

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULARLY SCHEDULED MEETING
TUESDAY, JUNE 7, 2022
4:00 PM**

MEMBERS PRESENT

Ernest Sutton - Chairman
Johnson Biggs - Vice Chairman
Suzanne Stallings
Gary White

Also present were Kellen Long, Director of Community Development; Brian Hall, Secretary to the Commission, and the applicants.

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, May 3, 2022 Planning Commission minutes. Commissioner White made a motion to **APPROVE** the minutes. Vice Chairman Biggs properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND STALLINGS. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton called for a motion to approve the agenda. Commissioner White made a motion to **APPROVE** the revised agenda. Vice Chairman Biggs properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND STALLINGS. 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: RZ 02-22**, filed by Jay-DF Properties, LLC to rezone 305 North Ashe Street (Parcel ID: 891418417023) and 307 North Ashe Street (Parcel ID: 891418417068) from General Business to R-6, residential.

Director Long began her presentation.

305 North Ashe Street is approximately 7,600 square feet, measuring roughly 78-feet at its longest point. Based on our records, the home on the property was built in 1945. As some point, the property was rezoned to General Business, as the original use of the property was intended as single family. The general business zoning district does not allow for the use of single family.

This means that if the home was being used as single family at the time of the rezoning of the property to general business, then the single family use could have remained, up until the home was vacant for 180 days or more. Once the home has been vacant for 180 days or more, the use of the property has to be compliance with the Unified Development Ordinance, so only allowable uses in the general business zoning district would be currently allowed at this time for both properties.

Director Long stated that 307 North Ashe Street is approximately 5,300 square feet, measuring roughly 95-feet at its longest point. This property is a corner lot, with the primary structure facing North Ashe Street with a corner yard facing Maple Street. Based on our records, the home on the property was built in 1986.

At some point, the property was rezoned to general business, as the original use of the property was intended as single family. Based on past surveys of the property, it appears that the structure on this property was used as a store at some point during its history, which would explain the past rezoning to general business.

Staff does note that the current zoning of the property of general commercial does not agree with the future land use map for either property, nor does it agree with the adjacent land uses and zoning district, and would be considered spot zoning. Spot zoning is the application of zoning to a specific parcel or parcels of land within a larger zoned area when the rezoning is usually at odds with a city's master plan and current zoning restrictions.

Director Long stated that, in reference to 307 South Ashe Street, since this property is slightly under the minimum lot size of 6,000 square feet for the R-6 residential zoning district, the property owner will be slightly shifting the property line that is in-between both properties so that they are both at least 6,000 square feet lots for the R-6, residential zoning district before the public hearing of the rezoning.

The applicant will be turning in a recombination plat, which is the administrative approval that is utilized prior to the public hearing for this case at the City Council meeting

Director Long stated that the R-6, Residential Zoning District is primarily intended to accommodate a variety of medium density single-family detached dwellings, modular homes, two-family dwellings, and multi-family dwellings. Maximum densities within the R-6 district include approximately seven dwelling units per gross acre for single-family detached dwellings, nine dwelling units per gross acre for two-family residences, and 10 to 12 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 medium density residential character of the R-6 district. Limited neighborhood-oriented convenience retail stores are permitted by Special Use Permit.

Based on the City's table of density and dimensional requirements for residential districts, the current lot sizes if rezoned to R-6 would not be allow two-family or multifamily because there is not enough square footage of lot area. Multi-family requires 43,560 square feet of lot area for the 1st multifamily dwelling, and 9,000 square feet for a two family.

Director Long noted the following as adjacent land uses and zoning for the location:

Adjacent Zoning & Land Use

305 North Ashe Street

North: R-6, Residential: Current Land Use: Single Family

South: R-8, Residential: Current Land Use: Single Family and St. Paul's Freewill Baptist Church

East: R-6, Residential: Current Land Use: Single Family

West: General Industrial (I-2): Current Land Use: Habitat for Humanity

307 North Ashe Street

North: R-6, Residential: Current Land Use: Single Family

South: R-8, Residential: Current Land Use: Single Family and St. Paul's Freewill Baptist Church

East: R-6, Residential: Current Land Use: Single Family

West: General Industrial (I-2): Current Land Use: Habitat for Humanity

Access to both properties are via North Ashe Street. North Ashe Street is a City maintained roadway. 307 North Ashe Street is a corner lot. The corner yard is directly abutting Maple Street, which is also a City maintained roadway. 307 North Ashe Street does not have direct access to Maple Street. Both properties are also abutted on the west side by South Hughes Boulevard, however, neither property have direct access to South Hughes Boulevard.

Director Long noted that adequate utilities to both properties have already been established and will not be changing with this rezoning or intended use based on the rezoning application. This property currently has a 12-inch gravity main that runs adjacent to the property along North Ashe Street. Both properties also have a 4-inch water line that runs adjacent to the properties lines along North Ashe Street.

The Joint Elizabeth City and Pasquotank County Land Use Plan (LUP) classifies 305 and 307 North Ashe Street as having one future land use classification of medium/high density residential, which is the same future land use for all the surrounding properties because of the smaller lot sizes. The Medium/High Density residential classification is intended to delineate lands where the predominant land use is higher density single-family residential developments, and/or multifamily developments.

Director Long stated that the residential density in this classification should generally range from approximately four to seven single-family homes per acre, with the multifamily density ranging from 12 units per acre in the general residential district, and up to 25 units in the apartment district. The maximum building height would be approximately four-stories. If there are adequate setbacks, the building height could be increased.

The lot sizes would range from approximately 4,000 square feet to one-acre for apartment developments with an allowable lot coverage of approximately 80%. Long-term, the Medium/High Density residential-classified areas are projected to develop at an average density of approximately six dwelling units per acre. Limited neighborhood commercial use is considered acceptable for this classification with an intensity of approximately one business per 30 acres.

The City's goals and policies support the use of land in Medium/High Density classified areas for single-family and multifamily dwellings where adequate public utilities and streets are available or can be upgraded to support the higher residential densities encouraged in this classification. The higher density residential developments anticipated to occur during the planning period are encouraged within the Medium/High Density classified areas.

Director Long noted that while the Future Land Use Map (FLUM) depicts the general location of projected patterns of future land uses, the LUP states that the ultimate use and development of a particular parcel of land will be determined by the property owner's desires, overall market conditions, implementation tools employed by the City to regulate land use and development, and the availability of necessary infrastructure (water, sewer, roads, etc.) to support development. Ultimately, there are many relevant factors in addition to the FLUM that come into play to determine if a projected use is appropriate.

When making a determination to approve or deny a rezoning, Planning Staff considers the area's zoning pattern, adjacent land uses, the Joint Elizabeth City and Pasquotank County Land Use Plan, as well as the impact on roads and City services such as utilities and fire protection. Planning Staff also takes into account the impact the rezoning will have on the adjacent property owners and neighbors.

Both properties together are approximately .261 acres, which really limits the amount of allowable uses just based on property size. Both parcels are currently vacant and gutted properties. As mentioned in the staff analysis, both properties are currently zoned general business. The applicant is requesting to rezone both properties to R-6, residential, for the intention of single family for both properties. Staff would like to remind the Commission to consider all allowable uses within the R-6, residential zoning classification that would meet the development and lot size standards when considering this request. A complete list of uses allowed in the R-6, residential zoning district can be found at the end of this report.

Considering the aforementioned elements, staff is of the opinion that the proposed rezoning request is appropriate because of the adjacent zoning and existing land uses of the adjacent properties and well as the Future Land Use Map in the Pasquotank County and Elizabeth City CAMA Land Use Plan and recommends **APPROVAL** of this application with the following consistency statements:

1. *"The proposed rezoning request from General Business (GB) to R-6, Residential for 305 North Ashe Street (Parcel ID: 891418417023) is found to be consistent with the Future Land Use Map, area's zoning pattern, and existing land use and zoning."*
2. *"The proposed rezoning request from General Business (GB) to R-6, Residential for 307 North Ashe Street (Parcel ID: 891418417068) is found to be consistent with the Future Land Use Map, area's zoning pattern, and existing land use and zoning."*

This concluded Director Long's presentation.

Director introduced the applicant, Mr. Bryan Aydlett, to the Commission.

Applicant Aydlett stated that both houses are gutted but have brand new foundations, girders, piers and joints. Their intention is to turn said houses into single-family housing. It is known why the previous zoning was listed as general business, but Applicant Aydlett believed that the smaller house used to be a barbershop.

Commissioner Stallings stated that said house used to be a beauty parlor, but that it was horribly damaged one night by a drunk driver who ran into the back of it. Half of the building was taken out in that incident.

Chairman Sutton asked the Commission if they held any questions.

There were no questions held.

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

Commissioner White made a motion to **APPROVE** the request for **CASE No: RZ 02-22**. Commissioner Stallings properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND STALLINGS. NONE OPPOSED. MOTION CARRIED.**

This concluded new business items.

Old Business

Chairman Sutton moved on to the only case on the agenda under old business and gave the following description:

- **CASE No: TA 01-22** filed by the City of Elizabeth City to clarify the City's signage ordinance in Article 11 of the Unified Development Ordinance for temporary signage in the public right-of-way.

Director Long noted that they have been working on this text amendment for an extensive amount of time. Nothing has changed from the previous meeting, as the City was in the midst of the local election season and staff did not want the perception that the Code Enforcement division was pulling political signage, even though this ordinance does not allow that.

Director Long gave Commissioner Stallings an in-depth review of what this case entailed, while also noting the frustrations garnered from a Code Enforcement perspective in regard to having the authority to pull signs in the city right-of-way. Commercial signs are not allowed whatsoever in these right-of-ways, but there has never been enforcement of that.

Staff has worked with NC DOT and the UNC School of Government in order to gather all of the necessary information and make sure that the city could not be held liable for some of the language in the ordinance. From the previous meeting, there was some discussion in regard to temporary signs on private property, but that has since been "axed" out. The current focus is on aspects of the right-of-way, but the topic private property be resumed at a later time if staff feels the need to do so.

Director Long noted that Commissioner Goodson had requested for the language from other communities to be utilized, which has been included in the staff analysis. These other communities include Nags Head and the town of Southern Shores. Nags head was quite useful due to them having major NC DOT corridors and their own streets department. The language from both of the aforementioned communities does not allow any signage in the right-of-way, nor does it depict between NC DOT and their local right-of-ways.

Commissioner Stallings inquired upon if a person were to hold up a sign in the right-of-way.

Director Long stated that this topic came forth during a City Council meeting as a particular corridor in the city has this issue. Language was found in regards to the individual standing in the median, which caused him to be forced to move to the side of the road. It is unknown if much more was able to be done than that within the general statute.

Commissioner Stallings stated that she was just curious as many individuals try to find a way to get around certain rules.

Vice Chairman Biggs noted that the issue that could come forth would be the possibility of also having to regulate those standing in areas on the road holding up business signs, such as for Liberty Mutual or Little Caesars. But the main concern is safety when it comes to those high traffic areas where harm could occur.

Director Long stated that the hope is to bring this case to City Council for approval, as well as getting NC DOT's blessing. In regard to political signage, it was only clarified that staff would be handling it. Staff will be taking the stance that they will be allowed in the right-of-way for 30 days before early voting starts, and would have to be removed 10 days after the election date. This will be the standard for all of the right-of-ways.

Commissioner White noted that he's seen a big issue with this in regard to old stop signs and utility poles.

Director Long stated that staff has been pulling said signs from those areas and holding them in the office for pick up due to the uncertainty of knowing if staff would get in trouble for throwing them away. These signs were organized and placed in the proper categories, while staff tried to contact the owners of said sign on a consistent basis and receiving no response.

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

Vice Chairman Biggs made a motion to **APPROVE** the request for **CASE No: TA 01-22** to amend the Unified Development Ordinance in regard to article 11. Commissioner White properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND STALLINGS. NONE OPPOSED. MOTION CARRIED.**

Staff Report

Director Long noted that this will be Vice Chairman Biggs last meeting, as he will be moving on to a new start in which had been newly elected to the City Council. There will be a letter also provided that Chairman Sutton will sign in recognition of Vice Chairman Biggs and all that he has done while being a member of the Planning Commission.

Each Commission gave parting words of appreciation and praise for all the work that Vice Chairman Biggs has done, and also gave encouraging words for this new chapter of his life.

Chairman Sutton expressed great gratitude for all that Vice Chairman Biggs has done for him as a Commissioner, but even more as a friend. He also expressed encouragement for Vice Chairman Biggs on this new journey he's embarking on, noting that he is more than capable to excel in his new role.

Vice Chairman Biggs expressed much appreciation for the Commission and thanked them for their words.

Chairman's Report

Member Concerns

No member concerns mentioned.

Vice Chairman Biggs made a motion to **ADJOURN**. Commissioner White properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND STALLINGS. NONE OPPOSED. MOTION CARRIED.**

The meeting concluded at approximately 4:27 PM.

Submitted Respectfully,

Brian Hall-Secretary of the Commission