

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
Tuesday, September 4, 2018**

MEMBERS PRESENT

Ernest Sutton - Chairman
Johnson Biggs - Vice Chairman
Carlton O'Neal
Suzanne Stallings
Gary White

Also present were Matthew Schelly, Community Development Director; Cheryl Eggar, Planner II; and Yvette M. Chamblee, secretary to the Commission.

Chairman Sutton called the Planning Commission meeting to order at approximately 4:00pm and determined there was a quorum. Chairman Sutton called for a motion to approve the agenda. Mr. Biggs made a motion to **AMEND** the agenda to add an update on CUP 01-18 EC Pawn and Jewelry Inc. Mr. White seconded the motion. **ALL IN FAVOR: BIGGS, O'NEAL, STALLINGS, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton called for a motion to approve the Tuesday, July 3, 2018 Planning Commission minutes. Mr. White made a motion to **APPROVE** the Tuesday, July 3, 2018 Planning Commission minutes. Mr. O'Neal seconded the motion. **ALL IN FAVOR: BIGGS, O'NEAL, STALLINGS, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton asked Ms. Chamblee, secretary to the Commission, 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 government 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 public record, as per City of Elizabeth City Code of Ordinances Section 32.04. Any official act or action before the Planning Commission shall be publicly disclose on the record of the Commission the nature and extent of such interest and the Commissioner shall withdraw from any consideration of the matter if excused by the Commission pursuant to G. S. 160A-75.

Chairman Sutton asked if any Commissioner had a disclosure of interest in case number TA-01-18.

No Commissioner had a disclosure of interest in the case of TA-01-18.

Old Business

Chairman Sutton asked staff to give an update on the CUP 01-18 Elizabeth City Pawn and Jewelry, Inc. case that was heard by City Council on Monday, August 27, 2018 because of some discrepancies between the Planning Commission's recommendations and staff's recommendations. Mr. Schelly commented prior to the Planning Commission's recommendation for CUP 02-18, staff prepared an analysis with twelve or thirteen different recommendations as conditions to the approval. The Planning Commission recommendations modified that list of recommendations. Staff reissued their recommendations with most of the Planning Commission's recommendations with the exceptions of two items. The two items that were left of the staff recommendations contrary to the Planning Commission's recommendations were additional landscaping and the closure of the driveway. The two remaining recommendations both from staff and the Planning Commission were both presented to City Council and City Council also heard the applicants make their case for not closing the driveway. Mr. Schelly commented he didn't recall a lot about the discussion in regards to the landscaping but, Mr. Schelly did comment he mistakenly added or left in the staff recommendation for adding the sidewalk on Sawyer Street during his presentation, which was corrected during the City Council meeting. The result after much discussion by City Council, which went back and forth between what has been done before; what Department of Transportation recommends; the applicants concerns about cost or loss of reimbursement when and if the road is widen to affect their property; and among other concerns. The vote was four to two in favor of closing the driveway on Sawyer Street, requiring the landscaping, and includes all the recommendations provided by staff and the Planning Commission.

Chairman Sutton questioned the only two items different from what we initially recommended, were the landscaping and the driveway. Mr. Schelly commented correct and the applicants weren't too vehement about the landscaping but, the applicant had an issue with the driveway.

Mr. Biggs commented on staff's clerical error on the sidewalk recommendation. Mr. Schelly commented yes, the sidewalk recommendation was an error.

Mr. Biggs questioned were the landscape requirements determined. Mr. Schelly commented the Unified Development Ordinance defines the requirements for shrubs and trees in regards to landscaping.

Chairman Sutton questioned did the City of Elizabeth City arrive at the formula for the landscaping requirements in the Unified Development Ordinance. Ms. Eggar commented she wasn't certain how or how long the landscape regulation has been established in the Unified Development Ordinance.

There was a lengthy discussion about certain landscaping areas throughout the City of Elizabeth City. Chairman Sutton suggested maybe the Planning Commission needs to review the formula that is utilized for the landscape requirements in the Unified Development Ordinance. The Planning Commission also discussed options to address or amend the landscaping issues within the Unified Development Ordinance. Chairman Sutton commented about educating the community on what the Planning Commission is doing and why. Chairman Sutton also commented on the budget amount of \$3000, which is allotted to pay the Planning Commission and Board of Zoning Adjustment Commission for their service to the community. Chairman Sutton expressed how important the amount of \$3000 needs to be increased in order for the Planning Commission to attend meetings, workshops, and conferences in order to provide a thorough service to the community.

Mr. Schelly questioned Ms. Stallings about what type of workshop she had in mind in regards to addressing the landscape issues. Ms. Stallings commented she would like to see the workshop as a brainstorming session. Chairman Sutton recommended the Planning Commission and staff to identify some planning issues that would need to be addressed and resolved. Mr. Schelly questioned

Ms. Stallings about who does she imagine would attend the workshop. Ms. Stallings commented the workshop should consist of a variety of persons, who are involved or can contribute to the landscape requirements.

CASE NO: TA 01-18 is a proposal to amend the Unified Development Ordinance, specifically Article XI Development Standards and Article IX Zoning – Table of Permissible Uses by adding and updating language governing communication facilities, to reflect enacted legislation by the 2017 General Assembly.

Mr. Schelly presented a power point Wireless Communication Ordinance presentation.

Cheryl Eggar presented the following report:

In 2017 the State Legislature passed House Bill 310 titled an Act to Reform Collocation of Small Wireless communications Infrastructure to Aid in Deployment of New Technologies. The purpose of the bill is to increase the density of the small wireless

networks and to allow their location in the City's street rights-of-way. The Bill requires that municipalities allow attachments to their utility poles and structures within the street right-of-way and prescribes how the City may regulate them.

The City cannot decide on the location of the wireless facilities within the NCDOT rights-of-way, only NCDOT can regulate their placement. Within the NCDOT rights-of-way new poles may be 50 feet in height or greater, depending on the height of the existing poles nearby and that the new wireless facilities shall not extend more than 10' above the utility pole or support structure. The legislation limits the maximum height of the poles in single family districts to 40'.

It should be noted that the Bill allows up to 25 different sites in one application. The City then has only 30 days to determine the completeness of the application. If the City fails to deny or approve the application within 45 days, the application shall be deemed approved.

Our standard regulations for communication facilities were developed approximately 20 years ago when the use of cell phones was just beginning to take off therefore our standards were designed to address tall communication towers on private property, not within the City's street rights-of-way.

The text amendment before you requires that the wireless facilities and equipment use stealth or concealment techniques to blend into the surrounding environment and minimize its visual impact.

All wireless communication facilities are required to allow additional users on the support structure.

Structures less than 40' tall shall be required to be structurally designed to accommodate 3 wireless providers and 6 users for structures over 40'.

In addition to being stealth, the amendment requires that all accessory equipment to be located either underground or inside the building/structure/pole.

In the City street rights-of-way the support structure must replace an existing utility pole or streetlight. The replacement pole shall be no taller than the surrounding poles and the light fixtures shall be located at a comparable height to the ex. or surrounding lights.

In the Downtown and West Main Street Historic Districts, the facilities are required to be architecturally compatible with the area and are required to secure a Certificate of Appropriateness for the facility.

In single-family zoning districts only 20' tall stealth streetlights may be installed and they are not permitted to be located in front of the homes. The preferred location is along the side property line.

To construct new streetlights in the residential district the applicant has to demonstrate that service cannot be provided to the area without the proposed facilities. In the residential areas, prior to submitting the application the applicant shall host a community meeting.

Once an application is approved, the co-location of all wireless facilities must commence within 6 month and be activated for use by the provider within one year from the date the permit is issued.

If a facility has not been in use for 180 days it will be considered abandoned. A performance surety is required to be posted for the removal of the abandoned wireless facility.

Special Use Permits will be required for communication towers over 40' tall and facilities up to 40' tall that lack stealth techniques. All other applications will be done administratively following the design guidelines.

An additional requirement for new tall towers is that a balloon test will be required. A 36" balloon will be flown at the maximum height of the proposed tower for at least 4 days prior to holding a neighborhood meeting. All of the property owners within a 1,500 radius from the site will be notified.

Staff would like to have the proposed amendment reviewed by an entity familiar with the regulations for these facilities. The amendment will most likely require some tweaks in the language.

The amendment does not specify spacing distances for facilities less than 40' in heights. The Public Utilities Department will need to also prepare for the installation of wireless facilities within their rights-of-way and establish standards and fees for co-locations.

House Bill mandates that following receipt of the first request from a wireless provider to co-locate on a city utility pole, the city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

This concluded Ms. Eggar's report.

Mr. Schelly and the Planning Commission reviewed the drafted Wireless Communication Ordinance.

Mr. Biggs commented on page 9- 5(b) in regards to new support structures/poles shall not be constructed of wood. Metal, concrete or fiber materials are appropriate. Is this including existing poles? Mr. Schelly commented he didn't recall stating the information but you can replace wood poles. Mr. Biggs commented about does the vendor pay for the bond or does the City buy the bond and have the vendor reimburse the City. Mr. White commented you make the vendor put the bond up and the City would be in possession of the bond so, if the vendor reneges then, the City can enact the bond. Mr. White questioned any current antennas or electronic city utility poles now. Mr. Biggs commented not on utility poles but there are antennas on water towers. Mr. White questioned do you not have any privately own piece of equipment on any current city utility pole. Mr. Schelly commented there's no guarantee. Chairman Sutton commented in installing the wireless communication, what agency or department is in charge of tracking this process. Mr. Schelly commented on the step by step process in which all service providers would have to follow when applying their application through the Planning Department.

Chairman Sutton called for a motion. Mr. Biggs made a motion to **APPROVE** TA 01-18 in result of the North Carolina General Assembly's enactment and pass on to City Council's September 10, 2018 meeting. Mr. White seconded the motion. **ALL IN FAVOR: BIGGS, O'NEAL, STALLINGS, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton excused Ms. Stallings from the meeting due to a prior engagement. Ms. Stallings left the meeting at approximately 5:28pm.

STAFF REPORT

Mr. Schelly presented a Floodplain map presentation with a Flood Damage Prevention Ordinance Chapter 154 handout and much discussion.

CHAIRPERSON'S REPORT

- Chairman Sutton commented about educating the community on what the Planning Commission is about and what we as an organization is doing.
- Chairman Sutton commented on the \$3000 budget for training and payment for the Planning Commission and the Board of Zoning Adjustment.

No **MEMBER'S CONCERNS** were given.

Chairman Sutton called for a motion to adjourn. Mr. Biggs made a motion to **ADJOURN** the Tuesday, September 4, 2018 Planning Commission meeting. Mr. O'Neal seconded the motion. **ALL IN FAVOR: BIGGS, O'NEAL, STALLINGS, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

The Planning Commission's Tuesday, September 4, 2018 meeting adjourned at 6:00PM.