



MEMORANDUM

TO: Mayor and City Councilors

FROM : Rich Olson, City Manager

DATE: June 10, 2013

REF: Consideration - RZ 01-13 - Hold a public hearing to rezone the Brite property located on the Halstead Boulevard Extension from Residential R-15 to General Business (GB), Highway Business (HB), and Residential R-8

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

Background:

At your May 28, 2013, City Council meeting, a Public Hearing was scheduled for June 10, 2013 for RZ 01-13. Miles and Barbara Brite request to rezone their 162± acre tract located on the north and south sides of Halstead Boulevard Extension from Residential R-15 (County Agriculture A-1) to General Business (GB), Highway Business (HB), and Residential R-8.

Analysis:

The Brite's request to rezone approximately 66 acres of the tract to General Business (GB), 45 areas to Highway Business (HB), and approximately 50 acres to Residential R-8. It is envisioned that the commercial portions of the site will be developed with uses such as restaurants, unique shops, small shopping centers, business and services for daily conveniences while the residential portion will provide housing which will support the commercial development along the Halstead Corridor. It was noted that there was no mention of intermingling the commercial and residential uses.

Staff met with the applicant and suggested that they consider the Conditional Zoning option for the site. Since the Conditional zoning is not appropriate for sites without firm development plans, this zoning was not appropriate due to the lack of future plans.

The Halstead Boulevard Extension Corridor Overlay District was created to develop an efficient and attractive gateway into Elizabeth City. The vision was to create a mix of uses and not a highway developed with strip shopping centers along its entire length. This rezoning request does not promote that vision and is not consistent with the Pasquotank County and Elizabeth City Joint Land Use Plan. As requested, this application adds additional commercial zoning between the commercial nodes of the Highway 17 By-Pass to the west and City Center West to the east. There are currently 490 acres of commercially zoned property on Halstead Corridor Boulevard Extension with approximately 40 acres (8.1%) that have been developed. This rezoning request would bring the commercially zoned property to 601 acres with a 93.4% vacancy rate. For this reason, planning staff recommended denial of the rezoning application.

The Planning Commission considered this application at their regularly scheduled meeting on April 2, 2013. At the meeting the applicant requested to amend their application to change the requested Residential R-15 zoning to the Residential R-8 zoning. The Planning Commission did not agree with staff and recommended approval of this rezoning request.

Staff Recommendation:

At the April 2, 2013, meeting the Planning Commission by motion recommended approval of rezoning request RZ 01-13 to rezone approximately 66 acres of the tract to General Business (GB), 45 areas to Highway Business (HB), and approximately 50 acres to Residential R-8

As proposed, staff is of the opinion that the proposed General Business (GB) and Highway Business (HB) zonings are not conducive with the Mixed Use designation found in the joint Elizabeth City & Pasquotank County Land Use Plan and the vision for the future development of the Halstead Boulevard Corridor.

Staff does not support the addition of approximately 111 acres of commercial zoned land to the Halstead Corridor without knowing when and what type of development will occur and if the development will be what is envisioned for the area. Staff recommends denial of this application.

However, since this property has not been annexed into the City, staff recommends no action be taken at your June 10, 2013 meeting.

STAFF ANALYSIS:

CASE NO.

RZ 01-13

MEETING DATE

April 2, 2013

DESCRIPTION/LOCATION

The 162± acre tract is located adjacent to the Halstead Boulevard Extension, contiguous to the eastern portion of Stockbridge at Tanglewood. The west end of the tract is approximately 1,700' east of the Mount Everest Drive South intersection. This site is located within the Halstead Overlay District and is outside of the City limits and the City's extraterritorial jurisdiction (ETJ).

PARCEL INFORMATION

Tax Map P88, Parcels 3A and 104

OWNER

Miles J. & Barbara Brite
820 Sun Gro Drive
Elizabeth City, NC 27909

APPLICANT

Hyman & Robey, PC
PO Box 339
Camden, NC, 27921

EXISTING ZONING

County Agriculture (A-1)

PROPOSED ZONING

General Business (GB), Highway Business (HB) and Residential (R-15)

FLOOD PLAIN

The property is located outside the 100 year flood zone

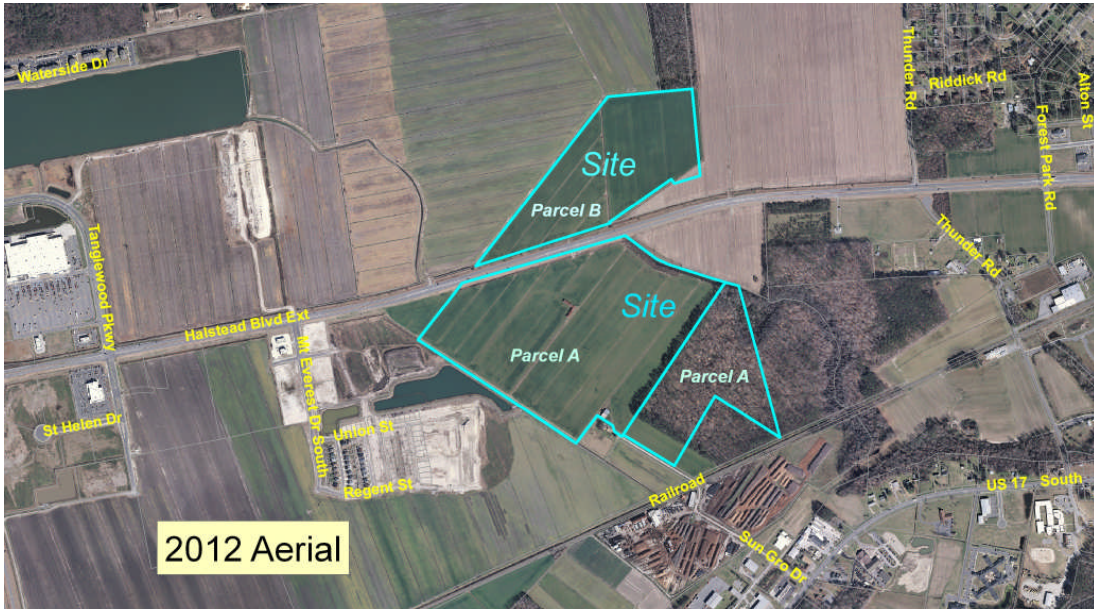
ADJACENT ZONING & LAND USE

North: Residential (R15), Apartment District (AD) & Industrial (I-2) - Cropland
South: Residential (R-8) & Agricultural (County A-1) –Future single family residential lots in Stockbridge at Tanglewood, crop and woodlands
East: Agricultural (County A-1), General Business (GB), Highway Business (HB) – Crop and woodlands
West: General Business (GB), Residential (R-15 & R-8) – Future commercial and residential lots in Stockbridge at Tanglewood, croplands

ZONING SUMMARY

This property is presently zoned County A-1, Agricultural District and is intended for large open land area with a limited number of permissible uses. The A-1 zoning designation appears to be the original zoning designation assigned to this property by the County at the time the Halstead Overlay and Joint Land Use plans were adopted. Since the property is located outside of the City limits and ETJ, the site will need to be

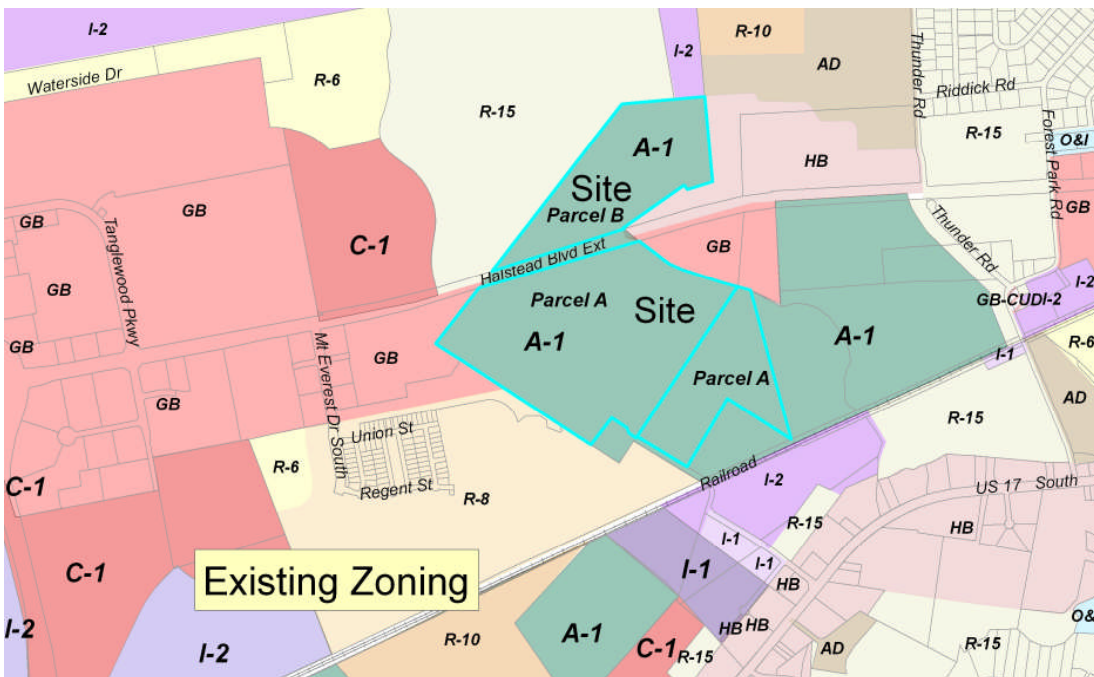
annexed to the City prior to any development.



Existing Zoning Designations

County A-1, Agricultural District – Approximately 162 acres

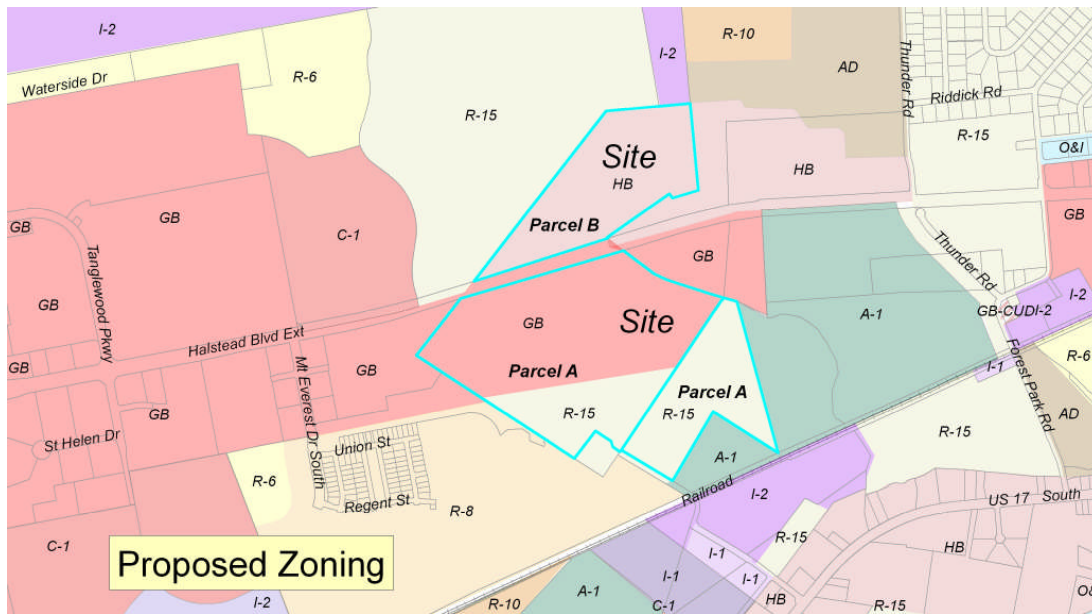
This district is defined as large, open land areas. The regulations are designed to retain the open characteristics of the land. For that reason, the permitted uses are limited in number. Residential development shall be allowed only when division of a tract or parcel of land does not constitute a subdivision as defined on the Pasquotank County Subdivision regulations.



Proposed Zoning Designations

Highway Business District, HB - Approximately 45 acres of the site

The purpose of the Highway Business District (HB) is to accommodate highway oriented retail and commercial service businesses which generally have a large market area. The objective behind this district is to encourage planned commercial and office parks which are accessed from local commercial streets and service drives and discourage the development of small lots along major highways. This district provides locations for major shopping facilities and large commercial lots. Provisions for controlled traffic movement, ample parking and loading, and suitable landscaping are essential since the uses permitted in this district are oriented towards vehicular traffic and are subject to be viewed from the highways. Multifamily development with a maximum density of approximately 10 to 12 dwelling units per gross acre is permitted.



General Business District, GB - Approximately 66 acres of the site

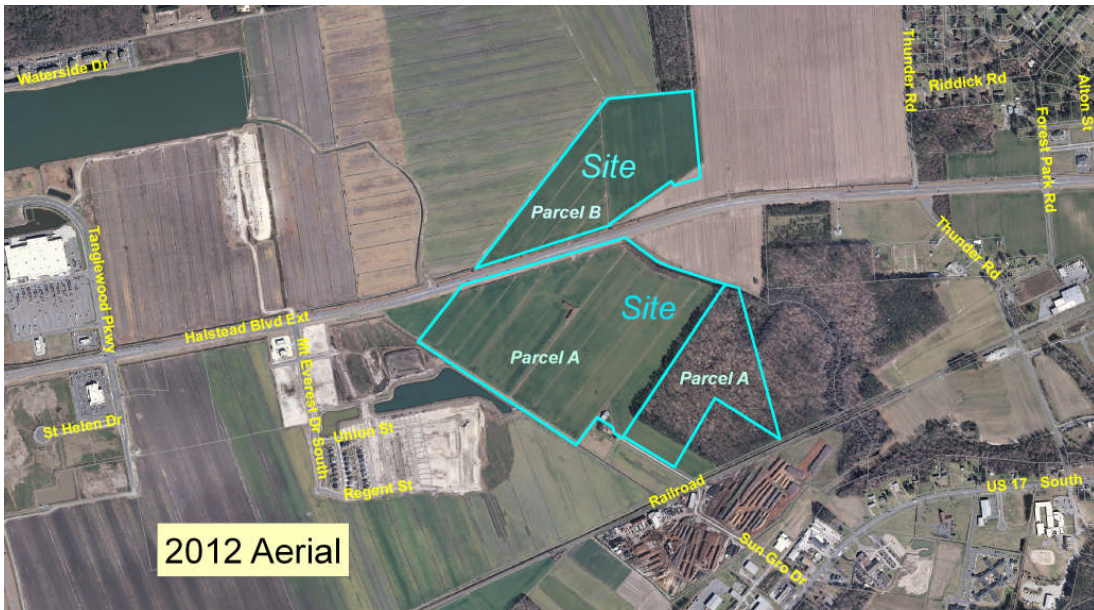
The proposed General Business (GB) provides for a diverse range of land uses including retail, business, professional and personal services, limited wholesale, and multi-family developments. The maximum residential density allowed within the GB District is approximately 10 to 12 multi-family dwelling units per gross acre.

Residential District, R-15 - Approximately 50 acres of the site

The R-15 Residential District is primarily intended to accommodate a variety of low density single-family detached dwellings. Maximum densities within the R-15 District include approximately 3 dwelling units per gross acre for single family

detached dwellings. 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 within this district.

For tracts ten acres, or larger, that are served by public sewer and water, may be developed as cluster developments. The objective of cluster development is to place the single-family detached homes closer together on smaller lots than would be required by the underlying zoning district. The cluster development allows the lots cluster lots to be developed with the R-10 residential district lot sizes and dimensional requirements. The total number of permitted lots shall not exceed the number of lots permitted in the R-15 zoning district. The excess land from the lot size reduction is than placed into a common area as open space. The minimum amount of land required for common area or open space dedication, in excess of the parks and recreation space requirements, is 15% of the total tract area.



TRANSPORTATION

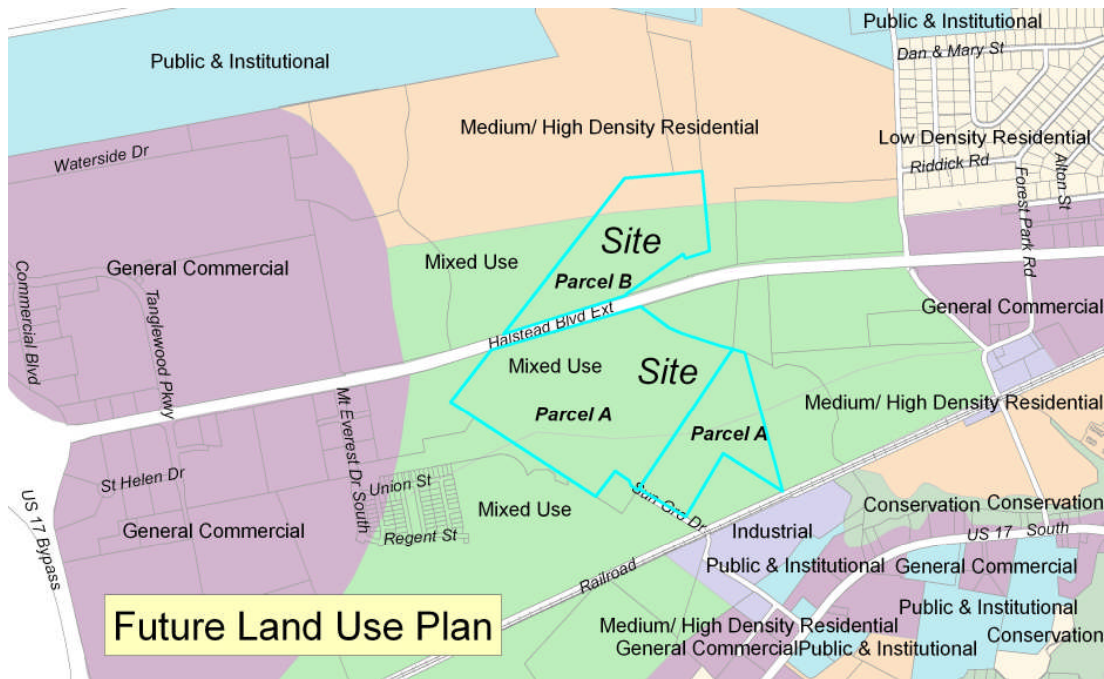
Access to the property is via Halstead Boulevard Extension. The Elizabeth City Thoroughfare Plan, adopted in June 1996, designated the proposed Halstead Boulevard Connector as a major radial between the southern portion of Elizabeth City and the proposed US 17 Bypass. As a radial street, Halstead Boulevard Extension will provide for traffic movement between points located on the

outskirts of the city and the central area of the City. In April 2009 the Albemarle Rural Transportation Planning Organization was advised by NCDOT the Halstead Boulevard Extended was upgraded to a “Minor Arterial” classification.

All newly created streets and sidewalks will be built to NCDOT and Elizabeth City’s Design and Construction Standards. There will be interconnectivity with Stockbridge at Tanglewood via a future extension of Patrick Way. The southern portion of the tract, Parcel A, will have two access points to Halstead Boulevard Extension, while the northern portion, Parcel B, will only have one access point to Halstead Boulevard Extension. The parcel may offer a future connectivity to Highway US 17 South via Sun Gro Drive.

PUBLIC UTILITIES

Public sewer and electric services will be provided by the City of Elizabeth City. There is no City water available in the area so the development will be required to connect to the County’s water system. The water lines constructed within the development will be City water lines. According to the Public Works Department, the development of this site will require the installation of new wastewater pump stations.



LAND USE PLAN

The joint Elizabeth City & Pasquotank County Draft Land Use Plan (LUP) has the site located within the Halstead Boulevard Corridor Planning area, a.k.a. the

Halstead Boulevard Overlay District. The recommended future land use pattern for this planning corridor includes commercial at the intersection of Halstead Boulevard Extension and the US 17 Bypass, with mixed land use, and medium/high density residential uses for the remaining portion. The LUP envisions the creation of design standards for mixed use developments. Due to the undeveloped nature of the overlay area, together with the highway's restricted access and wide right-of-way, it offers a significant opportunity to establish design guidelines for a creating a grand entranceway into the City.

In the LUP, the majority of site is designated by Pasquotank County as Mixed Use with the northern most portion designated Medium/High Residential. Mixed Use classified areas designate properties that are suitable for multiple land uses in areas where there is no established urban land use pattern, areas that can accommodate traditional and multi-family residential, general commercial, and support institutional land uses or a mixture of these land uses in a single development. The areas identified as Mixed Use are potential growth areas that may develop primarily as one use type or may evolve into multi-use areas. Commercial uses include a variety of retail, wholesale, office, business services, and personal services. Land uses within the Mixed Use-designated areas are generally compatible with commercial, office and institutional, medium to high-density residential and multi-family zoning classifications. Generally, the density of development in the Mixed Use designated areas is projected to average one to three commercial establishments per acre with approximately ten dwelling units per acre. Along the Halstead Boulevard Extension, it is envisioned that these properties will be a mix of single and multi-family uses intermixed with limited office and commercial development. Development of sites for commercial use only is discouraged.

The northern most portion of Parcel B has the Medium/High Density Residential classification. This designation is intended to delineate lands where the predominant land use is higher density single-family residential developments and/or multifamily developments. Cluster development is encouraged for this land use. The residential density in this classification should generally range from approximately four to seven single family homes per acre with the multi-family density ranging from 12 units per acres in the general residential district up to 25 units in the apartment district. Incompatible land uses would include industrial and commercial uses, with the exception of neighborhood commercial uses.

Public water and sewer service are required to support the intense commercial uses and the residential densities in these classifications. Streets with the capacity to accommodate higher traffic volumes are also necessary to support both Mixed Use and Medium/High Density Residential developments.

The proposed General Business (GB) and Highway Business (HB) zonings are not conducive with the Mixed Use land use designation and the vision for the future development of the Halstead Boulevard Corridor. The proposed low density R-15 Residential is not compatible with the Mixed Use and the Medium/High Residential the land use designations.

PUBLIC SCHOOLS

The Pasquotank-Elizabeth City has been duly notified of the proposed rezoning. No comments have been received.

STAFF COMMENTS and RECOMMENDATION

When making a determination, as to whether to approve or deny a rezoning, Planning Staff considers the area's zoning pattern, adjacent land uses, the Joint Pasquotank County and Elizabeth City 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 to be rezoned has a total area of approximately 162 acres and is located outside of the City Limits and the ETJ. Currently the majority of the site is used as cropland while the southeastern portion of the site is woodlands. The adjacent properties have similar land uses. The site is outside of the 100 year flood zone.

The proposal is to rezone approximately 162 acres to commercial zoning designations, GB and HB, along Halstead Boulevard Extension and low density residential, R-15 to the south end of the site. The commercial element comprises approximately 70%, approximately 112 acres, of the site with the remaining 30%, or approximately 50 acres, being designated for residential R-15 development. The site is divided by the Halstead Boulevard Extension creating two parcels with the 117 acre Parcel A being located on the south side and Parcel B, approximately 45 acres, located on the north side of Halstead Boulevard Extension.

The western edge of Parcel A abuts the Stockbridge at Tanglewood development. The northern portion of Stockbridge along Halstead Boulevard Extension has a GB designation with a residential designation of R-8 to the south. The proposed GB portion is an extension of the existing GB zoning found at Stockbridge while the R-15 portion is adjacent to land zoned R-8. As proposed, the zoning lacks a step-down approach in the transitioning in land use intensity from the proposed General Business uses to the low density single family development found in the R-15 zoning classification. The western edge of Parcel B abuts land zoned R-15 with HB along the eastern edge. It should be noted that the parcel to the west was rezoned in May of 2005, prior to the adoption of the Halstead Boulevard Extension Overlay District. The proposed HB zoning is an extension of the existing zoning to the east. The applicant predicts that the commercial areas, GB and HB, will be developed with uses such as restaurants, unique shops, small shopping centers, businesses, and daily conveniences while the R-15 portion will provide housing which will support the commercial development along Halstead Boulevard Extension. It should be noted that there is no mention of intermingling the residential and commercial uses.

Since the inception of the Halstead Boulevard Extension, the City Council was aware of the unique opportunities offered to them and envisioned creating an efficient and attractive gateway into Elizabeth City. Their vision was to create a pleasing visual travel corridor and not a highway developed with a string of strip developments along its length. Council's mission is reflected in the design standards which have been established for the Halstead Boulevard Extension Overlay District.

As noted in the LUP, it is envisioned that the most intensive commercial development patterns be concentrated at the Halstead Boulevard Extension and US 17 Bypass node. The remaining portion of the Halstead Corridor will be developed with lower intensity uses, a mix of single and multi-family uses intermixed with limited office and commercial development. Development of sites for commercial use only is discouraged. The Stockbridge development is located at the outer fringe of the Commercial land use designation.

The LUP states that in order to permit the type of mixed use development envisioned for the Halstead Boulevard Corridor, Elizabeth City may have to prepare amendments to its existing zoning ordinance and subdivision ordinance to establish specific conditions and standards for such development. The Halstead Boulevard Extension Overlay District was established to provide

appearance and operational standards for the Halstead Boulevard Corridor. The original intent was that the overlay design would also include ordinance amendments for mixed use developments, signage, landscaping for all uses allowed in the overlay district. The Elizabeth City Council adopted this overlay district in April of 2006 and was the first step in creating comprehensive land use regulations and design standards for the Halstead Corridor. Since the adoption of the LUP, the City has developed and approved the Conditional Zoning classification. Planning staff envisions Conditional Zoning being incorporated in the development of the Halstead Corridor. This zoning district has the highest level of flexibility for the design of a development and is not subject to all of the traditional UDO standards for the general zoning district. The development and use of the site is subject to mutually agreed upon predetermined rules and standards, regulations or other regulations. Site specific design elements are determined for the development and are written into the zoning change

The proposed General Business (GB) and Highway Business (HB) zonings are not conducive with the joint Elizabeth City & Pasquotank County Land Use Plan Mixed Use land use designation and the vision for the future development of the Halstead Boulevard Corridor. The proposed low density R-15 Residential is not compatible with the Mixed Use and the Medium/High Residential the land use designations. In addition, staff does not support the addition of approximately 111 areas of commercial zoned land to the Halstead Corridor without knowing what type of development will occur and if the development will be what is envisioned for the area. Currently there is approximately 490 acres of land with the GB and HB zoning designations in the Halstead Overlay District. To date, only approximately 40 acres of this land have been developed, this equate to 8.1 percent. This rezoning request would be 23 percent increase in the amount of commercial property located in the Halstead Boulevard Extension Overlay, bringing the total acreage to approximately 601. Currently there is approximately 1,630 acres of land zoned GB and HB within the City limit's of which approximately 30 percent is located in the Halstead Corridor.

Staff has met with the applicant and suggested that they consider the Conditional Zoning option. As proposed, staff is of the opinion that the proposed zoning is not appropriate for the area and recommends **DENIAL** of this application.

STAFF CONTACT

Cheryl Eggar

ceggar@cityofec.com

At the Planning Commission meeting on April 2, 2013, the applicant requested to amend their application to change the requested Residential R-15 zoning to the Residential R-8 zoning.

MINUTES
CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
TUESDAY, APRIL 2, 2013
4:00 PM

MEMBERS PRESENT

Ernest Sutton, Chairman
Lena Council
Sonny DiGirolamo
Johnny Jones
Suzanne Stallings

Also present were Angela Cole, Sr. Planner and Dawn Harris, Secretary.

Chairman Sutton called the meeting to order. He introduced two new members of the Planning Commission: Mr. Sonny DiGirolamo and Mr. Johnny Jones.

Chairman Sutton asked for a motion to approve the February 5, 2013 minutes. Ms. Stallings made a motion to APPROVE the February 2013 Planning Commission minutes. Ms. Council seconded the motion. ***ALL IN FAVOR: COUNCIL, DIGIROLAMO, JONES, STALLINGS, and SUTTON. MOTION PASSED.***

Chairman Sutton asked for a motion to adopt the agenda. Ms. Stallings made a motion to adopt the agenda for April 2, 2013. Ms. Council seconded the motion. ***ALL IN FAVOR: COUNCIL, DIGIROLAMO, JONES, STALLINGS, and SUTTON. MOTION PASSED.***

First item on the agenda was **CASE NO.: RZ-01-13** – property owned by Miles Brite represented by Hyman & Robey. This property is located within the Halstead Boulevard Extension Overlay District. The property fronts Halstead Boulevard and Sun Gro Drive. The applicant is requesting a zoning change for ±45 acres on the north side of Halstead Boulevard from R-15 Residential to Highway Business (HB) with ±67 acres on the south side of Halstead Boulevard from R-15 Residential to General Business (GB). (Parcel ID Number: 8903174264 and 8903269325)

Ms. Eggar gave the following staff report.

STAFF REPORT

The owners of this property are Miles & Barbara Brite. The location of this property is on the Halstead Boulevard Extension. It is contiguous to eastern portion of Stockbridge which is approximately 1,700' east of the intersection Mt. Everest Drive South. It is outside of City limits and outside of the ETJ. This property will need to be annexed prior to any development.

The surrounding zones of this property are as follows: North - R15, AD, I-2; South - R-8, County A-1; East - County A-1, GB, HB; West - GB, R-15 & R-8 with the exception of future commercial residential and commercial lots in Stockbridge, the surrounding land use is croplands with a small portion of woodlands to the south.

There is no City water in area. The property will be County lines. Water lines inside of subdivision will be City lines. The site will be served by City electric.

Access to the site is via Halstead Boulevard Extension and it is a limited access highway. The 1996 Transportation Plan has it proposed as a major radial between US 17 Bypass and the southern portion of City. In 2009, NCDOT classified Halstead as a Minor Arterial.

The joint Elizabeth City & Pasquotank County Draft Land Use Plan (LUP) has the site located within the Halstead Boulevard Corridor Planning Area. The recommended future land use pattern for this planning corridor includes commercial at the intersection of Halstead Boulevard Extension and the US 17 Bypass, with mixed land use, and medium/high density residential uses for the remaining portion. The majority of this site is designated as Mixed Use with the northernmost portion of Parcel B is designated Med/High density residential. Med/High Residential Classification predominantly uses higher density single-family residential developments and/or multifamily developments with densities ranging for 4-7 houses per acre and 12 to 25 multi-family units per acre. Incompatible land uses would include industrial and commercial uses, with the exception of neighborhood commercial uses. As mentioned, the majority of the site is mixed use—this designates properties that are suitable for multiple land uses in areas where there is no established urban land use pattern, areas that can accommodate traditional and multi-family residential, general commercial, and support institutional land uses or a mixture of these land uses in a single development. The LUP envisioned that these properties will be a mix of single and multi-family uses intermixed with limited office and commercial development. Development of sites for commercial use only is discouraged. The proposed General Business and Highway Business zonings are not conducive with the Mixed Use land use designation and the vision for the future development of the Halstead Boulevard Corridor. The proposed low density R-15 Residential is not compatible with the mixed use and the medium/high residential the land use designations.

Staff Comments

The Halstead Corridor was envisioned as being an entranceway into the City with the creation of design standards for mixed use development. The Halstead Boulevard Extension Overlay established design guidelines for development within the Corridor area.

The 162 acre site is divided by the Halstead Blvd Extension. Parcel A to the south is 117 acres and proposed to be zoned GB and R-15. The 45 acre Parcel B is located on the north side has a HB zoning proposed. The commercial element comprises approximately 70%, 112 acres, of the site with the remaining 30%, or 50 acres, to be R-15.

The proposal is to rezone approximately 162 acres to commercial zoning designations, GB and HB, along Halstead Boulevard Extension and low density residential, R-15 to the south end of the site. The commercial element comprises approximately 70%, approximately 112 acres, of the site with the remaining 30%, or approximately 50 acres, being designated for residential R-15 development. The site is divided by the Halstead Boulevard Extension creating two parcels with the 117 acre (Parcel A) being located on the south side and Parcel B, approximately 45 acres, located on the north side of Halstead Boulevard Extension.

The western edge of Parcel A abuts the Stockbridge at Tanglewood development. The northern portion of Stockbridge along Halstead Boulevard Extension has a GB designation with a residential designation of R-8 to the south. The proposed GB portion is an extension of the existing GB zoning found at Stockbridge while the R-15 portion is adjacent to land zoned R-8. As proposed, the zoning lacks a step-down approach in the transitioning in land use intensity from the proposed General Business uses to the low density single family development found in the R-15 zoning classification. The western edge of Parcel B abuts land zoned R-15 with HB along the eastern edge. It should be noted that the parcel to the west was rezoned in May of 2005, prior to the adoption of the Halstead Boulevard Extension Overlay District. The proposed HB zoning is an extension of the existing zoning to the east. The applicant predicts that the commercial areas, GB and HB, will be developed with uses such as restaurants, unique shops, small shopping centers, businesses, and daily conveniences while the R-15 portion will provide housing which will support the commercial development along Halstead Boulevard Extension. It should be noted that there is no mention of intermingling the residential and commercial uses.

Since the inception of the Halstead Boulevard Extension, the City Council was aware of the unique opportunities offered to them and envisioned creating an efficient and attractive gateway into Elizabeth City. Their vision was to create a pleasing visual travel corridor and not a highway developed with a string of strip developments along its length. Council's mission is reflected in the design standards which have been established for the Halstead Boulevard Extension Overlay District.

As noted in the LUP, it is envisioned that the most intensive commercial development patterns be concentrated at the Halstead Boulevard Extension and US 17 Bypass node. The remaining portion of the Halstead Corridor will be developed with lower intensity uses, a mix of single and multi-family uses intermixed with limited office and commercial development. Development of sites for commercial use only is discouraged. The Stockbridge development is located at the outer fringe of the Commercial land use designation.

The LUP states that in order to permit the type of mixed use development envisioned for the Halstead Boulevard Corridor, Elizabeth City may have to prepare amendments to its existing zoning ordinance and subdivision ordinance to establish specific conditions and standards for such development. The Halstead Boulevard Extension Overlay District was established to provide appearance and operational standards for the Halstead Boulevard Corridor. The original intent was that the overlay design would also include ordinance amendments for mixed use developments, signage, landscaping for all uses allowed in the overlay district. The Elizabeth City Council adopted this overlay district in April of 2006 and was the first step in creating comprehensive land use regulations and design standards for the Halstead Corridor. Since the adoption of the LUP, the City has developed and approved the Conditional Zoning classification. Planning staff envisions Conditional Zoning being incorporated in the development of the Halstead Corridor. This zoning district has the highest level of flexibility for the design of a development and is not subject to all of the traditional UDO standards for the general zoning district. The development and use of the site is subject to mutually agreed upon predetermined rules and standards, regulations or other regulations. Site specific design elements are determined for the development and are written into the zoning change.

The proposed General Business (GB) and Highway Business (HB) zonings are not conducive with the Pasquotank County Land Use Plan Mixed Use land use designation and the vision for the future development of the Halstead Boulevard Corridor. The proposed low density R-15 Residential is not compatible with the Mixed Use and the Medium/High Residential the land use designations. In addition, staff does not support the addition of approximately 112 areas of commercial zoned land to the Halstead Corridor without knowing what type of development will occur and if the development will be what is envisioned for the area. Currently there is approximately 490 acres of land with the GB and HB zoning designations in the Halstead Overlay District. To date, only approximately 40 acres of this land have been developed, this equate to 9.8 percent. This rezoning request would be 23 percent increase in the amount of commercial property located in the Halstead Boulevard Extension Overlay, bringing the total acreage to approximately 590. Currently there is approximately 1,630 acres of land zoned GB and HB within the City limit's of which approximately 30 percent is located in the Halstead Corridor.

Staff has met with the applicant and suggested that they consider the Conditional Zoning option. As proposed, staff is of the opinion that the proposed zoning is not appropriate for the area and recommends **DENIAL** of this application.

Mr. DiGirolamo asked for an explanation of Conditional Zoning. Ms. Eggar stated that Conditional Zoning is where the applicant may say that they want to have General Business Zoning and make it a Conditional Zoning District and within the Conditional Zoning District you may element land uses that you do not feel that is compatible with surrounding land uses or uses you may have within the development. There is flexibility with the design standards; you can make the lots smaller. Parking regulations can be modified, as well. The Conditional Zoning is to help make the zoning district more compatible with surrounding land uses and to tailor it to suit the area.

Ms. Stallings asked for clarification between General Business and Highway Business. Ms. Eggar stated that it is more of what is envisioned for those classifications. Highway Business classification is envisioned for being along the highway for properties with larger land uses: larger shopping centers, big box store. There is a 50 foot setback from the highway instead of a 25 foot setback. There are larger lots and it is anticipated that the lots would be interconnected. General Business would be the smaller commercial lots.

Mr. Jones asked if there is a barrier within the lots. Ms. Eggar stated that within the Halstead Overlay it is encouraged to have parking on three sides of the buildings and also landscape buffers where they may abut incompatible land uses. In the General Business Districts there is a zero lot line setback. It is encourage having the lots connecting to each other.

Mr. DiGirolamo stated that he noticed that very few of the properties, if any, are perpendicular to Halstead Boulevard or any other property. He asked if this is something common as to how the properties are divided. Ms. Eggar asked if he was referring to the parent properties. Mr. DiGirolamo stated yes. Ms. Eggar stated that Halstead Boulevard went through the properties and cut everything in half. That and the sale of properties over the years have created the lot lines. Ms. Eggar stated that this is the very first stage of this application where they are trying to get the zoning for the business and residential. Once this is settled the applicant will come forward with a subdivision plan or site plans.

Ms. Council asked if Staff's recommendation was based on the applicant not being specific about what business would be on the property. Ms. Eggar stated that the main thought is that the proposal is not in compliance with the Land Use Plan...it is not what is envisioned for this particular area. Ms. Council asked if there should have been housing included. Ms. Eggar stated that Staff is concerned that this property is not conducive to the Land Use Plan. The Land Use Plan for the bulk of this site is considered mixed-use and the mixed-use is not suppose to be commercial only development. It is suppose to be a mixture of single family, multi-family, commercial, limited office, etc. all intermingled in one development. In the mixed-use the residential density is a lot higher than what the R-15 allows. Mr. DiGirolamo asked for the definition of multi-family. Ms. Eggar stated that it is apartments, townhouses, and/or condos.

Mr. DiGirolamo stated that in order to do some of this as requested relative to additional residential and so on and so forth, we have to concentrate more on bringing business in to these areas to support the families. He stated that if you can bring in a lot of families, but if you don't have jobs for them then we are just spinning our wheels. He stated that he understands that closer out to the bypass area where this stuff is going it is zoned for heavier industrial. Ms. Eggar stated that initially the Halstead Corridor was going to have industrial uses mixed in with it, but as the land use evolved it was decided that industrial uses within this corridor was not appropriate. All of that eventually became mixed-use. It is envisioned that this area will be developed with multi-family, commercial and businesses mixed together. Once you get north of Halstead you will begin going into a

higher density residential. This is envisioned as being the gateway into the City and a bunch of strip shopping centers was not wanted.

Chairman Sutton stated that one of the things that they are looking forward to is bringing in businesses and developing the City so there is jobs available. The other side of that issue is that the City wants balanced growth so there will be the kind of growth that will be attractive to other businesses that might come in.

Chairman Sutton asked if there were any other questions from the Commission. There were none. He then asked the applicant to come forward.

Mr. Eddie Hyman came forward as representative for this application. Mr. Hyman stated that the Commission had talked about a lot of things and he would like to try and address some of the high points.

Mr. Hyman stated that Mr. Brite had come to him and asked for him to help in the rezoning. The realtor, Mr. Sam Davis has worked with Mr. Hyman on what he thinks he can sale. This is where they were trying to come to a good idea of what they can do with the property; what they could do to offer the property in this commercial corridor. Mr. Hyman stated that is what the property is in: a commercial corridor. He stated that they looked at the different land uses and came up with what has been presented.

Mr. Hyman stated that that the R-15 that adjoins the GB that the applicant is for is the default zoning for that property. He stated that they are also asking for annexation and it will annex into the City with the R15 classification. He stated that they would gladly change that to R-8 to allow for better mix. He stated he would like to address the difference between the Conditional Zoning and the “blanket” Rezoning; which is all that was allowed until a few years ago. If they had an owner that wanted to develop property, they could easily come forward with a Conditional Zoning. There would be somebody in mind that would want to build specifics. Basically, it is a contract that says if the plan is approved that is the only thing that can be done on the property. It is a contract between the developer/owner and the City that says “yes, I am going to develop this area commercial, this area multi-family, this area single-family and the commercial uses will be a doctor’s office, day care, landscape facility, etc. The GB district allows for mixed use. Mr. Hyman stated that the Overlay District requirements that will be the tool that is used for any plan that comes forward and will also protect the plans. At this point, they are not prepared to bring a plan forward, because they do not have an owner with a site specific need or desire. That is the difference between the Rezoning to GB or the Conditional Zoning that says: “Here is my project and I will build it like this if you say I can.” However, you can not deviate from the plan with out coming for another Rezoning. Conditional Zoning requires you bring a site plan forward with landscaping and everything laid out for review. Mr. Hyman stated that they do not want to do Conditional Zoning and perhaps block the hands of a potential buyer. They want the buyer to come in and design something that will meet the corridor appeal and be what the City wants in the projects. He stated that it is the gateway into our town and they want it to be developed nice. The multi-faceted uses in the GB zoning would best fit that desire. In 2010 the

property that adjoins this property was rezoned from O & I to GB. The property being requested for a rezoning is flanked by GB and GB. Property on the other side of the corridor is flanked on one side by Highway Business and the HB comes in front of the proposed property. He stated that the corridor did not exist until 1996. Those tracts are tracts of farmland that were laid off when they were timberland. This corridor came through and sliced it into inopportune angles and dimensions, but that is what we have now to work with.

These parcels have one entrance off the highway. The Halstead Boulevard Connector is a limited access highway. There is one entry point for each parcel off the highway. Mr. Hyman stated that it is designated on the plats that the Commission has. The percentage of commercial property that is out on the corridor is a statistic. Mr. Hyman stated that numbers are a good thing sometimes. The commercial corridor is a gateway into the community and it should be developed as commercial property. He stated that they would be willing to modify their request from the R-15 to R-8 if that would make it a little more palatable to the Planning Staff and to make the most of the use of the property. Even in the GB zoning the multi-family concept is there to include condos, multi-family units for residential in the mixed use area. Mr. Hyman stated that this is the first step of the development or the entertainment of a buyer is the rezoning so the property can be marketed. Then someone can come forward with a plan that says what they are going to do and that they have applied the Overlay District tools and it will have to go through a regiment of site plan reviews, fire, water, planning staff and tech staff reviews when time to develop. Mr. Hyman offered to answer any questions the Commission had.

Mr. DiGirolamo stated that he was not familiar with the R-15 classification relative to the R-8 classification. Mr. Hyman stated that R-8 is a higher density development. The R-15 is a default zoning when annexing property into the City. R-15 zoning is the lowest residential density classification. There is RM, R-8, R-6, Apartment District and each has its own criteria, own type of structure, own unit per acre of density. Mr. Hyman stated that GB also has residential density that is compatible to the R-8.

Chairman Sutton asked for confirmation that what Mr. Hyman is sayings regarding the Conditional Zoning option prohibits the applicant to sell his property to a potential buyer. Mr. Hyman stated that if he brings forth a Conditional Zoning he is to bring a site plan forward that says how many residential units in a certain area, parking spaces, impervious area, building layouts. He stated that he does not want to invest that much of Mr. Brite's money and time in a product then try to find a buyer that it fit. Mr. Hyman stated that he would rather have the buyer come to him and say that this is what we have done in other places and it works. Let's custom tailor it to the City's UDO and Overlay requirements. That is the difference. With Conditional Zoning the Commission knows what they are voting on. With a "blanket" rezoning the Commission has to rely on the progress as it moves forward to custom fit it to the desires of the City. Mr. Sutton stated that for the Commission they do not know what is going to come in. Mr. Hyman stated that he has the permissible uses that are listed in the UDO. That tells what can be done, but does not give a layout. If someone buys the property and hires Hyman and Robey to develop a plan then there will be a meeting with Planning Staff to see if this meets the corridor

overlay's intent. That is the process that goes on. The downside to doing it now is that it is costly and it may be a waste of time. The potential buyers that are out there since the economy is tight there is still some interest. If they have a clean slate for a developer to buy and they do what they want with the property versus an approved plan, then it is harder to find a person to buy that piece of property.

Chairman Sutton asked what Staff's point of view. Ms. Cole stated that Staff's concern remains with the General Business/Highway Business rezoning and that blanket of allowable uses. At the time of plan review Staff would not have opportunity to require the mixed use component go into play. The available uses in General Business/Highway Business would be there, but as far as trying to mold that development to meet the intent of the future Land Use Plan...Staff has lost that ability. She stated that she would ask the question of the applicant and owner is it that disadvantageous to annex the property into the City, leaving the R-15 classification that would automatically apply and advertise the property as potential commercial. Mr. Sutton asked if the applicant chose to do just that what would be the timeline for the annexation. Ms. Cole stated no more than a sixty day Council cycle with getting the survey, signatures and on the City Council Agenda.

Mr. DiGirolamo asked for some clarification. If this application is approved as requested and someone else comes in with a piece of property that is GB and they would like to put something in that does not fit in the GB classification. Is it possible to change it at that time. Ms. Cole stated that another rezoning of the property is possible. Staff does acknowledge that the City's Zoning Code, other than Conditional Zoning, does not have a mixed use classification for zoning. That is where the gap remains. Ms. Eggar stated as mentioned in the report that was part of the vision of the Overlay District for the mixed use classification to be incorporated into it but it was not. She stated that we do have the Conditional Zoning for now.

Chairman Sutton asked Mr. Hyman what the concern of annexation would be. Mr. Hyman stated that annexation just makes double tax. It will be taxed under the current use until the use changes. He stated that the applicant is asking for annexation with this rezoning, but they are asking for the GB zoning. He stated that if the Commission would look at their map they would see there is one piece of property that was rezoned in 2006 to GB. There is another piece of property that was rezoned to GB in 2010 that flanks on the other side of the applicants property. Mr. Hyman stated that they are just asking to just connect those two adjoining properties. He stated that they are not asking for anything that is not within the continuity of what the corridor shows. They are trying to connect the two and offer a saleable feature. You have the potential with this zoning for connectivity from tract to tract without having to go back out on the highway. That will be introduced in the design plans as it moves forward. Coming forth with right now with design plans and then try to sell the concept to someone—there is not enough buyers or investors that want to do this as it is and to try to custom tailor them into a small sphere of need or desire is a problem. Ms. Stallings asked if someone such as Bed, Bath and Beyond approached the applicant about wanting to come into Elizabeth City, what is so hard about coming back before the Planning Commission and getting it rezoned at that point. Mr. Hyman stated that it is a time delay. Ms. Stallings asked if they think the

buyer would possibly back out. Mr. Davis stated that first Bed, Bath and Beyond would not come in by themselves. It would have to be a developer that would buy a large tract and does a semi-shopping center for a shopping center and that is where a Bed, Bath and Beyond would go. They are not marketing to Bed, Bath and Beyond. They are marketing to a developer—somebody that will put together the deal to do it all.

Ms. Stallings stated that her next question goes to Planning Staff. She stated that she knows that Staff is against the rezoning. She asked what would be the worst case scenario. What would be so bad to zone this property GB. She stated that she knows that Staff has said it does not go with the Land Use Plan and can understand that part. She asked what Staff envisions that would be a bad thing. Ms. Eggar stated a strip development. Ms. Stallings stated plaza after plaza. Ms. Eggar stated yes. Ms. Stallings stated if the Commission was to allow General Business to be allowed there then that is a possibility of having a strip plaza. Mr. Brite could have no way of knowing if his buyer wants to do a strip mall deal and it could go through with this zoning. Ms. Eggar stated, correct.

Mr. DiGirolamo asked if someone came in and wanted to put a strip center in on one of the GB tracts there is no other relationship with the City approving it or they just come in. Ms. Eggar stated that they just come in. Ms. Cole stated that there would be a site plan review regulating developing standards: parking, how many spaces, where the trees would go, etc. Mr. Hyman stated that this is the start of the review of the process. It goes through a lot of review/scrutiny from not just the Planning Staff but a Tech Staff that looks at the plans. They do apply the Overlay requirements for this area. He stated that if they had a buyer that was “chopping at the bit” he would have a plan in front of the Commission; but they don’t. They are trying to put some commercial property out there. Mr. Brite has owned this property since 1941. It is his investment and he is trying to get as much “bang for the bucks” as he can.

Mr. Jones asked for confirmation that they do not have a potential buyer right now. He asked how long could it sit. To him it looks like they would know if there was a buyer. Anytime someone goes into making a development there is some idea of something that is coming through. It may be something you don’t want to expose or bring up. Mr. Jones stated that something has to be brought forward to tell what the intent is. He asked if there is no buyer and the property sets for two years will the applicant be happy with that. Mr. Hyman stated that he thinks they will be happy with a zoning that can be marketed. Mr. Hyman’s analogy was, “he can sell you this car or he can sell you this car with an engine in it.” He stated he wasn’t sure if it was a good analogy or not. This is a commercial corridor. Hyman and Robey has helped in building on the end where the hotel is and they have done work in Tanglewood. The mixed-use required for the center section of the corridor has been fulfilled with the O & I; however, some of the uses in the O & I are also available in the General Business. On the mixed-use residential side, they are willing to go to R-8 zoning to get a higher density mixed-use residential, GB Commercial as they move forward. They do feel that the GB would be a better fit. Mr. Davis feels like he can market the property better if he has the zoning done versus potential rezoning.

Mr. DiGirolamo asked if it enhances the marketability for the applicant to have it already zoned. Mr. Hyman stated that it would improve the value and also improve the speed of development if someone comes in and drops a plan on them. They would not have to wait 60 to 90 days to see if they can get the rezoning before they can even start with the concept.

Chairman Sutton asked if Mr. Hyman had anyone else he would like to speak?

Mr. DiGirolamo had one more question for Mr. Hyman. He stated that he assumed in the future when something comes forward there would be provisions for stormwater runoff, etc. He asked if that would be laid out and approved. Mr. Hyman stated that it would have to meet City and State standards. The City has its own stormwater runoff standards. Mr. Hyman stated that a lot of what has been discussed today does take place further down the line of approvals. Mr. DiGirolamo commented that another thing he had noticed was the property was outside the 100 year flood zone; however, the maps that he had looked at showed an eight foot elevation. He asked if he had read it wrong. Mr. Hyman stated no, actually there is an area in the R-15 zoning that has a part of the flood zone in it. He stated that the eight foot elevation is probably right. Mr. DiGirolamo stated that he is from the Summerfield Subdivision, so that is a point of contention for quiet some time. Summerfield's elevation is around nine feet. Mr. Hyman stated that he believes that is correct. They have not done elevations on this particular site.

Mr. Sam Davis came forward in favor of this application. Mr. Davis stated that he was here tonight to just piggyback on what Mr. Hyman had told the Commission and also to add some clarity to what feeling is behind this request. Number one, this is probably one of the most regulated corridors in Elizabeth City. It has limited access...that means it is not going to change for anybody. So, when you talk about having strip center after strip center after strip center; those strip centers are going to have to have access at those particular access point. Mr. Davis stated that he thinks there are 10 access points and that comes from Hughes Boulevard to Wal-Mart. There is already limited access to control all that. Secondly, the size of the land—what is being looked at is huge tracts of land in that it is going to take a huge developer to put together a plan that is big enough to make this type of development work. Mr. Davis stated that there are not a lot of those out there. Thirdly, the Commission's questions about residential are certainly on the money. The two hot things selling in America right now are commercial and apartments. Nobody wants to develop R-15. Nobody wants to develop a subdivision. Mr. Davis stated that the Commission does not have to worry about that and he assumed that was why the schools were not interested in making a point that there would be too many people flood us with housing. He stated that it is just not going to happen right now. Going back in history, when the 140 acres that are adjacent to Mr. Brite's property was rezoned the front 40 acres was rezoned commercial, the back acreage was rezoned residential. At that time, less than a year later, Mr. Davis stated that he had a sale/contract that did not go through. The plan was presented to the Planning Department and there were some conceptual sketches that were brought about. The thought behind that was it was exactly what was being looked for. It was with the commercial district in

the front with limited access. You drove through the commercial district to get back to the residential side. Mr. Davis stated that now-a-days nobody wants to do that. He stated that he wished he could say that he has a sell for it. He said he does not, but he has two national groups that have looked and one multi-national group that has looked and he has several prime investors in North Carolina and Virginia that has looked at both of these properties. He asked, what would be conducive to making the sell. The north side is the side that has the best access with Thunder Road and the access on that side. Mr. Brite's 40 acres is contiguous to that already zoned Highway Business side. Mr. Davis stated that what they are asking for is that the Commission follow a common sense approach and say "if it is already contiguous to that Highway Business, than why shouldn't Mr. Brite's be zoned Highway Business, too." On the southern side it is already contiguous to the zoning of the General Business and they are asking the same thing. Mr. Davis asked why the property would not fall in the same category and he commented it would make sense for the whole corridor to be zoned commercial and on the backside of it residential as being asked for. Mr. Davis stated that he would follow up with Mr. Hyman in saying that they certainly do not mind the residential section being R-8. That would probably suit there need better than the R-15. He thinks that the buyer's chances of attracting apartment complexes are much better than attracting somebody to do a subdivision. Mr. Davis commented that he thinks that the Commission's task is to be good stewards of the public's ability to help with the tax base. In that, if you look at Mr. Brite's property right now it is farm land. Farm land is valued at about \$6,000 per acre. If you sell an R-15 lot or an R-30 lot or R-45 lot right now you are lucky to get 10 to 20 thousand dollars. Cost and prices have gone way down. Commercial is still demanding way up...Mr. Davis stated he can sell a corner lot to an actual chain for \$500,000 an acre. That gives the City a tax base without having to fund the schools and without having to fund the hospital, without having to fund the police...it gives a much better opportunity to help our community grown in a positive way. Mr. Davis stated that he is just asking that the Commission look at it from a common sense perspective and this is a good opportunity for our community to grow in a positive way. He stated that one of the groups that have looked at this property has done a shopping center design that has the shopping center below and condos and apartments above; which seems to be another national trend right now. He is not sure if Elizabeth City has the population/density to make that work but it would certainly be attractive. The major person that is to be looked for is going to be somebody that would have a new shopping center come to Elizabeth City which would be a wonderful asset with a much better planned growth. He thinks that with the size of the tracts the chance of drawing a big shopping center is much better than having strip centers.

Mr. Davis offered to answer any questions the Commission might have. Chairman Sutton asked if the Commission had any questions. Mr. DiGirolamo stated that Mr. Davis had noted on the north side that Parcel B is going to Highway Business and it is contiguous with the land use next to it, but Mr. DiGirolamo stated that he is showing an R-10 tract of property that comes in between those two pieces of property. Mr. Davis stated no, that it is contiguous to General Business. Mr. DiGirolamo stated that he has the GB connection, but on the other side of Halstead Boulevard, Parcel B. Mr. Davis stated that he does not have what Mr. DiGirolamo is looking at so he can't answer. Ms.

Eggar stated that the HB is the Halstead parcel to the east that goes to Thunder Road. Mr. Hyman pointed out the property on the map for Mr. DiGirolamo.

Chairman Sutton asked if there were any other questions from the Commission. There were none.

Chairman Sutton commented on the mission of the Planning Commission saying that it is to support the growth of Elizabeth City. He stated that the Commission is certainly sensitive to what Mr. Brite is trying to do and supports that. One of the things that that Commission has to consider is staying within the guidelines of the Land Use Plan and trying to find alternative means to accomplish the same thing without voiding the Land Use Plan. One important thing is that the Commission brings in business to Elizabeth City that would grow the City from a tax base standpoint. It is the Commission's mission to not be a barrier of growth but to be a balance of growth.

Chairman Sutton called for a motion.

Mr. Davis asked if he could say one more thing. He stated that Wal-Mart has now taken the place as the fifth largest employer in Elizabeth City and that is a huge commitment to growth in Elizabeth City. There are a couple of large chains that would do the same thing that would be a nice addition.

Mr. Hyman stated that this property needs to be changed from Agriculture to something. It needs to have another zoning designation because Agriculture does not fit into this corridor. He feels that the GB zoning can be and is a mixed-use zone. It covers a lot of uses and he can not follow the thinking that it is not mixed-use. GB zoning is considered a mixed-use. There are all kinds of uses in that zoning. When someone come forward later that is when it needs to be costume tailored to the area.

Ms. Stallings made a motion to APPROVE the Rezoning for Case Number RZ-01-13. Mr. DiGirolamo seconded the motion. Ms. Eggar stated that the designated classifications needed to be stated. Ms. Stallings withdrew her motion. Chairman Sutton allowed motion to be withdrawn.

Ms. Stallings made a motion to **APPROVE** the request for the Rezoning of GB, HB and R-15 to R-8 for Case Number RZ-01-13. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, JONES and STALLINGS. ALL OPPOSED: COUNCIL. MOTION PASSED.**

Ms. Cole stated to the applicant that they would receive notification from the Planning Staff of the Commission's action here today and also notifying them of City Council's Call for Public hearing date. She encouraged them to get the annexation filed.

Chairman Sutton stated that he does not have a specific report. He did thank particularly the new members today for coming in and asking questions. He stated he was looking forward to their active participation on the Commission. He also thanked Staff for their

work and stated that he feels they made a good decision. The case still needs to go before Council. He does have some concerns about balanced growth. He thinks it is important that while they want business to come in, it is important for the Commission to keep in mind of what type of business comes in and how it impacts the aesthetics of the City.

There were no member concerns.

With no further business, Ms. Stallings made a motion to adjourn. Mr. Jones seconded the motion. Meeting was adjourned.

Respectfully Submitted,
Dawn Harris, Secretary of the Board