

**Planning Board Meeting
March 15, 2021
Minutes**

Members Present: Chairman Jonathan Olson, Terry Allen Swaim, Levin Jones, Ryan Zakany, Deans Eatman, Jimmena Huffman-Hall, and Michael Firstbrook.

Members Absent: Cande Killian Wood

Staff Present: Niki Jones Planning Director, Bryan Coates, Assistant Planning Director, Jeannine Ngwira & Linda Barbour.

1. Meeting Called to Order

Chairman Olson called the meeting to order at 7:00 pm and recognized that a quorum (minimum of 5 members) was present.

Pledge of Allegiance was recited.

2. Adjustment and Approval of Agenda

Chairman Olson asked for a motion to approve the agenda. Mr. Swaim made the motion and Deans Eatman seconded the motion. The agenda was approved unanimously.

3. Approval of the Minutes

3a. Wendell Planning Board minutes from February 15, 2021. Chairman Olson asked if all had a chance to review these minutes. Deans Eatman made a motion to approve & Ryan Zakany seconded the motion; all were in favor and the minutes were approved unanimously.

4. Administrative Reports

None

5. New Business-

5a. ZM21-01 – Rezoning request for 3340 Wendell Blvd

POTENTIAL ACTION: Recommendation to the Town Board.

5b. ZM21-02 – Rezoning request for 217 Magnolia Street

POTENTIAL ACTION: Recommendation to the Town Board

5c. ZTA21-02 Text Amendment for Chapter 160D of the NC General Statutes

POTENTIAL ACTION: Recommendation to the Town Board.

6. Old Business

6a. Blueprint Wendell 2030 Update.

Niki Jones, Planning Direct, presented the following to the Board shown in *italics* below.

5a. Item Title:

ZM21-01 – Rezoning request for 3340 Wendell Blvd. from Neighborhood Center (NC) to Downtown Mixed-Use (DMX).

Specific Action Requested:

The Planning Board is asked to review the rezoning request and provide a recommendation to the Town Board that includes a statement of plan consistency and reasonableness.

Item Summary:

The applicant is requesting to rezone a parcel located on the southwest corner of Wendell Blvd and Magnolia Street from NC to DMX. This rezoning was submitted in conjunction with the application to rezone 217 Magnolia Street. By rezoning the two parcels together it would provide a more balanced zoning pattern. The applicant has indicated that no significant changes will be made to the property at this time.

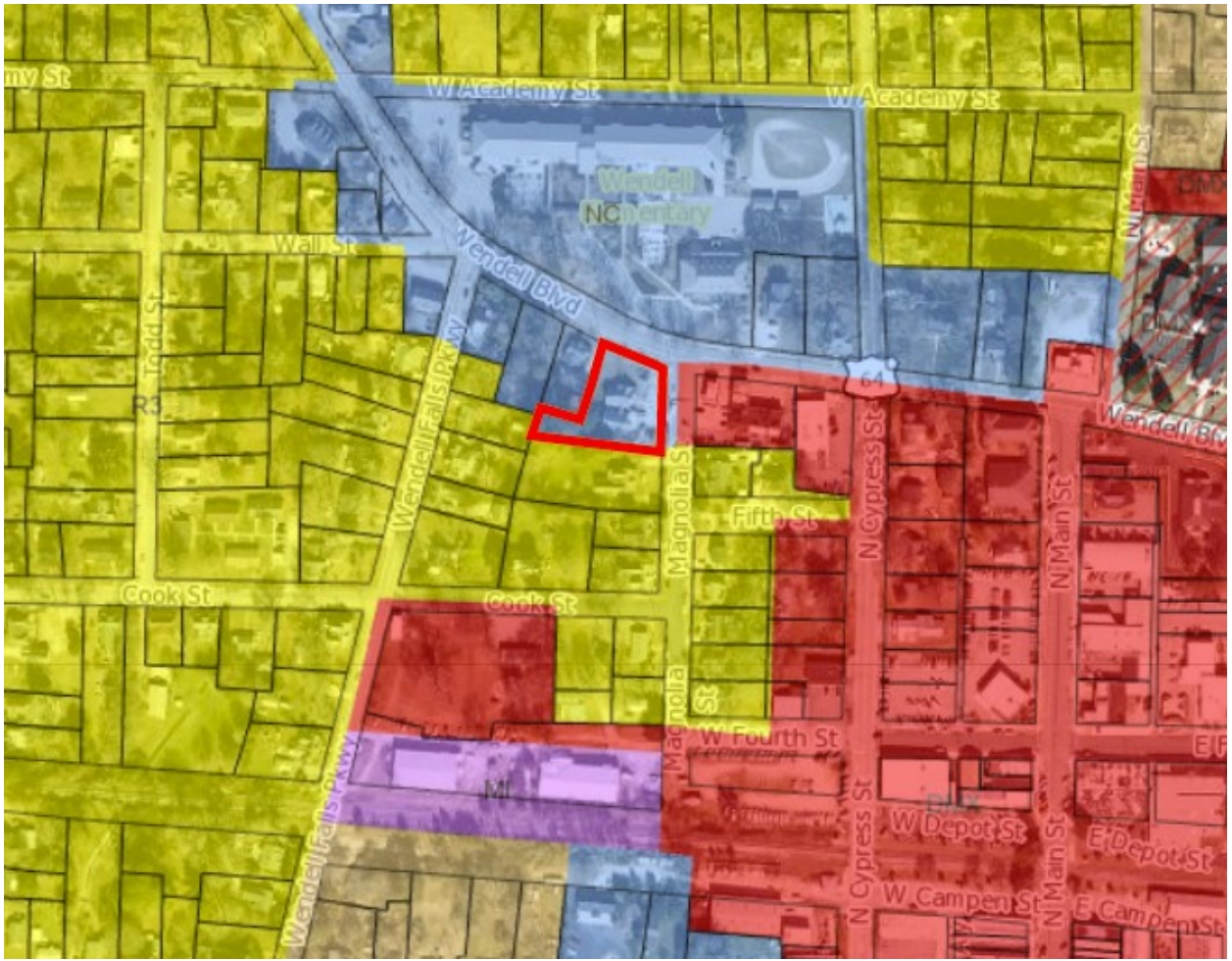
This type of rezoning allows for all permitted uses within the DMX zoning district (see attachment B).

Project Profile	
Location	The southwest corner of Wendell Blvd & Magnolia St. Addresses: 3340 Wendell Blvd. PINs: 1784-61-1021
Current Zoning	Neighborhood Center (NC)
Requested Zoning	Downtown Mixed-Use (DMX)
Area of Request	0.6 acres
Corporate Limits	Inside Corporate Limits
Current Land Use	Residential
Proposed Land Use	Residential
Property Owner	Danny Jeffreys
Applicant	Danny Jeffreys

Project Setting – Surrounding Districts and Land uses:

<i>DIRECTION</i>	<i>LANDUSE</i>	<i>ZONING</i>
<i>North</i>	<i>School</i>	<i>NC</i>
<i>South</i>	<i>Residential</i>	<i>R3</i>
<i>East</i>	<i>Commercial</i>	<i>DMX</i>
<i>West</i>	<i>Residential</i>	<i>NC</i>

Aerial Picture



Zoning District:

The subject property is currently located in the NC zoning district and Gateway Overlay Zone 3. The surrounding properties are zoned Neighborhood Center (NC), Downtown Mixed-Use (DMX) and Residential-3 (R3).

The UDO states that the Downtown Mixed-Use District should encourage the redevelopment and expansion of the traditional Downtown area. Individual buildings are encouraged to be mixed vertically with street level commercial and upper level residential or commercial uses. Higher densities of residential development are encouraged. This zoning district should facilitate pedestrian activity, vibrancy and associated infrastructure (i.e., sidewalks, pedestrian scaled street lighting, projection signs).

Typically, downtown districts serve as a destination or hub of activity creating an experience that attracts a regional market. It should be a diverse cross-section of residents, businesses, cultural amenities, education, and employment.

The applicant is not proposing any development on the property at this time. Due to its proximity to the DMX district, and other non-residential uses along Wendell Boulevard, if redevelopment were to occur in the future, commercial, multi-family residential or mixed-use would be appropriate for this parcel. The specific requirements of the DMX district will dictate the form and function of all building types and uses which will impact things such as parking, buffers and design standards

Below is a table of DMX lot dimensions for townhomes, apartments and commercial development:

	<u>Townhomes (SUP)</u>	<u>Apartments (SUP)</u>	<u>Commercial</u>
Lot Width	16 ft.	30 ft.	25 ft.
Front Setback (Min)	0 ft.	0 ft.	0 ft.
Front Setback (Max)	20 ft.	25 ft.	10 ft.
Side Setback	3 ft.	6 ft.	4 ft.
Rear Setback	0 ft.	0 ft.	0 ft.
Maximum Height	3 stories	4 stories	4 stories
Minimum Height	2 stories or 20 ft.	2 stories or 20 ft.	2 stories or 20 ft.

**SUP= Special Use Permit required*

Design Standards (Per Chapter 5 of the UDO):

5.3 - General Building Design Requirements

- A. All Buildings to Front on Street or Public Space: All buildings shall front on a public street or public space. Such buildings shall include a principal building entrance and architectural front. With the provision of alley access, lots may front upon a public open space which shall have public street access but shall be of sufficient design to allow for access by emergency services.*

- B. *Building Entrances: A primary entrance facade shall be oriented toward the street, be designed for the pedestrian, and be distinguishable from the rest of the building and other entrances. Additional entrances may be oriented toward side or rear parking lots. Service entrances for shipping and receiving shall be oriented away from the public street.*
- C. *Architectural Style: When a building design exhibits a known architectural style (e.g., Colonial, Victorian, Classical Revival) the details shall be complementary with that style. Termination of Vistas: Important street vistas identified in any adopted plan should terminate in a focal point, such as a building or other architectural or natural feature.*
- D. *Termination of Vistas: Important street vistas identified in any adopted plan should terminate in a focal point, such as a building or other architectural or natural feature.*
- E. *Compatibility: Adjacent buildings should relate in similarity of scale, roof pitch, height, architectural elements, and/or lot configuration.*
- F. *Wall Materials: When two or more materials are used on a facade, the visually heavier material (i.e., masonry) should be placed below the lighter material (i.e., siding) to give the sense of support and grounding.*
- G. *Underground Wiring: To reduce the visual impact of overhead wiring, new utility services shall be located underground.*
- H. *Type of Construction: Manufactured, mobile, and metal units shall be prohibited, except as may be allowed in [Section 4.6, Temporary Uses](#), for a temporary office or classrooms, site management, or storage uses during construction projects.*
- I. *Roof Pitch: Roof pitches less than 4:12 and flat roofs will require a parapet wall.*
- J. *Public Art: Public art, such as statues, fountains, and other works of art are encouraged.*

5.8 - General Design Requirements for Multi-Family Residential Building Types

A. Materials:

1. Building Walls:

- a. *Building walls shall be primarily clad in wood clapboard, cementitious fiber board, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco, vinyl, or synthetic materials similar and/or superior in appearance and durability.*
- b. *Vinyl: Vinyl may only be used on buildings that are no closer than 30 feet from the next closest building and that do not contain mixed occupancy or attached dwelling units.*
- c. *EIFS: Exterior insulation finishing systems (EIFS) may be used above eight feet from the base of residential buildings (Apartment and Mixed-Use buildings only) and may not be used for House building types.*

- 2. *Roofs: Roofs shall be clad in wood shingles, asphalt shingles, standing seam metal, terne, slate, or synthetic materials similar and/or superior in appearance and durability.*

B. Other Requirements.

- 1. Roof Pitch: Main roofs on multi-family buildings shall have gables or hips with a front pitch between 6:12 and 12:12. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch roof shall be less than 4:12.*
- 2. Crawlspace: The crawlspace of buildings shall be enclosed with solid/permanent material that complements the dwelling style.*
- 3. Overhanging Eaves: Overhanging eaves may expose rafters.*
- 4. Flush Eaves: Flush eaves shall be finished by profiled molding or gutters.*
- 5. Visibility/Accessibility Standard: For residential buildings in developments designed for residents aged 55 and older, there shall be provided one zero-step entrance to each building from an accessible path at the front, side, or rear of each building. This does not eliminate the requirements for residential buildings to have raised front entrances.*

5.10 - Townhouse Buildings

- A. Description: The townhouse is a building with two or more residential units that are located side by side. When an entrance is provided at-grade, the townhouse may be used as a live-work unit. Standards in this section are also applicable to duplex dwellings.*
- B. Yards: The Townhouse typically has one yard (Rear) though variations include a small front setback to provide some landscaping.*
- C. Dimensional Standards: The Townhouse building type is allowed as a Special Use in the DMX district (dimensional standards in table on page 3).*
- D. General Requirements.*
 - 1. Bulk and Scale: The bulk and scale of townhouse infill development shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development.*
 - 2. Access: Vehicular access to a garage or off-street parking area is not permitted on the front elevation of a Townhouse.*

5.11 - Apartment Buildings

- A. Description: A multiple unit building with dwelling units vertically arranged (generally) and with parking located below or behind the buildings. Units may be for rental or for sale in condominium ownership or may be designed as continuing care facilities. The ground floor may be available for commercial uses.*
- B. Yards: The Apartment Building typically has one yard (Rear) though variations include a small front setback to provide some landscaping.*
- C. Dimensional Standards: The Apartment building type is allowed as a Special Use in the DMX district (dimensional standards in table on page 3).*
- D. General Requirements.*
 - 1. The bulk and scale of apartment infill development shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development. All buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.*

2. *Porches and Stoops: Useable porches and stoops shall form a predominate motif of the building design and be located on the front and/or side of the building. Useable front porches are at least eight feet deep and extend more than 30 percent of the facade width.*
3. *Garage Doors: Garage doors are not permitted on the front elevation of any apartment building.*
4. *Building Elevations: All building elevations visible from the street shall provide doors, porches, balconies, and/or windows. A minimum of 60 percent of front elevations, and a minimum of 30 percent of side and rear building elevations, as applicable, shall meet this standard. "Percent of elevation" is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. This standard applies to each full and partial building story.*
5. *Raised Entrances: All front entrances shall be raised from the finished grade (at the building line) a minimum of one and one-half feet.*
6. *Design Details: All apartment buildings shall provide detailed design along all primary elevations and elevations facing a public street or open space. Detailed design shall be provided by using at least three of the following architectural features as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):*
 - a. *Dormers.*
 - b. *Gables.*
 - c. *Recessed entries.*
 - d. *Covered porch or stoop entries.*
 - e. *Cupolas or towers.*
 - f. *Pillars or posts.*
 - g. *Eaves (minimum ten-inch projection which may include gutter).*
 - h. *Off-sets in building face or roof (minimum 16 inches).*
 - i. *Window trim (minimum four inches wide).*
 - j. *Bay windows.*
 - k. *Balconies.*
 - l. *Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation, and similar features).*
 - m. *Decorative cornices and roof lines (for flat roofs).*
 - n. *Other architectural features appropriate to the architectural style of the unit.*
7. *Roof Pitch: If pitched roofs are used, they shall be symmetrical gables or hips with a pitch between 6:12 and 12:12.*
8. *Rooftop Equipment: All rooftop equipment shall be screened from view.*

5.12 - General Design Requirements for Building Types: Mixed-Use, Commercial, Civic, Institutional

A. Façade Treatment.

1. *Architectural Elements: Architectural elements such as windows and doors, bulkheads, masonry piers, transoms, cornice lines, window hoods, awnings,*

canopies, and other similar details shall be provided on all façades facing public rights-of-way.

2. *Building Wall and Roofline Offsets: Building wall offsets, including projections, recesses and changes in floor level shall be used in order to add architectural interest and variety, relieve the visual effect of a single, long wall; and subdivide the wall into human size proportions. Similarly, roofline offsets shall be provided to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.*
- B. *Ground Level Treatment: The ground level of the building shall offer pedestrian interest along sidewalks and paths. This includes windows, entrances, and architectural details. Incidental signage on buildings (in accordance with Chapter 12), awnings and ornamentation are encouraged.*
1. *Street Walls: The first floors of non-residential buildings and all mixed-use buildings shall be designed to encourage and complement pedestrian-style interest and activity by adhering to the following provisions:*
 - a. *Windows and Doors: The first floor of all buildings fronting directly on a street shall include transparent windows and doors arranged so that the uses inside are visible from and/or accessible to the street on at least 65 percent of the length of the first floor building elevation along the first floor street frontage.*
 - b. *Window dimensions:*
 - i. *Maximum Sill Height (1st Floor): 42 inches (as measured from the finished floor elevation).*
 - ii. *Minimum Area: 16 sq. ft.*
 - iii. *Minimum Width: three feet.*
 - iv. *Minimum Height: four feet.*
 - c. *Blank Walls: Expanses of blank walls may not exceed 25 feet in length. (A "blank wall" is a façade that does not contain transparent windows or doors.)*
 - i. *Façades without transparent windows or doors must be divided into architecturally distinct sections or bays with each section taller than it is wide and no wider than 25 linear feet. The following techniques may be used to delineate the different bays:*
 - *The use of columns, ribs, pilasters piers, or an equivalent element that otherwise visually subdivides the wall through at least 50 percent of its height.*
 - *The use of parapets, arches, wing walls, or porches that extend from the vertical plane of the façade at least six feet; and/or*
 - *The incorporation of a clearly defined, highly visible, public entrance that features one or more of the following: canopies, awnings, porticos, colonnades, arcades or similar weather protection.*
- *Rear façades which do not front streets or civic gathering places and which do not adhere to the standards in Section 5.12.B.1.c.i must be screened from view by a Type B buffer.*
 - *Ventilation Grates and Exit Doors: Ventilation grates or emergency exit doors located at the first floor level in the building façade, which are oriented to any public street, shall be decorative.*

- C. *Building Entrances: A primary entrance façade shall be oriented toward the street, be designed for the pedestrian, and be distinguishable from the rest of the building. Such entrances shall provide a sense of entry and add variety to the streetscape. Additional entrances may be oriented toward side or rear parking lots. Service entrances for shipping and receiving shall be oriented away from the public street.*
- D. *Building Canopy: A building canopy, awning, or similar weather protection may be provided and should project a minimum of five feet from the façade when used above a primary building entrance.*
- E. *Materials: The standards in this subsection shall apply to all façades except rears, unless facing streets or civic gathering places.*
 - 1. *At least 80 percent of the facades shall consist of one or more of the following approved materials: Brick or glazed brick, wood, cementitious fiber board, stone, cast stone, stone masonry units, architectural concrete block, metal composite panels, glass, marble or similar material. Metal composite panels shall be a minimum of 2' x 2' in size and shall have a generally flat appearance (i.e. shall not have a corrugated or lapp-siding exterior appearance). All buildings which use metal composite panels as a façade material shall include a non-metal base around all sides of the building.*
 - 2. *Façades may also consist of the following materials provided that they comprise no greater than 20 percent of the façade area: Concrete masonry units (CMU), Exterior insulation finishing systems (EIFS), split face block, concrete (pre-cast or cast in place), or concrete block. Cinder block is not permitted.*
 - 3. *Pitched roofs shall be clad in wood shingles, standing seam metal, corrugated metal, slate, or asphalt shingles.*

5.14 - Commercial Building

- A. *Description: This building type provides convenient automobile access from the fronting thoroughfare, while minimizing impacts of parking lots on an active pedestrian realm.*
- B. *Yards: The Commercial Building typically has one yard (Rear) though variations include a small front plaza or courtyard to provide public space for outdoor seating.*
- C. *Dimensional Standards: The Commercial building type is allowed in the DMX district (dimensional standards in table on page 3).*

Environmental:

Buffers- UDO Section 8.6.A requires a 10-foot Type C buffer between DMX and NC & R3 zoning districts if the use changes from residential to non-residential or multi-family. A type C buffer requires one tree every 40ft. and a shrub every 6ft.

- **The applicant is not proposing a change of use at this time but if commercial or multi-family residential development were to occur in the future, a Type C buffer would be required at the borders abutting NC and R3 zoning districts.**

Transportation:

UDO Section 9.3 says that new development or redevelopment with frontages on existing publicly maintained streets shall be required to upgrade all street frontages to meet the standards of this Ordinance including sidewalks, street trees, curb and gutter, and right-of-way dedication.

- **The subject property is located on the corner of Wendell Blvd and Magnolia Street. The Arterial and Street Collector Map identifies Wendell Blvd as a minor collector, two-lane undivided road. Magnolia Street is a local street but does not meet the current standards. If future redevelopment were to occur, the applicant would be responsible for required upgrades to Magnolia Street. Payment in lieu of physical improvements may be permitted by the Board of Commissioners.**

Parking Requirements:

New structures in the DMX District must either provide off-street parking under the requirements of Chapter 10 or provide a fee in lieu of payment.

Multi-family residential requires one parking space per bedroom and up to 2 per unit. Therefore, if a quadraplex were to be proposed, then 8 parking spaces would be required. If a commercial use were proposed, such as an Office/Service use in a 4,000 sq. ft. building, 2 – 3 spaces per 1,000 sq. ft. would be required, which means 8 – 12 parking spaces. On-street parking may also be permitted.

Comprehensive Plan:

The Wendell Comprehensive Plan defines the area of the proposed rezoning as S-6 Infill/Redevelopment Sector within a Village/Town Center.

The S-6 Sector is described as existing urban/suburban development with a fairly dense street grid. These areas are shown in the salmon color on the Framework Plan map. This includes most of the built-out areas of Wendell around the historic downtown core. These areas are already urbanized and well served with infrastructure (roads, utilities, etc.), and access to services and amenities. Because these areas are already well provided for in terms of urban services, they are the most efficient and most attractive areas for redevelopment of underutilized sites or infill of vacant parcels.

Appropriate land uses and development types in the S-6 Sector are:

Neighborhoods

Downtowns

single-family and multifamily residential

commercial uses (retail and office)

civic uses

light industrial uses

Village/Town Centers are described as mixed-use activity centers with employment and commercial uses that attract people from beyond the immediate neighborhoods and from surrounding communities. These centers are appropriate for the area's highest density housing. The area of these centers is based on a ½-mile radius (a typical 10-minute walk)—the larger circles on the map. Village/Town centers are envisioned as locations for regional commercial and employment development as well as higher density housing. These centers are also logical locations for future mass transit station areas as they will provide the highest concentrations of residential and employment in the Plan area.

- **While the expansion of the DMX zoning district is not defined in the current Comprehensive Plan, the Framework Plan does provide some guidance on how large the Village/Town Center area should be. The current proposal is consistent with the Framework Plan; however it is important to note that staff is currently updating the Comp Plan.**

Statement of Plan Consistency and Reasonableness:

Any recommended change to the zoning map should be accompanied by a statement explaining how the change is consistent with the Comprehensive Plan and is reasonable in nature.

- *The requested zoning map amendment is consistent with the recommended uses outlined in the Wendell Comprehensive Plan for the S-6 Sector and Village/Town Center and is reasonable to be consistent with adjacent zoning districts.*

Staff Comments:

The rezoning request at this location, while not proposing any change in use, is an appropriate place for redevelopment today. The subject parcel is located on the corner of Wendell Boulevard which is a minor collector and is adjacent to the DMX district. Rezoning this property to DMX could allow for future commercial, multi-family residential or mixed-use development. Because of its proximity to non-residential uses along Wendell Boulevard, these options could be appropriate for this site.

Comments/Questions following this presentation:

- **Chairman Olson asked if the parking spots would include street parking?**
- **Niki replied no, and that traffic could be an issue.**
- **Ryan asked in the Comp Plan is staff looking for larger or smaller downtown?**
- **Mr. Swaim said traffic mitigation should utilize the parking lot.**
- **Chairman Olson said a traffic light would be a good idea.**
- **Deans thanked Niki for explaining the DMX and what else is different from NC to DMX. DMX allows more intensity.**
- **Deans said house is in the National Register Historic District. We should make sure the applicant knows that there is a generous tax credit if they keep the existing home.**

**Ryan made a motion to approve the Zoning Amendment as written as it falls in line with the Comp Plan.
Jimmena seconded the motion.
All voted in favor and the motion was passed unanimously.**

Niki Jones, Planning Direct, presented the following to the Board shown in *italics* below.

5b. Item Title:

ZM21-02 – Rezoning request for 217 Magnolia Street from Residential-3 (R3) to Downtown Mixed-Use (DMX).

Specific Action Requested:

The Planning Board is asked to review the rezoning request and provide a recommendation to the Town Board that includes a statement of plan consistency and reasonableness.

Item Summary:

The applicant is requesting to rezone a parcel located on the west side of Magnolia Street, just south of Wendell Boulevard from R3 to DMX. This rezoning was submitted in conjunction with the application to rezone 3340 Wendell Boulevard. By rezoning the two parcels together it would provide a more balanced zoning pattern. The applicant intends to redevelop this property; however, at this time staff has not received any plans or clarity on the final plan of the property owner. The property owner has indicated in the rezoning application that commercial or multi-family residential are being considered.

This type of rezoning allows for all permitted uses within the DMX zoning district (see attachment B).

Project Profile	
Location	West side of Magnolia St. just south of Wendell Blvd. Addresses: 217 Magnolia St PIN: 1784-60-0866
Current Zoning	Residential-3 (R3)
Requested Zoning	Downtown Mixed-Use (DMX)
Area of Request	0.71 acres
Corporate Limits	Within Corporate Limits
Current Land Use	Residential
Proposed Land Use	Commercial or Multi-Family Residential
Property Owner	Sam Davis
Applicant	Sam Davis

Project Setting – Surrounding Districts and Land uses:

DIRECTION	LANDUSE	ZONING
North	Residential	NC
South	Residential	R3
East	Residential	R3
West	Residential	R3

Niki referred to an Aerial picture to show the property and surrounding areas Zoning Districts.

Zoning District:

The subject property is currently located in the R3 zoning district. The surrounding properties are zoned Neighborhood Center (NC), Downtown Mixed-Use (DMX) and Residential-3 (R3).

The UDO states that the Downtown Mixed-Use District should encourage the redevelopment and expansion of the traditional Downtown area. Individual buildings are encouraged to be mixed vertically with street level commercial and upper level residential or commercial uses. Higher densities of residential development are encouraged. This zoning district should facilitate pedestrian activity, vibrancy and associated infrastructure (i.e., sidewalks, pedestrian scaled street lighting, projection signs).

Typically, downtown districts serve as a destination or hub of activity creating an experience that attracts a regional market. It should be a diverse cross-section of residents, businesses, cultural amenities, education, and employment.

- **Even though the intent is unclear, commercial or multi-family residential are allowed in the DMX. There are requirements specific to the DMX district that will dictate the form and function of all building types and uses which will impact things such as parking, buffers and design standards.**

Below is a table of DMX lot dimensions for townhomes, apartments, and commercial development:

	<u>Townhomes (SUP)</u>	<u>Apartments (SUP)</u>	<u>Commercial</u>
Lot Width	16 ft.	30 ft.	25 ft.
Front Setback (Min)	0 ft.	0 ft.	0 ft.
Front Setback (Max)	20 ft.	25 ft.	10 ft.
Side Setback	3 ft.	6 ft.	4 ft.
Rear Setback	0 ft.	0 ft.	0 ft.
Maximum Height	3 stories	4 stories	4 stories
Minimum Height	2 stories or 20 ft.	2 stories or 20 ft.	2 stories or 20 ft.

*SUP= Special Use Permit required

Design Standards (Per Chapter 5 of the UDO):

5.3 - General Building Design Requirements

- K. *All Buildings to Front on Street or Public Space: All buildings shall front on a public street or public space. Such buildings shall include a principal building entrance and architectural front. With the provision of alley access, lots may front upon a public open space which shall have public street access but shall be of sufficient design to allow for access by emergency services.*
- L. *Building Entrances: A primary entrance facade shall be oriented toward the street, be designed for the pedestrian, and be distinguishable from the rest of the building and other entrances. Additional entrances may be oriented toward side or rear parking lots. Service entrances for shipping and receiving shall be oriented away from the public street.*
- M. *Architectural Style: When a building design exhibits a known architectural style (e.g., Colonial, Victorian, Classical Revival) the details shall be complementary with that style.*
- N. *Termination of Vistas: Important street vistas identified in any adopted plan should terminate in a focal point, such as a building or other architectural or natural feature.*
- O. *Compatibility: Adjacent buildings should relate in similarity of scale, roof pitch, height, architectural elements, and/or lot configuration.*
- P. *Wall Materials: When two or more materials are used on a facade, the visually heavier material (i.e., masonry) should be placed below the lighter material (i.e., siding) to give the sense of support and grounding.*

- Q. Underground Wiring: To reduce the visual impact of overhead wiring, new utility services shall be located underground.*
- R. Type of Construction: Manufactured, mobile, and metal units shall be prohibited, except as may be allowed in [Section 4.6](#), Temporary Uses, for a temporary office or classrooms, site management, or storage uses during construction projects.*
- S. Roof Pitch: Roof pitches less than 4:12 and flat roofs will require a parapet wall.*
- T. Public Art: Public art, such as statues, fountains, and other works of art are encouraged.*

5.8 - General Design Requirements for Multi-Family Residential Building Types

C. Materials:

1. Building Walls:

- a. Building walls shall be primarily clad in wood clapboard, cementitious fiber board, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco, vinyl, or synthetic materials similar and/or superior in appearance and durability.*
- b. Vinyl: Vinyl may only be used on buildings that are no closer than 30 feet from the next closest building and that do not contain mixed occupancy or attached dwelling units.*
- c. EIFS: Exterior insulation finishing systems (EIFS) may be used above eight feet from the base of residential buildings (Apartment and Mixed-Use buildings only) and may not be used for House building types.*

- 2. Roofs: Roofs shall be clad in wood shingles, asphalt shingles, standing seam metal, terne, slate, or synthetic materials similar and/or superior in appearance and durability.*

D. Other Requirements.

- 1. Roof Pitch: Main roofs on multi-family buildings shall have gables or hips with a front pitch between 6:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch roof shall be less than 4:12.*
- 2. Crawlspace: The crawlspace of buildings shall be enclosed with solid/permanent material that complements the dwelling style.*
- 3. Overhanging Eaves: Overhanging eaves may expose rafters.*
- 4. Flush Eaves: Flush eaves shall be finished by profiled molding or gutters.*
- 5. Visitability/Accessibility Standard: For residential buildings in developments designed for residents aged 55 and older, there shall be provided one zero-step entrance to each building from an accessible path at the front, side, or rear of each building. This does not eliminate the requirements for residential buildings to have raised front entrances.*

5.10 - Townhouse Buildings

- E. Description: The townhouse is a building with two or more residential units that are located side by side. When an entrance is provided at-grade, the townhouse may be used as a live-work unit. Standards in this section are also applicable to duplex dwellings.*

- F. *Yards: The Townhouse typically has one yard (Rear) though variations include a small front setback to provide some landscaping.*
- G. *Dimensional Standards: The Townhouse building type is allowed as a Special Use in the DMX district (dimensional standards in table on page 3).*
- H. *General Requirements.*
 - 1. *Bulk and Scale: The bulk and scale of townhouse infill development shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development.*
 - 2. *Access: Vehicular access to a garage or off-street parking area is not permitted on the front elevation of a Townhouse.*

5.11 - Apartment Buildings

- E. *Description: A multiple-unit building with dwelling units vertically arranged (generally) and with parking located below or behind the buildings. Units may be for rental or for sale in condominium ownership or may be designed as continuing care facilities. The ground floor may be available for commercial uses.*
- F. *Yards: The Apartment Building typically has one yard (Rear) though variations include a small front setback to provide some landscaping.*
- G. *Dimensional Standards: The Apartment building type is allowed as a Special Use in the DMX district (dimensional standards in table on page 3).*
- H. *General Requirements.*
 - 1. *The bulk and scale of apartment infill development shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development. All buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.*
 - 2. *Porches and Stoops: Useable porches and stoops shall form a predominate motif of the building design and be located on the front and/or side of the building. Useable front porches are at least eight feet deep and extend more than 30 percent of the facade width.*
 - 3. *Garage Doors: Garage doors are not permitted on the front elevation of any apartment building.*
 - 4. *Building Elevations: All building elevations visible from the street shall provide doors, porches, balconies, and/or windows. A minimum of 60 percent of front elevations, and a minimum of 30 percent of side and rear building elevations, as applicable, shall meet this standard. "Percent of elevation" is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. This standard applies to each full and partial building story.*
 - 5. *Raised Entrances: All front entrances shall be raised from the finished grade (at the building line) a minimum of one and one-half feet.*

6. *Design Details: All apartment buildings shall provide detailed design along all primary elevations and elevations facing a public street or open space. Detailed design shall be provided by using at least three of the following architectural features as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):*
 - a. *Dormers.*
 - b. *Gables.*
 - c. *Recessed entries.*
 - d. *Covered porch or stoop entries.*
 - e. *Cupolas or towers.*
 - f. *Pillars or posts.*
 - g. *Eaves (minimum ten-inch projection which may include gutter).*
 - h. *Off-sets in building face or roof (minimum 16 inches).*
 - i. *Window trim (minimum four inches wide).*
 - j. *Bay windows.*
 - k. *Balconies.*
 - l. *Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation, and similar features).*
 - m. *Decorative cornices and roof lines (for flat roofs).*
 - n. *Other architectural features appropriate to the architectural style of the unit.*
9. *Roof Pitch: If pitched roofs are used, they shall be symmetrical gables or hips with a pitch between 6:12 and 12:12.*
10. *Rooftop Equipment: All rooftop equipment shall be screened from view.*

5.12 - General Design Requirements for Building Types: Mixed-Use, Commercial, Civic, Institutional

C. Façade Treatment.

1. *Architectural Elements: Architectural elements such as windows and doors, bulkheads, masonry piers, transoms, cornice lines, window hoods, awnings, canopies, and other similar details shall be provided on all façades facing public rights-of-way.*
2. *Building Wall and Roofline Offsets: Building wall offsets, including projections, recesses and changes in floor level shall be used in order to add architectural interest and variety, relieve the visual effect of a single, long wall; and subdivide the wall into human size proportions. Similarly, roofline offsets shall be provided to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.*

- D. Ground Level Treatment:** *The ground level of the building shall offer pedestrian interest along sidewalks and paths. This includes windows, entrances, and architectural details. Incidental signage on buildings (in accordance with Chapter 12), awnings and ornamentation are encouraged.*

1. *Street Walls: The first floors of non-residential buildings and all mixed-use buildings shall be designed to encourage and complement pedestrian-style interest and activity by adhering to the following provisions:*
 - d. *Windows and Doors: The first floor of all buildings fronting directly on a street shall include transparent windows and doors arranged so that the uses inside are visible from and/or accessible to the street on at least 65 percent of the length of the first floor building elevation along the first floor street frontage.*
 - e. *Window dimensions:*
 - i. *Maximum Sill Height (1st Floor): 42 inches (as measured from the finished floor elevation).*
 - ii. *Minimum Area: 16 sq. ft.*
 - iii. *Minimum Width: three feet.*
 - iv. *Minimum Height: four feet.*
 - f. *Blank Walls: Expanses of blank walls may not exceed 25 feet in length. (A "blank wall" is a façade that does not contain transparent windows or doors.)*
 - i. *Façades without transparent windows or doors must be divided into architecturally distinct sections or bays with each section taller than it is wide and no wider than 25 linear feet. The following techniques may be used to delineate the different bays:*
 - *The use of columns, ribs, pilasters piers, or an equivalent element that otherwise visually subdivides the wall through at least 50 percent of its height.*
 - *The use of parapets, arches, wing walls, or porches that extend from the vertical plane of the façade at least six feet; and/or*
 - *The incorporation of a clearly defined, highly visible, public entrance that features one or more of the following: canopies, awnings, porticos, colonnades, arcades or similar weather protection.*
 - *Rear façades which do not front streets or civic gathering places, and which do not adhere to the standards in Section 5.12.B.1.c.i must be screened from view by a Type B buffer.*
 - *Ventilation Grates and Exit Doors: Ventilation grates or emergency exit doors located at the first-floor level in the building façade, which are oriented to any public street, shall be decorative.*
- F. *Building Entrances: A primary entrance façade shall be oriented toward the street, be designed for the pedestrian, and be distinguishable from the rest of the building. Such entrances shall provide a sense of entry and add variety to the streetscape. Additional entrances may be oriented toward side or rear parking lots. Service entrances for shipping and receiving shall be oriented away from the public street.*

- G. *Building Canopy: A building canopy, awning, or similar weather protection may be provided and should project a minimum of five feet from the façade when used above a primary building entrance.*
- H. *Materials: The standards in this subsection shall apply to all façades except rears, unless facing streets or civic gathering places.*
1. *At least 80 percent of the facades shall consist of one or more of the following approved materials: Brick or glazed brick, wood, cementitious fiber board, stone, cast stone, stone masonry units, architectural concrete block, metal composite panels, glass, marble or similar material. Metal composite panels shall be a minimum of 2' x 2' in size and shall have a generally flat appearance (i.e. shall not have a corrugated or lapp-siding exterior appearance). All buildings which use metal composite panels as a façade material shall include a non-metal base around all sides of the building.*
 2. *Façades may also consist of the following materials provided that they comprise no greater than 20 percent of the façade area: Concrete masonry units (CMU), Exterior insulation finishing systems (EIFS), split face block, concrete (pre-cast or cast in place), or concrete block. Cinder block is not permitted.*
 3. *Pitched roofs shall be clad in wood shingles, standing seam metal, corrugated metal, slate, or asphalt shingles.*

5.14 - Commercial Building

- D. *Description: This building type provides convenient automobile access from the fronting thoroughfare, while minimizing impacts of parking lots on an active pedestrian realm.*
- E. *Yards: The Commercial Building typically has one yard (Rear) though variations include a small front plaza or courtyard to provide public space for outdoor seating.*
- F. *Dimensional Standards: The Commercial building type is allowed in the DMX district (dimensional standards in table on page 3).*

Environmental:

Buffers- UDO Section 8.6.A requires a 10-foot Type C buffer between DMX and NC & R3 zoning districts if the use changes from residential to non-residential or multi-family. A type C buffer requires one tree every 40ft. and a shrub every 6ft.

- ***The applicant will need to provide a Type C buffer along all property lines unless the northern property is rezoned to DMX then no buffer will be required. Existing vegetation may serve as the buffer if it meets the requirements.***

Transportation:

UDO Section 9.3 states that new development or redevelopment that fronts on existing publicly maintained streets shall be required to upgrade all street frontages to meet the standards of this Ordinance including sidewalks, street trees, curb and gutter, and right-of-way dedication.

- **It is important to note that the subject property is located on Magnolia Street, which is a publicly maintained street that does not meet the current local street standards. Therefore, the applicant will be responsible for required upgrades to Magnolia Street. Payment in lieu of physical improvements may be permitted by the Board of Commissioners.**

Parking Requirements:

New structures in the DMX District must either provide off-street parking under the requirements of Chapter 10 or provide a fee in lieu of payment.

Multi-family residential requires one parking space per bedroom and up to 2 per unit. Therefore, if a quadraplex were to be proposed, then 8 parking spaces would be required. If a commercial use were proposed, such as an Office/Service use in a 4,000 sq. ft. building, 2 – 3 spaces per 1,000 sq. ft. would be required, which means 8 – 12 parking spaces. On-street parking may also be permitted.

Comprehensive Plan:

The Wendell Comprehensive Plan defines the area of the proposed rezoning as S-6 Infill/Redevelopment Sector within a Village/Town Center.

The S-6 Sector is described as existing urban/suburban development with a fairly dense street grid. These areas are shown in the salmon color on the Framework Plan map. This includes most of the built-out areas of Wendell around the historic downtown core. These areas are already urbanized and well served with infrastructure (roads, utilities, etc.), and access to services and amenities. Because these areas are already well provided for in terms of urban services, they are the most efficient and most attractive areas for redevelopment of underutilized sites or infill of vacant parcels.

Appropriate land uses and development types in the S-6 Sector are:

- Neighborhoods
- Downtowns
- single-family and multifamily residential
- commercial uses (retail and office)
- civic uses
- light industrial uses

Village/Town Centers are described as mixed-use activity centers with employment and commercial uses that attract people from beyond the immediate neighborhoods and from surrounding communities. These centers are appropriate for the area's highest density housing. The area of these centers is based on a ½-mile radius (a typical 10-minute walk)—the larger

circles on the map. Village/Town centers are envisioned as locations for regional commercial and employment development as well as higher density housing. These centers are also logical locations for future mass transit station areas as they will provide the highest concentrations of residential and employment in the Plan area.

- ***While the expansion of the DMX zoning district is not defined in the current Comp Plan, the Framework Plan does provide some guidance on how large the Village/Town Center area should be. The current proposal is consistent with the Framework Plan, however it is important to note that staff is currently updating the Comp Plan.***

Statement of Plan Consistency Reasonableness:

Any recommended change to the zoning map should be accompanied by a statement explaining how the change is consistent with the comprehensive plan and is reasonable in nature.

- *The requested zoning map amendment is consistent with the recommended uses outlined in the Wendell Comprehensive Land Use Plan for the S-6 Sector and Village/Town Center and is reasonable to be consistent with adjacent zoning districts.*

Staff Comments:

The proposed rezoning request is unique in the sense that it could expand a small geographically targeted zoning district. The DMX is approximately 15 city-blocks and is primarily commercial. The intent of this district is to create a vibrant, pedestrian-oriented, downtown.

The proposed site is unique due the residential nature of the surrounding area. If the proposed parcel were rezoned to DMX and a commercial building was constructed, it could change the residential character of the existing neighborhood. However, the design guidelines for a commercial building in the DMX are meant to promote a pedestrian-oriented environment. This orientation could be used to integrate the building into the neighborhood.

The Comprehensive Plan allows for a commercial use at the proposed site and the DMX district is close in proximity. If rezoned, the property owner would have several options. Those options range from townhomes to a 4-story commercial building. The option of doing a small-scale multi-family residential project could be a better fit for this site due to the surrounding character.

Attachments:

- A. Zoning Map Amendment Application
- B. DMX Zoning District Land Use Chart

Comments/Questions following this presentation:

- Niki said that the applicant is in attendance virtually.

- Deans asked do we anticipate any other updates. Can there be other requirements for parking?
- Niki replied it is possible.
- Chairman Olson asked what might they want to do with this parcel?
- Sam replied possibly multi-family or a commercial building- maybe an engine repair, sales, and service business. He likes the DMX zoning because they have options.
- Chairman Olson asked if there were any more questions for Sam. There were none.

- Chairman Olson asked for discussion from the board.
- Chairman Olson asked Deans if this was a historical building?
- Deans replied no.

**Mr. Swaim made a motion to approve the rezoning.
 Michael Firstbrook seconded the motion.
 All were in favor and the motion was passed unanimously.**

Technical Difficulties with Uber Conference. Jeannine and Bryan worked to fix the issue.

Jeannine Ngwira spoke to the Board about 160D.the third round.

5c. Item Title:

ZTA21-02 Zoning text amendments to comply with Chapter 160D of the NC General Statutes

Specific Action Requested:

The Planning Board is being asked to consider the proposed text amendment request and make a recommendation to the Board of Commissioners to include a statement of Comprehensive Plan consistency.

Item Summary:

Chapter 160D of the North Carolina General Statutes is a new chapter that consolidates current city- and county-enabling legislation for development regulations into a single, unified chapter. Chapter 160D creates a more logical organization of the regulations. The new law does not make major policy changes or shifts in the scope of authority granted to local governments. The changes do provide many clarifying amendments and consensus reforms that are required to be incorporated into the Town’s UDO and Code of Ordinances. Chapter 160D is effective now but local governments have until July 1, 2021 for adoption of text amendments to comply with State law.

This third round of proposed text amendments deal with Land Use Administration, Zoning Ordinances and Development Ordinances. The following items are included in the proposed amendments:

:

- *Issue notices of violation (NOVs) in conformance with statutory procedures (G.S. 160D-404(a).*
- *If inspecting, must enter the premises during reasonable hours and upon presenting credentials; must have consent of premises owner or an administrative search warrant to inspect areas do not open to the public. (G.S. 160D-403(e).)*
- *For revocation of development approval, must follow the same process as was used for the approval. (G.S. 160D-403(f).)*
- *Eliminate conditional use district zoning; existing conditional use district zoning converts to conditional district on January 1, 2021 upon adoption of updated local ordinances or July 1, 2021. (G.S. 160D-703; S.L. 2020-25; S.L. 2019-111, § 2.9(b).)*
- *Conform subdivision performance guarantee requirements with statutory standards. (G.S. 160D-804.1; S.L. 2020-25; S.L. 2019-79 (S.B. 313)*

Jeannine went over what was added and deleted and why.

Proposed Amendments:

*To comply with Chapter 160D of the North Carolina General Statutes, staff recommends amending the following sections of the Town of Wendell Code of Ordinances and Unified Development Ordinance to read as follows (Changes have been **highlighted**. Deletions are shown with strikethroughs. Additions are **bolded and underlined**).*

Issue notices of violation (NOVs) in conformance with statutory procedures (G.S. 160D-404(a).

Town of Wendell Unified Development Ordinance

Chapter 6 - ENVIRONMENTAL PROTECTION

6.5 - Stormwater Runoff Provisions: Post-Construction Stormwater Ordinance

P. Enforcement and Violations.

2. Remedies and Penalties. The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

a. Remedies:

vi. Stop Work Order: The Stormwater Administrator may issue a stop work order to the person(s) violating this ordinance. **A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, or first-class mail. Electronic delivery may also be used but not as the sole means of communication. The Stormwater Administrator shall certify that the order was delivered and**

that certificate shall be deemed conclusive in the absence of fraud. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

3. Procedures.

- c. Notice of Violation and Order to Correct: When the Stormwater Administrator finds that any building, structure, or land is in violation of this ordinance, the Stormwater Administrator shall notify, in writing, the property owner ~~or other person violating this ordinance~~ **and the holder of the development approval, if the property owner is not the holder of the development approval.** The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator ~~may~~ **shall** deliver the notice of violation and correction order personally, by the Town of Wendell Police Department or The Wendell Planning Department Code Enforcement Officer, certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure. **Electronic delivery may also be used but not as the sole means of communication. The Stormwater Administrator shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.**

If inspecting, must enter the premises during reasonable hours and upon presenting credentials; must have consent of premises owner or an administrative search warrant to inspect areas not open to the public. (G.S. 160D-403(e).):

Town of Wendell Unified Development Ordinance

Chapter 2 - DISTRICT PROVISIONS

2.12 - Manufactured Home District (MH) (Old MH)

C. Manufactured Home Parks.

12. Inspections. Wake County Environmental Services or the Zoning Administrator are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter. It shall be the duty of the owners or occupants of Manufactured Home parks to give these agencies free access to such premises **upon presentation of proper credentials**, at reasonable times for the purpose of inspection and to maintain the park, its facilities, and equipment in good repair and in a clean and sanitary condition: **provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.**

Chapter 6 - ENVIRONMENTAL PROTECTION

6.5 - Stormwater Runoff Provisions: Post-Construction Stormwater Ordinance

O. Completion of Improvements and Maintenance.

12. Inspection Program. Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

In exercising this power, the Stormwater Administrator is authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured. If the Owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties, including inspections on private property. Refusal of Owner or occupant of any property to permit such inspection is a violation of this ordinance.

P. Enforcement and Violations.

3. Procedures.

- b. Inspection: The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance; **provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.**

6.7 - Flood Damage Protection Ordinance

J. Administration.

3. Duties and Responsibilities of the Administrator. Duties of the Administrator shall include, but not be limited to:

- o. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action; **provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.**

- r. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action-; **provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.**

For revocation of development approval, must follow the same process as was used for the approval. (G.S. 160D-403(f).)

Town of Wendell Unified Development Ordinance

Chapter 15 - ADMINISTRATION

15.15 - Special Use Permits

B. General Requirements:

2. The evaluation and approval of the Special Use Permit shall be governed by quasi-judicial proceedings, which are based upon the sworn testimony and evidence presented at the hearing relevant to the following standards:
 - I. Wherever the Board shall find, in the case of any permit granted pursuant to the provisions of this chapter, that any of the terms, conditions, or restrictions, on which such permit was granted are not being complied, the Board shall rescind and revoke the permit after giving due notice to all parties concerned and granting full opportunity for a public hearing. **The Town shall follow the same review and approval process required for issuance of the Special Use Permit, including any required notice or hearing, in the review and approval of any revocation of that permit. A Special Use Permit shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval.**

Chapter 18 - VIOLATIONS AND PENALTIES

18.3 - Penalties for Violation

The Administrator may revoke any permit (e.g., Building Certificate of Occupancy) by written notification to the permit holder **stating the reason for the revocation** when violations of this Ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a **refusal or** failure to comply with the requirements of this Ordinance, or a permit has been mistakenly issued in violation of this Ordinance. **The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.**

Eliminate conditional use district zoning; existing conditional use district zoning converts to conditional district on January 1, 2021 upon adoption of updated local ordinances or July 1, 2021. (G.S. 160D-703; S.L. 2020-25; S.L. 2019-111, § 2.9(b).)

(See Attachments A, B, C and D)

In the past, Conditional-Use Districts were created as a means of attaching conditions to a project, much like our present Conditional Districts. However, there are significant differences between the former Conditional-Use District and our current Conditional District.

A Conditional-Use District was the creation of a new zoning district that corresponded with a general zoning district. The new district did not permit any uses by right and it only allowed uses that could be obtained with a Conditional-Use Permit. The permitted uses were added as conditions for a specific project that was approved through a quasi-judicial process. No other uses were permitted except those that were approved as part of the Conditional-Use District.

A Conditional District allows site-specific conditions to be attached to the Master Plan, including permitting uses as a condition that would normally require a Special Use Permit. The Conditional District uses one of the general zoning districts as the “Base District” then site-specific conditions are added to it. All permitted uses in the Base District are permitted in the Conditional District but uses that are not permitted in the Base District cannot be added as a condition. Conditional District approval is now legislative.

The Town of Wendell changed the process several years ago, but the Conditional-Use zoning districts remain. New 160D updates require that all former Conditional-Use zoning districts be converted to Conditional Districts.

The following are a description of the existing Conditional Use zoning districts that will be updated to Conditional Districts in compliance with 160D:

- R2-CU
 - Part of 727 Whitley Way
- R3-CU:
 - Fowlkes St, Redberry Dr, Blueberry Cir, Cornflower Dr, S Main St, E & W Boxley, Grange Dr
 - Pepper Point FID 19 & Pepper Point II
 - Brighton (Blakeford Drive, etc)
- R4-CU:
 - Olde Wendell
 - 143 Liles Dean Rd
 - Anderson Farm
 - Edgemont Landing
- NC-CU:
 - Sandy Ridge Apts- 200 Idlewood Lane

- CMX-CU:
 - 55 Liles Dean Rd
- DMX-CU:
 - Wendell Baptist Church- 3651 Wendell Blvd.
- MI-CU:
 - Kioti Property
 - Thompson Gas- 284 Lake Glad Rd

Conform subdivision performance guarantee requirements with statutory standards. (G.S. 160D-804.1; S.L. 2020-25; S.L. 2019-79 (S.B. 313))

Town of Wendell Unified Development Ordinance

Chapter 17 - INFRASTRUCTURE IMPROVEMENT REQUIREMENTS

17.17 - Guarantee of Required Improvements and Warranty Against Defects **in Stormwater Improvements**

- A. **Financial Performance** Guarantee in Lieu of Immediate Installation for Approval: In lieu of requiring the completion, installation and inspection of all or any part of the required improvements as described in this Ordinance prior to Final Plat approval, the Town may require and approve a **financial performance** guarantee whereby the developer shall agree to complete all required improvements. The timing of said improvements shall adhere to the Town's adopted Standards and Specifications Manual. Once said **financial performance** guarantee is approved by the Zoning Administrator and the security required herein is provided, the Final Plat may be approved if all other requirements of the Ordinance are met. To secure this agreement, the developer shall provide either of, or a combination of, the following guarantees to cover the costs of the proposed improvements:
 - B. Duration of **Financial Performance** Guarantees
 - 1. The duration of a **financial performance** guarantee shall ~~be of a reasonable period to allow for completion and acceptance of improvements~~ **initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.** In no case shall the duration of the **financial performance** guarantee for improvements exceed 24 months unless extended by the Town Manager.
 - 2. All subdivisions whose public improvements are not completed and accepted at least 30 calendar days prior to the expiration of the **financial performance** guarantee shall be considered to be in default, unless said guarantee is extended with the consent of the Town Manager to a future date certain not to exceed 12 months. In order for an extension to be granted, a developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.
- D. Release of Guarantee Security

1. The Town Manager may release a portion or all of any security posted as the improvements are completed. Prior to such release the developer shall provide the Administrator with a set of 'as built' drawings certified by his engineer.
2. **The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.**
3. **No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:**
 - a. **The local government to whom such performance guarantee is provided.**
 - b. **The developer at whose request or for whose benefit such performance guarantee is given. G.S. 160D-804 Page 3**
 - c. **The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer. (2019-111, s. 2.4.)**

E. Exclusion. – Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section."

F. Warranty Against Defects **in Stormwater Improvements**

1. Prior to acceptance by the Town of **any stormwater** improvements in any subdivision, the developer shall furnish to the Town a written warranty against defects which shall guarantee the material and workmanship of required stormwater improvements for a period of not less than one year from the date of such acceptance. Such warranty shall be accompanied by a financial guarantee payable to the Town equal to at least ten percent of the cost of the installation of such stormwater improvements as determined by the Town Manager. Such financial guarantee shall be in the form of financial guarantee as provided for in Section 17.17.A of this Chapter.
2. Upon successful performance of the **stormwater** improvements, as determined by the Town Manager, the financial guarantee shall be returned to the developer. Upon the failure of an improvement to perform within the generally accepted standards for the type improvement as determined by the Town Manager, the developer shall be notified and given a reasonable period of time to correct the defects. Should the developer fail to act, fail to act in a timely manner, or otherwise fail to correct the defect(s), the Town Manager shall find the developer in default and proceed in the same manner as provided for in Section 17.17.C of this Chapter.

Statement of Plan Consistency and Reasonableness:

Any recommended change to the zoning text should be accompanied by a statement explaining how the change is consistent with the comprehensive plan.

- *The proposed ordinance amendment is consistent with the Comprehensive Plan since it supports **Key Principle # 9: Make development decisions predictable, fair, and cost effective.***

Staff Recommendation:

Staff recommends approval of the proposed 160D text amendment.

Comments/Questions following this presentation:

- **Chairman Olson commented about the Special Use Permit asking when it is determined that they are not being compliant, does the work stop or do they have to follow the administrative process again?**
- **Niki clarified if a Special Use Permit applicant does not follow the conditions of the Special Use Permit, for example a Restaurant or a Bar is supposed to close at 12 am, stays open until 2 am, we can hit a pause button.**
- **Mr. Swaim asked what is an administrative search warrant and who issues it? Niki said that the Magistrate would issue this warrant.**
- **Ryan said concerning 6.5 a stop work order can be rescinded by written notice.**
- **Deans said a conditional use to conditional; will this happen now matter what.**
- **Jeannine replied yes.**
- **Deans asked are we communicating to those who are currently under conditional use districts?**
- **Niki replied that since the conditions will not change, it is not necessary to notify them.**

Deans Eatman made a motion to approve.

Ryan Zakany seconded this motion.

The motion was passed. Unanimously

6 a. Bryan presented an update on Blueprint Wendell.

- **Bryan said he is going to be holding a virtual charette.**
- **Chairman Olson asked for the definition of a charette?**
- **Bryan explained that is open time for people to discuss and give opinions on what they want concerning the design of future development in Wendell.**
- **Bryan said it will be good to have virtual meetings in real time next week. There is a new version of the software that will allow texting as well as being able to attend the charette using their computer. They will be testing it**

tomorrow. It will be helpful for people to be able to text their thoughts it will be almost like Twitter.

- **Ryan asked if the feedback was positive on the surveys- he was interested in Hollybrook Park.**
- **Bryan said 45-50 people gave feedback.**
- **Ryan said the survey is out on Social Media and it is open for another week.**

**Deans Eatman made a motion to Adjourn.
Ryan Zakany seconded the motion.**

The meeting was adjourned at 7:51 PM