MEMORANDUM

TO: Mayor and City Councilors

FROM: Rich Olson, City Manager
June Brooks, Director of Planning & Community Development

DATE: March 24, 2016

REF: **Consideration** – HOLD a Public Hearing for RZ 01-16 filed by Mark Gregory of MaSuKi, Inc. to rezone approximately 21.265 acres from Residential R-15 to Apartment District (AD). The property is located on the southwest side of Halstead Boulevard abutting Millbrooke Circle and Body Road. (PINs 891303431311, 891303420383, and a portion (14.193 acres) of PIN 891303326681)

BACKGROUND:

During your March 14, 2016 City Council meeting, a Public Hearing was called for March 28, 2016 to consider rezoning request RZ 01-16. MaSuKi Inc., (Mark Gregory) requests to rezone approximately 21.265 acres of the above referenced parcels from Residential R-15 to Apartment District (AD). The applicant is further requesting to annex 16.022 acres of the total 21.265 acres into the City Limits.

ANALYSIS:

The applicant intends to purchase the aforementioned properties from its current owners, the Ralph O. Davis Testamentary Trust, upon approval of the annexation and rezoning request. It is the applicant's intention to utilize the property to develop an apartment complex consisting of 216 market-value units, a club house, swimming pool, exercise room, business center, playground, dog walk, walking trail and picnic area.

The applicant held a community meeting February 2, 2016 at 7:00 p.m in the City Council Chambers. Twenty-two individuals from the community, the applicant, the applicant's engineer, planning staff, City Manager, and Councilman Brooks, King and Walton were in attendance. After presenting an overview of the project, the applicant addressed community concerns relating to traffic circulation and stormwater management. In an attempt to minimize the effects on the neighboring Millbrooke Subdivision, the applicant revised the traffic circulation and will now

utilize Body Road for the primary ingress and egress into the complex and use Millbrooke Circle for emergency access only. The applicant's engineer, Kim Hamby of Eastern Carolina Engineering explained in detail the stormwater management for the site. While increased flooding is a concern to the neighborhood, Mrs. Hamby explained that Millbrooke's retention ponds were designed for a 10 year storm event (5 ½ inch rainfall in a 24-hour period). The new requirement from the state requires additional on-site retention. At the 25 year storm event (71/2 inch rainfall in a 24-hour period) and the slower release, there would be less runoff from the developed site than from the current unregulated runoff.

The application was reviewed by the Planning Commission during their meeting on March 8, 2016. The applicant and his attorney, Thomas Nash, discussed changes made to the site plan as a result of citizen concerns raised in the community meeting. In addition to the modification of the entrance off of Millbrooke Circle, the applicant is including a fifteen foot wide berm to be landscaped with mature trees and shrubs, an enlarged stormwater pond, which would exceed State stormwater standards, and orientation of the garages and parking lot lighting to minimize light "spillover" into the neighboring subdivision. The applicant noted the stormwater analysis had been approved by both the Pasquotank County Engineer as well as the Elizabeth City Public Works Director. To help alleviate safety concerns, the applicant stated the complex would be managed by MaSuKi, Inc. who would require extensive background checks of all potential residents, video surveillance systems would be installed in the parking lot, and quarterly maintenance inspections would be conducted of all apartments.

One resident of the adjacent Millbrooke neighborhood was in attendance and spoke in opposition to the request, raising concerns regarding traffic, stormwater, and property values. He requested that it be put in writing that the ingress/egress off of Millbrooke Circle was to be gated and for emergency purposes only. He further requested a copy of the stormwater analysis conducted by the applicant's engineer. Finally, with regards to property values, the resident admitted that the assumed decrease in property values was purely speculative, but noted for the record he was not in favor of having an apartment complex in his backyard.

After considering the proposed rezoning's compatibility with the surrounding mixed land uses, the Land Use Plan, as well as the public comments, the Commission found the request to be in harmony with the area and consistent with the City's Land Use Plan. By a 5-1 vote, the Planning Commission voted in favor of the AD-Apartment District rezoning request contingent upon annexation by the City Council. No reasoning was provided for the lone opposing vote.

The impact fees and increased property taxes generated by this project would contribute to Council's overarching goal to ensure sound fiscal responsibility. Furthermore, the project would spur job creation through the construction process as well as the long-term management and maintenance of the complex, again contributing to Council's goal of increasing community-wide business development opportunities to increase the quantity and quality of jobs.

STAFF RECOMMENDATION:

After the close of the public hearing:

By motion, adopt the attached consistency statement and ordinance to approve the Rezoning Request RZ-01-16 to rezone approximately 21.265 acres from Residential R-15 to Apartment District (AD) and further identified as PINs 891303431311, 891303420383, and a portion (14.193 acres) of PIN 891303326681

Ordinance # 2016-03-_____
Rezoning Request RZ-01-16
(PINs 891303431311, 891303420383, and a portion (14.193 acres) of PIN 891303326681)

WHEREAS, on March 8, 2016 , the Planning Commission reviewed Petition RZ-01-16 by MaSuKi Inc., (Mark Gregory) to rezone approximately 21.265 acres from Residential R-15 to Apartment District (AD) and further identified as PINs 891303431311, 891303420383, and a portion (14.193 acres) of PIN 891303326681 ; and

WHEREAS, the Planning Commission considered public comment given at that meeting; and

WHEREAS, the allowed uses in the Apartment District (AD) zoning district will be compatible with the areas mixed land use; and

WHEREAS, the proposed zoning will be consistent with the area's mixed zoning patterns; and

WHEREAS, the Joint Pasquotank County/Elizabeth City Land Use Plan was considered; and,

WHEREAS, after consideration of the technical merits of the request, the Planning Commission recommends approval.

NOW THEREFORE, BE IT ORDAINED that the City Council of the City of Elizabeth City does hereby approve this request to amend the Official Zoning Map to show that a portion of the above referenced parcel as AD (Apartment District).

ADOPTED, this the 28th day of March, 2016.

_____
Joseph W. Peel
Mayor

Attest:

_____
Vivian D. White, CMC/NCCMC
City Clerk

Case No.

RZ 01-16

Description/Location

The 21.265 acre tract is comprised of three parcels and located southeast of the intersection of Halstead Boulevard and Millbrooke Circle. The 5.2 acre parcel fronting Halstead Boulevard is the only parcel that currently lies within the City Limits

Parcel Information

Parcel Identification Number 891303431311, Tax Map P90-29-2; Parcel Identification Number 89130420383, Tax Map P90-29-1; Portion of Parcel 891303326681, Tax Map P90-29C

Owner

Jacque S. Pagels, Executor

268 Ainsley Road

Herford, NC 27944

Applicant

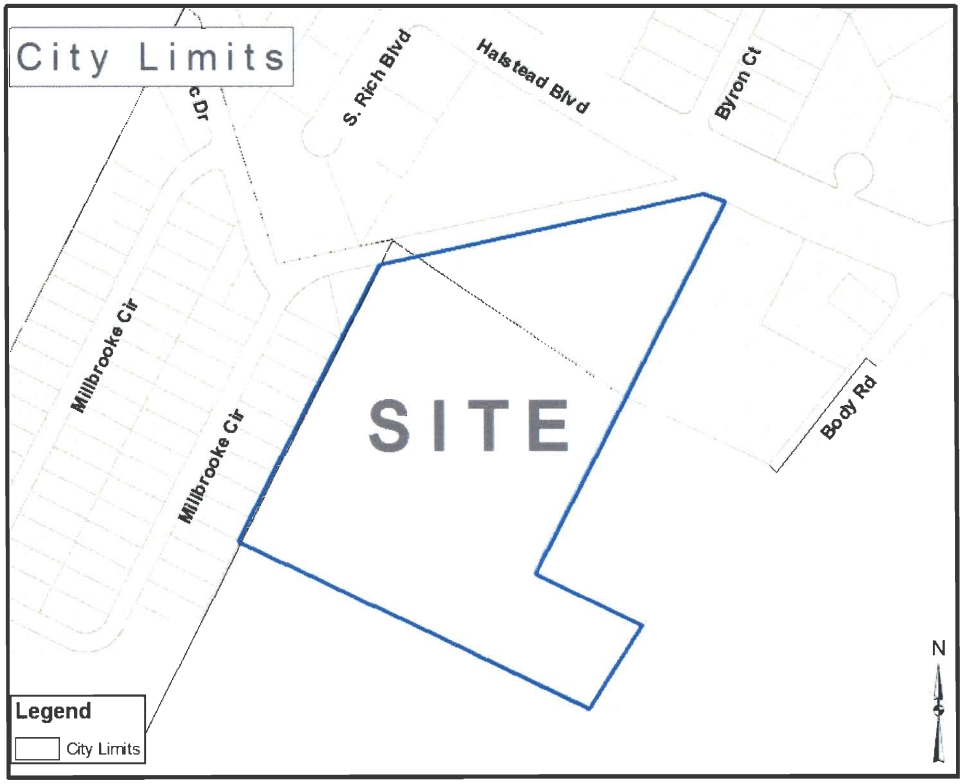
MaSuKi, Inc.
P.O. Box 374
Camden, NC 27921

Existing Zoning

R-15 Residential (R-15)

Proposed Zoning

Apartment District (AD)



City Limits

5.243 acres

Extraterritorial Jurisdiction

16.022 acres

Floodplain

The site is located within the 100 year floodplain.

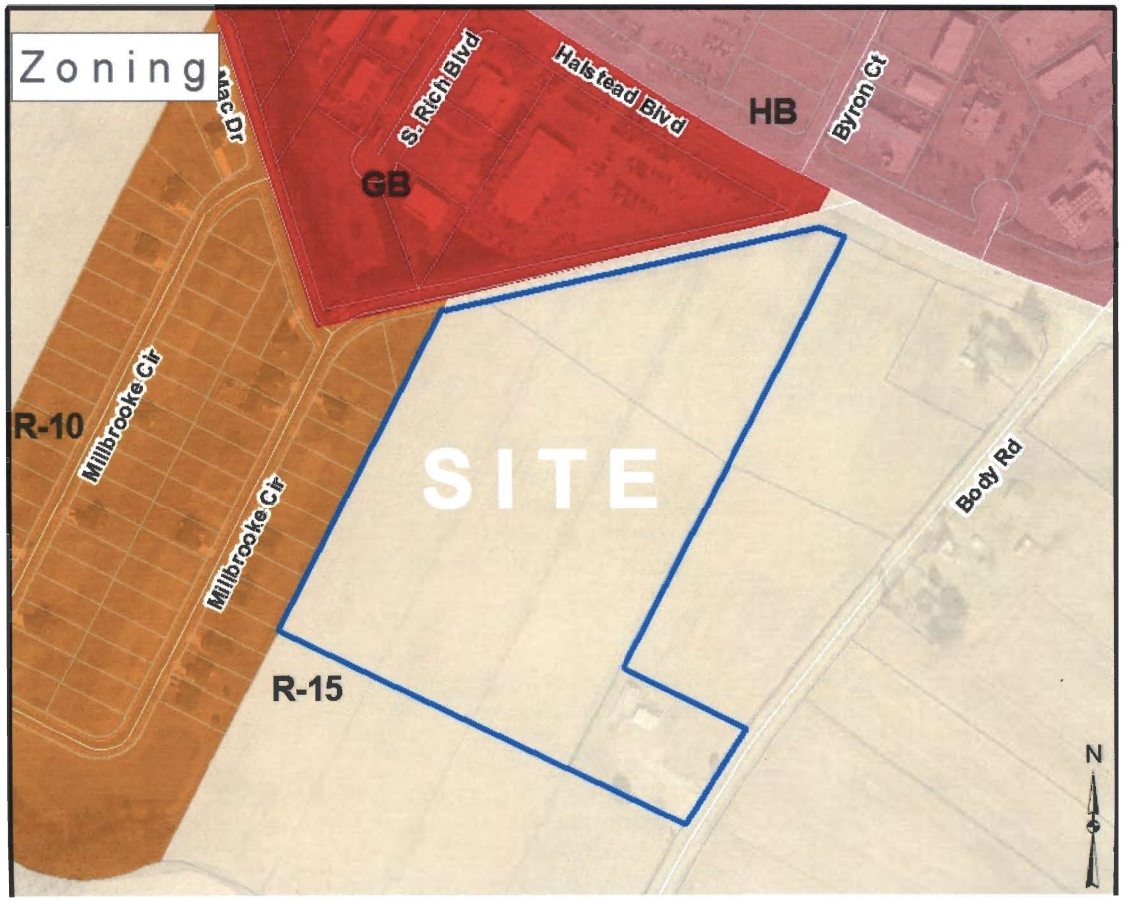
Adjacent Zoning & Land Use

North: General Business and Highway Business; car dealership, gas station, restaurant
South: R-15 Residential; vacant properties
East: R-15 Residential; single-family residential, vacant properties
West: R-10 Residential and General Business; single-family residential, car dealership

Zoning Summary

Existing—R-15 Residential District

The R-15 Residential District is primarily intended to accommodate a variety of low density single-family detached dwellings, and modular homes. Maximum densities within the R-15 District include approximately 3 dwelling units per gross acre for single-family detached dwellings. Where public water and sewer in not available, a minimum of 40,000 square feet in lot area shall be required for each single-family residential lot. Nonresidential uses permitted within this district include customary

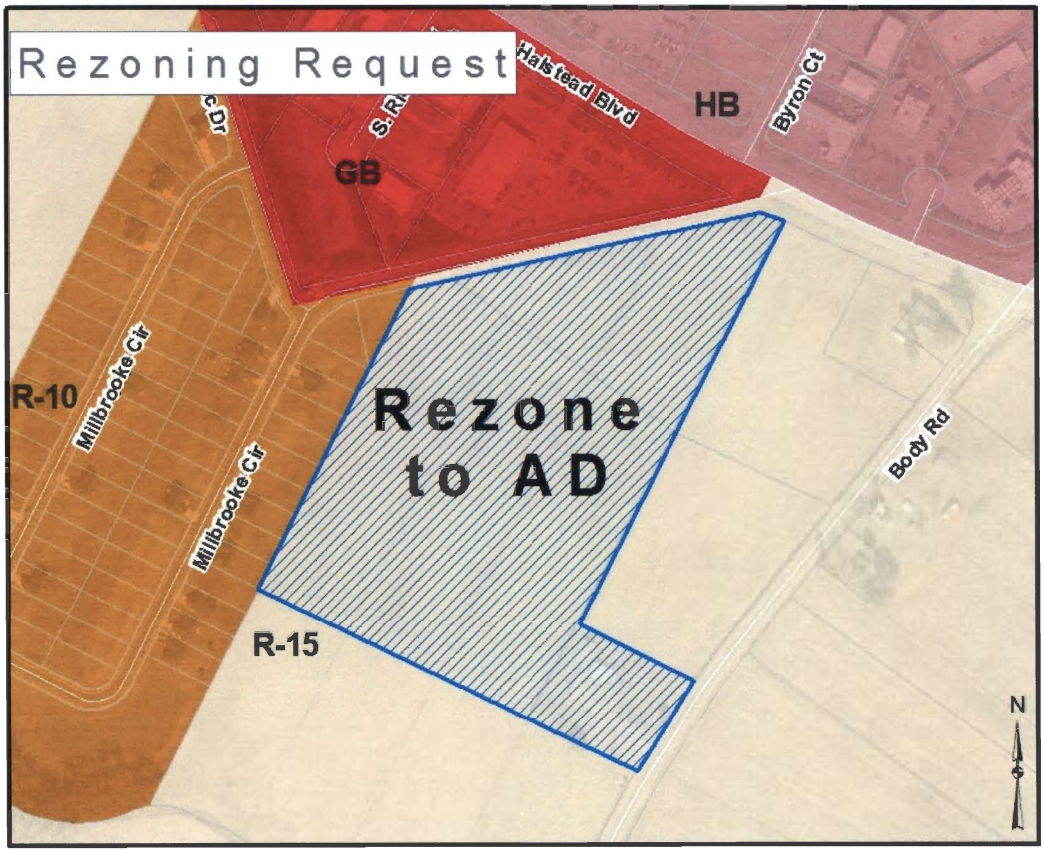


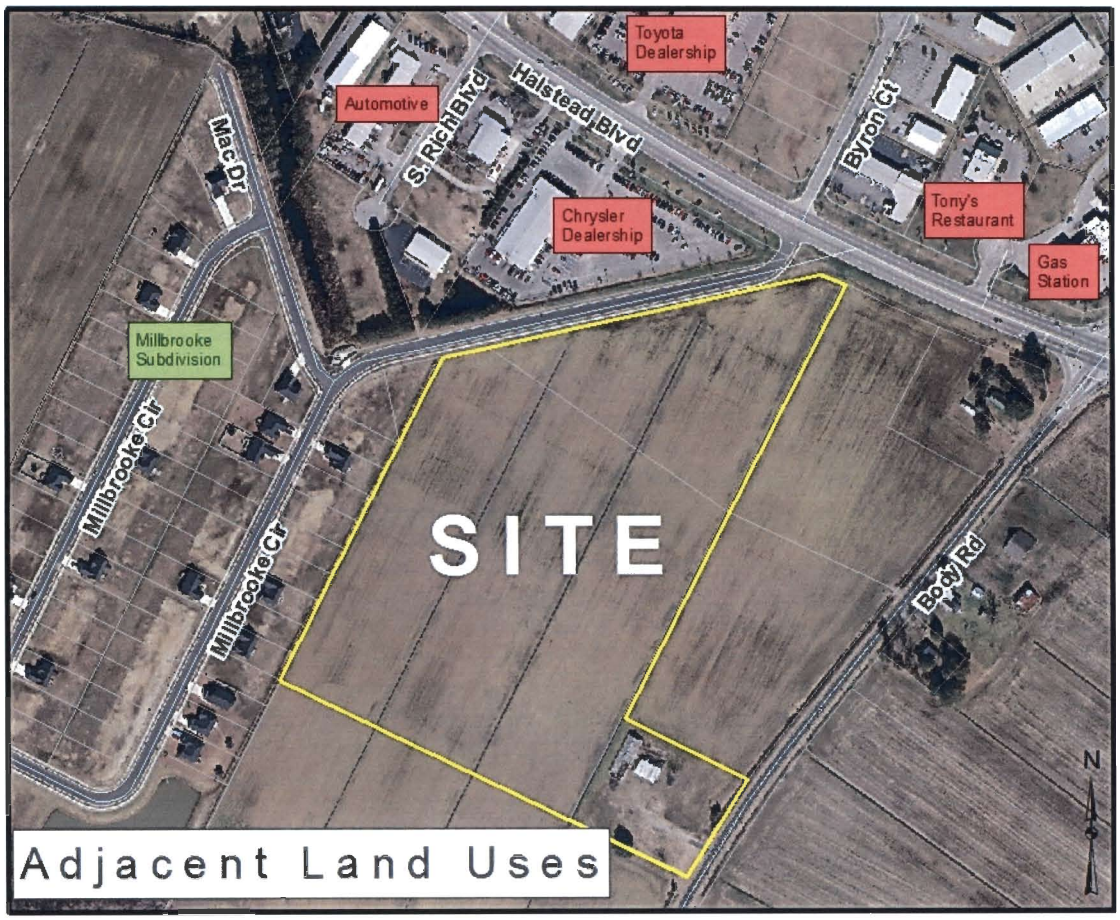
accessory, recreational, educational, and institutional land uses that are compatible with the low density residential character of the R-15 District. Because much of the city's extraterritorial jurisdictional area is transitioning from a rural character to an urban character and is included within the R-15 District, some limited agricultural uses are also allowed in this district.

Proposed—AD Apartment District

The AD Apartment District is primarily intended to accommodate a variety of high density single-family detached dwellings, modular homes, two-family dwellings, and multi-family dwellings. Maximum densities within the AD District include approximately 7 dwelling units per gross acre for single-family detached dwellings, 9 dwelling units per gross acre for two-family residences, and 20 to 22 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 high density residential character of the AD District.

Some of the permitted uses with the Apartment District zoning classification include: multifamily dwellings (subject to development standards), duplex, single-family detached dwelling, public park or recreational facility (subject to development standards), and a church (with the issuance of a special use permit). A complete list of permitted uses is included with this report.





Transportation

Access to the property is via Halstead Boulevard, Millbrooke Circle and Body Road. The Pasquotank County-Elizabeth City Capital Transportation Plan (CTP) adopted in 2016 classifies Halstead Boulevard as a major thoroughfare, more specifically, a loop facility intended to handle traffic between outlying areas and act as a connector between radials. Halstead Boulevard is the primary loop for the southern part of the area. It connects major radials with each other and with U.S. 17.

Millbrooke Circle is considered a local access street designed to provide access to an abutting property. Such streets are not intended to carry heavy volumes of traffic and should be located such that only traffic with origins and destinations on the streets could be served.

Finally, the CTP classifies Body Road as minor thoroughfare used to collect traffic from local access streets and carry it to major thoroughfares. They may in some instances supplement the major thoroughfare system by facilitating minor through traffic movements. A third function that may be performed is that of providing access to abutting property. They should be designed to serve limited areas so that their development as a major thoroughfare will be prevented.

One concern raised by residents of the adjacent Millbrooke Subdivision during a community meeting facilitated by the applicant on February 2nd was an increase in traffic which would negatively impact public safety. To address this concern and

minimize impacts on the adjacent Millbrooke subdivision, the applicant has amended his initial proposal and now intends to utilize Body Rd to provide the primary ingress and egress to the property and will limit access from Millbrooke Circle to a gated access point for emergency use only. Per Randy Midgett, District Field Engineer for the North Carolina Department of Transportation (NCDOT), if the rezoning and subsequent apartment complex is approved, the NCDOT would install a signaled crosswalk at the Body Road/Halstead Boulevard to ensure the safety of pedestrians and cyclists in the area. In their publication *Higher-Density Development: Myth and Fact,* the Urban Land Institute (ULI) dispels the common assumption that higher density development, such as multifamily developments, result in greater traffic generation than lower density development. According to the ULI, residents of apartments tend to have only one car per household compared to single-family homes which tend to have two or more cars per household. Similarly with regards to trip generation, residents in higher-density housing make fewer and shorter auto trips than those living in lower-density housing. Average trip generation for single-family and multifamily developments is ten and eight trips per day respectively.

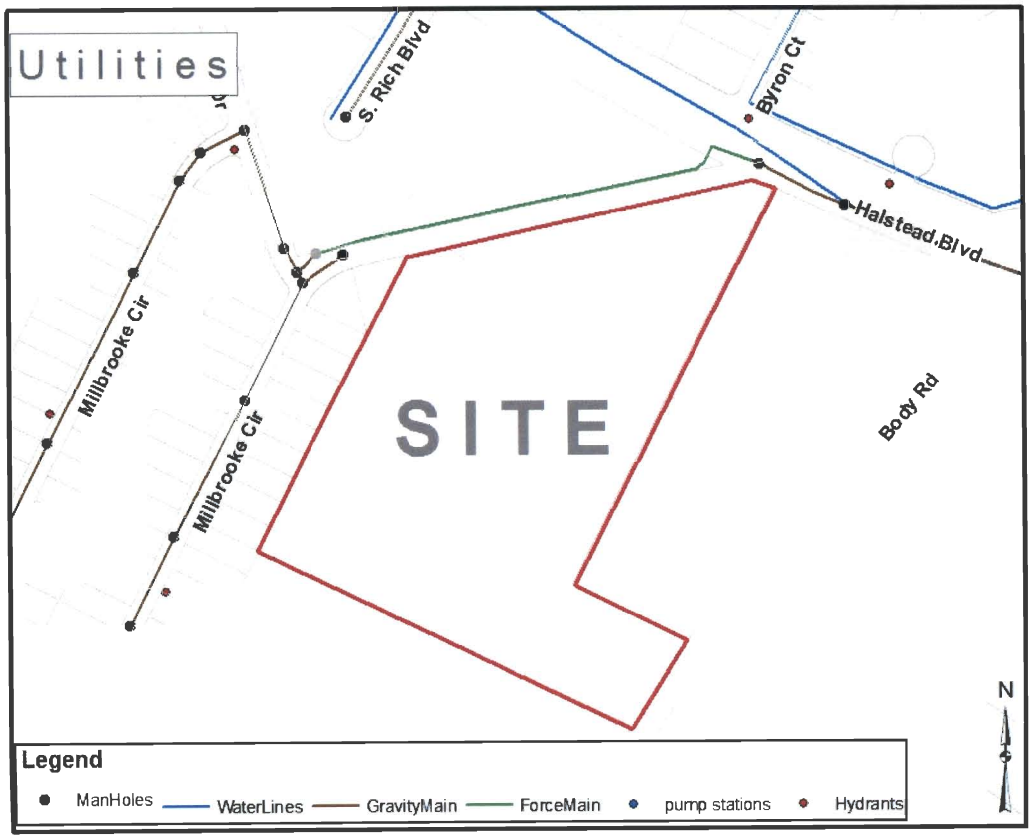
Public Utilities

City water, sewer, and electric are available to the subject property. Eight inch water and sewer lines run along Millbrooke Circle while twelve inch lines run along Halstead Boulevard.

Land Use Plan

The Joint Elizabeth City and Pasquotank County Land Use Plan (LUP) classifies this tract as primarily low density residential with a small section of general commercial at the northern end closest to Halstead Boulevard.

The Low Density Residential Classification is intended to delineate lands where the predominate land use is low density detached residences. The residential density



within this classification is generally two to four dwelling units per acre. The maximum building height will be approximately three to four stories with a maximum lot coverage ranging from approximately 50% to 80%. Single-family detached residences and manufactured homes on individual lots are the predominant types of dwellings within these areas. Land uses within the Low Density Residential are compatible with the Residential zoning designation. Commercial and industrial land uses are considered incompatible with this land use classification.

The City's goals and policies support the continued use of land in Low Density classified areas for low density dwellings and for public and institutional uses that support and are compatible with this type of residential development. Generally, non-residential density is anticipated to average one public or institutional use per five acres. Future development is projected to be no more than five dwelling units per acre; however, **as the City core expands and public utilities become accessible, some areas adjacent to more intense land uses may transition into a medium/high density residential land use and density over time.** Due to the availability of public sanitary sewer to the site, cluster development is encouraged in this designation.

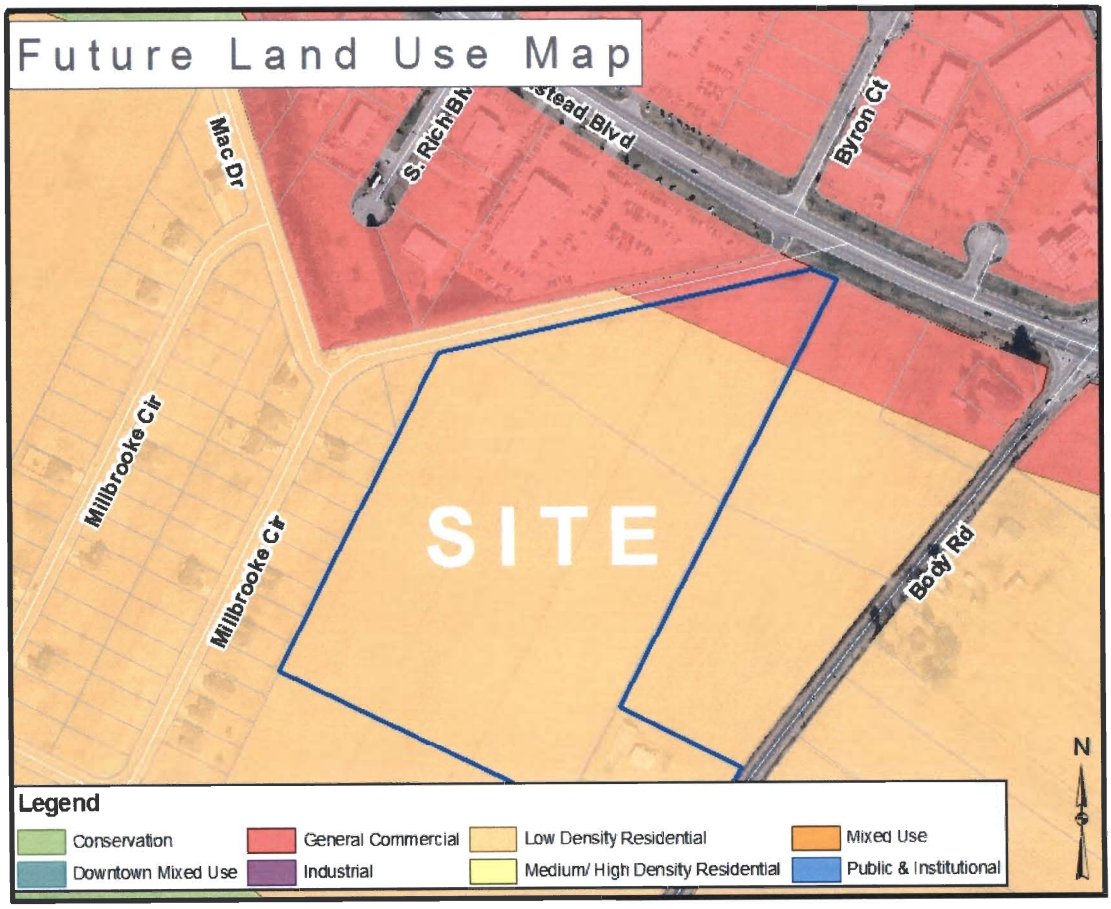
The properties classified as General Commercial are located primarily along major road corridors including US Highway 17 Business, Hughes Boulevard, Ehringhaus Street, and Halstead Boulevard. The General Commercial classification is intended to delineate lands that can accommodate a wide range of retail, 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. Generally, the density of commercial development is projected to average one commercial establishment per acre with a multi-family density of approximately 12 to 30 units per acre.

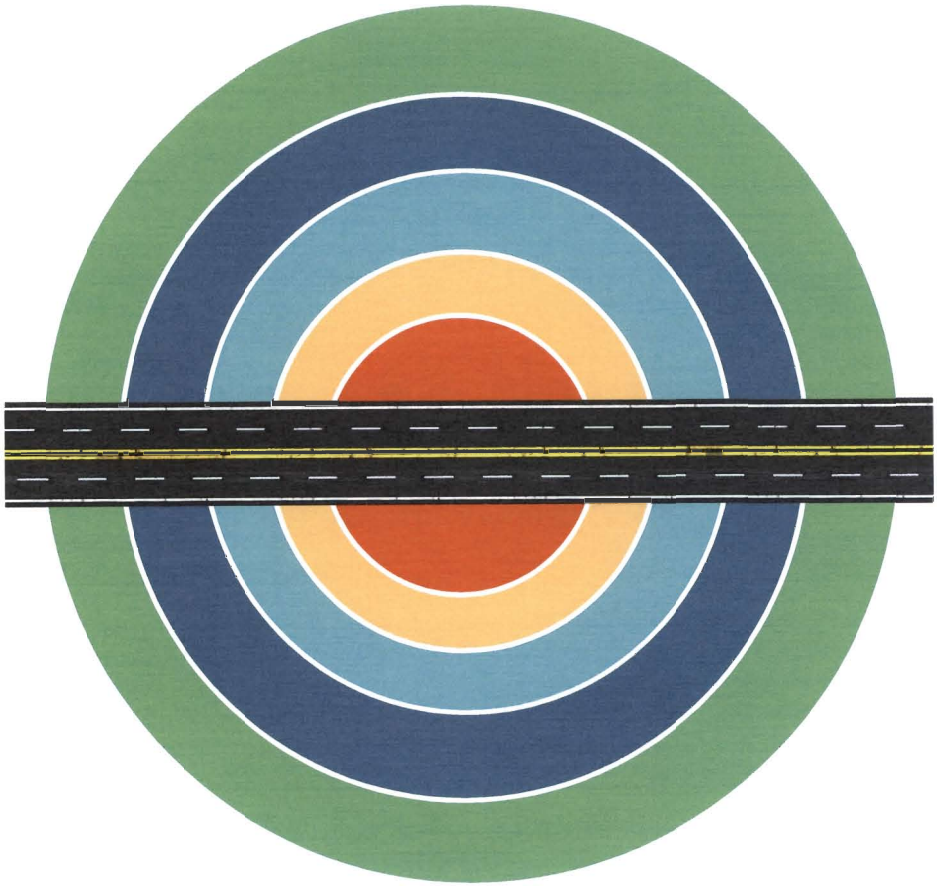
Land uses within the Commercial designated areas are generally compatible with the Business and Office and Institutional zoning districts. Incompatible land uses would be mobile home developments, low and mid density single family, and heavy industrial uses.

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 considering zoning transitions and uses, nationally accepted planning principles and practices are used. Heavy commercial uses typically locate along major corridors and arterial roads. As properties are developed away from these nodes, the uses gradually become less intense. Development patterns in core areas typically transition from high-intensity commercial uses, to low-intensity commercial/office/institutional/mixed uses, to high-density residential, to low-density residential. Following this model and considering Halstead Boulevard's

classification as a major thoroughfare of the City, more intensive development is expected adjacent to the corridor becoming gradually less intense as you move further from the street.





Staff Comments & Recommendations

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. The site is approximately 21 acres, 5.2 acres of which is inside the City Limits. The site is currently vacant and lies adjacent to the Millbrooke Subdivision and the Carolina Chrysler Dealership. There are currently a mix of uses with in the general vicinity; including, vacant land, single-family residences, two automotive dealerships, several automotive parts and repair shops, a gas station, restaurant, and other general

commercial uses. The site is just south of Halstead Boulevard, which is considered a major thoroughfare of the City.

As mentioned in the report above, the site is currently zoned R-15 Residential and the applicant is requesting to rezone the property to the Apartment District designation. The applicant intends to develop an apartment complex on-site consisting of 216 units with various community amenities including a pool, business center, gym, playground, dog walk, walking trail and picnic area. Staff reminds the Commission to consider all allowable uses within the Apartment District zoning classification when considering this request. A complete list of uses allowed in the Apartment District category can be found at the end of this report. The proposed apartment complex will be subject to additional review by the Technical Review Committee after a formal site plan is received by the Planning Department. Staff does note that a landscape buffer will be required between the apartment complex (if approved) and all single-family residential uses or zones.

The Land Use Plan states that as the City core expands and public utilities become accessible, some areas adjacent to more intense land uses may transition into a medium/high density residential land use and density over time. The Medium/High Density Residential land use is considered generally consistent with the proposed Apartment District zoning category. Furthermore, the LUP states that additional factors such as adequate public infrastructure and market demand play a significate role when deciding whether or not a projected use is appropriate. As was previously stated in the report above, the public infrastructure necessary to support development of this site is currently available. With regards to market demand, Elizabeth City currently has two market-rate apartment complexes (Tanglewood Lake and Emerald Lake) and twelve subsidized apartment complexes. Tanglewood Lake Apartments currently has a vacancy rate of 1.7% with three of the 180 units available and Emerald Lake Apartments has a vacancy rate of 9.8% with thirteen of the 132 units available for rent.

The applicant has met with City Staff from various departments regarding the rezoning and satisfactorily conducted all necessary due diligence prior to submitting the request, including conducting a stormwater study on the site. The applicant discussed the stormwater concerns at the community meeting held February 2nd to address flooding concerns raised by Millbrooke residents. According to the applicant's engineer, flooding issues would improve with the new development given the strict state standards requiring an on-site retention pond designed for a 25-year storm event (7.5 inches of rainfall in a 24 hour period). This would allow for a slower release of water resulting in less runoff from the developed site than is currently seen with the unregulated land.

Further concerns raised by Millbrooke residents in the community meeting related to greater traffic generation, increased criminal activity, and devaluation of property values. The Urban Land Institute (ULI) addressed all of these issues in their *Higher-Density Development* publication and found no evidence to substantiate any of the claims. With regards to traffic generation, as was previously discussed, the ULI found that multifamily developments actually generate less traffic than lower-density single-family communities. When addressing the issue of higher crime rates in higher-density developments, the ULI referenced numerous studies that found no

significant difference in the crime rates of multifamily developments and their lower-density counterparts. In fact, some studies have found higher-density developments can actually reduce crime through increased pedestrian activity that puts more "eyes on the street." Design elements such as lighting, building placement and landscaping, can play a significant role in deterring crime in multifamily developments. Similarly, studies have found no discernible difference between the appreciation rate of single-family residences located near higher-density development and those that are not. On the contrary, some studies have shown a slight positive impact on the property of single-family homes that are located near multifamily developments. Research conducted by Virginia Tech University found that over the long-run, well-placed market-rate apartments with attractive design and landscaping actually increased the overall value of detached homes in the vicinity.

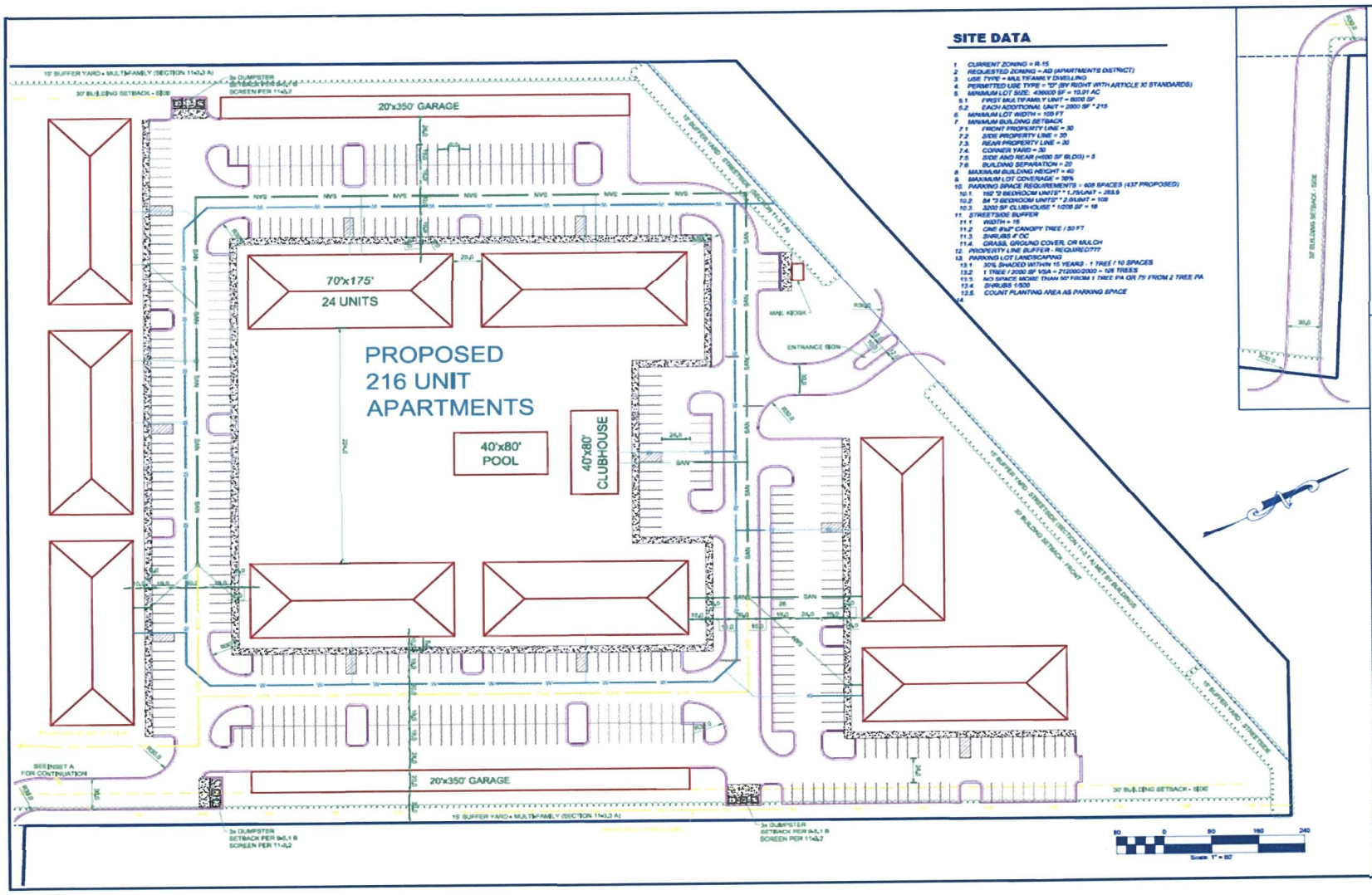
Considering the aforementioned elements, Staff recommends ***APPROVAL*** of the request as presented, including the adoption of the following consistency statement:

> *"In considering the mix of commercial and residential land uses along this portion of Halstead Boulevard, the consistency of the proposed rezoning with the Joint Elizabeth City and Pasquotank County Land Use Plan, the research conducted by the Urban Land Institute regarding the effects of multifamily developments on single-family developments, and the availability of City water and sewer to the subject site, the City Council finds the rezoning request to be reasonable and in the public interest."*

Use Type	SIC	R-15	AD
AGRICULTURAL USES			
Agricultural Production (crops)	0100	Z	
Agricultural Production (livestock), except Animal Feeder/Breeder Operations	0200	Z	
Animal Aquaculture	0273	Z	
Animal Feeder/Breeder Operation	0000		
Fish Hatchery	0920	Z	
Forestry	0810		
MINING USES			
Mining, Quarrying, Sand Pits, and Mineral Extraction	1000		
RESIDENTIAL USES			
Bed and Breakfast	7011	S	D
Boarding and Rooming House	7021	S	S
Congregate Care Facility	0000		
Family Care Home	0000	Z	Z
Group Care Facility	0000		S
Homeless Shelter	0000	S	
Manufactured Home Park	0000		
Manufactured Home, Class A	0000		
Manufactured Home, Class B	0000		
Manufactured Home, Class C	0000		
Modular Home	0000	Z	Z
Multifamily Dwelling (including condominium)	0000		D
Planned Unit Development	0000		
Single-Family Detached Dwelling	0000	Z	Z
Temporary Shelter	0000		C
Townhouse Dwelling	0000		D
Two-Family Conversion	0000		D
Two-Family Dwelling (duplex)	0000		Z
ACCESSORY USES AND STRUCTURES			
Accessory Dwelling Unit	0000	D	D
Accessory Uses and Structures (customary)	0000	Z	Z
Caretaker Dwelling	0000	D	D
	Ref.		
Use Type	SIC		AD
ACCESSORY USES AND STRUCTURES (cont.)			
Communication Tower Under 60' in Height	0000	D	
Emergency Shelter	0000	Z	Z
Home Occupation	0000	D	D
Portable On-Demand Storage Containers ("POD")	0000	Z	Z
Satellite Dish Antenna	0000	D	D
Swimming Pool	0000	D	D
RECREATIONAL USES			
Amusement or Water Parks, Fairgrounds	7996	C	
Athletic Fields	0000		C
Auditorium, Coliseum or Stadium	0000		
Batting Cages	7999		
Billiard Parlor	7999		
Bingo Games	7999		

Bowling Center	7933		
Club	8640	S	S
Coin-Operated Amusement, except Adult Arcade	7993		
Country Club with Golf Course	7997	S	S
Dance School, Music Instruction	7911		
Fortune Tellers, Astrologers	7999		
Go-Cart Raceway	7999		
Golf Course	7992	S	S
Golf Course, Miniature	7999		
Golf Driving Range	7999		
Physical Fitness Center	7991		
Internet Sweepstakes Café/Electronic Gaming			
Private Campground/RV Park	7033	S	
Private Club or Recreation Facility, Other	7997	S	
Public Park or Recreational Facility, Other	7990	D	D
Race Track Operation	7948		
Riding Academy	7999	D	
Shooting Range, Indoor	7999		
Shooting Range, Outdoor	7999		
Skating Rink	7999		
Sports and Recreation Club, Indoor	7997		
	Ref.		
Use Type	SIC		AD
RECREATIONAL USES (cont.)			
Swim and Tennis Club	7997	S	S
EDUCATIONAL AND INSTITUTIONAL USES			
Ambulance Service	4119		
Cemetery or Mausoleum	0000	S	
Cemetery or Mausoleum on Same Property as Church	0000	S	S
Church or Other Place of Worship	8661	S	S
College, University, Technical Institute	8220		
Correctional Institution	9223		
Day Care Center, Adult and Child	8322	D	D
Fire Station/Emergency Medical Service	9224	C	C
Government Office	9000	C	C
Hospital	8062		
Library	8231	D	D
Museum or Art Gallery	8412		
National Guard /Military Reserve Center	0000		
Nursing and Convalescent Home	8050	S	S
Orphanage	8361	S	
Police Station	9221	Z	Z
Post Office	0000		
Psychiatric Hospital	8063		
Retreat Center	0000	S	
School Administration Facility	9411		
School, Elementary or Secondary	8211	C	C
Blacksmith	7699	Z	
Kennels or Pet Grooming	0752	D	
Landscape and Horticultural Services	0780	Z	

Pet Cemetery/Cremation	6553	S	
Taxidermist	7699	Z	
Veterinary Clinic	0742	D	
Animal Shelter	0752	S	
Horse Shows	7999	D	
Outdoor Fruit & Vegetable Markets	5431	Z	



SITE DATA

1. CURRENT ZONING = R-15
2. REQUESTED ZONING = AD (APARTMENTS DISTRICT)
3. USE TYPE = MULTI-FAMILY DWELLING
4. PERMITTED USE TYPE = "D" (BY RIGHT WITH ARTICLE XI STANDARDS)
5. MINIMUM LOT SIZE: 43560 SF + 10,01 AC
   - 5.1 FIRST MULTI-FAMILY UNIT = 6000 SF
   - 5.2 EACH ADDITIONAL UNIT = 2000 SF * 215
6. MINIMUM LOT WIDTH = 100 FT
7. MINIMUM BUILDING SETBACK
   - 7.1 FRONT PROPERTY LINE = 30
   - 7.2 SIDE PROPERTY LINE = 30
   - 7.3 REAR PROPERTY LINE = 30
   - 7.4 CORNER YARD = 30
   - 7.5 SIDE AND REAR (<600 SF BLDG) = 5
   - 7.6 BUILDING SEPARATION = 20
8. MAXIMUM BUILDING HEIGHT = 40
9. MAXIMUM LOT COVERAGE = 30%
10. PARKING SPACE REQUIREMENTS = 409 SPACES (437 PROPOSED)
    - 10.1 192 "2 BEDROOM UNITS" * 1.75/UNIT = 283.9
    - 10.2 84 "3 BEDROOM UNITS" * 2.0/UNIT = 168
    - 10.3 3200 SF CLUBHOUSE * 1/200 SF = 16
11. STREETSIDE BUFFER
    - 11.1 WIDTH = 10
    - 11.2 ONE 8'x2" CANOPY TREE / 50 FT
    - 11.3 SHRUBS 4' OC
    - 11.4 GRASS, GROUND COVER, OR MULCH
12. PROPERTY LINE BUFFER - REQUIRED???
13. PARKING LOT LANDSCAPING
    - 13.1 30% SHADED WITHIN 15 YEARS - 1 TREE / 10 SPACES
    - 13.2 1 TREE / 2000 SF VSA = 212000/2000 = 106 TREES
    - 13.3 NO SPACE MORE THAN 90' FROM 1 TREE PA OR 75' FROM 2 TREE PA
    - 13.4 SHRUBS 1:500
    - 13.5 COUNT PLANTING AREA AS PARKING SPACE
14

DM2
ENGINEERING, PLLC
211 EAST QUAILWOOD DRIVE
FUQUAY VARINA, NC 27529
PHONE: (919) 818-2235
P.O. BOX 1448
ROANOKE RAPIDS, NC 27870
PHONE: (252) 532-2364

ENGINEERS SEAL AND SIGNATURE

HALSTEAD APARTMENTS
ELIZABETH CITY, NORTH CAROLINA
PRELIMINARY SITE LAYOUT

* PRELIMINARY PLANS *
NOT FOR CONSTRUCTION

REVISIONS

NO.	BY	DATE	DESCRIPTION

DRAWN BY: NSR
DESIGNED BY: NSR
CHECKED BY: WWD
PROJECT NO: XXXXX
START DATE: 07-01-2015
SCALE: 1" = 40'
SHEET: C-X OF X

CITY OF ELIZABETH CITY
PLANNING COMMISSION
SPECIAL CALLED MEETING
Tuesday, March 8, 2016
4:00 PM

MEMBERS PRESENT
Ernest Sutton, Chairman
Sonny DiGirolamo
Carlton O'Neal
Suzanne Stalling
Gary White
Don Witosky

Also present were June Brooks, Planning Director; Kaitlen Alcock, Planner, Dawn Harris, Secretary to the Board; applicant and members of the audience.

Chairman Sutton called the meeting to order and stated that there was a quorum. He asked for a motion to approve the minutes from the December 2015 meeting. Mr. White made a motion to **APPROVE** the minutes as read from the December 16, 2015 Planning Commission Special Called meeting. Mr. DiGirolamo seconded the motion. ***ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL, STALLINGS, WHITE AND WITOSKY. NONE OPPOSED. MOTION PASSED.***

Chairman Sutton asked for a motion to approve the agenda as presented for tonight's meeting. Mr. Witosky made a motion to **APPROVE** the agenda as written for the March 8, 2016 Special Called meeting. Mr. O'Neal seconded the motion. ***ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL, STALLINGS, WHITE AND WITOSKY. NONE OPPOSED. MOTION PASSED.***

Chairman Sutton asked for Ms. Harris to read the Statement of Disclosure as follows.

Elizabeth City Code of Ethics provides that public officials and employees be independent, impartial and responsible to the public; that governmental 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 the public record, as per City of Elizabeth City Code of Ordinances Section 2-113. Any member of the Planning Commission who has an interest, as defined in Section 2-111 of the City of Elizabeth City Code of Ordinances, in any official act or action before the Commission shall publicly disclose on the record of the Commission the nature and extent of such interest, and shall withdraw from any consideration of the matter if excused by the Commission pursuant to G.S. 160A-75.

First item of new business on the agenda was CASE NO.: RZ-01-16 filed by Mark Gregory of MaSuKi, Inc. for property located on the southwest side of Halstead Boulevard abutting Millbrook Circle and Body Road. The applicant is requesting a rezoning from

Residential (R-15) to Apartment District (AD) for a total of 21.265 acres. (5.243 acres of map and lot number P90-29-2; a portion to total 14.193 acres of map and lot number P90-29-C; and 1.829 acres of map and lot number P90-29-1). Chairman Sutton asked for Staff's report. Ms. Alcock gave the following report:

STAFF REPORT

The request today is RZ 01-16, made by Mark Gregory on behalf of MaSuKi, Inc. to rezone a 21.265 acre tract from Residential R-15 to Apartment District. The property in question is located southeast of the intersection of Halstead Boulevard and Millbrooke Circle, adjacent to the Millbrooke Subdivision. Since only a portion of the property lies within City Limits, the applicant is seeking City Council's approval to annex 16 acres into the City's jurisdiction. The annexation request will be heard by City Council in March along with the rezoning request. Staff does point out that this is a resubmittal of RZ 02-15 which was heard by the Commission in December, no changes have been made from the original petition. The request was heard by City Council in February; however the applicant withdrew the rezoning request following Council's denial of the annexation.

The Joint Pasquotank County and Elizabeth City Land Use Plan classifies the majority of the tract as low density residential with a small section of general commercial at the northern edge of the property. The low density residential classification is described as lands where the predominate land use is low density detached residences. The Land Use Plan further states that some areas adjacent to more intense land uses may transition into a medium/high density residential land use and density over time which would be considered generally consistent with the Apartment District Zoning. Due to the properties location off of Halstead Boulevard, the mix of land uses in the immediate area, including a car dealership, several auto part and repair shops, a restaurant, and gas station, as well as the availability of public water and sewer, Staff is of the opinion that the property is conducive to the medium/high density residential land use referenced in the Land Use Plan. In making this determination, Staff also considered the generally accepted principles of development and land-use in which higher intensity commercial uses tend to occur along major transportation corridors with land uses becoming gradually less intense the further you get from the corridor. A diagram illustrating this transition was included on page 8 of the staff report provided to the Commission.

The applicant held a community meeting on February 2nd in the City Council Chambers. 22 community members, the applicant's engineer, planning staff, the City Manager, and 3 Council members were in attendance. During the meeting the applicant and his engineer addressed citizen concerns including traffic circulation and flooding. Items discussed included limiting access from Millbrooke Circle to a gated emergency ingress/egress point and utilizing Body Road as the primary means of ingress and egress; as well as the installation of a stormwater retention pond which would reduce runoff onto neighboring properties (including Millbrooke Subdivision).

When making a determination on a rezoning request, Staff considers the area's zoning pattern, adjacent land uses, the joint Pasquotank County and Elizabeth City Land Use Plan as well as the impact on City infrastructure including roads and utilities. Staff also takes into account the impact the proposed rezoning will have on adjacent property owners. In response to citizen concerns regarding compatibility between the single-family residences and the proposed multifamily units, particularly with regards to increased crime rates,

greater traffic generation, and decreased property values, Staff referenced a report by the Urban Land Institute which researched these claims. The Institute found no evidence to support the assertion that multi-family developments negatively impact single-family neighborhoods.

Considering the aforementioned elements, Staff recommends **APPROVAL** of the request as presented, including the adoption of the following consistency statement:

"In considering the mix of commercial and residential land uses along this portion of Halstead Boulevard, the consistency of the proposed rezoning with the Joint Elizabeth City and Pasquotank County Land Use Plan, the research conducted by the Urban Land Institute regarding the effects of multifamily developments on single-family developments, and the availability of City water and sewer to the subject site, the rezoning request is reasonable and in the public interest."

Chairman Sutton asked for the representative of this application to come forward if they wished to speak. Mr. Tom Nash came forward and gave his address as 117 Nixonton Loop Road. He stated that he has lived here all his life and is here on behalf of Mr. Gregory and MaSuKi, Inc. Mr. Nash stated that obviously this [rezoning] has been before the Commission once. Having said that, they do not take anything for granted. They are here asking that the Commission allows this 21 plus acres be rezoned R15 to apartments. He stated that since Mr. Gregory was here last time there have been some additions and changes to the plans in efforts on the part of Mr. Gregory to meet with the residents of Millbrooke Subdivision. There was a community meeting that took place so that the members of that community could voice their concerns, which that did take place. As a result of that, there have been some changes. Mr. Nash pointed those changes on the plans. Mr. White asked that he bring the plans forward to the Commission. Mr. Gregory held the plans while Mr. Nash explained the following changes.

There were concerns from Millbrooke Subdivision about what this apartment complex would generate. As a result of the meeting there were several changes that were made. Mr. Nash stated that the most important is that the entrance off of Millbrooke Circle will be a gated entrance. It will not be used except in the event of an emergency. All the traffic is going to flow out onto Body Road such that it will not inconvenience the members of the Millbrooke Subdivision. In addition, Mr. Gregory has agreed to put a berm and trees as a buffer and to allow privacy to the Millbrooke residents. The garages will face so that the back are toward to the subdivision and there will be no lighting pointing toward the subdivision. Mr. Nash stated that the biggest thing is that the traffic will be flowing out Body Road as opposed to the Millbrooke Circle entrance. All of this was done in an effort to assuage the people of Millbrooke.

Mr. DiGirolamo asked if the people of Millbrooke were responsive to this. Mr. White asked Mr. Nash if he could tell the Commission a little bit about the community meeting. Mr. Nash stated that he was not in attendance, but Mr. Gregory. Mr. Gregory stated that there were several people that came to the community meeting. Their main concern was the traffic and the other concern was safety as far as the apartment complex. He stated that he has met with Ms. Brooks and the Chief of Police regarding the updates and the management of the complex. He stated that they actually do credit checks, background checks and sex offender checks. They also do quarterly inspections of their units. This

gives them a chance to change out the air filters in each units, but it also gives their staff opportunity to make sure that everyone is in compliance with their rules and regulations. In the parking area of the complex they will be installing security cameras. This was discussed with the Chief of Police. City Council had some concerns regarding Halstead Boulevard and Body Road crosswalk. He stated that these issues have been addressed. Mr. Gregory stated that they had pushed everything they could up on this property to help minimize the impact to the Millbrooke Subdivision.

Ms. Brooks asked Mr. Gregory if he would like to mention the stormwater. He stated yes. The residents brought up stormwater runoff at the meeting. He stated that they had hired an engineer based on the City wanting it all done—all the modules for downstream flow, etc. The engineer did all the engineering work and the City's engineer reviewed it and approved it. Mr. Gregory stated that they will be creating a 25 year retention pond that holds back the water. He stated that they will actually be cutting back the runoff on the land and help the flooding on this property with this pond. The pond is supposed to actually be a little larger than a 25 year. Mr. Gregory told his engineer that he would like to have a little more room in the pond. Mr. Witosky asked if Millbrooke had their own retention pond. Mr. Gregory stated yes and pointed it out on the plans where they have two ponds. Mr. White asked Ms. Brooks who the City uses as an engineer to sign off on this. Ms. Brooks stated that Greg Johnson, County Engineer has reviewed it and Paul Fredette has reviewed it. Hyman and Robey is who designed it. So, it has been through the process. Ms. Brooks stated that she would also like to mention that when Millbrooke was constructed the storm retention was at 10 years. Millbrooke's runoff is not as great as the 25 year will be. She stated that she believes that was explained in the Staff Report.

Mr. DiGirolamo asked of the people at the community meeting how many was Millbrooke residents. Mr. Gregory stated that there were a total of approximately 22 people. That included some Council members and others at the meeting. Kim Hamby was present. There were about four or five actually spoke at the meeting. Chairman Sutton asked how many household were in Millbrooke. It was stated approximately 27 households. Mr. Gregory stated that there are a few of the houses in Millbrooke that are rentals.

Ms. Stallings wanted clarification on the Millbrooke Circle entrance. She stated that in December that entrance was proposed to be an in and out, but to appease the residents the entrance has been gated and will not be used. Mr. Gregory stated yes and that they had met with the City to make sure they could put this emergency gate there. In essence this gated entrance will only be used for emergency vehicles: fire and police, etc. He stated that they have put all the traffic going in and out off of Body Road. Mr. Gregory stated that they have met with NCDOT regarding what they are going to have to do on Body Road. They are going to have to do a traffic study. DOT requires that the traffic study be done; however, it does look like they will have to put a deceleration lane on Body Road to turn into the complex.

Mr. O'Neal asked how many entrances/exists will they have on Body Road. Mr. Gregory stated that it will be one. When coming out of the complex you will have a left hand turn and a right hand turn. Coming into the complex you will have the deceleration lane for turning.

Ms. Stallings asked why City Council denied the annexation. Mr. Gregory stated that was a good question. Ms. Stallings stated that she didn't know if Council had given a reason. Mr. Nash stated that he would try to address that question. He stated that he was not at the meeting, but apparently there was some concern about crime. Mr. Nash stated that this complex is what you call a "market value" apartment complex; which means, that the rental rates are going to be somewhere between $1,000 to $1,300. There are two other market value apartments in Elizabeth City. They are Emerald Lakes and Tanglewood. One has a vacancy rate of 1% with the other complex being 10%. This is an upscale apartment complex. Mr. Nash stated that they had met with Chief Buffalo. Chief Buffalo provided them with a report that shows the last three years in this section 4 [as the police call it]. There has been a reduction in incidents reported of 27% and a reduction in disturbance calls of 32%, which obviously speaks well of the police department. Mr. Nash stated that this complex is not going to have an effect on the crime rate. It will not be significantly different. Mr. Gregory has already addressed the manner in which he is going to have some pretty serious background checks and quarterly visit each unit. This will give opportunity to make sure nothing adverse is going on. The other matter that was generated, but no facts were given, is that somehow this apartment complex will injure and adversely affect the value of the houses in Millbrooke. Mr. Nash stated that he submits to the Commission that it is not the case. First of all, as cited by the Planning Staff and this Urban Land Institute report there are some instances that well placed market value apartments actually increases the value. The report points out that new apartments become an indicator of the economy area. The economy is vibrant. That multi-family housing increases the pool of prospects for residential single-family units and a market value apartment actually makes the area attractive. Mr. Nash stated that they submit that this particular project is going to be in harmony with the area, especially when you take into account what is on Halstead Boulevard. He stated that he thinks this apartment complex will enhance the area and Staff has indicated to the Commission that the proposed development would be in conformity with the Joint City and County Land Use Plan, which is one of the requirements.

In summary, Mr. Nash stated that they respectfully request that the Commission approve rezoning request. They feel that they have met the requirements and also feel that there have been no facts brought forward that this complex would adversely affect any area around the complex.

Mr. White asked if Council fails to annex this property this is all a moot point. Mr. Nash stated that is correct. Mr. Nash stated that this is going be the City Council again with the actual public hearing scheduled in March and they are looking forward to that.

Mr. Witosky asked Ms. Brooks why the Commission had to hear this again. Ms. Brooks stated because Mr. Gregory withdrew the application before Council took any action on it the application starts over as a new application. Mr. White asked if by policy. Ms. Brooks stated that it is by State code.

Chairman Sutton asked if there were any other speakers. Mr. Paul E. Jones, Jr. of 517 Millbrooke Circle came forward in opposition of this application. Mr. Jones stated that he had spoken before to the Commission as well as City Council regarding this application as a resident of Millbrooke of property that abuts this proposed project. He stated that it has been mentioned a couple of times that the subdivision has several rental properties in

Millbrooke. He only knows of two out of 27. So, that is not much of a concern to him. He stated that traffic has been addressed or has it. He asked if NCDOT had done a traffic study and if so he would like a copy of the study. He stated that the entrance into Millbrooke that is to be gated—he would like assurance in writing that this entrance will be gated during construction. Regarding stormwater runoff—one of Mr. Jones' neighbors had requested a copy of that report but has failed to receive it. He stated that the value of their property going down or going up is speculation on both sides. They say they think it will go down. Mr. Jones stated that he as a home buyer will not intentionally go buy a home adjacent to an apartment complex. He stated, just has he had asked before…would you? He stated he would like to hear just one person say to him, yes, I would like to have this complex in my backyard. He stated that he has asked that question to this Commission and to Council. Mr. Jones stated that fortunately for them at Millbrooke, they had Council members who had the determination and foresight to vote down the annexation on a vote five to two. He stated that unfortunately they are going through this same process once again. He stated that he understands that there has been some 1.3 million dollars that has been dangled as a carrot on a stick before the City Council and he understands what some people might want to do with that 1.3 million. What it boils down to is ethics and a responsibility that the City Council has to its citizens. Mr. Jones stated that once again he would thank the Commission for their time and thank you for your consideration and thank you for their vote.

Mr. White asked Mr. Jones if he would explain what he was talking about regarding the 1.3 million dollars. Mr. Jones stated that what he has heard and read is that there is 1.3 million dollars that is being offered by MaSuKi that the City would use to basically repair infrastructure from Elizabeth Street to Ehringhaus. Then DOT would come in and pave Road Street.

Ms. Brooks stated that what she is hearing is an inference to a gift. The 1.3 million dollars is calculated for water and sewer assessment for the number of units to be constructed. Mr. Gregory will also be required to pay an impact fee of approximately $60,000. Tax generated from this property could be approximately $150,000 a year. The City then can use the monies from the impact fees for other water and sewer related infrastructure improvements. Mr. DiGirolamo asked if it could be used for Road Street. Ms. Brooks stated yes. In order to improve Road Street from Ehringhaus to Elizabeth there is approximately 1.3 million dollars. Mr. DiGirolamo asked if this item was turned down again Road Street would still get repaired at some point. Mr. White stated that it had been 10 plus years and he is still waiting. Ms. Brooks stated at some point it will be done; however, it could be another ten years.

Mr. Jones stated what he was reading was in the local newspaper. He stated that it cast a shadow upon the folks of Millbrooke as he read it and being a stumbling point to that project because of their opposition. Mr. Jones stated that as a resident there he is not opposed to any work on Road Street. His office is right of Road Street. He stated that he is not a native of Elizabeth City. He has only been here a little over twenty years. Road Street has been bumpy the whole time.

Mr. Witosky stated that he commends Mr. Jones for being very calm in his presentation. He stated that he knows that this is an emotional issue for him and some of the homeowners. Mr. Witosky stated that there are 27 homeowners. He stated to Mr. Jones

that he is the only one here presenting tonight and asked why. Mr. Jones stated that he is sort of the homeowner's association president. They are supposed to have a meeting shortly between himself, neighbors and Phillip Harrington who is the developer of Millbrooke.

Ms. Brooks stated that she would like to remind everyone that this application is for the rezoning even though they have talked a lot about the apartments. She stated that the Commission needs to look at the uses of the apartment district and the uses in the R15 district. Even though apartments are allowed, this is not about these apartments.

Chairman Sutton stated that before this application is put up for a vote he would like to say to Mr. Nash, Mr. Gregory and Mr. Jones thank you for their diligence in terms of presenting your view points. He thanked Mr. Gregory and Mr. Nash for seeking to make an investment in our City. Chairman Sutton stated that he applauds Mr. Gregory for going beyond what is required as a good neighbor by going to the community in an effort to seek their input. Chairman Sutton stated that he would like to echo Mr. Witosky's comment to Mr. Jones. He thanked everyone for their contributions. He thanked Mr. Gregory for wanting to bring in upscale housing to Elizabeth City and thanked Mr. Jones for his effort in trying to protect the homeowners' investments that they have made.

Mr. DiGirolamo stated that he agreed with Chairman Sutton and that Mr. Gregory had gone above and beyond what was initially laid out back in December relative to the issues brought forth. Mr. DiGirolamo made a motion to APPROVE Rezoning Application RZ 01-16 with property being rezoned from R15 to Apartment District (AD). Mr. Witosky seconded the motion. ***ALL IN FAVOR BY SHOW OF HANDS: SUTTON, DIGIROLAMO, O'NEAL, STALLINGS AND WITOSKY. ALL OPPOSED BY NO SHOW OF HANDS: WHITE*** [Mr. White offered no reason for opposition to this rezoning.] ***MOTION PASSED.***

Ms. Stalling stated that she had one comment before everyone leaves. She stated that when you have a market value apartment complex proposed such as this it raises the bar everywhere across the City. When a new apartment complex is coming in where does everyone want to move to? They want to move to the new one. So, that means Emerald Lake steps up their game north of town. So, it does raise the bar. She stated that if you have ever seen any of the complexes that Mr. Gregory has done—they are not skimpily landscaped. Ms. Stallings stated that when he says he is going to put in big trees she has no doubt that will happen. If you look at the ones he has now in place, you can see how they are landscaped. It makes it attractive for people and that makes people feel safe when you have wide-open spaces and you have areas that are weeded and mulched with flowers planted. That is not a requirement of the apartment complex that's just because it looks good and he wants the residents and neighbors to be proud of the area that's there. She stated just based on the other properties she believes he will do what he says he will.

With no further business, Mr. White made a motion to adjourn. All were in favor. ***Motion passed and meeting was adjourned.***

Respectfully submitted by,

Dawn Harris , Secretary to the Board