

**CITY OF ELIZABETH CITY  
PLANNING COMMISSION  
REGULAR SCHEDULED MEETING  
TUESDAY, October 3, 2023  
4:00 PM**

**MEMBERS PRESENT**

Ernest Sutton  
Gary White  
Cameron Reynolds  
Adam Swain

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

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, February 7, 2023 Planning Commission minutes from the agenda. Commissioner White made a motion to **APPROVE** the motion. Commissioner Swain properly seconded the motion. **ALL IN FAVOR: REYNOLDS, SWAIN, WHITE. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton called for a motion to approve the Tuesday, July 11, 2023 Planning Commission minutes from the agenda. Commissioner White made a motion to **APPROVE** the motion. Commissioner Swain properly seconded the motion. **ALL IN FAVOR: REYNOLDS, SWAIN, WHITE. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton called for a motion to approve the agenda. Commissioner Swain made a motion to **APPROVE** the agenda. Commissioner Reynolds properly seconded the motion. **ALL IN FAVOR: REYNOLDS, SWAIN, WHITE. NONE OPPOSED. MOTION CARRIED.**

Mr. Hall, secretary to the Commission read the **STATEMENT OF DISCLOSURE** as follows:

Elizabeth City Code of Ethics provides that public officials and employees be independent, impartial, and responsible to the public; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals and in keeping with the ethical standards of conduct for city public officials and its employees, disclosure of interest in legislative action must be stated for public record, as per City of Elizabeth City Code of Ordinances

Section 32.04. Any official act or action before the Planning Commission shall be publicly disclose on the record of the Commission the nature and extent of such interest and the Commissioner shall withdraw from any consideration of the matter if excused by the Commission pursuant to G. S. 160A-75.

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

- **CASE NO.: RZ 01-23** filed by Homelink Properties, LLC for property parcel number 891307689315, located at 00000 Culpepper Street. The applicant is requesting to rezone the property from Office & Institutional (O&I), to General Business (GB).

With this being a quasi-judicial hearing, Secretary Hall Swore in all who would be speaking for this case.

Planner Hoeltzel began her presentation.

Planner Hoeltzel stated that this property is located on the corner of Grice Street, Spellman Street, and Culpepper Street. It is the parking that used to be used by Bankers Insurance.

The following depicts land uses and adjacent zoning information:

**ADJACENT ZONING & LAND USES**

- North:** Residential (R-8) – Mostly single family residential, Mt. Lebanon Church, one small cemetery.
- South:** General Business (GB) – Old Banker’s Insurance, general commercial along Ehringhaus Street.
- East:** General Business (GB) – Aaron’s Furniture, Firehouse Subs.
- West:** General Business (GB) – Goodwill Inc., Mi Cancun Restaurant.

The property is currently zoned Office and Institutional District (O&I), and is primarily intended to accommodate office; public and institutional; business, professional, and personal services; limited support retail. The maximum density, minimum setbacks, and on-site parking requirements will be determined by the City Council. One of the objectives of this district is to encourage land uses which serve as an adequate buffer between intensive nonresidential uses and residential uses.

Planner Hoeltzel stated that the proposed General Business (GB) district is established as a district in which to accommodate a wide range of retail; business, professional, and personal services; office; and limited wholesale uses. Multi-family developments are also permitted within this district.

The maximum residential density allowed within the General Business District is

approximately 10 to 12 multi-family dwelling units per gross acre. Along the site runs city maintained water lines and gravity main. City electricity is available

The Joint Elizabeth City and Pasquotank County Land Use Plan (LUP) lists General Business zoning as being generally consistent with General Commercial usage. The LUP gives minimum lot sizes of 15,000 to 43,000 square feet for general commercial designations. Within these designations lot coverage is limited to 50% of the gross lot area, and buildings are limited to 40 feet high.

Commercial development density is outlined to average one commercial establishment per two acres of land. The Future Land Use Map (FLUM) depicts the general location of projected patterns of future land uses. However, the LUP also states that the use and development of a parcel is determined in conjunction with other factors such as the property owner's desires, market conditions, effects on adjacent properties, available infrastructure, and other tools the City may use to regulate development.

Planner Hoeltzel began to state the Elizabeth City Land Use Compatibility Policies as the following:

**Elizabeth City Land Use Compatibility Policy**

- ***Policy 2:*** *Elizabeth City shall encourage development and redevelopment to occur at densities appropriate for a location consistent with the land use classifications delineated in **Section 4.3.2**. The location and density factors shall include the type and capacity of sewage treatment and water available to the site, the adequacy of transportation facilities to access the site, and whether the development is within an environmentally suitable area.*

Planner Hoeltzel stated that the property is currently zoned O&I and in the past has served as parking for the business that occupied the old Banker's Insurance building. The property is directly adjacent to single-family dwellings, and in close proximity to a religious institution. The property has frontage along three city-maintained streets which have a right of way of 40 feet or less.

The LUP states that parcels with general commercial designation should have roads with the capacity to accommodate the higher traffic levels that come with commercial development. *Elizabeth City Land Use Compatibility Policies* indicate that poorly planned or incompatible commercial developments within or adjacent to residential properties should be constrained.

Planner Hoeltzel noted that the general minimum lot size given by the LUP for general business parcels is 15,000 square feet, which this parcel is 12,632 square feet. The LUP states that the general density of commercial development is projected to average one commercial establishment per two acres, this property is .29 acres. Rezoning this parcel

to General Business would extend the General Business district that exists along Ehringhaus Street into the parcel which is bordered by residential uses to the north and east.

Per the Elizabeth City Unified Development Ordinance, one of the objectives of O&I zoning is to serve as a buffer between residential and intensive non-residential uses. Rezoning this parcel to General Business (GB) Zoning would no longer give a zoning buffer to the adjacent residential zoning of this area as this parcel is located directly adjacent to residential properties.

Planner Hoeltzel expressed that when determining whether to approve or deny a rezoning, Staff considers the area's zoning pattern, adjacent land uses, the Joint Pasquotank County and Elizabeth City Draft Land Use Plan, as well as the impact on roads and City services such as water and public safety. Planning Staff also takes into account the impact the rezoning will have on the adjacent property owners and neighbors.

The applicant intends to develop the property with a 30'x60' warehouse as storage for construction equipment and building materials with the previous Banker's Insurance building to be used as a showroom/sales center. The applicant noted that the storage warehouse facility will require an additional electric and water meter.

Considering the Land Use Plan and the neighborhood characteristics, staff is of the opinion that the proposed zoning is inappropriate for the area and inconsistent with the Elizabeth City and Pasquotank County Land Use Plan and adjacent property usage and thus recommends this rezoning be DENIED as presented.

Planner Hoeltzel referred to Interim Director Goodson for additional comments on the matter.

Interim Director Goodson stated that although the Land Use Plan recommends Commercial for this area, it is only a policy document and not a regulatory document like the Unified Development Ordinance. Staff will follow the comprehensive plan as best as possible, but they don't always do it. When looking at a comprehensive plan, one is looking into the future many years down the line. That doesn't mean its time to rezone it now.

When one looks at how Residential zoning is taking up the rest of the block, staff is of the thought that this rezoning is premature and not right yet. With the intended use here being a 30x60 warehouse used to store construction materials adjacent to single family homes, that does not seem appropriate. A buffer is typically needed between intense uses and less intense uses. An office use next to a single family would be more appropriate, for example, than a warehouse being next to the same use. For those reasons, staff recommends the DENIAL of this rezoning case.

Chairman Sutton asked the applicant if they would like to speak.

The applicant, Mr. Christopher Noble of Homelink Properties, introduced himself to the Commission.

Applicant Noble stated that he heard concerns from staff and that he is willing to do whatever it takes to make the building fit in more with the residential makeup of the area.

Commissioner Reynolds asked for an example of the construction equipment to be stored.

Applicant Noble stated that the building that this building will not be going up immediately. The equipment used will include flooring, landscaping and appliances equipment.

Commissioner Reynolds asked if all the equipment would be inside.

Applicant Noble confirmed that it would be.

Commissioner Reynolds stated that he held a concern about there being junk or materials being stacked outside, which could bring down the property value and becoming an eyesore. He asked if there would be fencing as well.

Applicant Noble stated that the property will be vacant for possibly two years. Trucks and vehicles would be parked on it. The trailers would be filled with the items that can't fit in the building.

Chairman Sutton stated that he understands that the property had not been purchased yet, and that the applicant cannot guarantee that the property would not become an eyesore.

Applicant Noble expressed a guarantee that it would not become an eyesore.

Interim Director Goodson mentioned the differences between Conditional Rezoning and Non-Conditional Rezoning, noting that if there are no conditions in place then the individual could say there are doing one thing, but end up doing something completely different.

Commissioner Swain expressed that he believes that there are safeguards in place to prevent such an incident from occurring, mentioning that he himself is having to go through the zoning process for a development he has.

Applicant Noble stated that they had not closed on the property due to the lender

requiring that they get flood insurance on the lot, while their insurance agent stated that flood insurance can't be put on an empty lot. Thus, the loan had to be restructured.

Chairman Sutton asked if there were any petitioners that would like to speak.

Mr. Tony Spence stepped to the podium. He stated that he owns the lot two doors down from the property in question. He held the concern was that having a building of that type would cause a lack of peace for those living there due to the foot traffic and noise that would come about.

This concluded Planner Hoeltzel's presentation.

There were no further questions or comments held by the Commissioners.

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

Commissioner Swain made a motion to **APPROVE CASE No: RZ 01-23** as presented Commissioner Reynolds properly seconded the motion. **ALL IN FAVOR: SWAIN, REYNOLDS. COMMISSIONER WHITE OPPOSED THE MOTION. MOTION CARRIED DUE TO MAJORITY RULE.**

This concluded the new business items.

### **Old Business**

There were no cases on the agenda for old business.

### **Staff Report**

Interim Director Goodson noted that he has been working on scheduling training for all the presiding boards of the planning department, and a date for be sent once all plans are in place.

This concluded the Staff Report.

### **Chairman's Report**

There was no Chairman's report

### **Member Concerns**

This concluded the Member Concerns.

Chairman Sutton asked the if there was a motion on the floor for adjournment.

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

The meeting concluded at approximately 4:44PM.

Submitted Respectfully,

Brian Hall-Secretary of the Commission

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