

**CITY OF ELIZABETH CITY  
PLANNING COMMISSION  
REGULAR MEETING  
TUESDAY, NOVEMBER 6, 2018  
4:00PM**

**MEMBERS PRESENT**

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

Also, present were Matthew Schelly, Community Development Director and Yvette Chamblee, Secretary to the Commission.

Chairman Sutton called the meeting to order at approximately 4:17pm with a roll call and stated there was a quorum.

Chairman Sutton called for a motion to approve the agenda as presented. Ms. Stallings made a motion to **APPROVE** the agenda as presented. Mr. Biggs 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, October 2, 2018 minutes. Mr. White made a motion to **APPROVE** the Tuesday, October 2, 2018 minutes. Mr. Biggs seconded the motion. **ALL IN FAVOR: BIGGS, O'NEAL, STALLINGS, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

Ms. Chamblee, secretary to the Commission 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 03-18. No Commissioner had a disclosure of interest in the case of TA 03-18.

**CASE NO: TA 03-18** Text amendment TA 03-18 filed by the City of Elizabeth City is to be considered a recommendation to Council regarding changing the Unified Development Ordinance from a reference to the Historic Preservation Commission and Certificates of Appropriateness brochure to a reference to the recently adopted Local Historic District and Landmark Design Guidelines.

Mr. Schelly presented the following Staff report:

The text amendment would incorporate the Guidelines, by reference, into the Unified Development Ordinance by replacing the following Subsection 12-8.2:

(D) The standards and procedures delineated in the historic district pamphlet entitled The Elizabeth City Historic Preservation Commission and Certificates of Appropriateness shall be followed.

with this text:

(D) The Local Historic District and Landmark Design Guidelines shall be used to guide the decisions of the Historic Preservation Commission in its deliberations.

**ANALYSIS:**

The Guidelines are not a simple list of requirements. The Guidelines start with a short explanation that the Guidelines can and should be used by the public, the Historic Preservation Commission, and City Staff in order to know what changes should be allowed and what changes should not.

Then, the Guidelines provide a background that describes the history and special character of Elizabeth City in order better understand Elizabeth City and why it is the way it is and what is valuable about it, which puts context to the specific guidelines. It explains why the guidelines are the way they are.

The individual guidelines are organized into a very thorough series of subject areas ranging from site features like fences, landscaping, and public art to building features like roofs, materials, new construction, and demolition.

Finally, a series of appendices provide additional helpful information about another range of topics including: the Historic Preservation Commission, the approval process, the National Historic Preservation Act, the State Historic Preservation Office (SHPO), NC Historic Preservation legislation, and the US Secretary of Interior Standards.

The Guidelines have been reviewed by the SHPO, a professor at Virginia Tech, the HPC, and City Staff. The Guidelines were revised according to the comments of each of these.

The text amendment would incorporate the Guidelines, by reference, into the Unified Development Ordinance by replacing Subsection 12-8.2. By incorporating the Guidelines into the UDO, it would require the HPC to use the guidelines in their deliberations, thereby protecting the public from unpredictable decisions. This would thereby avoid some appeals, lawsuits against the City, and provide legal strength to the HPC's decisions.

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of the proposed text amendment TA 03-18, as drafted.

This concluded Mr. Schelly's report.

Chairman Sutton questioned what type(s) of methodology were used to communicate the Historic Preservation Guideline to the people it's going to effect.

Mr. Schelly commented the guidelines have been reviewed and modified by the Historic Preservation Commission numerous times and there's been no representation from the community in attendance at those meetings. The Historic Preservation Commission have discussed outreach methods to received community input on the guidelines. Mr. Schelly also suggested tabling the Historic Preservation Guidelines and use the next Planning Commission meeting to solicit and invite those who would be directly affected by the Historic Preservation Guidelines.

Chairman Sutton shared his concern that the Historic Preservation Guidelines wouldn't be communicated to those individuals that the guidelines would be affecting. Mr. Schelly commented the Historic Preservation Commission would be receiving a general training from the State Historic Preservation office about what are you, why are you, and what are you supposed to do and what are you not supposed to do as the Historic Preservation Commission. The Historic Preservation Commission will also be trained on how to use the Historic Preservation Guidelines for every single application. Mr. Schelly commented it was suggested the Historic Preservation Commission would have a cheat sheet that would implement the guidelines within their motion.

Mr. Biggs commented is staff asking the Planning Commission to approve what is in the Historic Preservation Guidelines. Mr. Schelly commented no, staff is requesting the Planning Commission to approve the text amendment, which includes a sentence to replace the brochure with the book in the Unified Development Ordinance. Mr. Biggs commented we have no say about what's in the Historic Preservation Guidelines. Mr. Schelly commented City Council has already approved the guidelines as a general policy. The text amendment is now the effort to make the guidelines a part of the regulation. So, that's what you (the Planning Commission) is weighing on.

Mr. White makes a motion to **DELAY ACTION** on TA 03-18. Mr. Biggs seconds the motion. Mr. Schelly commented to include concern about public input within the motion. Mr. White amends his motion to **DELAY ACTION** on TA 03-18 and to include the consideration of public input on this matter. Mr. Biggs seconded the motion. Mr. Biggs discussed why should the public becoming to us to speak about the guidelines, if the Planning Commission didn't draft the guidelines. Mr. Schelly commented when the public comes before the Planning Commission to discuss the guidelines, the public should be discussing whether the guidelines should become a regulation or not. Chairman Sutton commented let's talk about the difference between a regulation and a policy. Mr. Schelly commented as policy the Historic Preservation Commission is free to use the guidelines or not. Mr. White commented policy cannot be enforced and regulation can be enforced. Mr. Schelly agreed and commented the guidelines provides the City additional protection or defense, if someone is appealing the Historic Preservation Commission's recommendations. If the guidelines are a policy, the Historic Preservation Commission can point to the specific guideline. If the guidelines are a regulation then, the guidelines would have to be abided by the Historic Preservation Commission and the applicant. Mr. Biggs commented if the Planning Commission disagrees with the content of the guidelines, how does the Historic Preservation Commission feel about the guidelines being a regulation or a policy. Mr. Schelly commented the Historic Preservation Commission haven't specifically voted on the guidelines yet and the guidelines aren't up to them. The guidelines are determined by City Council.

Mr. Biggs requested a digital copy of the guidelines from staff. Mr. Schelly stated the copy was mailed out to Planning Commission members. Ms. Chamblee, secretary to the Commission, commented there wasn't a digital copy emailed out to the Commission. Ms. Chamblee only received the Staff Analysis from staff to email to the Planning Commission.

Chairman Sutton reminds the Commission there's a motion on the floor and the motion has been properly seconded. **ALL IN FAVOR: BIGGS, O'NEAL, STALLINGS, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

Ms. Stallings inquired if she would buy a piece of property, how would she be informed of the guidelines. Mr. Schelly commented the guidelines would only be in effect, if you were doing renovations to your property. Ms. Stallings commented how would she be properly informed about the guidelines. Mr. Schelly commented word of mouth, common understanding, and hopefully your real estate company would inform you if you're living in a Historic District when you purchased the house.

There was a discussion with different views of the Commission's interpretation and thoughts of the Historic Preservation Guidelines. Mr. Schelly read different excerpts of the Historic Preservation Guidelines about roofing, gutters, windows, etc.

### **STAFF REPORTS**

Ms. Chamblee informed the Planning Commission that their regular scheduled January 2019 Planning Commission meeting is scheduled on New Year's Day, which is Tuesday, January 1, 2019. The Commission needs to decide if the Planning Commission meeting needs to be rescheduled to convene on Wednesday, January 9, 2019 or Tuesday, January 8, 2019. The Planning Commission decided to have their January 2019 Planning Commission meeting to take place on Tuesday, January 8, 2019 at 4:00pm.

No **CHAIRPERSON REPORT** given.

### **MEMBER'S CONCERN**

- Chairman Sutton questioned Staff about the Planning Commission assignments they were given.
- The Commission discussed changing the landscape section in the Unified Development Ordinance.

Chairperson Sutton called for a motion to adjourn the Tuesday, November 6, 2018 Planning Commission's regular scheduled meeting. Mr. Biggs made a motion to **ADJOURN** the Tuesday, November 6, 2018 Planning Commission's regular scheduled meeting. Mr. White seconded the motion. **ALL IN FAVOR: BIGGS, O'NEAL, STALLINGS, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

The Tuesday, November 6, 2018 Planning Commission meeting was adjourned at 5:06pm.

Respectfully submitted,

Yvette M. Chamblee  
Secretary to the Planning Commission