

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
SPECIAL CALLED MEETING
TUESDAY, March 1, 2022
4:00 PM**

MEMBERS PRESENT

Ernest Sutton - Chairman
Johnson Biggs - Vice Chairman
Gary White
Alyn Goodson

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

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, March 1, 2022 Planning Commission minutes. Commissioner White made a motion to **APPROVE** the minutes. Commissioner Goodson properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND GOODSON. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton called for a motion to approve the agenda.

Director Long paused the motion to note that an amendment would need to be made to the following agenda item:

- **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.

There still remains data that needs to be cleared up, of which could be quite useful to the Commission. It can be moved to the April 2022 meeting date or be set for a special called meeting that would only involve said case.

Chairman Sutton stated that the Commission would table **CASE No.: TA 01-22** until the April 2022 Planning Commission Meeting, then asked the Commission for a motion in regard to delaying action for said case.

Commissioner White made a motion to **CASE No.: TA 01-22** until the April 2022 meeting. Commissioner Goodson seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND GOODSON. NONE OPPOSED. MOTION CARRIED.**

Commissioner White made a motion to **APPROVE** the revised agenda. Commissioner Goodson properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND GOODSON. 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.: CUP 01-21**, filed by Caasi Suaava for the property located at 600 Hunter Street. The applicant is purposing to operate an elementary school serving kindergarten through 2nd grade. Each grade will be limited to 12 students. The property is zoned R-6, residential and the primary use of the property is a church.

Because of the quasi-judicial format of the hearings, the Commission hears evidence and judges whether the change is not incongruous. The Commission is required by North Carolina law to swear in persons who speak before the Commission and offer evidence.

Secretary Hall swore in Director Long, and the applicant.

Director Long began her presentation.

Director Long noted the following as adjacent land uses in regard to zoning:

Adjacent Zoning & Land Use

North: Residential (R-6) — Harbor Presbyterian Church, north of the church across from Riverside Drive is zoned Central Business. A shipyard is on the site zoned central business.

South: Residential (R-6) — Two lots owned and associated with the Harbor Presbyterian Church that has been used for parking.

East: Residential (R-8) — Single-Family Residential Homes

West: Residential (R-6) — Single Family Residential Homes

Director Long stated that according to the Riverside National Historic District nomination form, Harbor Presbyterian Church was originally built in 1914. When the National Historic District nomination form was completed in 1993, the Church was named "Calvary Baptist Church." According to the County's tax records, the fellowship hall directly behind the church was built in 1994.

Based on the Pasquotank County Register of Deeds, the church was deeded to Harbor Presbyterian Church from Calvary Baptist Church in October of 2018. Since the purchase of the property in 2018, Harbor Presbyterian Church and fellowship hall has undergone a series of renovations to preserve both buildings.

Because this Church and fellowship hall is in a residential neighborhood, staff had to measure the distance of the fellowship hall from all the surrounding residential homes to confirm that the use separation was in fact 50-feet from building to building, which is defined under use separation on page four (4) of the staff analysis.

Director Long expressed that staff's measurements confirmed that the fellowship hall building was physically 50-feet from all of the adjacent residential homes, including the parsonage for the Church, which is located directly beside the church facing Riverside Ave. There are no current plans for outside recreational space at this time, however, any future proposals for outdoor recreational space would have to also comply with the 50-foot distance from any residential homes.

A previous survey for a recombination plat for the property disclosed a 12-foot easement for ingress/egress for the property located at 607 Agawam Street. Based on the information provided in the survey attached to each Commissioners packet, 607 Agawam Street has a driveway located behind the home, making it necessary for an egress/ingress easement to access the property.

After a brief conversation with the property owner at 607 Agawam Street, the attached recombination plat and survey was shared with them. The property owner stated that the 12-foot easement was not in the correct location on the plat as it was physically located on the property, referring to the location of the driveway and curb cuts.

Director Long noted that the property owner stated concern of losing his rights for the 12-foot easement and the location of the easement on the plat. Staff reached out to the surveyor who completed the recombination plat, in regards to the location of the easement shown. The surveyor stated that while he agreed it would make the most

sense having the easement follow the current gravel drive out to Hunter Street, based on the legal description of the easement, which stated a 12-foot easement from Hunter street to the rear of the property from the most direct route, that the survey was correct.

The surveyor has recommended that the legal description be changed to the current physical location of the easement. The church and the property owner for 607 Agawam Street will have to discuss the next actions to either have the legal description of the easement amended to reflect where the current physical location of the easement or a physical shift of the easement will need to be completed to coincide with the legal description.

For the proposed use of the school in relation to the 12-foot easement, staff has noted in the recommended staff conditions that the 12-foot easement for the ingress/egress for 607 Agawam Street must not be obstructed and must be clear for access at all times. Depending on the location or shift in location based on what is shown on the recombination plat, the school will have to coordinate their pick-up and drop-off and parking plans around the easement. The Church and fellowship hall does have access to off-site parking at 912 Hunter Street.

Director Long stated that access to the property is via Riverside Ave and Hunter Street. Riverside Avenue will be used potentially for egress only. Riverside Avenue is classified as a local collector street providing access to primarily residential areas. Hunter Street is considered a local road providing access to the properties primarily located just on Hunter street.

Director Long began to list the following as development standards for a Special Use/Council Use permit:

DEVELOPMENT STANDARDS FOR SPECIAL OR COUNCIL USE

11-4.1 Application of Development Standards

The development standards listed herein are additional to other requirements in this Ordinance. These development standards are use-specific and apply to those uses designated with a 'D' in Table 9-3-1 Table of Permitted Uses. Uses requiring approval of a Special Use or Council Use Permit (designated with a 'S' or 'C' in Table 9-3-1) shall also be subject to these standards and any additional standards or conditions required by the Special Use Permit or Council Use Permit.

11-4.2 Standards for All Uses

The following rules apply to all development standards and uses listed below:

(A) Property Separation

All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed use is to be located to the lot line of the closest use (or zoned property) from which the proposed use is to be separated.

(B) Use Separation

All measurements shall be made by drawing straight lines from the nearest point on the wall of a proposed or existing principle building or edge of a proposed use to the nearest point on the wall of the principal building from which the subject building is to be separated, unless otherwise specified.

(C) Outdoor Lighting

Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists.

11-4.67 School, Elementary or Secondary

(A) Where Required

All Districts

(B) Access

Access to the use shall be from a collector or higher classified street that has the capacity to accommodate the additional traffic projected to be generated by the school.

(C) Use Separation

Outdoor recreational areas and all buildings shall be located a minimum of 50 feet from any adjacent residentially-zoned property.

(D) Signs

In residential zoning districts, there may be one freestanding sign erected per public street frontage. The sign(s) shall not exceed three feet in height and fifteen square feet in sign area when located within ten feet of the right-of-way. When located more than ten feet from the right-of-way, the sign(s) shall not exceed five feet in height and twenty-five square feet

in sign area. Facilities located in commercial zoning districts can erect signs that conform to Article XI et. seq. of this Ordinance.

UDO Requirements for Special and Council Use Permits

4-7.8 Additional Requirements on Special Use and Council Use Permits

- (A)** *Subject to subsection (B), in granting a special or council use permit, the Board of Adjustment or City Council, respectively, may attach to the permit such reasonable and appropriate requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:*
- (1) Will not endanger the public health or safety;*
 - (2) Will not injure the value of adjoining or abutting property;*
 - (3) Will be in harmony with the area in which it is located; and*
 - (4) Will be in conformity with the land development plan, thoroughfare plan, or other plan officially adopted by the City Council.*
- (B)** *The permit-issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.*
- (C)** *Without limiting the foregoing, the permit-issuing board may attach to the permit a condition limiting the permit to a specified duration.*
- (D)** *All additional conditions or requirements shall be entered on the permit.*

This application was heard by the Technical Review Committee at its regularly scheduled meeting on February 22, 2022. Comments made by Committee members are as follows:

Inspections Department

- Applicant will not be able to divide the larger room, even with a temporary material, such as an accordion style divider, because of the egress in the kitchen.*
- In regard to building code compliance, the applicant will need to provide a barrier between the walk way accessing the kitchen from the large room (where the electrical panel is). This can be a waist high swing gate.*

- *The last item for building inspections was the top electrical socket in the kitchen that was reading open ground or neutral of which will need to be fixed.*

Planning Department

Director Long noted that the development standards for the use of a school were read aloud during the TRC meeting. Staff stated that based on the evaluation of the property, the development standards for the use of a school would be met.

- *Health Department permit must be secure prior to commencing operations.*
- *Must install one handicap hardscaped parking space on the property with the 5-foot clear and unobstructed access way.*
- *Since the applicant is in a residential zoning district, any proposed signage associated with the school must be in compliance with development standard D.*
- *Any proposed outdoor recreational equipment must be in compliance with the use separation has stated in standard C.*

There was also an inspection of the property concluded on January 27th by the City's building inspectors, and planning department and a separate inspection by the City's Fire Marshal.

Director Long stated that the Technical Review Committee voted to unanimously approve this application at their February 22nd, 2022 meeting.

Staff notes that the request, as presented, is in compliance with the development standards found in §11-4.67 for the use of a school, elementary or secondary of the Unified Development Ordinance. If the Commission determines to recommend approval of the request, staff suggests the following as conditions of the approval:

- *Must complete all necessary final inspections before operations begin, including but not limited to, building inspections and fire administration, and Albemarle Regional Health Services.*
- *Must provide a copy of the health department permit once complete before operations commence.*
- *Must leave a 12 foot clear and unobstructed access way in accordance to the recorded 12-foot easement for ingress/egress for 607 Agawam Street. The school must adhere to any shifts or changes to said easement.*
- *Continual adherence to the development standards as stated in the City of Elizabeth City Unified Development Ordinance.*

This concluded Director Long's presentation.

Director Long noted that staff received a letter from an adjacent property owner from 808 Riverside Ave. They addressed Director Long in an email on February 20th. The name of said property owner is Alfred N Monclaw who stated the following:

"Ms. Long,

As across the street neighbors of Harbor Church, we strongly recommend the application for the application for the elementary school at 601 Hunter Street. We have lived in our house at 808 Riverside Ave for many many years before Harbor Church bought the old deserted Baptist church buildings. It seemed that no one cared for the property. It was a sad sight. I picked up debris and cut grass every two to three weeks because it had become an eyesore for us and our neighbors. Now that the Harbor Church own the property, it is always attractive and well cared for. They are great neighbors. I only wish they could get the old shipyard property as well. Please approve their application.

Signed,

Alfred N. Monclaw."

Director Long introduced the applicant, Mrs. Carol Terryberry, to the Commission.

Applicant Terryberry introduced herself to the Commission and stated that she would be glad to answer any questions.

Chairman Sutton asked if the Commissioners held any questions for the applicant. There were no further comments.

Commissioner White asked if the church itself is affiliated and supports this school.

Applicant Terryberry stated that their board members are all church members. They are keeping it separate in order to avoid any mission drift. They are not linked with them inexorably.

Commissioner White expressed that it can be assumed that the church congregation endorses the project.

Applicant Terryberry concurred with that statement.

Commissioner Goodson inquired about the applicant's growth goals, and the number of students they are expected to receive and manage in said space. It looks like they are limited in terms of the number of years they are offering.

Applicant Terryberry stated that they are actively pursuing other options. For the fall, since they already have enrollees, they plan to incubate at this location for one or two years. They will move into a different building once they get larger in which if they add one more grade to their current location, they will be considered to be too big in regard to available capacity.

Chairman Sutton asked if the school would be under the church or if it is under a different entity.

Applicant Terryberry stated that it is under a separate entity.

Vice Chairman Biggs asked if there any adjacent property owners present who wanted to speak in regard to this case.

There was an adjacent property owner present, but they expressed that they were pleased with what they heard from Director Long, and held no questions or comments.

Commissioner White asked the applicant, out of curiosity, how they felt about all the obstacles they have had to face from the city to accomplish her goal.

Applicant Terryberry stated that she appreciates the value of input in regard to safety, but there have been multiple tiers of frustrations. This is due to having to work with numerous churches and people, while this process has taken an exponential amount of time that has limited them as they have been looking for other options. But, working with Director Long throughout this process has been such a pleasant experience.

Commissioner White acknowledged the applicants statement and noted that he held curiosity for future reference.

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

Commissioner White made a **APPROVE** the request for **CASE NO.: CUP 01-21** Commissioner Goodson properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton began to describe the second item on the agenda under new business as follows:

- **Case No.: CUP 02-22**, filed by Grace Montessori Academy, Inc. for the property located at 104 Commercial Blvd. The applicant is purposing to operate an elementary school classroom serving 30 children grades 1st through 6th, along with three teachers. The property is located in the General Business Zoning District and has the current use as a daycare facility.

Secretary Hall swore in the applicant.

Director Long began her presentation.

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

Adjacent Zoning & Land Use

North: General Business (GB) — Vacant Commercial Property.

South: General Business (GB) — Commercial Retail Units and Parking.

East: General Business (GB) — Wal-Mart.

West: General Business (GB) — Commercial Retail Units, Storm Water Detention pond that services the Commercial Blvd at Tanglewood Subdivision, and vacant commercial lots.

The subject property is located in the City's Halstead Boulevard Extension Overlay District. The opening of the bypass coupled with the completion of the Halstead Boulevard connector had an immediate impact on improving access to Elizabeth City and on opportunities for altering the existing land use pattern between the bypass and the western portion of Elizabeth City.

A great deal of time and attention of the CAMA land use plan committee was spent on examining land use and development issues along the Halstead Boulevard corridor. As a result, a joint City-County initiative was undertaken to develop specific regulations for future development along the Halstead Boulevard corridor.

The Halstead Boulevard Extension Overlay District was created and adopted in April 2006 as a joint effort between Pasquotank County and the City of Elizabeth City in an effort to create a comprehensive zoning plan and development guidelines concerning landscaping, signage, driveway connections, and site development to ensure that this corridor is an efficient and aesthetically pleasing entranceway into the community.

The Commercial Blvd at Tanglewood subdivision was approved in March of 2008, consisting of nine commercial lots. Lot-6, also known by address as 104 Commercial Blvd was one of the first lots developed in the commercial subdivision in 2009 as Winnie E. Wood Daycare Center. The Grace Montessori Foundation purchased the property in March of 2019 to continue the use as a daycare facility.

In March 2021, the applicant, Grace Montessori Academy, Inc. was granted a Conditional Use Permit for the property located at 103 Tanglewood Pkwy South, Unit N for the use of school, grades 1st through 6th grade. The applicant is requested to move the school aged children from the unit on Tanglewood Pkwy, to 104 Commercial Blvd so that the daycare facility and the school will run concurrently in the same building.

Director Long stated that in regard to transportation, major corridor access to the property is via Halstead Blvd Extension, which is a limited access NC DOT maintained highway. Other than parking lot circulation and access, the property is also abutting Commercial Blvd.

Director Long noted that the development standards for a school, be it elementary or secondary, are listed in the staff analysis in each Commissioners packet. Said standards

are as follows:

11-4.67 School, Elementary or Secondary

(A) Where Required

All Districts

(B) Access

Access to the use shall be from a collector or higher classified street that has the capacity to accommodate the additional traffic projected to be generated by the school.

(C) Use Separation

Outdoor recreational areas and all buildings shall be located a minimum of 50 feet from any adjacent residentially-zoned property.

(D) Signs

In residential zoning districts, there may be one freestanding sign erected per public street frontage. The sign(s) shall not exceed three feet in height and fifteen square feet in sign area when located within ten feet of the right-of-way. When located more than ten feet from the right-of-way, the sign(s) shall not exceed five feet in height and twenty-five square feet in sign area. Facilities located in commercial zoning districts can erect signs that conform to Article XI et. seq. of this Ordinance.

This application was heard by the Technical Review Committee at its regularly scheduled meeting on February 22, 2022. Comments made by Committee members are as follows:

There was also an inspection of the property concluded on February 3rd by the City's building inspectors, fire marshal, and planning department. The building as is, meets the state building and fire code for compliance, however, the applicant is purposing a few interior renovations for the section of the building that the school aged children will be located.

The purposed renovation will include the demolition of a few interior non load bearing walls to transform the space into one large classroom instead of smaller rooms. The applicant has hired a commercial general contractor who will be submitting plans for

the interior renovation and will be pulling the adequate permits. The plans once submitted to both building inspections and fire administration will be reviewed for compliance of both codes.

This concluded Director Long's presentation.

There were no further comments.

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

Commissioner White made a motion to delay action on **CASE NO.: TA 01-22** Commissioner Johnson properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton began to describe the third item on the agenda under new business as follows:

- **Case No.: CUP 03-22**, filed by Marlene Little on behalf of Tutor All, Inc. for the property located at 127 Jordan Plaza. The applicant is purposing to operate a private school serving 25 students and an afternoon tutoring facility in the 2,430 sq. ft. facility. The property is zoned General Business.

Secretary Hall swore in Director Long, and the applicant.

Director Long began her presentation.

This concluded Director Long's presentation.

There were no further comments.

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

Commissioner White made a motion to delay action on **CASE NO.: TA 01-22** Commissioner Johnson properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

This concluded the new business items on the agenda.

Old Business

- **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.

No old business was reported.

Staff Report

Chairman's Report

That concluded the Chairman's report.

There were no Member Concerns.

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

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

The meeting concluded at approximately 4:41 PM.

Submitted Respectfully,

Brian Hall-Secretary of the Commission