

**CITY OF ELIZABETH CITY  
PLANNING COMMISSION  
REGULAR SCHEDULED MEETING  
TUESDAY, February 7, 2023  
4:00 PM**

**MEMBERS PRESENT**

Kevin Johnson  
Alyn Goodson  
Gary White  
Cameron Reynolds  
Adam Swain

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

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

Acting Chairman White called for a motion to approve the Tuesday, October 4<sup>th</sup>, 2022 Planning Commission minutes. Commissioner Johnson made a motion to **APPROVE** the minutes. Commissioner Swain properly seconded the motion. **ALL IN FAVOR: GOODSON, REYNOLDS, SWAIN AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

Acting Chairman White called for a motion to approve the agenda. Commissioner Johnson made a motion to **APPROVE** the agenda. Commissioner Goodson properly seconded the motion. **ALL IN FAVOR: GOODSON, REYNOLDS, SWAIN AND JOHNSON. 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.

Acting Chairman White began to describe the first item on the agenda under new business as follows:

- **CASE NO: RZ 03-22**, presented by Jason Mizelle with the Timmons Group on behalf of West Bank Development for property located on between 119 and 123 Ranch Drive. The property is approximately 5.65 acres in size. The applicant is requesting to rezone the property from Residential R-15 to Residential R-10.

Interim Director Goodson began his presentation.

Interim Director Goodson stated that the existing R-15 Residential Zoning District is primarily intended to accommodate a variety of low density single-family detached dwellings, and modular homes on a minimum lot size of 15,000 square feet. Maximum densities within the R-15 District include approximately 3 dwelling units per gross acre for single-family detached dwellings.

Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R-15 District. Because much of the city's extraterritorial jurisdictional area is transitioning from a rural character to an urban character and is included within the R-15 District, some limited agricultural uses are also allowed within this district.

The proposed R-10 Residential District is primarily intended to accommodate a variety of low density single-family detached dwellings, and modular homes with a minimum lot size of 10,000 sf. Maximum densities within the R-10 District include approximately 4 dwelling units per gross acre for single-family detached dwellings. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R-10 District.

Interim Director Goodson stated that this site is currently undeveloped. A map was then shown to the Commission to depict the area where said rezoning would occur, along with the adjacent zoning and land uses. The following depicts the previously mentioned adjacent zoning:

**ADJACENT ZONING and LAND USES:**

NORTH: (R-10 and GB) - Single-family Dwellings, Shopping Center

SOUTH: (R-10 and R-15) - Single-family Dwellings, Vacant Properties

WEST: (R-10 and R-15) - Single-family Dwellings, Northeastern High School

EAST: (R-15) - Single-family Dwellings, Vacant Properties

Interim Director Goodson stated that this site gains access via Ranch Drive, a local access street that provides access to abutting residential properties. Local access

streets are not intended to carry heavy volumes of traffic and should be located such that only traffic with origins and destinations on the streets could be served. The residents on Ranch Drive enter and exit the community via Oak Stump Road, a major thoroughfare.

The land use map was then shown to the Commission to give a visual depiction to the to the Commission. The joint Elizabeth City & Pasquotank County Land Use Plan (LUP) has the site classified as "*Low Density Residential*". The Low-Density Residential classification is intended to delineate lands where the predominant land use is low density detached residences. With respect to residential development, Low Density areas are generally for a density of 2 to 4 single family residences on individual lots per acre.

Interim Director Goodson stated that the public water service is generally available throughout the Low Density Residential classified areas. Land uses within the Low Density Residential are compatible with the R-15 zoning, conditionally consistent with the R-10 and RMH residential zoning designations while the R-8 designation is considered inconsistent. The proposed zoning will increase the residential density from 2 units per acre under the current R-15 District, to 4 units per acre under the proposed R-10 District, which is consistent with the density for the Low-Density Residential classification. In consideration of the proposed land use and zoning classification, the R-10 classification is appropriate.

This proposed residential units will not front directly on Ranch Drive, but will gain access to the site from Ranch Drive. The site is approximately 5.65 acres and is zoned R-15. The R-15 District requires a minimum lot size of 15,000 square feet and would allow approximately 16 dwelling units. The proposed R-10 District requires a minimum lot size of 10,000 square feet and would allow 24 dwelling units.

Interim Director Goodson noted that the aforementioned statistics does not mean that the applicant would be able to get 24 units, as this is only for gross density when accommodating for the streets that will have to be put in. The R-15 setback requirements are 35 feet in the front yard, 25 feet in the rear yard, 10 feet in the side yard, and 15 feet in the corner side yard. The proposed R-10 District setback requirements are 25 feet in the front yard, 25 feet in the rear yard, 7 feet in the side yard, and 15 feet in the corner yard.

When making a determination, as to whether to approve or deny a rezoning, Staff considers the area's zoning pattern, adjacent land uses, the Joint Pasquotank County and Elizabeth City Draft LUP, as well as the impact on roads and City services such as water and public safety. Planning Staff also takes into account the impact the rezoning will have on the adjacent property owners and neighbors.

The property is situated behind single-family dwellings located on Ranch Drive, Oak Stump Road, and Farm Drive. The joint Elizabeth City & Pasquotank County LUP

has the site classified as "Low Density Residential". The Low Density Residential classification is intended to delineate lands where the predominant land use is low density detached residences. With respect to residential development, Low Density areas are generally for a density of 2 to 4 single family residences on individual lots per acre. The proposed R-10 District complies with the LUP. Staff recommends that this rezoning request be approved.

This concluded Interim Director Goodson's presentation.

Interim Director Goodson asked the applicant to introduce herself to the Commission.

Kim Hamby, of Timmons Group, introduced herself to the Commission.

Applicant Hamby stated that of the 5.65 acres mentioned, that over an acre of that is dedicated land for the storm water pond. There is 4.28 acres that were originally designed for what was to be the second phase of the development. There was an entrance road between the detention pond and lot number one. There is also a 50-foot right-of-way that is a part of the residual parcel that is 4.28 acres.

The storm water pond does provide treatment and attenuation for the entire development. There is a large drainage ditch that goes along the existing lots that collects the storm water and runs it into the detention pond. When doing layouts for the developer, it was found that they could get about ten maximum lots at the R-10 level, and 14 lots at the R-15 level. Thus, the number of lots is only rising by four.

Applicant Hamby gave a brief history of this development, noting that it was originally approved in 2004 initially. In regards to this current situation, anyone one that lives on the first ten lots should be paying dues for maintenance in regard to the detention pond, as it is covered for the entire development. The more people involved, the more people in the participation of payment of those fees and maintenance of those common features.

There would be a road constructed with a cu-de-sac and lots on both sides. City water and sewer will also be running to serve these lawns.

Acting Chairman White stated that he did not realize this site had a Home Owners Association.

Applicant Hamby stated that is might not, noting that in accordance with the storm water plan, anytime a storm water permit is issued for a high density subdivision and a detention pond, the rules of that permit say that there should be a Property Owners Association. Once more than half of those lots are transferred from the developer to the Property Owners Association that the maintenance of that pond is supposed to be the responsibility of those homeowners.

Commissioner Swain asked if the detention pond was first designed as part of the development.

Applicant Hamby stated that it was designed for the entire development in a set impervious coverage, in which there was only nine lots shown during that time.

Commissioner Goodson asked about the type of homes to be built there.

Applicant Hamby stated that the developer, Mr. Joey Coppersmith, will stick with the sizes that are similar to the neighborhood. Mr. Coppersmith's goal isn't to develop and sell this site, but to offer these lots to people who are interested in having a complete home. It will be single family homes, with a raised slab instead of a crawlspace.

Acting Chairman White asked if this was in a flood zone.

Interim Director Goodson stated that part where the access is, along with the pond, are in a flood zone.

Commissioner Goodson asked where the pond was located at.

Applicant Hamby stated that it is right up Ranch Drive.

Acting Chairman White asked if there were any questions held by the Commission.

Interim Director Goodson stated that in regard the comment made about what the developer may or may not do, there are two types of rezoning's. The first type is for general use, which is what is before the Commission currently where all uses under that zoning district have to be considered. The second type is known as a Conditional Use, in which conditions are placed upon the particular site, such as limiting building height.

Acting Chairman White asked what the minimum freeboard.

Applicant Hamby stated that the base buffer is two feet.

Commissioner Goodson expressed that he appreciated the information presented, but feels that more answers will be needed in regard to what the plan is. All he sees is land, and it's difficult to conceptualize what will be there.

There were no questions or comments held by the Commissioners.

Acting Chairman White asked if there were any in attendance who signed the petitioner sign-in form, that would like to speak in regards to the case.

Ms. Deb Regel of 122 Ranch Drive stepped to the podium to speak. Petitioner Regel held concerns of previous flooding that occurred and feared that the pond would still be liable to flood. She also held concerns about the narrow nature of the road and the lack of care its received from the state. She felt that the road would also need to be widened. It was expressed that the pond has been a concern since it was built.

Acting Chairman White asked if the petitioner was objecting to any further construction on the property, or the reduction from 15,000 square feet to 10,000 square feet.

Petitioner Regel stated that she is objecting to both, also noting the landlocked deer population.

This concluded Ms. Regel's comments.

Ms. Tama Glover of 148 Ranch Drive, was the next petitioner who stepped to the podium to speak. She felt that the road is too dangerous for additional houses, as the traffic would be much more horrendous with 14 houses. It will also be problematic for the high school children that have to cross the road. There has also been a rise in crime a more houses have come been developed.

This concluded Ms. Glover's comments.

Mrs. Mary Reynolds-Lykins of 123 Ranch Drive, was the next petitioner who stepped to the podium to speak. Petitioner Reynolds-Lykins referenced issues with flooding and criminals running afoot. She also mentioned the issue of speeding, as well as wildlife such as deer and Canadian geese.

This concluded the comments by Mrs. Mary Reynolds-Lykins.

Mr. Jay Regel of 110 Ranch Drive, was the next petitioner who stepped to the podium to speak. Petitioner Regal stated that more houses present more problems. With the street being so narrow, the water has no other place to go. The detention pond does not do anything for him as water drains towards the pond. In regard to paying the maintenance dues, Mr. Regel stated he purchased 153 Ranch Drive of which is a retention pond. Thus, he is owed said fees. The rezoning does not make any sense to him at all.

This concluded the comments for Mr. Jay Regal.

Ms. Evelyn Strader of 922 Oak Stump Road, was the last petitioner who stepped to the podium to speak. Petitioner Strader stated that her lot is the L-shape that backs up the flood area for Ranch Drive, as it sits at 1.52 acres. After looking at the adjacent property owner letter, it was noticed that the rezoning application required for a plan to be shown for what the developer was proposing. She was told by the city that there was

nothing planned.

Interim Director Goodson stated that with his long history as a professional planner, that it is not appropriate to have a plan during a rezoning. It's appropriate to consider if that land should be rezoned from that current zoning to the proposed zoning.

Petitioner Strader stated that mentioned the vehicle traffic is great concern. Her back lot backs flood terribly, and the wildlife will be excess with all of the trees that would have to be cut down. But overall, the criteria in the rezoning application does not seem to have been met. Also, with there not being a plan in place, it seems quite strange.

Commissioner Goodson asked Interim Director Goodson how conditions could be placed on the property, if there is not a plan in place.

Interim Director Goodson gave the example of how the maximum building height is 40 feet.

Commissioner Goodson stated that said statement indeed depicts a limitation. He then asked how conditions can be determined if the plan is unknown for the property or particular parcel.

Interim Director Goodson began to name both the residential and nonresidential uses for the zone in questions, noting that the options are very limited. He also stated that the Commission can't make the applicant bring in conditional zoning, but they can suggest for them to do so.

Commissioner Swain asked if this phase requires a documented plan.

Interim Director Goodson stated that a plan is not required, but a survey is. He also mentioned that staff is considering altering the permit application in regard to not having the survey being required with it.

Commissioner Swain asked about reviews the development plans and addresses issues like retention ponds and roadways.

Interim Director Goodson stated that the Technical Review Committee, which is made up of staff experts in things such as stormwater, review and send notes to the applicant informing them on what is required to meet the code.

Acting Chairman White noted that rezoning's will be held before City Council for final judgement.

Acting Chairman White asked if there were any other petitioners that would like to speak.

There were no other petitioners left to speak.

Commissioner Swain asked if there was stormwater data that would depict if wastewater would be affected by adding a development.

Interim Director Goodson stated that said information is typically gathered through the technical review committee.

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

Commissioner Johnson made a motion to **DELAY ACTION** for **CASE No: RZ 03-22** until the March Planning Commission as there were numerous complaints held by adjacent property owners, thus causing for more time to be needed to deliberate over the proper course of action to take. Commissioner Goodson properly seconded the motion. **ALL IN FAVOR: GOODSON, REYNOLDS, SWAIN AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

Acting Chairman White moved on to the second item on the agenda under new business.

- **CASE NO: RZ 04-22** presented by Sumit Gupta on behalf of Earnest Allen Jr., Beasley Trust, Joseph Eugene Chory III, Tukalo, LLC, and Green Clean, for property located on West Ehringhaus Street between Green Clean Car Wash and the Shell Gas Station located at 1416 West Ehringhaus. The overall property is approximately 8 acres in size. The applicant is requesting to rezone this site from Residential R-18, General Business (GB) and Heavy Industrial I-2 to Apartment District (AD).

Interim Director Goodson began his presentation.

The existing R-8 Residential District is primarily intended to accommodate a variety of moderate density single-family detached dwellings, modular homes, and two-family dwellings. Maximum densities within the R-8 District include approximately 5 dwelling units per gross acre for single-family detached dwellings and 7 dwelling units per gross acre for two-family residences. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the moderate density residential character of the R-8 District.

The existing General Business district is established as a district in which to accommodate a wide range of retail; business, professional, and personal services; office; and limited wholesale uses. Multi-family developments are also permitted within this district. The maximum residential density allowed within the GB District is approximately 10 to 12 multi-family dwelling units per gross acre.



Interim Director stated that the existing I-2 General Industrial District is primarily intended to accommodate a wide range of assembling, fabricating, manufacturing uses, and support retail and service uses. The I-2 District is established for the purpose of providing appropriate locations and development regulations for uses which may require special measures to ensure compatibility with adjoining properties.

The proposed AD, Apartment District is primarily intended to accommodate a variety of high density single-family detached dwellings, modular homes, two-family dwellings, and multi-family dwellings. Maximum densities within the AD District include approximately 7 dwelling units per gross acre for single-family detached dwellings, 9 dwelling units per gross acre for two-family residences, and 20 to 22 multi-family dwelling units per gross acre. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the AD District.

The following depicts the land uses and adjacent zoning for the area in question:

**ADJACENT ZONING and LAND USES:**

NORTH: (GB) – First Bank, Convenient Store, Auto Repair Shop

SOUTH: (GB) – Southgate Mall, Popeye’s, Banks

WEST: (GB) - Gas Station, Tattoo Shop, Single-Family Dwellings, Mobile Homes

EAST: (GB) - Car Wash, Wendy’s, Napa Auto Parts

Interim Director Goodson introduced the applicant, Mr. Bob Hauser, to the Commission.

Applicant Hauser gave a brief overview of the project and asked if there were any questions held.

Commissioner Johnson inquired about the average number of units they wish to put in place.

Applicant Hauser stated that while they are still doing feasibility planning and site concepts, they are look to have about 146 to 150 units.

Commissioner Johnson asked if this would cause an increase in traffic.

Applicant Hauser stated that there would be a slight increase in traffic, as they have an access on both Hughes Boulevard and Ehringhaus Street.

Acting Chairmen White if the apartments will be sold straight out or leased.

Applicant Hauser stated that they would be leased.

Acting Chairman What asked if they would be low income.

Applicant Hauser stated that they would not be low income, but more so market rate. Their goal is to cater to the needs of their customers.

Commissioner Johnson asked about the number of storeys that the apartment will have.

Applicant Hauser stated that there would be three storeys.

Commissioner Swain stated that his issues come more from the applicant more so than the rezoning, as SAGA has not been known to be a good steward of the local small communities of Northeastern North Carolina. He referenced a situation involving the Southern Hotel.

Applicant Hauser stated that there were being held up with that project due to the historic tax credit process that has been troublesome. But, that should not put a damper on all the hard work that they are putting forth.

Commissioner Swain stated that he still has a disdain for some of the projects SAGA has partaken in, and just has a focus on making sure the city is not hindered in any way.

Acting Chairman White asked if there were any more questions from the Commission. No further questions were held.

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

Commissioner Goodson made a motion to **APPROVE CASE No: RZ 04-22**  
Commissioner Swain properly seconded the motion. **ALL IN FAVOR: GOODSON, REYNOLDS, SWAIN AND JOHNSON. 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 did not have a staff report to provide, but reiterated the rules involving rezoning. Noting that a plan is not necessarily required at the time of the rezoning request.

The Commission then held a conversation depicting their astonishment with the mass representation seen by adjacent property owners for the Ranch Drive case.

Mayor Rivers expressed great gratitude for all that the Commission does, noting that they are valued at a high level.

This concluded the Staff Report.

### **Chairman's Report**

Acting Chairman White asked the newest member of the Commission introduce himself.

Mr. Cameron Reynolds greeted the Commission and gave a thorough introduction of his background.

This concluded the Chairman's report.

### **Member Concerns**

Commissioner Johnson stated that the crowd fair and lack of information was blindsided him, but he was glad that action was delayed so that more research can be had.

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

The meeting concluded at approximately 5:40PM.

Submitted Respectfully,

Brian Hall-Secretary of the Commission