



# MEMORANDUM

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**TO:** City Council

**FROM:** Rich Olson, City Manager

**DATE:** October 28, 2013

**REF:** **Hold** a public hearing to rescind and adopt corrected Ordinance # 02041 to correct a Scribner error in rezoning of property at the north end of Golf Club Drive in Fairway Estates .

**PREPARED BY:** June C. Brooks, Planning & Community Development

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## BACKGROUND

At your October 7, 2013 City Council meeting, a public hearing was called to reconsider rezoning request RZ-04-02 in order to rescind and adopted corrected ordinance for rezoning of 2.8 acres of property on Golf Club Drive in Fairway Estates with the O & I – CUD zoning classifications and specify conditions in the Ordinance.

## ANALYSIS

Staff noticed inconsistencies with the City's zoning map over the past several years. After an extensive search through the records, staff discovered that the council minutes and ordinance did not match. In this instance, the City Council minutes reflect rezoning this property to O & I – CUD with conditions of no vehicular access along Golf Club Drive and a condition that an 8 foot wooden barrier (fence) be erected at the end of a 25 foot buffer. When the Ordinance was adopted by City Council, the conditions were not added, just the zoning classification of O & I-CUD.

After consulting with the School of Government and a Land Use Law attorney, staff was advised to have City Council re-adopt those cases where there are inconsistencies in the minutes and ordinances. The property owners have been notified and have no objection to City Council re-approving the same action that was initially taken in 2002. This is the first step of having the governing body re-adopt and re-certify the City's Zoning Map.

Planning Commission reviewed this item at their regularly scheduled meeting in September. They recommend that City Council re-adopt the original rezoning request with conditions.

**STAFF RECOMMENDATION**

By motion, adopt rezoning request RZ-04-02 with the O & I-CUD classification with conditions of an 8 foot wooden barrier at the end of the 25 foot buffer and a no vehicular access easement along Golf Club Drive. .



CITY OF ELIZABETH CITY  
PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF ANALYSIS

Morressette

**CASE NO.**

RZ 04-02

**MEETING DATE**

August 6, 2013

**DESCRIPTION/LOCATION**

The 2.8± acre tract is located at the north end of Golf Club Drive in the Fairway Estates.

**PARCEL INFORMATION**

Tax Map P142, Parcels 100 and 100A

**OWNER**

Carolina Dunes Inc.  
Lucien Morressette  
PO Box 788  
Elizabeth City, NC 27907

**APPLICANT**

City of Elizabeth City  
PO Box 247  
Elizabeth City, NC 27907

**EXISTING ZONING**

Office & Institutional (O&I)

**PROPOSED ZONING**

Office & Institutional Conditional Use  
District, O&I (CUD)





### **ADJACENT ZONING & LAND USE**

North: General Business (GB) – Retail businesses  
South: Residential (R-15) – Vacant and improved single family residential lots  
East: Residential (R15) – Vacant and improved single family residential lots  
West: Residential (R15) – The Pines Golf Course

### **ZONING HISTORY**

When the property was brought into the City's Extraterritorial Jurisdiction, it had the Residential R-15 designation. The site is located within the Fairway Estates. In 1989 when the Fairway Estates was subdivided proportions of the development were zoned AD-1, to accommodate townhouse developments and a commercial designation, C-3, to provide for office and commercial developments along US Highway 17 North. The remaining portion of the development was zoned Residential R-15 to provide for a low-density single family project adjacent to a golf course.

In March 2000 an application was submitted to have the site rezoned to a General Business (GB) designation. After hearing the case analysis, the Planning Commission voted to recommend denial of the rezoning request. The application was thence withdrawn. In January 2002 another application, RZ 01-02, was submitted for rezoning. This time the request was to have the site rezoned to Office and Institutional, O&I. In March of 2002 the City Council voted to deny the request due to traffic concerns.

Prior to RZ 01-02 being heard by the City Council, in February 2002 the applicant submitted rezoning request RZ 04-02 for the site to be rezoned to an Office & Institutional Conditional Use District, O&I- (CUD). In response to the concerns with increased traffic and the disruption of a residential neighborhood, the applicant added a condition to the application that there would not be any commercial vehicular access or driveways on Golf Club Drive. This request was heard at the March 5, 2002 Planning Commission meeting. During the meeting there were concerns raised in regards to access to the site and having adequate screening. The applicant met with the neighbors and submitted an addendum to the application to address the screening concerns with the use of an eight foot high wood fence. The Planning Commission voted to approve the request with the conditions of no vehicular or driveway access to Golf Club Drive and to aid in the screening, the addition of an eight foot high fence to be used in the landscape buffer.

This rezoning request was heard at the City Council's April 1, 2002 meeting and was approved with the access and screening conditions. It was noted that the adopted Ordinance was not for the requested O&I (CUD) with the approved conditions but for the O&I district without any conditions.



### **STAFF COMMENTS and RECOMMENDATION**

While reviewing the rezoning files, staff noted a few discrepancies with rezone case RZ 04-02. The notices sent to the adjacent property owners informing them of the Planning Commission meeting stated that the rezoning was for O&I while the request for the Notification Signs to be posted at the site correctly states the rezoning as O&I (CUD). The agenda for the Planning commission meeting shows the request to be for O&I zoning, not the requested O&I (CUD). The O&I zoning is also reflected in the minutes from the meeting, not the O&I (CUD). The staff report does show that the requested district is to be O&I (CUD). This same pattern is seen with the City Council meeting where the agenda lacks reflecting the CUD aspect of the rezoning request. In addition, the approved Ordinance does not reflect that the rezoning request was for an O&I (CUD) nor any conditions are stated.

Staff is requesting that Tax Map P142, Parcels 100 and 100A be recertified as O&I(CUD) with the following approved conditions; no commercial vehicular or driveway access is permitted onto Golf Club Drive; the landscaping buffer between the incompatible land uses incorporate an eight foot high wooden fence.

The City Council of the City of Elizabeth City met on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. H. Bell, Jr. presiding and members C. C. Austin, J. M. Baker, W. A. Lehmann, E. K. Rivers and Z. D. Robertson, Jr. being present. Council Members A. C. Robinson, Jr., D. K. Stallings, Sr. and J. Sutton being absent. Others attending were: Assistant City Manager/Planning Director R. Goodson, City Clerk D. S. Pierce, City Attorney W. H. Morgan, Public Works Director C. Grant, Police Chief T. A. Hampton, Human Resource Director K. W. Felton, Finance Director S. E. Blanchard, Parks and Recreation Director J. D. Overman and Interim Electric Director K. Clow.

Mayor J. H. Bell, Jr. declared the meeting into public hearing for consideration of Application RZ-04-02 by Lucien and Debbie Morrisette to rezone the parcel located at the cul-de-sac end of Golf Club Drive from Apartment District to Office and Institutional District. Since no one wished to speak for or against the proposed rezoning, Mayor Bell declared the public hearing closed. Assistant City Manager/Planning Director R. Goodson stated that one of the main objectives of the Office and Institutional District is to encourage land uses, which serve as an adequate buffer between intensive non-residential uses and residential uses. This property will serve as a buffer between the General Business District zoning along the North Road Street and the Residential-15 zoning within Fairway Estates. With the consideration that no traffic access will be allowed along Golf Club Drive, staff recommends approval of this request. It was noted that the petitioner added as a condition that an 8-foot wooden barrier would be constructed at the center point end of the 25-foot buffer. The Planning Commission voted to approve this petition. Following discussion and review, a motion was made by Councilman W. A. Lehmann, seconded by Councilwoman C. C. Austin to adopt the following ordinance approving Application RZ-04-02. Those voting in favor of the motion were: Lehmann, Austin, Baker and Rivers. Against: None. Motion carried.

**ORDINANCE #02041  
REZONING REQUEST RZ-04-02  
LUCIEN & DEBBIE MORRISETTE**

**WHEREAS**, on March 5, 2002 the Elizabeth City Planning Commission reviewed the proposed amendment of the Official Zoning Map contained on Application RZ-04-02 by Lucien and Debbie Morrisette; and

**WHEREAS**, the Planning Commission opened the floor for public comments in regards to this request; and

**WHEREAS**, based on evidence supported by the City's Land Use Plan, the Planning Department staff believes that the proposed amendment of the Official Zoning Map will be in keeping with growth policies for this area in line with the Land Use Plan;

**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 the above-referred parcel as **O&I, Office and Institutional Conditional Use District.**

**ADOPTED**, this the 1<sup>st</sup> day of April 2002.

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John H. Bell, Jr.  
Mayor

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Dianne S. Pierce, CMC  
City Clerk



MAYOR  
JOHN H. BELL, JR.  
MAYOR PRO-TEM  
DARRYL K. STALLINGS, SR.  
CITY MANAGER  
STEVEN L. HARRELL, CM  
CITY CLERK  
DIANNE S. PIERCE, CMC/AEE



CITY COUNCIL MEMBERS  
CECILIA C. AUSTIN  
JEAN M. BAKER  
WILLIAM A. LEHMANN  
E. KIRK RIVERS  
ZACK D. ROBERTSON, JR.  
A. C. ROBINSON, JR.  
JIMMIE SUTTON

## CITY OF ELIZABETH CITY

**ORDINANCE #02041  
REZONING REQUEST RZ-04-02  
LUCIEN & DEBBIE MORRISSETTE**

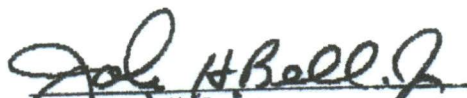
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