

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR SCHEDULED MEETING
TUESDAY, December 5, 2023
4:00 PM**

MEMBERS PRESENT

Ernest Sutton
Gary White
Cameron Reynolds
Adam Swain

Also present were Reginald Goodson, Interim Director of Community Development; Kelly Hoeltzel, Planner; Brian Hall, Secretary to the Commission, and the applicant.

Chairman Sutton called the meeting to order at approximately 4:00 PM and stated a quorum.

Chairman Sutton called for a motion to approve the Tuesday, October 3, 2023 Planning Commission meeting minutes from the agenda. Commissioner White made a motion to **APPROVE** the motion. Commissioner Swain properly seconded the motion. **ALL IN FAVOR: REYNOLDS, SWAIN, WHITE. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton called for a motion to approve the agenda. Commissioner Swain made a motion to **APPROVE** the agenda. Commissioner Reynolds properly seconded the motion. **ALL IN FAVOR: REYNOLDS, SWAIN, WHITE. NONE OPPOSED. MOTION CARRIED.**

Mr. Hall, 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 began to describe the first item on the agenda under new business as follows:

- **Case No.: Special Use Permit SUP 01-23** submitted by Kareem R. Adams for property located at 831 Parsonage Street, a 1.26-acre tract located on the west side of Parsonage at the intersection with Fair Street. The applicant is proposing to operate a private sports and recreation club. The property is zoned Residential R-15.

With this being a quasi-judicial hearing, Secretary Hall Swore in all who would be speaking for this case.

Planner Hoeltzel began her presentation.

Planner Hoeltzel stated that the applicant is seeking a Special Use Permit (SUP) to allow the operation of a private sports and recreation facility located on a site 1.26 acres in size. 831 Parsonage Street is located at the intersection with Fair Street approximately a quarter of a mile north of North Hughes Boulevard.

The following depicts the land use and adjacent zoning of the area in question:

ADJACENT ZONING & LAND USE

North: Residential R-15 – Applicant’s home
South: Residential R-15 – Cropland
East: Residential R-15 – Single Family Homes
West: Residential R-15 – Woodlands

Planner Hoeltzel stated that the site has the zoning of Residential R-15. This district is intended to accommodate low density single family detached dwelling. Non-residential uses permitted within the zoning designation include recreational, educational, and institutional land uses that are compatible with the low density residential character. A private sports and recreation facility is an allowable use in this zoning district with the issuance of a Special Use Permit (SUP).

According to the Joint Elizabeth City and Pasquotank County Land Use Plan (LUP), the site has the land use classification of "*Low Density Residential*". This land use classification is intended to delineate lands where the predominant land use is low density detached single family residences. Land uses within the "*Low Density Residential*" are compatible with the residential zoning designation.

The City’s goals and policies support the continued use of land in Low Density classified

areas for low-density single-family dwellings and for public and institutional land uses that support and are compatible with this type of residential development. The Joint Land Use Plan supports improving accessibility of open spaces and recreational facilities for more of the City's residents, by recommending that the recreation Master Plan include goals for additional neighborhood/community parks, tot lots, and pools. Recreational facilities are compatible with the R-15 zoning district which is compatible with the *Low Density Residential* land use classification.

Planner Hoeltzel stated this application was heard by the Technical Review Committee during the October 24, 2023, TRC meeting. There were no concerns or issues with the proposed use of the site for a private sports and recreation facility.

The applicant, Mr. Kareem Adams, introduced himself and gave a brief of his proposed private recreational club. He noting numerous activities for patrons to partake in, including corn hole, badminton, flag football, yoga, art craft activities, ect.

Commissioner Reynolds asked if the nature of the private club will include charging a membership fee.

Applicant Adams stated that there would indeed be a small fee.

Chairman Sutton inquired upon what the applicant meant by saying there would be "small gatherings."

Applicant Adams stated there would be no more than 10 to 15 people.

Chairman Sutton asked what the maximum number of members would be.

Applicant Adams stated there would a maximum of 20 to 25 people.

Commissioner White inquired upon the hours of operation for the facility.

Applicant Adams stated that the facility would be open Friday through Monday from 10 o'clock AM to 10 o'clock PM.

Commissioner Swain asked the offered activities would differ based on the time of day, such as morning activities versus nighttime activities.

Applicant Adams stated that they would, providing an example of how badminton would be a nighttime activity.

Commissioner Swain inquired upon the age group that the applicant is targeting.

Applicant Adams stated that all age groups will be targeted.

Commissioner Swain asked if alcohol will be served.

Applicant Adams stated that there will be no alcohol served. They will have snacks, including a hotdog roller.

Chairman Sutton asked why the applicant wanted to partake in this venture.

Applicant Adams stated that he wanted to give something back to his community.

Chairman Sutton asked if the applicant was from this city.

Applicant Adams stated that he was originally from Elizabeth City. He moved away for 15 years, but has moved back now.

Chairman Sutton then inquired upon what the applicant did during his time away from Elizabeth City.

Applicant Adams stated that he worked in the automotive field and fire protection, until he made the decision that he wanted to take matters into his own hands and become his own boss.

Commissioner Swain inquired about music and noise.

Applicant Adams stated that the music and noise will be kept to a minimum, as he also referenced that he would abide by the noise ordinance in the city code of the 10 o'clock deadline. He will cut things off 30 minutes ahead of time so that there will be no rollover time.

Commissioner White inquired into Applicant Adams background.

Applicant Adams stated that as a youth, he did not always make the proper decisions. But, as he grew older he moved away from situations that were not conducive to his growth as a person and focused on being a respectable adult and an honorable family man. He now is engaged with plans to get married relatively soon.

He stated that he is just a man that is trying to build a strong foundation for his son's future, so that he will believe that he can be and achieve anything no matter what others may think.

Commissioner Reynolds expressed much approval of Applicant Adams response.

Commissioner Reynolds asked if the property next door was a park.

Applicant Adams stated that it used to be the "Lion's Den Ballpark."

Commissioner Reynolds asked if there was currently a Special Use Permit on the property in question.

Interim Director Goodson stated that the Special Use Permits go with the land, not the owner. So, if there was ever a permit on the property then it would still be there.

Commissioner Swain asked whether there would be 25 members total or 25 members at a time.

Applicant Adams stated that there would be 25 members total.

Commissioner Reynolds stated that after traveling to the site he saw two designated parking spots and no parking signs along the road.

Applicant Adams confirmed this statement, saying that he was abiding by staffs requests for the property.

Commissioner Reynolds noted that the property was well laid out.

Chairman Sutton asked if there were any other questions held.

Commissioner White stated that he would like to hear the letters from the adjacent property owners, and asked that those present read their letters.

Secretary Hall stated that staff received eight letters in opposition of this case, then called the first adjacent property owner, Mr. Martin Williams, to the podium.

Adjacent property owner Williams introduced himself to the Commission, then expressed that Parsonage Street is full many generations of people that are friends and family. He believes that this private recreational facility would create traffic problems, noting that the street is quite narrow and does not need to be overly congested. He is all for children having recreational areas, but feels that this elderly residential neighborhood is not the right place.

Adjacent property owner Williams stated that the tranquility of lifelong residents would be disrupted.

Commissioner Reynolds asked if Mr. Williams saw the site plan for the proposed private recreational facility.

Adjacent property owner Williams stated that he did not, but knew where the property was. He then stated that he was unsure why someone would want to have said facility in such a quiet neighborhood.

Commissioner Reynolds stated that with the applicant owning the land, he has the discernment of what to do with said land.

This concluded Mr. Williams comments.

Next, Secretary Hall called Debra Williams to the podium to read her letter.

Adjacent property owner D. Williams introduced herself to the Commission, then expressed her concerns. She stated that the street is very narrow, with one way in and one way out. The elderly community would prefer this place to remain quiet and calm, with less traffic.

Adjacent property owner D. Williams referenced a neighbor who is in an electric wheel chair that she is concerned about their wellbeing if the traffic were to exponentially increase.

This concluded Mrs. Williams comments.

Next, Secretary Hall read into the minutes a letter from Ms. Gayle McPherson, stating that her family owns the property at 901 Parsonage Street of which is directly adjacent to the one in question. She stated that the property is currently rent to two ladies, one of which is 70 years old, while she herself is 70 and plans to retire to this house at some point in time. This private facility is two close in proximity to the nearby residences.

Adjacent property owner McPherson held concerns over parking, stating that there is already a limited amount of room for two cars to pass, and she doesn't feel that Applicant Adams has enough room to accommodate the cars in regard to all of his proposed activities. Emergency vehicles may have trouble entering and exiting the street.

While the application does not reference holding parties on the property, the applicant has held a large amount of parties on said property with loud blaring music. The Sherriff's Department has been called on numerous occasions in regard to this matter.

Adjacent property owner McPherson also held concerns over the light pollution, the nature of activities taking place, as she mentioned young people riding dirt bikes at all times of the night and day, also the concern of whether alcohol would be on or allowed at this facility. Guns were a concern of hers as well, as she referenced the dangers that can occur due to Elizabeth City's recent issues with gun violence. Her next concern spoke of the potential that this private club and recreational facility could hinder the neighborhood's property value.

This concluded the comments from Ms. McPherson.

Adjacent property owner Martin Williams interjected, referencing a time where he came across a young man numerous times on his dirt bike.

Secretary Hall read the letter by Mr. Ronald R. Winslow, 1164 Parsonage Street, into the minutes. Mr. Winslow stated that he owns Winslow Farms, a small horse boarding operation, that includes 24 acres of land for agricultural use. He stated that this neighborhood has had a history of being tight-knit.

The activities that Applicant Adams has been permitting to happen on his property, property belonging to others, and Parsonage street, have included there being young men operating ATV's and motor vehicles with no safety equipment. These vehicles are

not licensed for highway use, and were move at high speeds ant any time day or night. Numerous 911 calls have been made, one incident by himself and another by a relative. There was a total disregard of safety and public health is of grave concern to the community.

Adjacent property owner Winslow also held questions about the expected patron limit, whether there will be gender assigned bathrooms, the broad age group accepted, occupancies permitted, athletic fitness and recreational activities, along with the lack of drainage in the back lot behind the small shed that would hinder usage and activity space.

He held concerns in regard to what barriers would be in place to prevent equipment from accidently falling upon adjacent agricultural operation and damaging crops during retrieval. Could this request be a smokescreen for an actual daycare operation, he asked. He stated that he is not against progress, growth, or personal endeavors, but is concerned over the level of professionalism, leadership, and temperament needed for such an operation. This site needs further development before even considering such a special use.

This concluded the comments held by Mr. Winslow.

Secretary Hall called the next adjacent property owner, Mr. Johnny Johnson, to the podium.

Adjacent property owner Johnson introduced himself to the Commission. He held concerns over youth riding dirt bikes through the streets and being a danger to the residences there. He believes that this should be presented to the County Planning Department as well since this area used to belong primarily to the County, along with the fact that they have to send concerns to the Sherriff's Department and not the Elizabeth City Police Department.

This concluded the comments held by Mr. Johnson.

Secretary Hall called the next adjacent property owner, Mrs. Lois Brown, to the podium.

Adjacent property owner Brown introduced herself to the Commission, and stated that she lives in Camden, but owns a company on Parsonage Street of which is R.O. Givens Signs. She is against this permit being granted. Parsonage Street is a quiet street filled with numerous families and elder residents of whom have lived there for years.

She references her special needs grandchild that loves riding his bicycle down there, and she fears that his safety could be compromised due to possible excessive traffic that my come from the existence of this private club and recreational facility.

There is a lot there primarily used for agricultural purposes, and it would not be fair if the crops there were interfered with. The residents of Parsonage Street do not desire a private club and recreational facility.

Adjacent property owner Brown noted that the neighborhood has enough illegal things going on, and feel this would contribute to the current ongoing problem. She asked if the dirt bikes would be allowed to continue riding on the street at all times of the day and night, as well as if the private club and recreational facility would teach the children involved to disrespect the families that have lived on Parsonage Street for a plethora of years.

Her business is important to her, and fears this private club and recreational facility would hinder the operation of said business.

Chairman Sutton asked if her business is one that causes traffic.

Adjacent property owner Brown stated that it does not, but that they do have numerous customers that come up said street.

Chairman Sutton asked if the police had ever been called for these matters.

Adjacent property owner Brown confirmed that the police had been called many times. She stated that has no issue with children playing on the property, as she used to play on said property back when her father used to own it. She stated that she has not met the gentleman applying for this permit, and does not have any issues with children playing.

Applicant Adams referenced meeting Ms. Brown previously, mentioning having pictures with her and her horses. This brought forth some light hearted laughter from the Commission.

This conclude the comments held by Ms. Brown.

Secretary Hall called forth the next adjacent property owners, Mr. and Mrs. Robert and Carol Givens, to the podium. Mrs. Givens introduced herself to the Commission.

Adjacent property owner her and her husband have lived on Parsonage Street for over 69 years. She asked for the board to consider that this is a quiet residential community that is very narrow along with having a dead end. There are children that ride bicycles there, and her husband is in a wheelchair of which he uses to travel said street numerous times a day. Thus, she believes traffic will be an issue especially as it becomes darker outside.

With this being a dead in street, drivers will have to go to the end of this street to turn

around. She stated that she does not live at the end of the street where the private club and recreational facility is proposed to be, but believes that more traffic and noise will come about that this quiet community does not want or need. The septic system presents an issue as well, due to the poor clay soil that is in that area. Having more people patron this street would cause the septic system to have problems handling that overflow, which would require extra lines to be placed down. She would like the Commission to oppose this special use permit for these reasons.

This concludes the comments held by Mrs. Givens.

Secretary Hall read a letter, by Ms. Allison Stallings, as the next opposing adjacent property owner comments presented.

Adjacent property owner Stallings stated that she is part owner of adjacent land in regard to the Special use permit. Parsonage Street is quiet for the most part. The private club and recreational facility does not take into consideration the older neighbors in this community. She travels this road numerous times a week to go to her family's business and farm, along with bringing her special needs child down there to ride his bike while she walks.

She is concerned about the traffic influx that may occur, as there is no parking except for the side of the road. As one of many owners of the adjacent land to this property, of which is a vacant lot, she does not want her land used for parking or as part of the proposed recreational activities through this permit. She references that this land is primarily used for agricultural purposes. The motocross using the road and lands illegally is a problem as well.

This concludes the comments within the letter sent in by Ms. Stallings.

Secretary Hall called the next adjacent property owner, Ms. June Gibbs, to the podium to present her comments.

Adjacent property owner Gibbs introduced herself to the Commission, stating that she lives at 904 Parsonage Street. She does state that she never sees him at the property in question. She does not believe this needs to be brought back to this community. She references how the City offers no services other than having them buy their utilities and paying County rate for them. When a problem occurs they have to call the Sheriff's department, not the city police. So it confuses her as to why the City can play a big part in that happens on this street.

Commissioner White noted that said area is known as the ETJ, or Extraterritorial Jurisdiction.

Adjacent property owner Gibbs noted that this nothing to her.

Commissioner White stated that this jurisdiction is allowed by the North Carolina General Statutes. He stated that he understands some of her concerns about this jurisdiction.

Adjacent property owner Gibbs stated that she thought this was for the property to be rezoned.

Secretary Hall stated that nothing is being rezoned, as the sign placed on the property notes that this is for a Special Use Permit.

Adjacent property owner Gibbs stated when reading the letter that was sent out she was confused about it as they are not residents of the City and have no idea as to what the City does, referencing how they are not allowed to vote on City matters. She held complaints about the meeting time, as more property owners would have been able to attend had it been held at a time that did not interfere with their work schedule.

When reading the information about this being a private sports and recreational facility, what comes to her mind is what she sees on TV. This includes there being shoot outs and people dying. Her concerns include alcohol consumption, of which the applicant states are not going to occur and has eased her mind. But, what keeps this permit from becoming a much larger permit down the road.

Chairman Sutton stated that if that were to occur, then they would have to come back before this Commission if it is not in compliance.

Secretary Hall called the next adjacent property owner, Mr. John Netishom of 1150 Parsonage Street, to the podium.

Adjacent property owner Netishom introduced himself to the Commission, noting that he is a pastor and how the quiet nature of this neighborhood is what attracted him down there to raise his family. He understands that if this permit is approved, that more traffic is going to come. But, there would eventually be someone parking on the road due to the narrow nature of the street. Although alcohol may not be served, it doesn't mean that it would not be consumed. This can cause the potential for more noise to be brought forth and for things to get out of hand.

He references that although he has not had to call the law in regards to the issues mentioned by previous property owners, that it is still a big concern. He is against this permit from passing, noting the comments held before him. He wishes for the Commission heed these concerns.

This concluded the comments held by Mr. Netishom.

Secretary Hall called the last adjacent property owner, Mr. Tommy Spencer, to the

podium.

Adjacent property owner Spencer introduced himself to the Commission. He mentioned that he has lived here for over 19 years. He referenced a time where he saw smoke pouring out of dirt bikes in the woods. He sees the bikes run through his soy beans and cropland, and was irate. He then called the individual over, while having to dodge out of the way from being ran at head on. He noted that he also called the Sherriff's.

The Commissioners asked Applicant Adams to respond to the comments and concerns held.

Applicant Adams issued an apology to the neighborhood. He believes that Parsonage Street is used as a scape goat for those escaping the law. He noted that he has seen said actions occur through the news, referencing a person running through the property there and woods to escape the police. He references times where he also was questioned by the police about this matter in regard to who the culprits could have been.

Applicant Adams stated that he too does not want any one road in that manner. He stated that when he first came there he had seen numerous motorists going up and down the road. With them going straight through his land and cutting through the woods, he feels that he is being blamed for these actions. He stated that he encourages the police to go after them, since he himself has no dealing with them.

Commissioner White asked if he is attached to any of the mentioned incidents.

Applicant Adams believes that blame comes his way due to him and his son having their own personal dirt bikes that they ride on the land with. His son also has a go cart as well. They do not ride on the roads. As far as traffic goes, Fair Street is there that will take you to Hughes Boulevard and used vas an exit. There will be no parking period allowed on the side of the road. If the roads are too narrow, then that has to be addressed with the City to see if it can be widened. But, he believes that the road is wide enough, referencing how the Fire Department came down there for a matter and was able to do a U-turn.

This private club and recreational facility will allow patrons to come down and relax, where kids can have much fun and not have to worry about traffic or being in the street. This is for all ages. If anyone needs help, he will help them get there.

Commissioner Reynolds asked for clarification in regard to alcohol use on the property.

Applicant Adams stated that it would not be served or consumed on the property, nor will it be given or allowed in general.

Chairman Sutton stated that if it were brought on to the property that it would be against the law.

Applicant Adams stated that the emphasis is for this property to be a family friendly business. He notes the majority of traffic will be going down this street for the businesses already existing along with the agriculture that exists there, of which no complaints seem to come forth against. He notes that he promotes police involvement to capture all wrong doers who come down that street.

The noise may have come from private parties, including his son's birthday party as it is a great land to have a party on.

This concluded Planner Hoeltzel's presentation.

Interim Director Goodson noted that this will not be the final step in this process, as it is a three step process. The Technical Review Committee made up of City staff, such as Police, Fire, and Public Utilities, Planning Staff and other professionals who reviewed the site plan and approved it. Now we are before the Planning Commission of whom will make a recommendation to the Board of Adjustments, which will hold their meeting in January 2024.

The Board of Adjustments is the final step, and will not involve the reading of letters for people who do not show up. It is also an evidentiary based hearing where only evidence is taken. He gives examples of how one would accommodate this form of hearing when it comes to providing complaints, noting that said Board operates as a court.

There were no further questions or comments held by the Commissioners.

Chairman Sutton asked the Commission if they were ready to entertain a motion.

Commissioner Swain held reservations about this case and is unsure of the proper measure to take based on the comments presented. He also notes disparities in the case description as the permit describes it to be a private sports and recreational club, while the staff analysis depicts it as a private club and recreational facility. Those two are very different in nature.

Planner Hoeltzel stated that the permitted use table describes it as a private recreational facility, but will double check to confirm this.

Commissioner Swain referenced that he didn't want there to be a situation where the applicant applied for one thing, but still did something else.

Interim Director Goodson stated that with a Special Use Permit can have conditions

placed on it. What the applicant has stated can be added on it.

Commissioner Reynolds asked if there had been a situation where the Special Use Permit was granted and later revoked.

Interim Director Goodson stated that if the applicant wants to do more than what he's telling you he wants to do, then he will have to come back before this Board and get permission for that. This Board is recommending to the Board of Adjustments whether to approve or deny the Special Use Permit. They can state exactly what they are approving and any conditions to be placed upon the permit.

Commissioner Reynolds stated unsureness about the proper motion for this case, as there were things mentioned that the applicant said he was not going to do of which were not listed in the application itself. There needs to be a revamping of the application with the addition of a more formal list of things that will or will not happen on the property in question.

Interim Director Goodson stated that the Commission can make a recommendation, such as there being no alcohol, and the Board of Adjustment can consider that and possibly make that a condition of the Special Use Permit.

Chairman Sutton called for a vote on this case.

The Commission abstained from voting.

Interim Director Goodson stated that we will need a vote of approval or denial. So, there has to be a motion and a second in discussion of said motion, then the vote.

Commissioner Swain made a motion to approve **CASE No.: SUP 01-23**, the second motion was abstained.

Chairman Sutton and Interim Director Goodson noted that the motion must be seconded for any approval or denial to go through.

Commissioner Reynolds expressed that the Commission is uncomfortable making a motion based on with what has been presented.

Chairman Sutton called for a second motion, so this case may be sent to the Board of Adjustments.

There was no motion seconded.

Chairman Sutton once again called for a complete motion for **CASE No.: SUP 01-23**.

Commissioner Swain made a motion to **APPROVE CASE No: RZ 01-23** and to send it to the Board of Adjustment to make final decision. Commissioner Reynolds properly seconded the motion. **ALL IN FAVOR: SWAIN, REYNOLDS. COMMISSIONER WHITE OPPOSED THE MOTION. MOTION CARRIED DUE TO MAJORITY RULE.**

Chairman Sutton began reading the description for the second item on the agenda under new business:

- **CASE TA 01-23:** Filed by the Elizabeth City Planning Department to amend the Unified Development Ordinance, Article IX, Section 9-3-1 (Permitted Use Table), and Article XI, section 11-4.69 (add in Commercial Slow-Moving Vehicles) to allow the operation of commercial slow-moving vehicles in the central business (CB) district and R-8 historic district with Council approval and applicable development standards.

Planner Hoeltzel began her presentation.

Planner Hoeltzel stated that this is a proposal by the Community Development Staff to amend the Unified Development Ordinance, specifically Article II Interpretations and Definitions, Article IX, Table 9-3-1, Table of Permissible Uses and Article XI Development Standards, adding language to define and regulate Commercial Low-Speed Vehicles. This amendment will allow the operation of commercial low-speed vehicles in the Central Business (CB) district and R-8 Residential district, that is the national register historic district with the approval of a Council Use Permit.

In November of 2023, two entrepreneurs approached the Elizabeth City Planning Department with a proposal for a low-speed pedal vehicle service, often known as a "pedal pub". After discussion, it was the opinion of senior staff that the current UDO does not have sufficient development standards for this type of business. City staff has spent numerous hours researching municipalities across North Carolina to find comparable text and what definitions and regulations were common for this type of use.

Since January of 2023, Elizabeth City Downtown Inc. has been operating the not-for-profit "Harbor Hopper", a downtown shuttle service. In North Carolina Pedal Pubs operate in Asheville, Southern Pines, Durham, Raleigh, Carolina Beach, Fayetteville, Charlotte, Greensboro, and possibly more cities. The popularity of pedal pubs and other commercial low-speed vehicles has grown in the last years, with pedal vehicles becoming an attraction in many towns.

Planner Hoeltzel noted that with the City's growth and development, specifically in the downtown area, it is expected that low-speed commercial vehicles may see Elizabeth City as a prime spot to start these commercial businesses. Staff believes it is important to amend the text to create development standards for these commercial low-speed vehicles.

The current text was amended in 2009 to allow Private Tourist Guide Services as an allowable use by right in CB, GB, O&I, and HB zones. Private Tourist Guide Services is also allowed by City Council permit in R-6, R-8, R-10, and R-15 districts. A commercial low-speed vehicle is seen to be a different a type of tour service that needs specific development standards to ensure public health and safety. Some popular low-speed commercial vehicle services are pedal pubs and cart tours.

Planner Hoeltzel expressed that the individuals who came to planning staff with this proposal are intending to serve alcohol, as this bike would possibly bar hop. It has also been included in the proposed text amendment. These individuals have no desire for an alcohol permit.

The Carolina Beach Municipality UDO Article VII has a subsection dedicated to commercial pedal vehicles. This section defines these vehicles as:

“ A pedal car with a motor that is human powered that transports passengers on bicycle-like seats and is propelled by five or more passengers not including the operator. A pedal car may have a maximum length of 20 feet, a maximum width of eight feet six inches and a maximum height of 12 feet.”

There is also a motor assist on most of these pedal pubs. Thus, it can be used on a big hill or at the end of the night when people are tired. Some operating conditions for this type of business are a required license from Town Council are a required licensed driver, appearance guidelines, insurance requirements, required regulation of disorderly behavior by passengers, and vehicle safety measures.

Planner Hoeltzel referenced a 2013 blog post by “Shea Denning,” at UNC School of Government, outlines specifics on how pedal pubs comply with North Carolina’s motor vehicle laws such as prohibiting impaired driving, not allowing hard liquor, required registration, and valid driver ID’s. The proposed text amendment does not include the allowance of alcohol.

North Carolina General Statute § 20-121.1 regulates the operation of low speed vehicles by requiring turn signals, head and tail lights, DMV registration and insurance, and operation only on streets with posted speed limits of 35 miles per hour or less. Farmville, VA, has specific text regulating “party bike vehicles”. These vehicles are described as traveling 6-8 miles per hour and up to 25 miles per hour.

Farmville allows party bikes to operate within town limits with regulations on routes, hours of operation, and required insurance. Farmville’s code allows for further regulation by the City Manager should it be warranted. Farmville’s party bike application asks where the vehicle will be stored, whether the applicant has been convicted of a crime, a description of safety features, and an agreement on routes and hours of operation. (Appendix A: City of Farmville’s Party bike application).

Planner Hoeltzel stated that the Farmville requires that there be no open containers,

serving of alcohol, no alcohol allowed on the bike period.

Commissioner White asked Executive Director of Elizabeth City Downtown, Debra Malenfant, about this matter.

Executive Director Malenfant expressed her support of this text amendment. She noted that these bicycles are required by law to adhere to the same rules and regulations as vehicles are. This is a bicycle with a motor assist when necessary. A lot more of these request like this and other transportation vehicles will come forth as the city continues to grow. As long as they are operated safely and follow the rules, it is of her belief that they will add value to the downtown area.

Commissioner White asked if all who are on this bike have to peddle.

Planner Hoeltzel stated that you're supposed to peddle.

Executive Director Malenfant stated that the driver has complete control and steering ability of the bicycle. It is of her belief that much value would be added by having these bikes as long as they are on approved roadways per NCDOT and the approval of the Commission. If a social district is implemented, then there may be the ability for people to take their alcohol from the bars and restaurants onto the bicycle if that particular business allows it.

Planner Hoeltzel expressed that the individuals who brought forth this idea have not had any vehicle crashes, nor have they had any issues in the places they have been in. NCDOT has already expressed where these bicycles cannot go, and specifically where they would not be allowed. A big part of this text amendment is trying to head off any of the issues, in planning and zoning, and making sure that whatever route they want is approved.

Executive Director Malenfant noted that these individuals do not want to limit themselves to just a pedal pub. They would like to utilize these bicycles to do community tours, as well as an exercise business such as spin classes. Things for the Commission to consider are that there are rules that regulate slow moving vehicles, or low speed vehicles.

From a definition perspective, this can be considered a low speed vehicle. But, it is often confused with vehicles such as legal golf carts, although there is a difference. The Commission would have to express action as part of the text amendment that would define the rules on the utilization of those legal vehicles as businesses in Elizabeth City.

Commissioner Reynolds went back over the text amendment, then reiterated for clarification the essence of what a social district would present.

Executive Director Malenfant concurred, then noted that a social district, which has not been presented to City Council as staff is looking at all the details involved, would allow the regulations to change. For example, stating that a beverage can be taken out of the business while in the social district on foot, but that it cannot be taken with the customer inside of their vehicle.

Chairman Sutton noted how the name "Pedal Pub" can be quite misleading.

Planner Hoeltzel concurred, and noted that staff is working under the title of commercial pedal vehicle.

Commissioner Reynolds asked if the name mattered or if the term commercial pedal vehicle was all that matter.

Planner Hoeltzel stated that the latter was all that mattered.

Executive Director Malenfant noted that staff will in the near future be receiving applications for other low speed vehicles i.e. street legal golf carts for transportation downtown. It would be similar to that staff already has, which is the "Harbor Hopper." She then gave a brief review of what the Harbor Hopper entails for the downtown area.

Executive Director Malenfant then expressed the following general statute in regard to legal low speed vehicles:

Amend Article XI Development Standards for Individual Uses, to create Article XI §11-4.69 Commercial Low-Speed Vehicle as follows:

11-4.69 Commercial Low-Speed Vehicle

A. Where Required:

CB, R-8 located in National Register Historic District (Council User Permit).

B. Application:

- 1. All commercial low-speed vehicles shall submit a permit application to the Elizabeth City Planning Department including colored drawings, insurance policy information, parking information, proposed routes, and any other information required by the permitting official.*

C. Operation:

- 1. All commercial low-speed vehicles shall be operated by a state licensed driver who is registered with the Elizabeth City Police Department.*
- 2. All commercial low-speed vehicles shall operate only within a route that has been approved by the City Manager or their designee.*

3. *The consumption of wine, beer, or other beverages containing alcohol shall be prohibited on all commercial low-speed vehicle services.*
4. *It is the responsibility of the commercial low-speed vehicle driver to take reasonable measures to affirmatively manage the behavior of passengers so that their behavior remains law-abiding during the excursion, both while in motion and at stops. Behavior which is prohibited and shall be prevented includes but is not limited to disorderly conduct, littering, offensive language, and indecent exposure.*
5. *No commercial low-speed vehicle driver shall permit more passengers to be carried in a vehicle than the vehicle's normal seating capacity.*
6. *All commercial low-speed vehicle drivers shall operate the vehicle in compliance with all applicable federal, state, and local traffic laws, ordinances, or other applicable regulations in a manner so as to ensure the safety of persons and property.*
7. *No music or amplified sound shall be played, nor yelling or conversation be conducted in a volume which disrupts normal operations in the Central Business or residential zones, generally considered no higher than 70 decibels.*
8. *The primary location of the passenger meeting, loading area, and vehicle storage shall be located on private property in a designated approved area not impeding any sidewalks, drive aisles, or required parking spaces.*
9. *No commercial low-speed vehicle operation shall load or unload passengers in the right-of-way, except in a designated on-street parking space that will not in any way impede or interfere with the orderly flow of traffic on the streets.*
10. *All commercial low-speed vehicles shall be equipped with adequate safety measures such as a horn, brake and tail lights, turn signal lamps, or other safety measures as determined by the police department.*
11. *All commercial low-speed vehicles shall maintain a neat appearance and shall not display any signage that is deemed offensive or harmful in nature. All commercial low-speed vehicles shall submit colored drawings of the proposed vehicle to be approved by the City Manager or his designee.*

D. Storage:

- 1. Any low-speed commercial vehicle must be stored on private property as not to occupy a street right-of-way or public parking. The storage location must be adequately screened so no part of the vehicle is visible from a street right-of-way.*

This concluded Planner Hoeltzel's presentation.

There were no further questions or comments held by the Commissioners.

Chairman Sutton asked the Commission if they were ready to entertain a motion.

Commissioner Reynolds made a motion to **APPROVE CASE No: TA 01-23** as presented Commissioner White properly seconded the motion. **ALL IN FAVOR: SWAIN, REYNOLDS AND WHITE. NONE OPPOSED. MOTION CARRIED.**

- **CASE HV 03-23:** Filed by GoPermit/ Jennifer Ronneburger on behalf of PetCo at 117 Tanglewood Parkway South Requested variance from Article 12-10.2 (h), Halstead Overlay standards, applicant is requesting additional signage to install a wall mural featuring the PetCo logo. Applicant is requesting a total of 239.67 sqft of signage, 88.92 sqft more than the allowable by right 150.75 sqft.

Planner Hoeltzel began her presentation.

Planner Hoeltzel expressed that the applicant is requesting a variance from Article 12-10.2(5)(h), which limits wall signage to 1.5 square feet per linear foot of the building that butts a street. The building currently has a wall sign over the front doors measuring 86.79 sqft. The applicant is requesting a variance to add a wall mural measuring 9' 8" by 12' 1 3/8", 145.37 square footage. According to the applicant, they are requesting 88.92 sqft of additional wall signage over the allowed 150 sqft.

Planner Hoeltzel presented the following as the criteria to grant a variance.

VARIANCE CRITERIA

Section 7-2.1 of the Unified Development Ordinance, UDO, states that a variance may be granted by the Board of Zoning Adjustments if it concludes that strict enforcement of the Ordinance would result in practical difficulties or unnecessary hardships for the applicant. The UDO also acknowledges that, by granting the variance, the spirit of this Ordinance is observed, and that public safety and welfare are secured and substantial justice done. The Board must find that the applicant meets all six criteria in order for a variance to be approved.

- 1) If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property;*
- 2) The hardship of which the applicant complains is one suffered by the*

- applicant rather than by neighbors or the general public;*
- 3) The hardship relates to the applicant's land, rather than personal circumstances;*
 - 4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;*
 - 5) The hardship is not the result of the applicant's own actions; and*
 - 6) The variance will neither result in the extension of a nonconforming situation in violation of Article VI nor authorize the initiation of a nonconforming use of land.*

Planner Hoeltzel called the applicant to the podium.

The applicant, Ms. Jennifer Ronneburger of GoPermit, introduced herself to the Commission.

Applicant Ronneburger expressed that they are just looking for additional wall vinyl on the front of the façade. The sign will say "The Neighborhood Farm and Pet Supply," as this is a big agricultural area with the like of hay, grain, and other crops. "This is what the neighborhood is asking for", based on market research that had been done.

In regard to square footage is concerned, the code states that one square foot for every linear foot of frontage. They have 100 linear feet across. The current PetCo sign is 86.79 linear feet. They also have a six and a half square foot small sign near the area where customers can drive through. The remaining balance is where their issues comes from. They are asking for vinyl, also described as a digital print. It is not an illuminated and would go flat on to the façade. The digital print does not fade.

Applicant Ronneberger stated logo with the "Neighborhood Farm and Pet Supply" phrase is only 46 square feet. The dog and cat log is 100 square feet. This would come under the 150 feet allowable requirement. The square footage would not go over, the visual sign would.

Interim Director Goodson referenced the true meaning of what a sign was in comparison to what the applicant portrayed their request to be. A visual is considered to be a sign, and there are limits for signs in regard to the square foot per building.

Commissioner White felt that the Ordinance for signs would have to be altered by City Council prior to the Commission making a decision on this item.

Interim Director Goodson stated that the Unified Development Ordinance is a regulatory document, as it is followed as deemed by law. He references the variance criteria, emphasizing the first step which asks is the applicant can make no reasonable use of the property.

Applicant Ronneberger stated that the use cannot be used to the way the community

and business want it to be utilized. A lot of money had been spent on market research, and this is "what people are asking for."

Commissioner Reynolds asked how the PetCo sign adheres to the building.

Applicant Ronneberger stated that it was also a digital print.

Interim Director Goodson referenced that signage is squared off. The Commission must determine their decision based on the variance criteria. The applicants request must meet that standard in order to be approved, if not, then it cannot be approved.

Chairman Sutton stated that based on the information and criteria, the applicant may not meet that standard for a variance.

Interim Director noted that this decision can be appealed to the superior court of Pasquotank County.

Commissioner White stated he is all for businesses and for them to be promoted. However, the law is the law.

Applicant Ronneberger stated that this is "what the community and people want."

Interim Director Goodson noted that this is a quasi-judicial hearing, thus only evidentiary information is permitted.

Commissioner Reynolds asked for an example of criteria one.

Interim Director Goodson stated that every commercial business is allotted the same amount of signage. When an applicant/developer comes in they must know how much wall signage is allowed. This business has used up all of their allowed signage and is now requesting more afterwards.

Applicant Reynolds went through each criteria and determined that it does not appear that the applicant meets even half of them.

This concluded Planner Hoeltzel's presentation.

There were no further questions or comments held by the Commissioners.

Chairman Sutton asked the Commission if they were ready to entertain a motion.

Commissioner White made a motion to **DELAY ACTION for CASE No: HV 03-23** until the next meeting. Commissioner Reynolds properly seconded the motion. **ALL IN FAVOR: SWAIN, REYNOLDS. NONE OPPOSED. MOTION CARRIED.**

This concluded the new business items.

Old Business

There were no cases on the agenda for old business.

Staff Report

Interim Director Goodson noted that the rezoning case that came through this Commission with a two to one vote for approval, was unanimously denied by City Council at their regularly scheduled meeting.

This concluded the Staff Report.

Chairman's Report

There was no Chairman's report

Member Concerns

This concluded the Member Concerns.

Chairman Sutton asked the if there was a motion on the floor for adjournment.

Commissioner Swain made a motion to **ADJOURN**. Commissioner White properly seconded the motion. **ALL IN FAVOR: SWAIN, WHITE AND REYNOLDS. NONE OPPOSED. MOTION CARRIED.**

The meeting concluded at approximately 6:45PM.

Submitted Respectfully,

Brian Hall-Secretary of the Commission

DRAFT