on both sides. They say they think it will go down. Mr. Jones stated that he as a home buyer will not intentionally go buy a home adjacent to an apartment complex. He stated, just has he had asked before...would you? He stated he would like to hear just one person say to him, yes, I would like to have this complex in my backyard. He stated that he has asked that question to this Commission and to Council. Mr. Jones stated that fortunately for them at Millbrooke, they had

Council members who had the determination and foresight to vote down the annexation on a vote five to two. He stated that unfortunately they are going through this same process once again. He stated that he understands that there has been some 1.3 million dollars that has been dangled as a carrot on a stick before the City Council and he understands what some people might want to do with that 1.3 million. What it boils down to is ethics and a responsibility that the City Council has to its citizens. Mr. Jones stated that once again he would thank the Commission for their time and thank you for your consideration and thank you for their vote.

Mr. White asked Mr. Jones if he would explain what he was talking about regarding the 1.3 million dollars. Mr. Jones stated that what he has heard and read is that there is 1.3 million dollars that is being offered by MaSuKi that the City would use to basically repair infrastructure from Elizabeth Street to Ehringhaus. Then DOT would come in and pave Road Street.

Ms. Brooks stated that what she is hearing is an inference to a gift. The 1.3 million dollars is calculated for water and sewer assessment for the number of units to be constructed. Mr. Gregory will also be required to pay an impact fee of approximately \$60,000. Tax generated from this property could be approximately \$150,000 a year. The City then can use the monies from the impact fees for other water and sewer related infrastructure improvements. Mr. DiGirolamo asked if it could be used for Road Street. Ms. Brooks stated yes. In order to improve Road Street from Ehringhaus to Elizabeth there is approximately 1.3 million dollars. Mr. DiGirolamo asked if this item was turned down again Road Street would still get repaired at some point. Mr. White stated that it had been 10 plus years and he is still waiting. Ms. Brooks stated at some point it will be done; however, it could be another ten years.

Mr. Jones stated what he was reading was in the local newspaper. He stated that it cast a shadow upon the folks of Millbrooke as he read it and being a stumbling point to that project because of their opposition. Mr. Jones stated that as a resident there he is not opposed to any work on Road Street. His office is right of Road Street. He stated that he is not a native of Elizabeth City. He has only been here a little over twenty years. Road Street has been bumpy the whole time.

Mr. Witosky stated that he commends Mr. Jones for being very calm in his presentation. He stated that he knows that this is an emotional issue for him and some of the homeowners. Mr. Witosky stated that there are 27 homeowners. He stated to Mr. Jones that he is the only one here presenting tonight and asked why. Mr. Jones stated that he is sort of the homeowner's association president. They are supposed to have a meeting shortly between himself, neighbors and Phillip Harrington who is the developer of Millbrooke.

Ms. Brooks stated that she would like to remind everyone that this application is for the rezoning even though they have talked a lot about the apartments. She stated that the Commission needs to look at the uses of the apartment district and the uses in the R15 district. Even though apartments are allowed, this is not about these apartments.

Chairman Sutton stated that before this application is put up for a vote he would like to say to Mr. Nash, Mr. Gregory and Mr. Jones thank you for their diligence in terms of presenting your view points. He thanked Mr. Gregory and Mr. Nash for seeking to make an investment in our City. Chairman Sutton stated that he applauds Mr. Gregory for going beyond what is required as a good neighbor by going to the community in an effort to seek their input. Chairman Sutton stated that he would like to echo Mr. Witosky's comment to Mr. Jones. He thanked everyone for their contributions. He thanked Mr. Gregory for wanting to bring in upscale housing to

Elizabeth City and thanked Mr. Jones for his effort in trying to protect the homeowners' investments that they have made.

Mr. DiGirolamo stated that he agreed with Chairman Sutton and that Mr. Gregory had gone above and beyond what was initially laid out back in December relative to the issues brought forth. Mr. DiGirolamo made a motion to APPROVE Rezoning Application RZ 01-16 with property being rezoned from R15 to Apartment District (AD). Mr. Witosky seconded the motion. **ALL IN FAVOR BY SHOW OF HANDS: SUTTON, DIGIROLAMO, O'NEAL, STALLINGS AND WITOSKY. ALL OPPOSED BY NO SHOW OF HANDS: WHITE** [Mr. White offered no reason for opposition to this rezoning.] **MOTION PASSED.**

Ms. Stalling stated that she had one comment before everyone leaves. She stated that when you have a market value apartment complex proposed such as this it raises the bar everywhere across the City. When a new apartment complex is coming in where does everyone want to move to? They want to move to the new one. So, that means Emerald Lake steps up their game north of town. So, it does raise the bar. She stated that if you have ever seen any of the complexes that Mr. Gregory has done—they are not skimpily landscaped. Ms. Stallings stated that when he says he is going to put in big trees she has no doubt that will happen. If you look at the ones he has now in place, you can see how they are landscaped. It makes it attractive for people and that makes people feel safe when you have wide-open spaces and you have areas that are weeded and mulched with flowers planted. That is not a requirement of the apartment complex that's just because it looks good and he wants the residents and neighbors to be proud of the area that's there. She stated just based on the other properties she believes he will do what he says he will.

With no further business, Mr. White made a motion to adjourn. All were in favor. ***Motion passed and meeting was adjourned.***

Respectfully submitted by,

Dawn Harris
Secretary to the Board