

MINUTES
CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
TUESDAY, MAY 7, 2013
4:00 PM

MEMBERS PRESENT

Ernest Sutton, Chairman
Lena Council
Sonny DiGirolamo
Johnny Jones
Suzanne Stallings
Don Witosky

Also present were Cheryl Eggar, Planner and Dawn Harris, Secretary.

Chairman Sutton called the meeting to order. Chairman Sutton asked for a motion to approve the April 2, 2013 minutes. Mr. Witosky made a motion to APPROVE the April 2013 Planning Commission minutes. Mr. Jones seconded the motion. ***ALL IN FAVOR: DIGIROLAMO, JONES, STALLINGS, SUTTON and WITOSKY. MOTION PASSED.***

Chairman Sutton asked for a motion to adopt the agenda. Mr. Witosky made a motion to adopt the agenda for May 7, 2013. Ms. Council seconded the motion. ***ALL IN FAVOR: DIGIROLAMO, JONES, STALLINGS, SUTTON and WITOSKY. MOTION PASSED.***

Please note: Ms. Council arrived following the start of the public hearing.

First item on the agenda was **CASE NO.: RZ-02-13** – filed by Forest Park Church of God and represented by Hyman & Robey, PC for ±16.5 acres located at 300 Forest Park Road. The applicant is requesting a rezoning of this property from Residential (R-15) to Office and Institution (O & I).

Ms. Eggar gave the following Staff Report.

STAFF REPORT

The applicant's request is to rezone this property from R-15 to O & I. It is approximately a 16.5 acre site that is located at the intersection of Wellfield Road and Forest Park Road. The surrounding land use for this property is a mismatch. There is residential property to the north, to the south and to the west. Westlawn Cemetery, which is zoned O & I to the east. Across the street from this property there is commercial, retail, residential and crop lands. These properties are zoned General Business (GB) and Residential (R-15).

The utilities is septic for the church...there is no City water in this area. The church is on County water with City electricity. The requested O & I zoning is basically an extension of existing O & I zoning that is found at the adjacent Westlawn Cemetery. Churches are a

permitted use in the O & I zoning districts. The maximum density setbacks and parking requirements will be determined by the City Council when rezoned.

The Land Use Plan has this site classified as Low Density Residential. This classification is intended to delineate low density land where the primary use is single family homes. The City's goals and policies support the continued use of land in Low Density classified areas for low density dwellings and for public and institutional land uses that support, and that are compatible with, this type of residential development. The O & I zoning designation is considered to be conditionally consistent with the Future Land Use Map (FLUM) classification of Low Density Residential. While the institutional use of the site as a church is in compliance with the Low Density FLUM designation.

The existing church is nestled in a cleared area in about the middle of a 16.5 acre tract with woodlands at both the northern and southern ends. These dense vegetative buffers aid in minimizing possible land use conflicts by creating a visual screen and a reduction of the traffic noise. As mentioned, the site is surrounded by a variety of land uses and zonings from residential, commercial to a cemetery. The requested O & I zoning is an extension of the O & I zoning found at the adjacent Westlawn Cemetery. Due to increased membership, the church has outgrown its existing facility and needs to expand. The church desires to construct additions of approximately 13,000 square feet behind the existing church for a new sanctuary, offices and restrooms. To facilitate their dreams, they are requesting that the property be rezoned from R-15 to O & I. The residential R-15 zoning designation has rather restrictive setback requirements for churches requiring minimum of 50 feet for the rear setback. The UDO regulations indicate that when a property is reclassified as O & I, the City Council will determine the land development criteria for the site. As allowed by the Ordinance, Council shall establish the maximum density, minimum setbacks and the on-site parking requirement.

To construct the 13,000 square foot building addition, the church is requesting that the rear setback be established at 10 feet. It should be noted that this portion of the site runs adjacent to the Westlawn Cemetery and has a natural vegetative buffer. The existing tree buffer will be supplemented by planting evergreen shrubs in conjunction with the addition.

The O & I zoning designation is considered to be conditionally consistent with the Future Land Use Map (FLUM) classification of Low Density Residential. While the institutional use of the site as a church is in compliance with the Low Density FLUM designation.

The proposed O & I rezoning is compatible with the Land Use Plan and is an extension on the existing O & I zoning district found at Westlawn Cemetery to the east. As proposed, staff is of the opinion that the proposed zoning is appropriate for the area and recommends **APPROVAL** of this application together with the requested 10' rear setback. Furthermore, staff recommends that the parking requirements be based on the Off-Street and Stacking Requirements found in UDO Table 11-2-1.

Chairman Sutton called for the applicant's representative to come forward. Mr. Eddie Hyman from Hyman & Robey came forward. Mr. Hyman stated that he is actually representing Forest Park Church as a church member.

Mr. Hyman stated that they are a growing church. They are having three services on Sundays. It is a very youth oriented church and very active growing church and they need to expand. They want to build another larger sanctuary in between their building (a site plan was included in the Commissioner's packets). To put a building back behind the existing building with the setbacks for residential will make it hard to do. They would have to pick another site on the lot and construct a separate sanctuary and separate gathering area. The two would not be joined. They would like them joined due to inclement weather, needs to communicate from the sanctuary to the nursery and youth activities. Mom and Dads would not have to leave a building to go to another to pick up their children. Mr. Hyman stated that they have had some rough designs done on this type of expansion and it seems that it can work as proposed. Now they are trying to get the rezoning done to accommodate the construction.

Mr. Hyman stated that the R-15 zoning does allow church uses within the district; however, it does exaggerate the setbacks for churches. The church does adjoin O & I and they are asking for the extension of the O & I zoning. The churches front door faces the General Business zoning and an auto restoration shop. There is commercial use on both sides. There is a residential house directly in front of the church. The Jehovah Witness owns a site below the church on the corner. Mr. Hyman stated that he feels that the rezoning would be good for the neighborhood. It would bring more continuity in the uses that are provided. The church is having 700 to 800 people at the three services on a weekly basis.

Mr. DiGirolamo asked if the owners of Westlawn Cemetery property had been notified. Mr. Hyman stated that they were notified through a mailing of the meeting, but they have not spoken with anyone from Westlawn. The notification went to the Greenville office.

Chairman Sutton asked Staff if there had been any telephone calls. Ms. Eggar stated that she is aware of one call that had come in. The caller had concerns with the traffic.

Mr. Jones stated that he sees that structure is 45 feet away from the property line and that the 10 foot setback would give a small buffer. He asked the applicant if they would expand their parking lot. Mr. Hyman stated that yes they would expand the parking lot. They intend on mirroring what the Commission sees on the left and on right. He stated that they would like to keep the building as far back from the road as possible. It gives a little more privacy from the front. Mr. Hyman stated that they will need to add stormwater retention on site as well. The next phase of improvements will put them into stormwater treatment because of the impervious coverage. Until they get over this (rezoning) hurdle they can not put anything in stone...spending big money on design or plans. Mr. Jones stated that in looking at the plans the designs as they are now the parking would still be in the front and there is plenty of room to expand. Mr. Hyman stated that the site is 16 acres and they are trying to work with where the initial building location.

Mr. DiGirolamo asked for confirmation that the wooded area would not be affected at all. Mr. Hyman stated, at this point no...they are trying to stay out of them. He stated that he is suspicious that there are wetlands on each side of the church. What they have is what the Commission sees that is cleared land for certain to improve on with a 50 foot buffer on each side. This phase of the plans, there are no intentions to go into the woods. Mr. DiGirolamo asked if there was a timeframe proposed for development. Mr. Hyman stated that the church has initiated

a project called "Everyone"...Everyone invited, everyone included, everyone's important. This project is to raise funds for the project. They are at a little over 10% of their goal of a million dollars to build this facility. Mr. Hyman stated probably in a year to breaking ground. He stated that what will take place once they receive approval of the rezoning is the design phase. That involves also coming back to the Planning Staff for a TRC meeting. The Technical Review Committee will review the project based on all the infrastructure, stormwater runoff, parking, impervious area, traffic situations, utility loads, police and fire protection...it will cover every gambit of what they are going to try and improve.

Chairman Sutton called Ms. Holly White to the podium. Ms. White declined to speak. He then called Mr. Ronald Flatley to come forward. Mr. Flatley stated that he lives at 403 Forest Park Road which is just across from part of the wooded area. He stated that he really does not want anymore expansion or any more traffic. They have already picked up a lot of traffic when the bypass went in. Mr. Flatley asked once the zoning is changed is that the only building they are going to build. He stated that he really does not have any other information but that they want the zoning change. He stated that he would prefer that it stays just like it is.

Mr. DiGirolamo asked if Mr. Flatley's anti-zoning thing was strictly a traffic issue. Mr. Flatley replied that he does not know enough about the rest of it to know anything. He asked are they going to build anything else. If the church folds, can someone else come in and build? How big is the building going to be? Can they come down and clear the wooded lot and build a building? Mr. Flatley stated that he doesn't know the answer to all of those questions. So the only real concern at the present moment is the only thing he knows about and that is the traffic. Mr. DiGirolamo asked if the uncertainty of the future is what concerns Mr. Flatley. Mr. Flatley stated yes sir. Mr. Jones stated to Mr. Flatley that the building is 100' x 100' that they want to build. It being adjacent to the cemetery, if there is anything going on no one in the cemetery is going to have an uproar about it. He stated that he can see the projection that they plan to build it back behind the existing structure and to use a 10 foot buffer from that. Knowing that they are expanding and their proposal is that churches do grow and people encourage churches to grow. He stated to Mr. Flatley that it is still his choice to say that "I don't know what's going on." Mr. Jones stated that he wanted Mr. Flatley to know that there is a 100' x 100' building and then there is an adjacent building. He stated that he has personally seen churches expand; however, Mr. Flatley's issue is traffic. They have 700 to 800 people that attend the services three times on Sundays. That may be too much...Mr. Flatley stated that it is too much now. How much more is it going to expand and is one building going to be enough. Are they going to come back in five years and put another building, clear those trees and put another building. Mr. Flatley stated that he just does not know. The only thing he does know is that it will increase the traffic. Mr. Jones stated that it will be adjoined to the existing sanctuary. If they were to build something separate, even the sewer system would have to be separate and that is not what the church is going for. They are staying in a centered area. So they are not going to the left or going to the right. They are proposal is to stay attached. Mr. Flatley stated now. Mr. Jones stated if anything you might attach from that; however they will already be 10 feet away from the cemetery. On the left they do have expansion room. Mr. Jones stated he wanted to make sure Mr. Flatley saw that. Mr. Flatley stated he was listening when they were talking.

Chairman Sutton called Ms. Anita Lamonthe to come forward. Ms. Lamonthe lives at 405 Forest Park. She stated that she appreciated being notified of the meeting, which is kitty-

cornered to the church. This is a very active church. She stated that they have watched it grow. The people are fantastic. She stated that they have no problem with the people. They have problems with it being rezoned. There is also concern that she doesn't want to be Oxford Heights. There is the bypass to the right and all this building going on to the left. She stated that her house floods and it never flooded before. She is concerned about what is going to happen with the water level with more buildings being build. She stated if you look at the site there is no way that you can put 16.5 acres without touching the trees. Those are a buffer. Standard Tile and the Framery and the Mustang Rehabilitation Center have always been there. The church also put a building not very far from the ditch without being rezoned. She stated that she does not understand why it has to be rezoned and is concerned that she is no longer going to live in a residential area but a commercial area. Ms. Lamonthe stated that when she moved there 25 years ago they had horses, it was the country and it was beautiful. The only traffic they had was people that came from 17 north going to south 17 and they knew the short cut. The speed limit there is 35 mph. Since Wal-Mart has opened 24/7 it is a more traffic area. Ms. Lamonthe stated that she believes the church has something on Wednesday nights. Mr. Hyman confirmed that they have activities on the first Wednesday night. She stated that there is a lot of traffic. There is traffic coming from the church. You have to wait in line on Forest Park Road on a Sunday for the traffic going into the church. What concerns Ms. Lamonthe is that she does not want her home to be commercial; she does not want her home to be any more flooded than it is already. The water comes up to the garage. She stated that she has a six foot ditch in front of her house and it overflows. She doesn't want to be Oxford Heights. Chairman Sutton asked what Ms. Lamonthe is contributing the flooding to. Mr. Lamonthe stated that bypass...the level of the land. The bypass was higher than Forest Park Road. The church lot is higher than Forest Park Road. Between Dan and Mary and between Redgate it is impassable when there is a storm.

Ms. Lamonthe stated that she does not want to loose the trees. She stated that the church came in; they did not know the church was coming in, but they did not oppose the church coming in, but the only thing is the zoning.

Mr. Jones stated the difference between the R-15 and the O & I zoning. He stated that the R-15 is intended to accommodate a variety low density single family detached dwellings or modular homes. The maximum density within an R-15 district includes approximately three dwelling units per gross acre for a single family detached dwelling. Non-residential uses permitted within the R-15 districts are customary accessory, recreation, education institution use that is compatible with the low density resident character of an R-15 district. Because most of the City's ETJ areas are transitional from rural character to urban character some limited agriculture uses are also allowed within the district. In an R-15 district it does not allow the church to go to that 10 foot low. R-15 would require them to stay back 50 feet away from their property line. They would not be able to build this building if they have to do that. The O & I district is intended to accommodate offices, public institution of business, professional and personal services, limited support retail. The maximum density, minimum setback and onsite parking requirements will be determined by City Council. One of the objectives of this district is to encourage land use which serves as an adequate buffer between intensive non-residential use and residential uses. Mr. Jones stated that he believes the only reason the church wants to change the zoning is because it gives them latitude as to getting closer to the property line to build a 100' x 100' structure. A 50 foot barrier would keep them from being able to build that size structure. Ms. Lamonthe asked where they were going to put 700 cars parked. Mr. Jones stated that

looking at the parking diagram they have a main parking and then an additional parking area. You can figure 200 per service. Generally, you would not have 700 at one service. Ms. Lamonth stated that she does not want the buffers to go or the trees to go. She has gone over and examined the property and she stated that she does not know what the limitations are for parking cars, but she knows where there are going to put more cars. They have a great parking area, but they also park on the grass, they park behind the church and sometimes at Standard Tile. She stated that there is a problem with the parking.

Mr. DiGirolamo stated to Mr. Hyman that he would like to confirm that Mr. Hyman answered his questions earlier relative to the parking that the tree areas would not be included. Mr. Hyman stated that they do not have present or future plans to get into those areas.

Mr. DiGirolamo stated that he can relate to Forest Park. He bought his second house on Dan and Mary Street back in the early 1980's. Ms. Lamonth stated that Mr. DiGirolamo knows what they use to have. He stated yes. Ms. Lamonth stated that the flooding is unbelievable. Mr. DiGirolamo stated that when he was lived there, there was no flooding issue. Ms. Lamonth stated that there is a flooding issue. Mr. DiGirolamo stated that he lives in the Summerfield Subdivision and they have flooding issues. Ms. Lamonth stated that they had never had the flooding issues. Mr. DiGirolamo stated that she was correct, because of construction on the other side with Redgate and the bypass (he is not sure what type of influence that may have had on the flooding). The big part of him now in dealing with his community flood problems now all relates to moving water from the further points out to Knobbs Creek. Until some of those issues are resolved, Mr. DiGirolamo stated that he doesn't see the other flooding issues going away anytime soon. He stated that he can not see the churches impact, other than traffic issues, having any type of flooding that is occurring.

Chairman Sutton asked Mr. Hyman if he would like to speak. Mr. Hyman stated yes he would. He stated that they want to be good neighbors. If the rezoning is favorable, it will open up 45 feet of property within a cleared area. They won't be forced to branch out on other parts of the site, possibly into the woods or possibly other areas. They can build as a nucleolus and keep the congregation contained. The construction that will take place will be hidden from view because of the way it will be put behind the other two wings. The parking that they will improve will be done in the nature that will facilitate their needs. He stated that they will not branch out into the wooded areas at this time. That is why when they viewed their site—it's narrow and long. On each end they are flanked by four acres of wooded area, possibly wetlands that they do not want to try to get into. So, they are trying to expand the depth by the rezoning, both forward and back. Church uses are permitted there anyway. It is an acceptable use within the R-15 district. If they strikeout on the rezoning, which they do not want to, they will have to backup and plan to move out into the other areas as they grow. Mr. Hyman stated that it is their right and their desire. They are a growing thriving church. At this point, they do not want to affect the trees. The stormwater issues and flooding issues, as they move forward, they are going to be required to contain their runoff from off of the impervious areas and let it mitigate out slowly over a 72 hour period. That is the State requirement and the City requirement.

Mr. Hyman stated he would like to address the drainage for a little while. He stated that we hear drainage, drainage, drainage and it is a problem. Twenty or thirty years ago there were agencies to maintain the outfalls. Maintenance is a big issue in open ditch drainage systems like we have.

DOT would maintain the ditches, repair the culverts, they would dig them out to the swamp. Corp of Engineer and Soil Conservation Services would pick it up at the swamp and take it to the river. Nobody is doing that anymore and that is what is causing the drainage problems. The agencies that once would dig them clean them and shot gun them to the river are saying “time out” it’s not good for water quality so let’s hold them back up. The drainage issues that we see today are due to a lack of maintenance. It is due to built upon areas, but the newly permitted built upon areas is retaining some the water and that is what will be done with the church’s project.

Regarding traffic, Forest Park Road is a minor collector road. It is made to be and designed in the Thoroughfare Plan to connect Highway 17 to Main Street Extended as an alternate route through. This will be reviewed. If stacking lanes are needed or a center lane is recommended by DOT in the review, then that is what the church will have to do as an improvement.

Mr. DiGirolamo asked if the primary reason they were going for the rezoning is relative to the setback. Mr. Hyman stated relative to the setbacks...the property is narrow and wide. The part of the property that they consider buildable is taken a big hit by the double setbacks required in the R-15. If it was a satellite annexation, Mr. Hyman stated he would not even approach it, but since they adjoin an O & I they are expanding that district. Mr. DiGirolamo asked if there were any options at all to entirely flip the new section to the other side. Mr. Hyman state that it is, but the problem would be that it would eat of the existing parking lot and cost a lot of money. Right now as proposed they would not have to put up any façade up. Right now they have a pretty brick face and nice gable entryway. By putting the building in the back, they would not have to do that again because the building will be tucked away and hidden. If it has to be put out front, they will have to spend money on bricks and façade for an aesthetic appeal from the street. The parking area would have to be relocated. They have looked at a lot of ideas and what is presented is what the committee has settled on.

Mr. Witosky asked if for some reason the Commission does not approve the O & I is it still the intent of the church to go ahead and build this addition and what are the alternatives (where would it go). Mr. Hyman stated that they would have to come to one side or the other with a new building and figure out a way to connect to the existing building. He stated that they are growing. If they get shot down, they will come back with another plan.

Chairman Sutton called Ms. Barbara Mansfield to come and speak. Ms. Mansfield resides directly in front of the church. She stated that she is very concerned about the increase in traffic. She stated that she has issue with the noise. She can sit in her house and when the church has their concerts on the front lawn in sounds like it is in her house. Sometimes when the band is practicing (from inside the church) she can hear the thumping inside her house. She asked the Commission to please not pass this. She is very thankful the church is growing and they have a marvelous program for young people, but she thinks that her concerns should be taken also. That is her issue—the traffic increase. She stated that there is another church that will be built to the left of her. That will bring in more traffic. Ms. Mansfield stated that who is to say what the future will hold. The church can expand in the back and right now with the parking to the left and right. But who knows, we can not predict what is going to happen.

Chairman Sutton thanked everyone for speaking. He thanked the church for their vision to try and provide for community needs for our young people and others. It is the Commission's job to vote. He explained that whatever the Commission votes the case will still go before City Council for final approval.

Mr. DiGirolamo asked if a motion could be made with stipulations. Chairman Sutton answered yes.

Chairman Sutton asked for a motion. Mr. DiGirolamo made a motion for RZ-02-13 of Approval pending feed back from Westlawn Cemetery. Also, relatively to the traffic situation, get DOT involved in Forest Park Road for center lane or turn lane. Mr. Hyman asked if he could speak. Chairman Sutton said yes.

Mr. Hyman stated that as they move forward through the approval process or the construction process DOT will be heavily involved because the church will be impacting a minor collective road. He stated that he has already spoken with Gretchen about getting another curb cut so they could have a "right out only" to help elevate traffic. Chairman Sutton stated that if this Commission approves this rezoning, it will still have to go through other process. Mr. DiGirolamo stated that he knows it goes to Council and other process but he would like to have them in the motion. Mr. Hyman wanted to address the noise. He stated that if the main sanctuary is setback behind the existing building, it would give an extra layer of insulation to the noise that is being emitted. About twice a year they have a concert.

Chairman Sutton stated that there was a motion on the floor to approve with DOT being heavily involved. Mr. DiGirolamo stated also with feedback from Westlawn Cemetery. Chairman Sutton stated that he thinks Westlawn has been contacted. Mr. DiGirolamo stated that they have not responded. Ms. Eggar stated that Westlawn has been notified and she is not certain what additional feedback Mr. DiGirolamo wants. Mr. Witosky stated that with the motion what if Westlawn gives a negative response. Chairman Sutton stated that he would recommend since this has to go through other processes and Westlawn has been notified to exclude Westlawn from the motion. Ms. Harris pointed out that when the case goes before City Council to be heard notification letters will go out to each of the adjacent property owners just like Planning Commission. They are encouraged to attend the Council meeting. City Council will be the deciding board and Westlawn will have opportunity to address the issue at that time.

The motion was on the floor for Approval for RZ-02-13 with DOT involved as the process moves forward. Mr. Jones seconded the motion. ***ALL IN FAVOR: COUNCIL, DIGIROLAMO, JONES, STALLINGS, SUTTON and WITOSKY. MOTION PASSED.***

Mr. Witosky stated that the reason he voted for this is because he thinks the church is going to do this anyway regardless of whether it is O & I or Residential. They are growing and they will find away.

Chairman Sutton thanked everyone for attending the meeting.

Chairman Sutton asked for Staff's report. Ms. Eggar stated that Staff is ready to move forward with the recertification of the Zoning Map. Staff is still waiting to hear back from the Institute of

Government in regards to the proper way to advertise this because they are dealing with so many different properties. It may be on the June calendar or it may be on the July calendar.

Mr. Witosky asked Ms. Eggar about the text amendment that Planning Commission had worked on regarding banquet facilities and asked if it had ever gone to City Council. Ms. Eggar was not certain, but stated she would check on it.

There was brief discussion regarding the rezoning case previously heard for Forest Park Church.

Chairman Sutton asked if there were member concerns. There were none.

Chairman Sutton stated that he thinks that this meeting was healthy for the Commission. This particular type of case challenges the Commission and helps them to learn more. It challenges the Commission to be up on their game.

With no further business meeting was adjourned.

Respectfully Submitted,
Dawn Harris, Secretary of the Board