



# 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 961102 to correct a Scribner error in rezoning of property located at 1300 Walker .

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

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## BACKGROUND

At your October 7<sup>th</sup> City Council meeting, a public hearing was called to reconsider rezoning request for 1300 Walker Avenue in order to rescind and adopt corrected ordinance for rezoning of 6.4 acres of property from R-15 to General Business.

## 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 C-3 (General Business); however, the ordinance says the rezoning was denied.

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. This is the first step of having the governing body adopt and certify the City's Zoning Map.

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

## STAFF RECOMMENDATION

By motion, rescind and adopt rezoning request for 1300 Walker Avenue to General Business at your October 28, 2013 meeting.



CITY OF ELIZABETH CITY  
PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF ANALYSIS

**CASE NO.**  
RR 96-100803

**MEETING DATE**  
August 6, 2013

**DESCRIPTION/LOCATION**

1300 Walker Avenue a site of approximately 6.4 acres.

**PARCEL INFORMATION**

Tax Map P89, Parcel 30C

**OWNER**

Grace and Truth Community Church  
PO Box 2666  
Elizabeth City, NC 27906

**APPLICANT**

City of Elizabeth City  
PO Box 347  
Elizabeth City, NC 27906

**EXISTING ZONING**

Residential R-8

**PROPOSED ZONING**

Commercial C-3 (General Business – GB)



## **ADJACENT ZONING & LAND USE**

North: General Business (GB) & Residential (R-8) - Retail (Southgate Mall) & Single family residential  
South: Apartment (AD) & Residential (R-6) – Woodstock Apartments and Single family (Carolina Village)  
East: Apartment (AD) & Residential (R-6) – Woodstock Apartments  
West: Residential (R-8) - Single family residential

## **ZONING HISTORY**

The site is located within the corporate limits of Elizabeth City. Previous zoning maps indicate the property has maintained a residential zoning classification since July 1973. Until the 1999 zoning map was adopted the site was zoned Residential R-15. When the 1999 zoning map was adopted the site became designated as Residential R-8.

In September 1996 Earldine & Robert Jordan submitted a rezoning application to have the site classified from Residential R-15 to Commercial C-3. At the October 8, 1996 Planning Commission meeting, several residents attended the meeting and expressed their concerns regarding increased vehicular and drug traffic and it would be extremely hazardous to the children at play in the neighborhood. The Planning Commission voted unanimously to recommend denial of the rezoning request.

The City Council heard the case on November 4, 1996. At the meeting no one spoke for or against the rezoning request. The minutes state that the "Planning Commission reviewed this request and recommends denial. Following discussion, a motion was made...to **adopt** the following ordinance approving the rezoning of Petition RR 96-100803..." Ordinance #961102 states that the rezoning request to C-3 was **denied**.

## **STAFF COMMENTS and RECOMMENDATION**

While staff was reviewing the rezone files, an inconsistency was noted with rezone Case RR 96-100803 where the **minutes state the request was approved and the Ordinance states that it was denied**.

Since the time of the request, the site has since changed hands. In 1997 the site was purchased by Grace & Truth Community Church. In July 1997, the Church was granted site plan approval for construction of the original church.

The initial staff report recommended denial based upon commercial traffic being added to the residential neighborhood on Walker Avenue. To resolve the inconsistency, staff is requesting that Tax Map P89, Parcel 33C retain the current residential zoning of R-8. With the exception of the rear portion of the site, the property is surrounded by single and multi-family zoning and developments. Churches are an allowable land use within the residential districts.

MONDAY-7:00 PM

NOVEMBER 4, 1996

CITY COUNCIL

The City Council of the City of Elizabeth City held its monthly meeting on the above date and time in the City Council Chambers of the A. Parker Midgett Municipal Building with Mayor H. R. Gardner presiding. Members present were: D. Y. Cherry, L. E. Griffin, III, L. A. Hummer, M. R. Rivers, Z. D. Robertson, Jr., A. C. Robinson, Jr., D. E. Stallings and J. Sutton. Also, attending were: City Manager S. L. Harrell, City Attorney W. H. Morgan, Interim Public Works Director B. S. VanNieuwenhuise, Interim Electric Director D. E. Lane, Interim Fire Chief W. C. Pritchard, Parks and Recreation Director J. D. Overman, Inspections Director S. E. Ward, Finance Director S. E. Blanchard, Interim Police Chief W. G. Williams, Jr., Human Resource Director K. W. Felton and Planning Director V. D. Sharpe.

Mayor H. R. Gardner declared the meeting into public hearing for consideration of Petition RR96-100803 by Andy Cristaldi to rezone property located on the north side of Walkers Avenue between Halstead Boulevard and Cardwell Street from R-15, Residential District to C-3, Commercial District. Since no one wished to speak for or against the proposed rezoning, Mayor Gardner declared the public hearing closed. It was noted that the Planning Commission reviewed this request and recommends denial. Following discussion, a motion was made by Councilman L. E. Griffin, III, seconded by Councilman A. C. Robinson, Jr. to adopt the following ordinance approving the rezoning of Petition RR96-100803. Those voting in favor of the motion were: Griffin, Robinson, Cherry, Hummer, Rivers, Robertson, Stallings and Sutton. Against: None. Motion carried.

**ORDINANCE #961102  
REGARDING REQUEST RR96-100803  
NORTH SIDE OF WALKERS AVENUE  
BETWEEN  
HALSTEAD BOULEVARD AND CARDWELL STREET**

**WHEREAS**, on October 8, 1996 the Planning Commission reviewed Petition #RR96-100803 by Andy Cristaldi to rezone property located on the north side of Walkers Avenue between Halstead Boulevard and Cardwell Street from R-15, Residential District to C-3, Commercial District; and

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

**WHEREAS**, as a result of these comments and review, the Planning Commission believes that the proposed rezoning of this property will not be in line with the Land Use Plan and will have detrimental effects on the surrounding land uses;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Elizabeth City does hereby deny this request to rezone property located on the north side of Walkers Avenue between Halstead Boulevard and Cardwell Street from R-15, Residential District to C-3, Commercial District.

**ADOPTED**, this the 4<sup>th</sup> day of November, 1996.

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H. Rick Gardner  
Mayor

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Dianne S. Pierce, CMC/AAE  
City Clerk