

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
Tuesday, November 7, 2017**

MEMBERS PRESENT

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

Also present were Matthew Schelly, Community Development Director; Kaitlen Alcock, Planner; Cheryl Eggar, Planner; Yvette Chamblee, Secretary to the Commission; and members of the audience.

Chairman Sutton called the meeting to order at approximately 4:00pm and stated there was a quorum. Chairman Sutton asked for a motion to **APPROVE** the agenda as presented. Mr. White made a motion to approve the agenda as presented. Mr. Biggs seconded the motion. **ALL IN FAVOR: DIGIROLAMO, WHITE, O'NEAL, STALLINGS, AND BIGGS. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton asked for a motion to **APPROVE** the minutes from the Tuesday, October 3, 2017 meeting. Mr. White made a motion to approve the minutes from the Tuesday, October 3, 2017 meeting. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: STALLINGS, BIGGS, WHITE, O'NEAL, AND DIGIROLAMO. NONE OPPOSED. MOTION CARRIED.**

Chairman asked for Yvette 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.

New Business is Case CUP 02-17 - Conditional Use Permit filed by the Northeast Academy for Aerospace and Advanced Technologies (NEAAAT) to utilize space in the existing Southgate Mall located at 1409 W Ehringhaus Street as the new home for the STEM school presently located on the campus of Elizabeth City State University. This property is zoned General Business (GB) which allows secondary school uses with the issuance of a conditional use permit.

Ms. Kaitlen Alcock presented the following report:

The first case before you this afternoon is CUP 02-17 filed by the Northeast Academy for Aerospace and Advanced Technologies (NEAAAT) for property located at 1409 W Ehringhaus Street. The applicant requests approval of a conditional use permit to utilize the subject property as a permanent location for the STEM school which is presently housed on the ECSU campus. With its continued success and ever-growing enrollment, the school would soon outgrow its current facilities and thus hopes to utilize approximately 65,000 square feet of the current mall facility. After interior renovations, the space will be completely separate from the mall and comprised of classrooms, labs, studios, offices, and storage with a main entrance on the rear elevation. The request was reviewed administratively by the Technical Review Committee. Committee comments were summarized on pages 5 and 6 of the staff report provided to the Commission. Staff does not think that the North Carolina Department of Transportation will require a traffic impact analysis be done to determine whether or not the proposed use would necessitate any additional traffic improvements, such as new traffic signals. Furthermore, the Health Department will require the school to meet the Rules Governing the Sanitation of Public, Private, and Religious Schools as found in Title 15A, Subchapter 18A of the North Carolina Administrative Code and that any food provided on-site be from a permitted food establishment. The request, as presented, satisfies all UDO requirements relating to secondary schools and is consistent with the joint City/County Land Use Plan. If the Planning Commission recommends approval of the request, Staff recommends the following conditions be adopted by the City Council:

- All comments made by the Technical Review Committee must be satisfied prior to commencing operations;
- Continued compliance with the development standards for secondary schools as found in Article 11-4.67 of the Elizabeth City Unified Development Ordinance;
- All renovations, excluding cosmetic work, shall require a building permit;
- Any future signage be reviewed and approved by both the Planning Department and Building Inspections prior to installation; and,
- The record owner of the property shall record the permit with the Pasquotank County Register of Deeds. The authorized use shall not commence until the property owner provides documentation that the permit has been recorded and indexed under the record owners name as grantor.

This concluded Ms. Alcock's report.

Mayor Joseph Peel came forth and addressed the Commission. Mayor Peel commented the T-Com building cost a lot to renovate and had no room for expansion for the Northeast Academy for Aerospace and Advanced Technologies (NEAAT) School. Once Southgate Mall is transitioned into a strip mall, the NEAAT School will utilize the area from Hibbett's down to Belk on the backside of Southgate Mall.. NEAAT School will be totally separate from the mall with access from the back of the mall to allow employees to enter and exit the school as well as provide drop off and pick up availability for students.

Mayor Peel provided exterior and interior layout plans for the Commission to view. Mayor Peel also introduced Mr. Andrew Harris, who is the Chief Executive Officer (CEO) of the NEAAT School, to the Planning Commission.

Chairman Sutton requested a brief narrative of how the NEAAT School will be constructed. Mayor Peel commented the structure of the NEAAT School will consist of eighteen classrooms, a large multi-purpose room, four bathrooms, and including an egress to be built to allow access into the hallway. Mayor Peel informed the Commission a new architect had been hired.

Ms. Stallings commented on the elevation and how the facade would look. Mayor Peel responded he doesn't have an elevation but, the facade would be a canopy with the school's name on it. Mayor Peel also commented Department of Transportation will pay for any traffic changes because the NEAAT School is a public school.

Chairman Sutton commented about how many students the NEAAT School will accommodate. Mr. Harris responded the minimum number of students would be 500 and the maximum students would be 800. Mr. Harris also responded the current number of NEAAT students is approximately 490 with full potential for growth to be grades sixth through twelve with 500 students. Chairman Sutton commented about the complete cost for the build out of the NEAAT project. Mayor Peel responded the estimated cost would be 2.6 million before adding a two hour fire wall.

Mr. White commented about the non-accessibility to the NEAAT School from the general public. Mayor Peel and Mr. Harris responded the NEAAT School will be totally separate and quite secured from the strip mall.

Chairman Sutton commented the front of the NEAAT School will be facing the back of the strip mall. Mayor Peel responded yes.

Mr. DiGirolamo commented is the NEAAT School going to be owned, rented, or leased. Mayor Peel responded the NEAAT School is buying the property.

Chairman Sutton commented what are some of the major challenges facing the NEAAT school project. Mayor Peel responded some of the major challenges are water, sewer, two hour firewall, and a common roof.

Mr. DiGirolamo commented about the transportation for the students getting to and from the NEAAT School. Mr. Harris responded 60% of the students are provided transportation every day with attendance from eight counties.

Chairman Sutton commented are other schools across the state of North Carolina mirroring this type of school structure. Mayor Peel responded yes there are some schools in malls.

Mr. Biggs commented will there be onsite food for the students. Mayor Peel responded there will be onsite food provided for the students but, food will not be prepared at the school.

Mr. White made a motion to **APPROVE** CUP 02-17 with all recommendations made by staff. Mr. Biggs seconded the motion. **ALL IN FAVOR: WHITE, BIGGS, DIGIROLAMO, STALLINGS, AND O'NEAL. NONE OPPOSED. MOTION CARRIED.**

New Business is CASE NO.: SUP 03-17 Special Use Permit filed by Richard and Kelly Boyd for property located at 313 W Main Street. The property is zoned R-8 Residential. The applicants are requesting to operate a bed and breakfast at this location.

Ms. Kaitlen Alcock presented the following report:

The second case before you this afternoon is SUP 02-17 filed by Rick and Kelly Boyd for property located at 313 W Main Street. The applicant requests approval of a special use permit to operate a bed and breakfast at the subject location. As required by the UDO, the B&B will be owned and operated by the property owners with all meals served on-site being solely for guests. Access to the subject property is via a shared driveway with the adjacent property as recorded in book 354, page 160 in the Pasquotank County Register of Deeds Office. The request was reviewed administratively by the Technical Review Committee, with all comments being summarized on page 5 of the staff report provided to the Commission. The request, as presented, satisfies all UDO requirements relating to B&B's and is consistent with the joint City/County Land Use Plan. If the Planning Commission recommends approval of the request, Staff recommends the following conditions be adopted by the City Council:

- Guests of the bed and breakfast shall not park in such a manner that would prevent access to the adjacent property; and,
- The record owner of the property shall record the permit with the Pasquotank County Register of Deeds. The authorized use shall not commence until the property owner provides documentation that the permit has been recorded and indexed under the record owners name as grantor.

This concluded Ms. Alcock's report.

Richard and Kelly Boyd came forth to address any questions the Commission may have about operating a Bed & Breakfast at the location of 313 West Main Street. Mr. DiGirolamo commented he had visited the property and noticed the driveway is shared with the neighbor. Mr. DiGirolamo questioned was there a garage. Mr. Boyd responded yes, there's a three and a half car garage. Mr. DiGirolamo commented would the three and a half garage be used for guest parking. Mr. Boyd responded there will be three to four parking spaces provided for guest. Mr. DiGirolamo commented would there be any issues with parking from the church. Mr. Kelly responded, no.

Mr. O'Neal commented would guest parking be in the back. Mr. Kelly commented, yes. Ms. Boyd commented the property is fenced in for security purposes for guest.

Mr. DiGirolamo questioned is the Bed & Breakfast something you've done before. Mr. Boyd responded it's been his wife's dream since buying the house fifteen years ago.

Mr. Biggs commented the only staff recommendations are to not park in shared driveway and record the permit with the Pasquotank County Register of Deeds office. Ms. Alcock responded correct.

Mr. DiGirolamo commented on the screening. Mr. Boyd responded there are eight foot fences all around the property.

Mr. Biggs made a motion to **APPROVE** SUP 03-17 with the staff recommendations. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: BIGGS, DIGIROLAMO, WHITE, STALLINGS, AND O'NEAL. NONE OPPOSED. MOTION CARRIED.**

STAFF REPORTS

Ms. Cheryl Eggar addressed the Commission with the following legislative changes:

In 2017 the NC General Assembly made several amendments to the General Statutes regarding planning and development regulations. One change involved the law on how cities and counties document consideration of approved plans when adopting zoning amendments. Statutes of limitation were established to set time limits for local governments to seek court ordered zoning enforcement. Laws governing wireless antennas and renewable energy were significantly altered. An exemption from the subdivision regulations was codified for divisions of land for the purpose of settling an estate. In addition to the heir division, a new type of minor subdivision was created and there were modifications to plat requirements.

This afternoon I will only be talking about the changes to the subdivision regulations. A new subdivision exemption was added for settling an estate. The legislature created a new type of subdivision that must have an expedited review. If the subdivision meets certain standards, the municipality may require only a plat for recordation.

A bill was passed that limits the parties which may make claims from a subdivision performance bond. The law was amended to eliminate the use of control corners in favor of grid control SL 2017-10 added a new definition to the list of exempt subdivisions:

“The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes”

This definition codified a rule that had already been established by the courts. The exception was already standard practice. SL 2017-10 created a new class of minor subdivision that must be allowed under the local subdivision ordinance. The new regulations state if a subdivision meets certain criteria, the local government may only require that a plat be submitted for recordation. The new class of minor subdivision must meet each of these standards to qualify for the expedited review:

- The tract must be larger than 5 acres and in single ownership. If a person owns two contiguous 4 acre tracts, for the purpose of the expedited review the person has 8 acres in single ownership.

- The division must result in no more than a total of three lots. The resulting lots must have a permanent means of ingress and egress designated on the recorded plat.
- For lots without direct access to public roads, the access could be accomplished through the use of private easements.
- Each lot must meet the applicable lot dimensions requirements of the zoning district in which it is located.
- Ten years must have passed since the property was subdivided through this new expedited review. The ten year wait applies to any part of the property to be divided, even if there is a change in ownership. When a developer wants to be granted final plat prior to completing all of the required subdivision improvements, a municipality may accept a performance guarantee to ensure the completion of the infrastructure.

In 2015 the legislature passed HB 721. This bill defined the types of financial instruments that a developer may use for their performance guarantee. The bill also limits the amount of the performance guarantee that the municipality can require. This bill reduced the cap for the performance guarantees from 150% to 125% SL 2017-40 (HB 158) limits the parties that may claim rights, or proceeds from a subdivision performance bond they are:

- the local government,
- the developer,
- and the entity issuing the performance guarantee SL 2017-27.

(HB 454) clarifies certain standards for subdivision plats and eliminates the use of control corners in favor of grid coordinates. Control monuments within a previously recorded subdivision may be used in lieu of a grid control. Detail information that is needed on the plat such as a legend, dates and descriptions of plat revisions, updates, and clarifies the options for the surveyor certification.

This concluded Ms. Eggar's report.

No Chairperson Report

No Member's Concern

Mr. White made a motion to **ADJOURN** the Planning Commission meeting. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: O'NEAL, WHITE, BIGGS, STALLINGS, AND DIGIROLAMO. NONE OPPOSED. MOTION CARRIED.**

Planning Commission meeting adjourned at 4:50pm.