

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
TUESDAY, May 5, 2015
4:00 PM**

MEMBERS PRESENT

Ernest Sutton, Chairman
Sonny DiGirolamo
Carlton O'Neal
Don Witosky

Also present were June Brooks, Planning Director; Kaitlen Alcock, Planner, 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 April 7, 2015 meeting. Mr. DiGirolamo made a motion to **APPROVE** the minutes as read from the April 7, 2015 Planning Commission meeting. Mr. O'Neal seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL and WITOSKY. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton asked for a motion to approve the agenda for the meeting tonight. Mr. Witosky made a motion to **APPROVE** the agenda for the May, 2015 meeting. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, STALLINGS, O'NEAL and WITOKSY. 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 Board pursuant to G.S. 160A-75.

First item on the agenda was CASE NO.: RZ 01-15, Rezoning Application filed by Northeastern Professional Associates, Inc. for a 13.52 acre tract located on the south side of North Road Street between Villa Drive and Medical Drive, adjacent to the Northeastern Professional Associates, Inc. medical offices and Gateway Bank. The applicant is requesting a rezoning from R-15 (Residential) to GB (General Business). Ms. Alcock gave the following report.

STAFF REPORT

The request is RZ 01-15, made by William Owens on behalf of Northeastern Professional Associates to rezone a 13.52 acre parcel from Residential R-15 to General Business. The property in question is located on the south side of N Road Street adjacent to Gateway Bank and the medical offices of Northeastern Professional Associates. The Residential R-15 zoning district is designed to accommodate a variety of low density single-family detached dwellings with nonresidential uses permitted including customary accessory, recreational, educational, and institutional lands uses compatible with low density residential development. The General Business zoning district was established to accommodate a wide range of retail, business, professional, and personal services; office; and limited wholesale uses. If the request is approved, the applicant intends to utilize a portion of the property for additional medical offices and increased parking. As is indicated by the flood zone map on page 4 of the provided staff report, the rear portion of this site lies within the floodway and will not be able to be developed.

The Joint Pasquotank County and Elizabeth City Land Use Plan classifies the front portion of the property as Medium/High Density Residential while the back, wooded portion is classified as Conservation/Open Space. The Medium/High Density Residential classification is intended to delineate lands where the predominant land use is higher density single-family residential developments and/or multifamily developments. Industrial and commercial uses, with the exception of neighborhood commercial uses, are considered incompatible. Conservation/Open Space areas includes such things as parks and wetlands. Land development, except extremely low-density residential development, open space, and park facilities are not desired nor expected in these areas. The proposed rezoning would be considered generally inconsistent with the both the Medium/High Density Residential and Conservation/Open Space designations. Given the commercial development prevalent along North Road Street in this area, a General Commercial designation would be more appropriate. As such, if the Commission recommends approval of the rezoning, Staff recommends an amendment to the Future Land Use Map to ensure compatibility between current land uses and zoning and the future land uses desired.

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. Staff is of the opinion that the requested rezoning is consistent with the current commercial and institutional development along North Road Street but contradicted by the Land Use Plan. Given the current commercial development adjacent to the subject property, which is also classified as Medium/High Density Residential, Staff believes a map amendment would be necessary if the rezoning is approved to ensure compatibility across City plans. Given that the rear portion of the property is located in a floodway and thus unable to be developed as well as the landscape buffers that will be required to separate any future commercial use of the property from the surrounding residential uses and zones, Staff does not anticipate any major impacts on the adjacent residential properties. As such, Staff recommends approval of the rezoning request with the condition that an amendment to the Land Use Map be required.

Chairman Sutton called the applicant, Mr. William Owens forward. Mr. Owens stated that he represents Northeastern Professional Associates. They own the adjacent property where the

Northeastern Professional Center is located; which has Todds Pharmacy, Albemarle Family Practice and several other doctor offices. Also, they own the property that the Gateway Bank currently sits on. Mr. Owens stated that they have a desire to purchase the rear portion of the Hurdle property that is adjacent to their property. He stated that they are leaving 1.87 acres on the front. It is the back portion that they are interested in purchasing. It would give them the option of adding one or two more medical offices and some additional parking. It is directly beside their property. Mr. Owens stated that five to ten years from now nobody would know that they didn't have it originally. To purchase the property, current zoning does not allow them to use it for what they want to use it for. That is why they have applied for the rezoning. Mr. Owens stated that he personally feels, as far as the adjacent property owners go, there is not a better situation they could have as far as someone else coming in and using that property for something else such as a strip center. Mr. Owens stated he would answer questions. He stated that they have a purchase agreement on the property contingent on this rezoning.

Mr. DiGirolamo stated that a couple of medical offices and additional parking seems minuscule compared to 13 acres. Mr. Owens stated that there is only about two and a half to three usable property. There is about 11 acres of swamp that goes along with it. He stated if the City wants to draw a line and make the part that's complete unbuildable not part of the rezoning they have no problem with that because they can't use it anyway. Mr. Owens stated that they own the adjacent 13 acres of swamp land, so they are going to end up with 26 acres of swamp land. Mr. DiGirolamo asked if the remainder in the floodplain will remain as is. Mr. Owens stated yes. Mr. DiGirolamo ask if the amount of building they will be doing with the parking lot [inaudible] surface area for runoff. Mr. Owens stated that there is enough property there if they need to put in a retention pond there would be sufficient space for it. Ms. Alcock stated that this would be addressed during site plan review for any development proposed.

Mr. Sutton asked the applicant if they had done any research on the possibility of putting in a retention pond if necessary. Mr. Owens stated they have not because at this point in time they have given themselves the capability of expanding. He stated it is not like they have a designated tenant or designated building plan. He stated that it would impact what they will have to do. Compared to when they built this project initially, now you have to have an engineered retention pond. There is an expense to that. There is no need to go and get one engineer to know exactly what your needs are until you know what the building requires.

Mr. Witosky asked Mr. Owens if they had any discussion with the hospital as far as how they foresee future needs for physician space. Mr. Owens stated that he had spoken with them, but they have not given them any information. He stated that the hospital is still working on their long-term strategic plan.

There were no further comments or questions for Mr. Owens at this time.

Chairman Sutton called Ms. Rosa Northwood of 109 Villa Drive to come forward. Ms. Northwood stated that her concern, which has been brought up, is about the flood zone and wetlands. She stated that she lives close to Knobbs Creek and the end of Villa Drive. Ms. Northwood stated that when we have bad storms it floods back there. She stated that her concern is, as well as other people that are here, if there is a lot of cement going to be on that property

instead of the land soaking up what comes down, they are going to get it [the water]. Whatever comes up Knobbs Creek from wherever or we get 10 inches of rain, they get 20 inches of rainwater. Her concerns were how they plan to prepare for that drainage. She stated that the Commission had brought up the drainage pond. Ms. Northwood stated that they have a good little neighborhood back there with no problems. She stated her concern is how many acres are there that can actually be developed for business. Mr. DiGirolamo stated that was part of what they were just discussing. Mr. Owens stated approximately two and a half to three acres in the back part. There is 1.87 acres in the front that will not be sold. There is approximately 11 acres of swamp land. Ms. Northwood asked Mr. Owens if he knew how far the wetlands comes up behind each house on Villa Drive. Mr. Owens stated that he has seen the wetland map. Ms. Northwood stated that is her concern. Also, they have trees that are along Villa Drive. Their main concern is the water problem. Mr. DiGirolamo stated that he believes that it will be properly addressed during the site plan. He stated that a lot of new development going in Elizabeth City now is being required to have detention ponds due to the amount of runoff. He stated that he lives in Summerfield Subdivision and by the time their runoff from their detention pond reaches Knobbs Creek it has been six to seven months. It moves slow but is always an issue when something new is being built. That is why the plans have to be looked at thoroughly and find out how much concrete is going down relative to runoff. He stated that it will be looked into and if not handled properly they will not be given the green light to go ahead.

Ms. Brooks asked Chairman Sutton if she could make a comment as far as the technical aspect. Ms. Brooks stated that she understands the concern about runoff and water retention on the site. She stated that whenever you disturb an acre or more of land the North Carolina Department of Water Resources requires a stormwater retention pond on site. The State requirement is a 10-year flood; however, the City's requirement is 25-year flood retention. So, any impervious surface they create, they would have to store up to a 25-year runoff on their site before it is released into the floodway. Ms. Brooks stated that they will be required to have a retention pond on site for that stormwater runoff. Ms. Northwood stated that she knows it is not the City's responsibility, but she has heard people talking about asking the Corp of Engineer's about digging out Knobbs Creek so they wouldn't get so much flooding.

Chairman Brooks called Cindy Henderson to come forward. Ms. Henderson lives at 112 Villa Drive. Ms. Henderson stated that she has no problem with the rezoning. She stated that she lives in the last house on Villa Drive right on Knobbs Creek. She stated to the Commission that they have no idea what she goes through. She has had to replace two air condition units because of floodwaters. The floodwater surrounds her home. She stated no one knows what she goes through. No one ever comes and asked if she is okay. She stated that she has been flooded unbelievably. She stated that what she does like is the pond. She asked if it will help her. Ms. Brooks stated that it will not increase the amount of runoff that Ms. Henderson will get. They have to hold it for 24 hours before it starts releasing. So, it will not increase the amount of water that Ms. Henderson get already. Ms. Henderson stated that she assumes the pond will go at the very end. It is very swampy there. She stated that she has a ditch that runs between her house and the very last house. When Knobbs Creek comes up, she gets it. She asked if the pond will be released to her ditch and if so she will get more. Mr. Owens stated that the rules have changed drastically over the last 10 to 15 years as far as what is required. It's not just a matter of going back there and digging a pond. It has to be engineered. They tell you what kind of plants

that have to go in to soak up water; it's all kinds of things that go into that. Mr. Owens stated that he is not going to say that there will not be flooding because they already have flooding, but it will not be made any worse. Ms. Henderson stated that this is what she wants to hear and is sure that this is what they all want to hear. Although, she stated that she is flooded. She is always flooded and her house is eight feet above sea level. She stated that she can walk under her house. She stated if the Commission changes the zoning; it's no big deal to her, but to please think of them on Villa Drive.

Chairman Sutton asked if anyone else would like to speak. Mr. Steven Brickhouse came forward. He lives at 103 Villa Drive. Mr. Brickhouse stated that his house is probably the oldest house in the neighborhood. Due to the house being as old as it is, it has a swimming pool that is literally right on the property line. He stated that this has caused him some concern considering the age of the swimming pool. If there is any type of land movement going on such as excavating the walls may actually cave in because of the ground being so soft. That has been a concern of his. This is an old swimming pool that is probably 50 years old. He stated his home was built in 1952 or 1956. Mr. Sutton asked if the pool was there when Mr. Brickhouse moved in. Mr. Brickhouse stated yes. The pool was put in when the house was built. He stated from what he can gather, the original owners of the house owned all the land around. The land has slowly been divided up and moved from this person to that person. As far as the 13 acres, he did not know. From the way it seems they have slowly sold off land. He stated that his main concern is the swimming pool and having issues down the road. Mr. DiGirolamo asked Mr. Owens if he was aware of this. Mr. Owens stated no he wasn't but would try to do what they can. Mr. Brickhouse stated that the property is so close to his house that he actually mows part of the pasture because he doesn't want woods or overgrown grass growing directly up against his fence and swimming pool. He stated obviously with business property being next to residential it will cause their property value to go down. That is one of the concerns his wife had plus the types of business that would go in there. He stated he did not want a nightclub 30 feet from his door blasting music at 2:00 in the morning. He stated that he had not heard what type of businesses were going in there or even if there is plans for what is going in. He apologized that he had come in late to the meeting. Mr. Owens stated that they own the property directly next to this property. They are looking to add additional parking and a few physician offices. Mr. Brickhouse stated that he is just concerned with his ground giving away. He stated that if there is some type of buffer; that would be fantastic. He doesn't want a parking lot right up to his property line.

With no further comments, Chairman Sutton called for a motion. Mr. Witosky made a motion to **APPROVE Case No. RZ-01-15** changing the zoning from Residential (**R15**) to General Business and that an amendment to the Land Use Map is required. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: SUTTON, WITOSKY, DIGIROLAMO and O'NEAL. NONE OPPOSED. MOTION PASSED.**

Ms. Brooks stated for the audience that this item will go to City Council next month. Adjacent property owners will receive a letter of the public hearing.

There was a brief discussion regarding Knobbs Creek. Ms. Brooks stated that the Corp of Engineer has worked on the flooding issue on Knobbs Creek. Everything that would increase the

water or flow on Knobbs Creek is look at very closely for new development. [Inaudible comments].

With no further comments, meeting was adjourned.

Respectfully submitted by,

*Dawn Harris
Secretary to the Board*

**Minutes approved at the June 2, 2015 Planning Commission meeting.*