

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULARLY SCHEDULED MEETING
TUESDAY, MAY 3, 2022
4:00 PM**

MEMBERS PRESENT

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

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, 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. 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.

Prior to beginning the case load for the meeting, Chairman Sutton introduced Ryan Howell and Dwan Bell from the Public Utilities Department, of whom had a presentation to provide the Commission in regard to wastewater capacity.

Assistant Director Howell began his presentation.

Assistant Director Howell provided a power point slide depicted the Rogerson Wastewater Treatment Facility overview, by way of Google Maps. The outlined red square showed the previously decommissioned wastewater plant from 1997. The current treatment facility is permitted for over 4.5 million gallons per day, while the permitted flow for the old treatment facility was 2.4 million gallons per day.

There was an assessment held in January 2022, which was presented to the City Council. This was in regard to the wastewater treatment facility, in which the assessment was done by Timmons Group of whom also presented a four-phase approach for upgrading said facility.

Assistant Director Howell stated that he and Director Bell both agree that this is more of a long-term solution before the wastewater treatment facility itself is addressed. The actual average flow for the wastewater treatment facility of 2021 was 74.65%. In both January and February there was a significant amount of rain, which pushed that number to 103%, which is 140% of the day daily capacity of 4.5 million gallons.

They had two pump stations assessments, in which one was done by JMT Engineering. JMT Engineering was brought on board prior to Director Bell and Assistant Director Howell were employed by the City of Elizabeth City, thus they followed up on the information JMT provided and presented said information to the City Council.

Assistant Director Howell stated that Director Bell brought on board Withers Ravenel to assess a lot more pump stations with the second assessment, in which Elizabeth City has 61 of said stations. JMT broke down their assessment into smaller and larger projects.

With the larger project they can reduce overall, within the six pump stations presented on the power point, 41% of I&I. This comes to 6.6 million dollars, which equates to \$13.17 per gallon. With the Withers Ravenel assessment, Director Bell and Assistant Director Howell believed that the first five pump stations presented on the given graph, illustrated on the power point, are the major areas that need to be focused on.

Pearl Street would release 1.4 million gallons of I&I into the city's system during a rainfall event. Based on the analysis, initial rehabilitation efforts of the collection system are proposed for Pearl Street, Main Street, Providence Road, Charles Street, and the Holiday Inn Lift stations.

This concluded the presentation by Assistant Director Howell.

Chairman Sutton asked if the Commission held any questions.

Director Long asked when the I&I flood data is typically received during the year, using 2022 as an example.

Assistant Director Howell stated that they work concurrently with Julius Williams, the Supervisor of Water and Sewer. When Julius gets a particular month signed off on, they have personnel from the GIS division to enter in said data. So, for this year, it would be the end of January to mid February, if they are caught up "month to month to month," to get to December of 2023 to have 2022's data.

Commissioner Goodson thanked Assistant Director Howell for the thorough presentation, but inquired into some of the terminology used such as what the meaning of "I&I" was.

Assistant Director stated that I&I stood for "Inflow and Infiltration," which includes rainwater and groundwater. Groundwater is the infiltration, with inflow being the rainwater runoff from the streets.

Commissioner Goodson expressed understanding, stating that based on what they were saying in terms of percentage of inflow/capacity, it is being impacted by I&I of which is being addressed with through the city.

Assistant Director Howell provided a situation in which there was heavy rain in first three months of 2020, pushing them to 79.6% capacity. When they hit the 80% mark, the state puts them in a moratorium of which they can do nothing about. The state tracks all of their numbers.

Commissioner Goodson inquired into whether they were overall at 70 percent capacity, minus the months in which they were at over 100 percent capacity.

Director Bell stated that the year end of 2021 they hit 74% of their capacity. If they can remove the necessary percent from an area like Pear Street, it could alone provide much more needed capacity.

Commissioner Goodson inquired into where they predict that percentage to be, in terms to getting them back to a proper level.

Assistant Director Howell expressed that this was never tracked down into a percentage. JMT was the only one to provide a percentage of some sort, but it was more of a "desktop review."

Commissioner Goodson stated that the Commission originally proposed the inquiry into the city's capacity based on there being a significant amount of building and extensive interest in building from potential businesses going, which the impact of capacity could affect. Do they foresee a circumstance where the city hits the 80% mark and the state

prevents the city from doing any additional work? The concern would be how that would affect entrepreneurs wanting to come and build in the city.

Director Bell stated that how wet the next year would determine how close they would be to 80%, in which all of the projects that are ongoing would come on board. This is called "live flow." This would let them know if they hit 80%. However, if they have a plan in place that is approved and adopted by the City Council, then 400 to 600 thousand gallons will be released to them of which would allow the continuance of being done without there being a moratorium placed upon them.

This does provide "wiggle room," but they will have to make sure that the City Council accepts whatever the recommendations are. At that point they would then contact the state who would then open them up to the aforementioned 400 to 600 thousand gallons.

Commissioner Goodson asked if in terms of the recommendations whether the I&I issue was still being moved on, or if they are still being considered by the City Council?

Director Bell gave the answer of no.

Assistant Director Howell stated that the previous Interim City Manager, Ralph Clark, brought on McGill and Associates who are supposed to be working on an action plan for them to bring to the City Council to be adopted.

Chairman Sutton asked if they were actually doing it.

Assistant Director Howell stated that he's had several meetings with them, but has yet to see anything. The previous Interim City Manager brought the on to "sum up" the three total assessments they've had on their system.

Chairman Sutton inquired into car washes have an impact on capacity.

Assistant Director Howell stated that in regard to any new developments that are brought forth, the Public Utilities Department have to do what is called a "flow tracking form." If they do the calculations associated with and the number still comes out under 80% capacity, then they are unable to deny those developments from coming in.

Director Long stated that many of these facilities, especially the newer ones, do a lot more recycling of the water. This would be a part of the business plan for car washes, with "Green Clean" being an example of that.

Commissioner White inquired if, overall, the city needs to further capacity capability.

Assistant Director Howell stated they he personally felt that based on the work done by the engineering firms who did the assessments, the city should be in good standing in regard to capacity as long as the problem areas are addressed.

Director Bell confirmed the statement made by Assistant Director Howell. The city would be in good standing once the action plan is adopted by the City Council.

Commissioner White asked when they expected to get more recommendations.

Director Bell stated that the firm of whom was brought in by the previous Interim City Manager is heard from in a seldom manner. The study being presented for this meeting is the Public Utilities Department study. Although they do speak with the other firm periodically, and they are working on different things, no deadlines have been given to staff in regard to what they are projecting to present. Staff believes that they have enough information to present, but that decision is out of his hands.

Chairman Sutton thanked both Director Bell and Assistant Director Howell for their presentation and all the thorough work that was put into it.

Chairman Sutton moved on to the new business portion of the agenda.

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.

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

- **CASE NO: RZ 01-22 and Annexation**, filed by Ward and Smith, P.A. as representative of Two Farms, Inc. to rezone parcel ID: 7993 890743 from R-6, Residential (R-6) to General Business (GB) and to annex and rezone parcel ID: 7993 972938 from the automatic zoning of R-15, residential once the property is annexed into the City's limits to General Business (GB). Both properties are located north of Halstead Blvd Extension and also are included in the Halstead Blvd Extension Overlay District.

Secretary Hall swore in Director Long, and the applicant.

Director Long began her presentation.

Director Long began to show case the illustration of parcels.

Director Long expressed that these parcels are hard to identify other than parcel ID and Tax number. Staff has labeled these parcels as "parcel 1 and parcel 2" as indicated on the map given in the power point.

Parcel 1 is a 37-acre tract located North of Halstead Boulevard Extension, abutting a property owned by the City of Elizabeth City that houses two communication towers, East by existing farmland, South by a 57-acre tract that is currently outside the City's

municipal limits and has a County zoning of Commercial, and West by a large storm water pond. This parcel is located in the City's municipal limits and is currently zoned R-6, residential. The applicant is requesting to rezone this parcel to General Business.

Parcel 1:

Parcel ID: 7993 890743

Existing Zoning: R-6, Residential

Tax Map Number: P56-1D

Jurisdiction: City of Elizabeth City Municipal Limits

Size: 37.06 acres

Parcel 2 is a 57-acre tract that is located on the North side of Halstead Boulevard Extension and on the East side of Mount Everest Drive North. This parcel is abutting commercial development and farmland to the West of the site, farmland to the East of the site, farmland to the North of the site, and Halstead Boulevard Extension and commercial development to the South of the site.

This parcel is located outside the City's municipal limits and is currently considered to be in the County's jurisdiction, with a County commercial zoning. The applicant is requesting for this parcel to be annexed into the City's limits before the official rezoning will take place. Once the parcel is annexed, it will automatically be zoned R-15, residential. The applicant is requesting that this parcel be rezoned to General Business.

Parcel 2:

Parcel ID: 7993 972938

Existing Zoning: County Zoning (C-1, Commercial District)

Tax Map Number: P56-8

Jurisdiction: Pasquotank County Jurisdiction

Size: 57.40 acres

Director Long stated that the Existing R-6 Residential Zoning District for Parcel 1 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.

Director Long then stated that in regard to Parcel 2, the Existing- County Commercial Zoning District is defined in the County's zoning ordinance *as certain areas that are*

designed to serve both non-residents and residents using the major state and county roads that run through the county. This district is designed to accommodate retail or service establishments customarily patronized by transient traffic, as well as non-transient traffic.

In regard to future land use, the "Joint Elizabeth City and Pasquotank County Land Use Plan (LUP)" classifies Parcel 1 as having two different future land uses, General Commercial and Medium/High Density residential. The General Commercial classification is intended to delineate lands that can accommodate a wide range of retail, wholesale, office, business services, and personal services. Areas classified as General Commercial may also include some multi-family uses, heavy commercial uses, light manufacturing and warehousing uses as well as intensive public and institutional land uses.

Director Long expressed that General Commercial classified areas are anticipated to accommodate some of the most intensive land uses found in the City's planning jurisdiction. The City's goals and policies support the use of land in General Commercial classified areas for a wide variety of retail and commercial services uses where adequate public utilities and streets are available or can be upgraded to support the intensity of development encouraged in this classification. Public and institutional land uses that support and that are compatible with this type of commercial development are also encouraged.

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.

The Joint Elizabeth City and Pasquotank County Land Use Plan (LUP) classifies Parcel 2 as having three different future land uses, general commercial, medium/high density residential, and mixed use.

Director Long stated that the "Mixed Use" classification is intended to delineate lands, in areas where there is no established urban land use pattern, that can accommodate traditional residential, general commercial, and support institutional land uses or a mixture of these land uses in a single development.

The residential density within this classification ranges from low (one dwelling per acre) to high density (8 to 12 dwellings per acre). Residential building types encouraged within this classification include single-family detached and attached dwellings, duplexes, and multifamily dwellings. Commercial uses include a variety of retail, wholesale, office, business services, and personal services.

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.

Director Long noted that the floodplain on both parcels is “unshaded X,” which means there is minimal flood risk.

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

Adjacent Zoning & Land Use

Parcel 1:

North: General Industrial (I-2): Current Land Use: Communication Towers

South: County Zoning of Commercial: Current Land Use: Farmland

East: R-15, Residential: Current Land Use: Farmland

West: General Business and R-6, Residential: Storm water pond and vacant land for expansion of Tanglewood Lake Apartments.

Parcel 2:

North: R-6, Residential: Current Land Use: Communication Towers

South: General Business (GB): Current Land Use: 7-11 Gas Station and undeveloped parcels

East: R-15, Residential: Current Land Use: Farmland

West: General Business (GB): Current Land Use: Aldi Grocery Store and undeveloped

For transportation, the initial access to both parcels would be via Halstead Boulevard Extension. Halstead Boulevard Extension is a limited access highway that is maintained by NC DOT. NC DOT has Halstead Boulevard Extension classified as a minor arterial in their functional class map. Arterials provide the highest level of mobility, at the highest speed, for long, uninterrupted travel.

The Interstate Highway System is an arterial network. Arterials generally have higher design standards than other roads, often with multiple lanes and some degree of access control. The Halstead Boulevard Connector opened to traffic in May 2004. This approximate 3.6-mile roadway connects the US Highway 17 Bypass with Elizabeth City at Hughes Boulevard.

Director Long stated that the Overlay District requires that all properties within the Halstead Boulevard Extension Overlay District shall access Halstead Boulevard at a “designated access” that has already been issued by NC DOT. Those properties that do not have direct access to Halstead Boulevard shall be granted access through those properties that do have a “designated access.” As this property is developed, further infrastructure will be required to provide access to all portions of both properties internally.

The site currently has a 10-inch water line directly across from parcel 2 on Mount Everest Drive North. There is also a 12-inch water line crossing Halstead Boulevard Extension to the parcel. There are currently no gravity or force mains abutting the site, however,

there is a 12-inch force main directly across Halstead Boulevard Extension. Due to the size of both properties and their relative location to Halstead Boulevard Extension, there will need to be further infrastructure built out to accommodate both parcels in term to access (roadways), utilities, and subdivision of property.

Director Long expressed that 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 (LUP), 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 94.46 acres. Both parcels are currently being used for farmland and are adjacent to commercial or multi-family development. As mentioned in the report, Parcel 1 is currently zoned R-6, residential and the applicant is requesting to rezone the property to General Commercial. The applicant is also requesting to annex parcel 2, which is 57.40 acres and to rezone the property once it is officially annexed to General Business.

Staff would like to remind the Commission to consider all allowable uses within the General Business zoning classification when considering this request. A complete list of uses allowed in the General Business District category can be found at the end of this report. Any development or subdivision request for the properties will be reviewed by staff and possibly other boards and committees as required through a separate process.

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

- *"The proposed rezoning request from R-6, Residential (R-6) to General Business (GB) for the 37.06 acres (Parcel ID: 7993 890743) located north of Halstead Blvd Extension is found to be consistent with the Future Land Use Map, area's zoning pattern and existing land use and zoning."*
- *The proposed annexation and rezoning request from R-15, residential (R-15) to General Business (GB) for the 57.40 acres (Parcel ID: 7993 972938) located north of Halstead Blvd Extension 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 Long introduced the representative for the applicant, Attorney Drake Brinkley, to the Commission.

Attorney Brinkley introduced himself to the Commission as a commercial real estate attorney with "Warren Smith" in Greenville, NC. He is representing the applicant in regard to "Two Farms Inc." and their client "Royal Farms."

Attorney reiterated the reasoning for this request for rezoning and annexation. The aim is to prepare the site for commercial development, including a portion of the property being used for a Royal Farms convenience store. Royal Farms is a high-end convenience store company with a headquarters located in Baltimore, Maryland.

They have over 250 locations throughout the Mid-Atlantic region, with hopes to expand their footprint in North Carolina. They are similar to "Sheets," another higher end convenience store, and they would be a significant asset to the community.

The property is just East of major shopping centers, such as TJ Maxx and Walmart, and is currently vacant and is within the Halstead Boulevard Extension Overlay district. This will subject the property to various design standards to make the ultimate design consistent with the other businesses in that area.

Attorney Brinkley stated that proposed zoning is consistent with the area given the commercial corridor along Halstead Boulevard, and mentioned several of the businesses in that area. The proposed zoning is also consistent with the Future Land Use Plan, which shows General Commercial coming into both parcels. The proposed development will provide a beneficial use to the community.

Commissioner White inquired about why Royal Farms needs the number of acres, 94 acres, requested.

Attorney Brinkley stated that they decided buy this entire project. He also mentioned that he was not involved with the negotiations of the contract. What took place between the buyer and seller is unknown to him, however, it is known that Royal Farms in the development business and have the capacity to develop property. That can be considered a big advantage as they are willing to take down 94 acres, and look at potentially developing that property.

Attorney Brinkley believes that the Royal Farms Convenience store would be developed first, although there are no plans set in place as of yet. The plan for said convenience store is still in the concept stage, as staff has had some discussions in regard to it. There also is no set plan for the balance of the acreage at the moment, however, the design of the area provides the possibility of a "big box" development potentially being the obvious choice for that property.

Commissioner White noted that he would have to get past annexation first.

Attorney Brinkley concurred, noting that it would increase the tax basis.

Commissioner Johnson inquired into how long Royal Farms had been in business.

Attorney Brinkley stated that he did not have the exact timeframe in front of him, as this is only the second Royal Farms project he had been a part of that has gone in front of a board, but noted that he would find out that information for him. He does not have a ton of background into their years in business.

Chairman Sutton asked who the CEO of Royal Farms was.

Attorney Brinkley stated that he did not know, as he primarily deals with their land development as their real estate developer. They have an outside general counsel who does a lot of their work. Its customary that when a business is doing development in other areas that they hire land use counsel that's local to the area.

Commissioner White inquired into what other developments that Royal Farms has been involved in.

Attorney Brinkley stated that his not aware of the other projects, as he is only aware of the convenient stores.

Commissioner White stated that he hates to lose farm land, agriculture is the city's largest economical income.

Attorney Brinkley stated that he understands that point of view as he is from Craven County originally, thus he thoroughly understands farmland.

Director Long reminded the Commission that in the case of rezoning, the applicant does not have to provide any types of uses on what the property will become. They have to consider all of the uses in the permitted use table. There is nothing concrete in the case of a rezoning.

Chairman Sutton asked if the Commissioners held any questions for the applicant.

There were no further comments.

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.: RZ 01-21 and ANNEXATION**. Commissioner White properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, JOHNSON, AND GOODSON. NONE OPPOSED. MOTION CARRIED.**

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

- **CASE No: SUP 01-22**, submitted by Ashley Martin for the property located at 110 North Road Street for the use of a cocktail bar and lounge. The applicant is proposing to sell cocktails, and selected choices of beer and will be considered a private club under ABC laws and regulations, which will require an annual membership by current North Carolina law.

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: Central Business (CB) – Vacant Retail, Dance Studio, and Public Offices/Library

South: Central Business (CB) – Vacant Retail and Vacant Building

East: Central Business (CB) – Vacant Buildings

West: Central Business (CB) – Muddy Water’s coffee shop, Private Parking lot

This property is located in the Central Business Zoning District. The Central Business Zoning District is primarily intended to accommodate a wide variety of commercial activities, particularly those that are pedestrian-oriented, in an intensive development pattern in the city’s central business district (CBD).

The regulations of this district are intended to preserve the general character and integrity of the current development in the Central Business District; encourage land uses which provide for a multi-purpose, including retail, offices, services, entertainment, institutional uses, and living space; encourage land uses which do not require large amounts of outdoor use areas; encourage common or shared off-street parking; and encourage the continued use of land for governmental activities.

Director Long began to provide a brief history of the property in question. The Southern Hotel is listed in the 2020 National Register Survey as 102 East Main Street. This is a corner lot, in which the building faces East Main Street and then the building along North Road Street. The 2020 description details that the site was occupied by a hotel since 1829. The description also describes that the present façade dates back to a 1925 renovation. In October of 2010, a special use permit was granted at this location for the operation of the Cave, which was a member’s only nightclub/bar.

At that time there were several building deficiencies which were brought up to code to allow the operation of the bar. In July of 2014, a new bar moved into the space running under the special use permit issued for the Cave back in 2010. The bar/lounge changed hands for the third time in April of 2018, to Shadows Lounge.

Shadows Lounge received a formal letter of rejection from the North Carolina ABC Commission in February of 2020 for evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises and noncompliance with ABC laws. When Shadows lounge received a formal letter of rejection in 2020 from the North Carolina ABC Commission, the special use permit that was previously running on the property for a bar/nightclub/tavern was revoked.

Director Long thoroughly expressed that this request for a special use permit for a cocktail bar/lounge should be treated independently from any previous history on the property. An inspection of the unit was conducted two months ago by the City's fire marshal, building inspections division, and planning division. The building inspections division noted that the current bathrooms in the unit are ADA compliant.

The building inspections division had some concerns with the conditions of the roof line in an adjoining unit to 110 North Road Street, which was addressed as 112 North Road Street, that was previously opened to this unit under the last bar ownership. These two units were previously open to each other internally by the last owner/tenants in the unit. However, that opening will be required to be permanently closed and sealed off with some form of permanent construction as approved by the Building Inspector.

If this occupant ever wanted to re-expand into 112 North Road Street, the roof line deficiencies would need to be addressed before it could be occupied, as well as approval from the fire marshal's office for layout and occupancy number of the space as well as a formal expansion for consumption area through the ABC commission.

Director Long noted that when one applies for their ABC permit

Land Use Plan

The proposal is located in the Downtown Mixed Use (DMU) land use classification. This classification delineates lands that can adapt to a wide range of retail, office, business services, and personal services. This classification may also include medium and high density residential including office and institutional land uses. This land use designation also specifically includes waterfront tourist oriented land uses. Adequate public water and sewer are needed to support the intensive land uses within this classification. In addition, it is necessary for the streets to have the capacity to support the higher traffic volumes. Where there are adequate streets and utilities, the City's goals and policies support the use of land in the DMU classification for a wide variety of retail and commercial uses intermixed with multi-family units. This proposal is not inconsistent with this land use classification. Additionally, the proposed use is not identified as being inconsistent with the land use policies

Transportation

Access to the property is via North Road Street. The Elizabeth City Thoroughfare Plan, adopted in June 1996, designates North Road as a major thoroughfare. Major thoroughfares serve as the primary traffic arteries of the city. Developed to function as intra- and inter-city roadways, major thoroughfares also serve abutting property. The Plan advises against unchecked and/or strip development along this category of roadway because such development significantly decreases the ability of the thoroughfare to carry traffic and each driveway is a danger and impediment to traffic flow. Although typically developed for higher traffic volumes at higher speeds, this section of Road Street maximum speed limit is 25 mph.

SPECIAL USE PERMIT CRITERIA

(Reference Ordinance §§ 11-4.14)

Development Standards for Bar, Night Club, and Tavern

- (A) Where Required**
CB, GB, HB, NB, CMU, I-1, and PDM districts.
- (B) Use Separation**
Except in the Central Business District, no bar, night club or tavern shall be located within 500 feet of any other bar, night club or tavern, or residentially-zoned property.
- (C) Property Separation**
No such establishment shall be located within 200 feet of a church, elementary or secondary school, public park or residentially-zoned property.
- (D) Frontage**
The main entrance of the building shall be toward a street where the abutting property is zoned predominantly for non-residential use.
- (E) Screening**
A minimum 6-foot high opaque fence shall be erected adjacent to the property line of abutting residences.
- (F) Parking**
Parking areas related to the establishment shall be located no closer than 30 feet to the property line of abutting residences.
- (G)** The use will not be injurious to adjoining property.

UDO REQUIREMENTS FOR SPECIAL USE PERMITS

Board of Adjustment Requirements for Special Use Permits:

Pursuant to Section 4-7.8 the Board of Adjustment can impose reasonable and appropriate conditions agreed upon by the applicant to insure compliance with the general goals, policies, or standards of the Unified Development Ordinance, UDO. Such conditions may be imposed in order to prevent or minimize adverse impacts on surrounding properties. A Special Use Permit shall only be approved upon determination that the development proposed complies with all the findings set forth in section 4-7.8 of the UDO. These findings are as follows:

- 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 Unified Development Ordinance, Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the City Council.

Board of Adjustment may not attach additional conditions that modify or alter the specific requirements set forth in the UDO unless the requested development presents extraordinary circumstances that justify the variation for the specified requirements. It should be noted that the Board of Adjustment has the authority to attach a condition limiting the duration of a Special Use Permit.

After reviewing the Special Use Permit application, the Technical Review Committee had a unanimous vote to grant **conditional approval** with staff comments and conditions for the permit.

Staff Comments

The application as submitted is generally complete and meets the design standards for a bar, nightclub, tavern operation at the proposed site. The proposed site is located in the Southern Hotel within the CB zoning district. Bars/Nightclubs are an allowable use in the Central Business (GB) district with a Special Use Permit. Since the site is located within the Central Business District, there are no parking requirements for the use.

The Land Use Classification for the site is Downtown Mixed Use. This proposal is not inconsistent with this land use classification. Additionally, the proposed use is not identified as being inconsistent with the land use policies.

The proposed site meets the required property separation of 200 feet of a church, elementary or secondary school, public park or residentially-zoned property.

During the review process, Staff did not receive any objections to the application from other departments.

The site is located within the Historic District and will require a Certificate of Appropriateness from the Historic Preservation Committee for any signage and all exterior improvements to the structure.

Staff Recommendation:

The Ordinance mandates that after review of the application, the Planning Commission shall report to the Board of Adjustment whether it concurs in whole or in part with the TRC proposed findings and conditions, and to the extent that there are differences, the Commission will propose its own recommendations and the reasons therefore. In granting the Special Use Permit, the Ordinance permits the attachment of reasonable requirements that will ensure the development/use will meet the previously listed criteria. The Board of Adjustment may attach a condition limiting the permit to a specified duration.

Staff notes that the request as presented is in compliance with the development standards found in UDO Article 11-4.14. If the Planning Commission recommends approval of the permit, staff suggests the following conditions:

- 1) *Comply with the Special Use Permit criteria for bars, night clubs, and taverns found in Article 11-4.14 of the Unified Development Ordinance*
- 2) *The applicant shall secure building permits for any electrical, HVAC and/or structural work;*
- 3) *Final inspections by the City's Building Inspection's Department, Fire Marshal's Office, and Albemarle Regional Health Services shall be conducted before operations begin.*
- 4) *Prior to opening, the Applicant shall secure an ABC permit for the operation of a private club;*
- 5) *Access to the third unit (112 North Road Street) is to be properly enclosed and sealed off with some form of permanent construction as approved by the Building Inspector before operations begin.*

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.: SUP 01-22**. Commissioner Goodson properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, JOHNSON, AND GOODSON. NONE OPPOSED. MOTION CARRIED.**

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

- **CASE No.: SUP 02-22**, submitted by Landmark Engineering and Environmental, PC on behalf of Freedom Baptist Ministries for the development of a 13,308 sf

church with 240 seats to be located at 957 Body Road. This property is located in the City's Extraterritorial Jurisdiction and the R-15, residential zoning district.

This concluded Director's long presentation.

Director Long then introduced the applicant to the Commission.

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

Commissioner White made a **APPROVE** the request for **CASE NO.: SUP 02-22** Vice Chairman Biggs properly seconded the motion. **ALL IN FAVOR: BIGGS, JOHNSON, WHITE, AND GOODSON. 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.

Commissioner White made a motion to **DELAY ACTION** for **CASE No: TA 01-22**. Vice Chairman Biggs properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, JOHNSON, AND GOODSON. NONE OPPOSED. MOTION CARRIED.**

Staff Report

There was no staff report held.

Chairman's Report

Member Concerns

No member concerns mentioned.

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

The meeting concluded at approximately 5:21 PM.

Submitted Respectfully,

Brian Hall-Secretary of the Commission

DRAFT