



**Wendell Town Board of Commissioners**

**Board Room**

**15 E. Fourth Street, Wendell, NC 27591**

**Town Board Meeting Agenda**

**Monday, August 10, 2020 @ 7:00 PM**

**SPECIAL NOTICE**

Due to the Declared State of Emergency in response to the COVID-19 Virus, the Town of Wendell has altered the traditional meeting process to accommodate and encourage positive public health practices. The Town is incorporating virtual meeting practices to continue the work of the Board of Commissioners while taking proactive measures to maintain transparency and provide for public comment.

The public is encouraged to remain home and watch the business meeting on Facebook Live, or after it is posted to the Town website, or by calling (919) 375-6880 and listening to the meeting. No direct access to Town Hall will be allowed.

Public Comment period for the August 10, 2020 Board of Commissioners meeting shall be organized in advance. The public can submit their written public comment to the Town Clerk via email to [mhoward@townofwendell.com](mailto:mhoward@townofwendell.com) or submit a request to call in and teleconference during the Board of Commissioners meeting by emailing their name, address, and phone number to the clerk via email by Friday, August 7<sup>th</sup> at 5 p.m.

**CALL TO ORDER**

- Welcome – Mayor Virginia Gray
- Pledge of Allegiance – Police Chief Bill Carter
- Invocation –New Hope Missionary Baptist Church

**1. ADJUSTMENT AND APPROVAL OF THE AGENDA**

**2. PUBLIC COMMENT PERIOD**

- The Public Comment period for the August 10, 2020 Board of Commissioners meeting shall be organized in advance. The public can submit their public comment to the Town Clerk via email to [mhoward@townofwendell.com](mailto:mhoward@townofwendell.com) by Friday, August 7<sup>th</sup> at 5 p.m.

or

- Submit a request to speak over the phone during the Board of Commissioners meeting by emailing their name, address, and phone number to the clerk via email by Friday, August 7<sup>th</sup> at 5 p.m. The Clerk will provide the call-in phone number and provide three (3) minutes to speak on any non-public hearing item or topic.
- Questions or comments regarding specific agenda items may be directed to the contact person provided for the individual items on the agenda below for additional information before or after the meeting.

### **3. CONSENT AGENDA**

*The Board of Commissioners uses a Consent Agenda to act on non-controversial items unanimously recommended for approval or have been discussed at previous meetings. The Consent Agenda is acted upon by one motion and vote of the Board. Any individual board member may pull items from the Consent Agenda for further discussion. Items pulled will be handled with the "OTHER BUSINESS" agenda topic.*

#### **3a. Town of Wendell Board of Commissioners Rules of Procedure Adoption**

Staff Contact: Town Clerk Megan Howard  
[mhoward@townofwendell.com](mailto:mhoward@townofwendell.com)

#### **3b. Approval of Resolution Directing the Clerk to Investigate a Non-Contiguous Annexation for 61.43 acres located at 1129 Edgemont Road (9 acres) identified by PIN# 1775-70-5631; 1213 Edgemont Road (11 acres) identified by PIN# 1775-71-4047; 0 Edgemont Road (13 acres) identified by PIN# 1775-60-5484; 0 Merganzer Road (20.62 acres) identified by PIN# 1775-50-6528; and 0 US 64 HWY E, (7.81 acres) identified by PIN# 1775-51-9103**

Staff Contact: Assistant Planning Director Bryan Coates  
[bcoates@townofwendell.com](mailto:bcoates@townofwendell.com)

### **4. RECOGNITIONS, REPORTS, AND PRESENTATIONS**

No presentations scheduled.

### **5. PUBLIC HEARINGS**

**PLEASE NOTE:** Due to the current State of Emergency and in the interest of public health, the following accommodations will be made to allow public participation in public hearings, but no public attendance at Town Hall will be permitted. No Board action on public hearing items will occur if a virtual meeting is used to conduct the public hearing. The item will be continued and the public will have 24 hours from the end of the meeting to provide comments on the public hearing item.

- Public participation for public hearing items on the agenda for the August 10, 2020 Board of Commissioners meeting shall be organized in advance. The public can submit their public hearing comments to the Town Clerk via email to [mhoward@townofwendell.com](mailto:mhoward@townofwendell.com) up to 24 hours after the public hearing is held. Please provide your name, address, and the agenda item number with your comments. Copies of the written comments received by Friday, August 7<sup>th</sup> at 5pm will be provided to the Board of Commissioners at the meeting, read at the meeting, and included in the minutes of the meeting. Comments will be received for 24 hours after the meeting and provided to the Board prior to action and will be included in the minutes.

Or

- Submit a request to speak over the phone during the Board of Commissioners meeting by emailing their name, address, phone number, and item number they wish to speak on to the clerk via email by Friday, August 7<sup>th</sup> at 5 p.m. The Clerk will provide the call-in phone number and provide five (5) minutes to speak on any public hearing item or topic. Comments made by phone will be recorded and transcribed to maintain the public record.
- If you have questions regarding an agenda item, please email the staff contact directly in advance of the meeting. If preferred, you may call Town Hall at (919) 365-4450 to be directed to speak with the staff contact for the agenda item(s) of interest. Communications of this type will not be included in the meeting minutes.

- 5a. PUBLIC HEARING:** for a non-contiguous annexation for a portion of a parcel totaling 10.272 acres located at 0 Eagle Rock Road as a part of PIN# 1774-55-1916.

Staff Contact: Assistant Planning Director Bryan Coates  
[bcoates@townofwendell.com](mailto:bcoates@townofwendell.com)

- 5b. PUBLIC HEARING:** on a Zoning Map Amendment request to rezone 10.272 acres located within the parcel addressed as 0 Eagle Rock Road (off of Old Tarboro Rd).

Staff Contact: Assistant Planning Director Bryan Coates  
[bcoates@townofwendell.com](mailto:bcoates@townofwendell.com)

## **6. ADMINISTRATIVE ITEMS**

- 6a.** Motion on a for a non-contiguous annexation for 4 parcels totaling 151.81 acres [12.28 for PIN #1765-85-2510, 50.16 for PIN #1765-96-2276, 57.16 for PIN

#1765-85-6251 and 32.21 for PIN #1775-04-2139] located at 4501 Rolesville Road, 0 Davistown Road, 1401 Davistown Road and 6021 Yancey Drive.

Staff contact: Assistant Planning Director Bryan Coates  
[bcoates@townofwendell.com](mailto:bcoates@townofwendell.com)

- 6b. Motion on a request by Chris Rurkowski of TMTLA Associates to rezone approximately 129.59 acres of property along Rolesville Rd within the parcels identified by PIN #1765852510, PIN #1765962276, PIN #1765856251 and PIN #1775042139 to an R4 Conditional District.

Staff Contact: Assistant Planning Director Bryan Coates  
[bcoates@townofwendell.com](mailto:bcoates@townofwendell.com)

- 6c. Motion on a request by Brian Duncan of the Spaulding Group, PA to rezone approximately 68.55 acres of property along Old Zebulon Rd within the parcels identified by PIN #1794-15-7657, PIN #1794-05-6758, PIN #1794-25-6786, PIN #1794-16-1410, PIN #1794-05-2762 and PIN #1794-06-6233 to an R7 Conditional District.

Staff Contact: Assistant Planning Director Bryan Coates  
[bcoates@townofwendell.com](mailto:bcoates@townofwendell.com)

**7. OTHER BUSINESS** (any item pulled from the CONSENT AGENDA [item 3 on this agenda] will be discussed during this portion of the agenda)

- 7a. Update on board committee(s) by Town board members:

Wendell Volunteer Fire Department Board of Directors – Commissioner Jason Joyner

**8. COMMISSIONERS' REPORTS / COMMENTS**

**9. MAYOR'S REPORTS / COMMENTS**

**10. CLOSED SESSION**

*Closed session will be called if necessary.*

**11. ADJOURN**

**Item Title:**

Town of Wendell Board of Commissioners Rules of Procedure Adoption

**Specific Action Requested:**

Adopt the amended Town of Wendell Board of Commissioners Rules of Procedure.


**Item Summary:**

At the Town Board of Commissioners' Organizational Retreat on January 25, 2020, the Town Clerk recommended that the paragraph under Rule 7, Section D be amended to reflect that sunshine list requests by the media be conducted at the only regular December Town Board Meeting of each year. The previous edition of the Rules of Procedure listed it as the second December Regular Town Board Meeting, which does not occur as the Town only holds one December Regular Meeting, annually.

The other amendment to the Rules of Procedure specifies in Rule 30 that the Town Clerk has the permission of the Town Board of Commissioners to codify Town Ordinances once the Board adopts an Ordinance into the UDO. This allows the Town Clerk to submit the Ordinance to Municode for codification once it is approved by the Board.

**Attachments:**

A. Amended Rules of Procedure

	<b>POLICY</b>	
	Administration	<b>Effective:</b> January 18, 2020
<b>Town of Wendell Board of Commissioners</b>  <b>Rules of Procedure</b>  Version 1.0		<b>Supersedes:</b> New
		<b>Prepared By:</b>  Megan Howard, Town Clerk
		<b>Approved By:</b>  Marc Collins, Town Manager

### I. Purpose

These Rules of Procedure were designed for use by a municipal council. They incorporate general principles of parliamentary procedure and applicable North Carolina laws. Essentially, the rules are a modified version of the Roberts's Rules of Order Newly Revised (hereinafter referred to as RONR). However, RONR is intended primarily to guide the deliberations of large legislative bodies. Its detailed rules are not always appropriate for a small governing board. A small board can afford to do some things that are not appropriate for a large body, and in some cases the procedure prescribed by RONR for larger assemblies is unnecessary. RONR itself recognizes that more informality is desirable with small boards (RONR, Sec. 48, pp. 477-78); these rules detail the more informal procedures that might be expected with a small board.

### II. RONR Principles

1. The Council [Board] must act as a body.
2. The Council [Board] should proceed in the most efficient manner possible.
3. The Council [Board] must act by at least a majority.
4. Every member must have an equal opportunity to participate in decision-making
5. The Council's [Board's] rules of procedure must be followed consistently.
6. The Council's [Board's] actions should be the result of a decision on the merits and not a manipulation of the procedural rules.

### III. NC G.S. Statutes

Many of the rules suggested here reflect the provisions of the North Carolina City [Town] Council meeting procedure statutes, Chapter 160A, Article 5, Parts 1-3, of the North Carolina General Statutes (hereinafter G.S.) (G.S. 160A-68 to -81) and the North Carolina open meetings law, G.S. Chapter 143, Article 33C (G.S. 143-318.9 to 143-318.18). When the rules in this book state procedures that are required by sections of these statutes, the fact is noted in the Comments. City [Town] Councils [Boards] must follow procedures required by these laws, whether or not they adopt some version of the rules in this book.

Note that G.S. 160A-82 provides that nothing in G.S. 160A-68 through G.S. 160A-81 (with certain exceptions not pertinent here) is to be construed to repeal any inconsistent provision of any city charter. (See also G.S. 160A-3, which provides rules for resolving conflicts between charter provisions and other statutes.) City [Town] officials should examine the City [Town] Charter whenever a comment refers to a general law, to determine whether the Charter conflicts with the cited general law.

A City [Town] Council [or Board of Commissioners] has a relatively free hand in designing its own rules of procedure, as long as the requirements of the general laws mentioned above, and the city's charter are followed, and the Board adheres to the general principles listed earlier. Most of the rules in this book are merely suggested procedures, and each council should feel free to change them to suit local needs and customs. For example, Rule 11 eliminates the requirement of a second to a motion. A Council [Board] may choose to adopt that rule or not. Alternative wordings and optional language for some of the rules are shown enclosed in brackets. Throughout these rules the City [Town] Governing Board is referred to as the "Council," in keeping with the wording of G.S. Chapter 160A.

### IV. DEFINITIONS

#### Rule 1 - Definitions

The following are definitions for the benefit of meetings of the Board of Commissioners for the Town of Wendell:

**"BOARD OF COMMISSIONERS."** The governing body of the Town of Wendell, North Carolina.

**"CODE or CODE OF ORDINANCES."** The Code of the Town of Wendell, North Carolina.

**"COMPUTATION OF TIME."** The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is Saturday, Sunday, or a legal holiday, that day shall be excluded. State law references: Computation of time, G.S. 1-593.

**"COUNTY."** The County of Wake, in the State of North Carolina, except as otherwise provided.

**"DEVELOPMENT."** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"GENDER."** Words importing the masculine gender include the feminine and neuter.

**"G.S."** The abbreviation "G.S." refers to the latest edition of the General Statutes of North Carolina, as amended.

**"IN THE TOWN."** Any territory jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

**"MONTH."** A calendar month.

**"OATH."** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

**"OFFICIALS, DEPARTMENTS, BOARDS, COMMISSIONS, COMMITTEES."** Whenever reference is made to "OFFICIALS, DEPARTMENTS, BOARDS, COMMISSIONS, COMMITTEES etc.," by title only, they shall be construed as if followed by the words "of the Town of Wendell, North Carolina."

**"OFFICIAL TIME STANDARDS."** Whenever certain hours are named in this code, they shall mean standard time or daylight savings time as may be in current use in the town.



**"OWNER."** When applied to buildings or land, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or part of the building or land.

**"PERSON."** Includes a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

**"PERSONAL PROPERTY."** Every species of property, except real property as herein defined.

**"PRECEDING"** and **"FOLLOWING."** Next before and next after, respectively.

**"PROPERTY."** Real and personal "PROPERTY."

**"REAL PROPERTY."** Lands, tenements, and hereditaments.

**"RIGHT-OF-WAY."** The entire width between property lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for public purposes.

**"SIDEWALK."** Any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians.

**"STORM SEWER DRAINAGE FACILITIES."** Includes drain outlets in connection with the curb and gutter, underground drain lines to carry water away from the street, and any other necessary or incidental appurtenances as may be required under the street.

**"STREET."** A dedicated public right-of-way permitting public vehicular traffic.

**"SIGNATURE"** or **"SUBSCRIPTION."** Shall include a mark when a person cannot write.

**"STATE."** The State of North Carolina.

**"STATUTES REFERENCES."** The General Statutes of North Carolina shall be cited to throughout this code as "G.S."

**"STREET."** Any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge, and the approaches thereto within the town and the entire width of the right-of-way between abutting property lines.

**"TENANT"** or **"OCCUPANT."** Applied to a building or land shall include any person who occupies the whole or part of the building or land, whether alone or with others.

**"TOWN."** The Town of Wendell, in the County of Wake and the State of North Carolina, except as otherwise provided.

**"TOWN LIMITS"** or **"CORPORATE LIMITS."** The legal boundary of the Town of Wendell, North Carolina.

**"VARIANCE"** is a grant of relief from the requirements of the ordinance.

**"WRITING"** or **"WRITTEN."** Shall include printing and any other mode of representing words and letters.

**"YEAR."** A calendar year.

## **V. APPLICABILITY**

### **Rule 2 - Applicability of Rules**

These rules shall apply to all meetings of the Board of Commissioners of the Town of Wendell, at which the Board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

## **VI. OPEN MEETINGS**

### **Rule 3 – Meetings to be Open**

- a.) The public policy of North Carolina and the Town of Wendell is that the hearings, deliberations, and actions of this Board and its committees shall be conducted openly, as is required by NC G.S. 143-318.9.

- b.) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Town of Wendell Board of Commissioners shall be open to the public, and any person may attend, as required by NC G.S. 143-318.10.
- c.) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the Board is defined as a meeting, assembly, or gathering together at any time or place, or the simultaneous communication by conference telephone or other electronic means of a majority of the members of the Board of Commissioners for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the Board of Commissioners. However, a social meeting or other informal assembly or gathering together of the members of the Board of Commissioners does not constitute an official meeting unless called or held to evade the spirit and purposes of the Open Meetings Law, as required by NC G.S. 143-318.10 (b).

#### **Rule 4-Closed Sessions**

- a.) Notwithstanding the provisions of the applicability of the rules, the Board may hold a closed session and exclude public, but only upon the following circumstances, which are authorized by North Carolina General Statute:
  - 1.) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this state or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
  - 2.) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
  - 3.) To consult with an attorney employed or retained by the Board of Commissioners in order to preserve the attorney-client privilege between the attorney and the Board of Commissioners, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit the Board of Commissioners to close a meeting that otherwise would be open merely because an attorney employed or retained by the Board of Commissioners may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, or administrative procedure. If the Board of Commissioners has approved or considered a settlement other than a malpractice settlement by or on

- behalf of a hospital, in a closed session, the terms of that settlement shall be reported to the Board of Commissioners and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
- 4.) To discuss matters relating to the location or expansion of industries or other businesses in the Town of Wendell.
  - 5.) To establish, or to instruct Town of Wendell staff or negotiating agents concerning the position to be taken by or on behalf of the Board of Commissioners in negotiating (I) the price of other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (II) the amount of compensation or other material terms of an employment contract or proposed employment contract.
  - 6.) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the Board of Commissioners or another body and may not consider or fill a vacancy among its own membership except in open meeting. The final action making an appointment or discharge or removal by the Board of Commissioners having final authority for the appointment or discharge or removal shall be taken in an open meeting.
  - 7.) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
  - 8.) Applies to a local board of education to respond to incidents of school violence or to formulate and adopt school safety components of school improvement plans.
  - 9.) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.
- b.) The Board may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in Subsection (a) of this rule. A motion based on preventing the disclosure

of information that is privileged or confidential shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. Any motion to go into a closed session must be approved by a majority of those Board members present and voting. The Board of Commissioners shall terminate the closed session by majority vote. A motion to adjourn or recess shall not be in order during a closed session. [NC G.S. 143-318.11]

## **VII. ORGANIZATION OF THE BOARD**

### **Rule 5 – Organizational Meeting**

At the first regular meeting in December of each odd-numbered year, the first order of business shall be approval of the minutes from the previous meeting. For the second order of business, the newly elected members of the Board shall take and subscribe the oath of office. The third order of business shall be the election of a Mayor Pro Tempore. [NC G.S. 160A-68 (a) and (b)]

## **VIII. REGULAR AND SPECIAL MEETINGS**

### **Rule 6 – Regular Meetings**

The Board of Commissioners shall hold two regular meetings per month. One meeting shall be on the second Monday of each month. A second meeting shall be on the fourth Monday of each month. Each of the meetings shall be held at 7:00 p.m. in the Wendell Town Hall. A copy of the Board of Commissioners' current meeting schedule shall be filed with the Town Clerk. [Sec. 2 – 105 (a) of the Code of Ordinances 31.053 (A)]

The Board may hold special work sessions to be called at the discretion of the Mayor or at the request of any two Commissioners. A schedule of any such meetings held regularly shall be filed in the same place and manner as the schedule of regular meetings and work sessions. Work sessions and other informal meetings not held regularly are subject to the same notice requirements as Special Board Meetings.

### **Rule 7 – Special, Emergency and Adjourned (or Recessed) Meetings**

- a.) **Special Meetings** – The Mayor, the Mayor Pro Tempore, or any two members of the Board of Commissioners may at any time call a Special Board of Commissioners Meeting by signing a written notice stating the time and place of the meeting, and the subjects to be considered. At least 48 hours before a Special Meeting is called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be: [Sec. 2 – 105 (d) of the Code of Ordinances]

- 1.) Delivered to the mayor and each Board of Commissioners member or left at his or her usual dwelling place;
- 2.) Posted on the Board of Commissioners' principal bulletin board, or if none, at the door of the Board of Commissioners' usual meeting room and
- 3.) Mailed, e-mailed or delivered to each newspaper, wire service, radio station, television station and person who has filed a written request for notice with the Town Clerk. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice.

[NC G.S. 143-318.12 (b) and NC G.S. 160A-71 (b) (1)]

A Special Meeting may also be called or scheduled by vote of the Board of Commissioners in open session during another duly called meeting. The motion calling or scheduling at the Special Meeting shall specify its time, place, and purpose. At least 48 hours before a special meeting called in this manner, notice of the time, place and purpose of the meeting shall be:

- 1.) Posted on the Board of Commissioners' principal bulletin board, or if none, at the door of the Board of Commissioners' usual meeting room and
- 2.) Mailed, e-mailed or delivered to each newspaper, wire service, radio station, television station and person who has filed a written request for notice with the Town Clerk. Such notice shall also be mailed or delivered at least 48 hours before the meeting to each Board of Commissioners member not present at the meeting at which the Special Meeting was called or scheduled and to the Mayor if he or she was not present at that meeting.

[NC G.S. 160A-71 (b) (1) and NC G.S. 160A-71 (b) (3)]

- b.) **Emergency Meetings** – The Mayor, the Mayor Pro Tempore, or any two members of the Board of Commissioners may at any time call an emergency Board of Commissioners meeting by signing a written notice stating the time and place of the meeting and the

subjects to be considered. The notice shall be delivered to the Mayor and each Board of Commissioners member or left at his or her usual dwelling place at least six hours before the meeting. Notice of the meeting shall be given to each local newspaper, local wire service, local radio station and local television station that has filed a written emergency meeting notice request, which includes the newspaper's, wire services' or station's telephone number, with the Town Clerk. This notice shall be given either by e-mail, telephone, fax or by the same method used to notify the Mayor and the Board of Commissioners members and shall be given at the expense of the party notified.

Emergency meetings shall only be called because of generally unexpected circumstances that require immediate consideration by the Town Board of Commissioners. Only business connected with the emergency may be considered at an emergency meeting.

[NC G.S. 160A-71 (b1)]

- c.) **Adjourned (or Recessed) Meetings** – A properly called regular, special or emergency meeting may be adjourned (or recessed) by a procedural motion and adopted as provided in Rule XIV in open session during the regular, special or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of an adjourned (or recessed) session of a properly called regular, special or emergency meeting.

[NC G.S. 160A-71 (b1)]

- d.) **Sunshine List**—Any individual and any newspaper, wire service, radio station, and television station may file a written request with the Clerk to the Board of Commissioners for notice of all special meetings of the Board. Request by individuals and news organizations must be renewed annually by the ~~second meeting in December~~ Regular December Town Board Meeting of each year and are not subject to any fee.

[NC G.S. 143-318.12 (b)]

## **Rule 8 – Broadcasting and Recording of Meetings**

Except as provided in this rule, any radio or television station may broadcast all or any part of an official Board meeting required to be open to the public. Any person may photograph, file, tape record, or otherwise reproduce any part of a meeting required to be open.

[NC G.S. 143-318.14]

It is the intention of the Board of Commissioners to have all regular Board meetings on East Wake TV as soon as funding allows it.

## **IX. AGENDA**

### **Rule 9 – Agenda**

The Town Manager shall prepare a proposed agenda for each meeting.

[Sec. 2 – 107 (a) (1) (a) of the Code of Ordinances]

A request to have an item of business placed on the agenda must be received at least two working consecutive days before the meeting.

[Sec. 2 – 107 (a) (1) (b) of the Code of Ordinances]

Any Commissioners or the Mayor may have an item placed on the proposed agenda, so long as the request is timely and is consistent with the notice requirements of Rule II, if applicable.

[Sec. 2 – 107 (a) (1) (c) of the Code of Ordinances]

To be included on the written, distributed agenda, the item needs to be sent in writing or via electronic mail at least ten calendar days prior to the meeting. This allows the staff sufficient time to conduct research and prepare background information on the item. This will not preclude anyone from placing an item on the agenda at the approval of the agenda during the meeting, itself.

A copy of all proposed ordinances shall be attached to the proposed agenda. An agenda packet shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each Board of Commissioners member shall receive a copy of the proposed agenda and the agenda packet and it shall be available for public inspection and distribution or copying when it is distributed to Board of Commissioners members. The Board of Commissioners may by majority vote add items to the agenda, except that only business connected with the emergency may be considered at an emergency meeting.

[Sec. 2 – 107 (a) (1) (f) of the Code of Ordinances]



## **Rule 10 – Consent Agenda**

Agenda items that are deemed by the Town Manager as generally non-controversial, including but not limited to Approval of Minutes, Budget Amendments, etc., may be combined into a single agenda item titled, “Items for Consent.” If such an objection is raised, the item or items so noted must be removed from the Consent Agenda and placed as additional individual items in the agenda and acted upon, accordingly.

[Town Procedures]

## **Rule 11 – Progression of Agenda Items**

- The agenda item is introduced by the staff or the Mayor.
- The Mayor asks if there are any questions after the presentation is made.
- The Mayor calls for a motion.
- A motion is made (the motion must be stated clearly.)
- The Mayor states the motion made and opens the table for discussion.
- A vote is taken.

[Loose interpretation of Sec. 2 – 107 (a) (2) of the Code of Ordinances]

## **Rule 12 – Public Address to the Board of Commissioners**

Any individual or group who wishes to address the Board of Commissioners shall make a request to be on the agenda to the Town Manager.

[modification of Sec. 2 – 107 (a) (1) (b) of the Code of Ordinances]

The Board of Commissioners shall also set aside part of each regular meeting for individuals or groups to address the Board of Commissioners.

[NC General Statute 160A-81.1]

## **Rule 13 – Order of Business**

Items shall be placed on the agenda according to the Order of Business. The Order of Business for each regular meeting shall be as follows:

- Adjustment and approval of the agenda,
- Public comment period,
- Consent agenda,
- Presentations,
- Public hearings,
- Administrative items,
- Other business,
- Commissioners reports/comments,
- Mayors reports/comments,
- Closed session (if applicable),
- Adjourn

[Loose interpretation of Sec. 2 – 107 (a) (2) of the Code of Ordinances]

By general consent of the Board of Commissioners, items may be considered out of order.

## **X. CONDUCT OF DEBATE**

### **Rule 14 – Office of the Mayor**

The Mayor shall preside at all meetings of the Board of Commissioners but shall have the right to vote only when there is a tie.

[NC General Statute 160A-69]

In order to address the Board of Commissioners, a member must be recognized by the Mayor.

The Mayor shall have the following powers:

1. To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time;
5. To adjourn in an emergency.

[town procedures]

### **Rule 15 – Office of the Mayor Pro Tempore**

At the organizational meeting, the Board of Commissioners shall elect from among its members a Mayor Pro Tempore to serve at the Board of Commissioners' pleasure.

[Charter Sec. 3.4 of the Code of Ordinances; NC General Statute 160A-70 and 160A-71]

A Board of Commissioners member who serves as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Board of Commissioners member for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Board of Commissioners may confer on the Mayor Pro Tempore any of the Mayor's powers and duties. If the Mayor should become physically or mentally unable to perform the duties of his or her office, the Board of Commissioners may by unanimous vote declare that the Mayor is incapacitated and confer any of the Mayor's powers and duties on the Mayor Pro Tempore. When a Mayor declares that he or she is no longer incapacitated, and a majority of the Board of Commissioners concurs, the Mayor shall resume the exercise of his or her powers and duties. If both the Mayor and the Mayor Pro Tempore are absent from a meeting, the Board of Commissioners may elect from among its members a temporary chairman to preside at the meeting.

[NC General Statute 160A-70]

### **Rule 16 – Presiding Officer When the Mayor is in Active Debate**

The Mayor shall preside at meetings of the Board of Commissioners unless he or she becomes actively engaged in debate on a particular proposal, in which case he or she shall designate another Board of Commissioners member to preside over the debate. The Mayor shall resume presiding as soon as action on the matter is concluded.

[town procedures]

### **Rule 17 – Presiding Officer When the Chair is Active in Debate**

If the Mayor, Mayor Pro Tempore (as appropriate,) or other presiding officer wishes to debate a proposal actively, he or she shall designate another Board member to preside. The Mayor, Mayor

Pro Tempore (as appropriate,) or other presiding officer shall resume the duty to preside as soon as action on the matter is concluded.

[town procedures]

### **Rule 18 – Action by the Board**

The Board shall proceed by motion that is made. Any Commissioner, including the Mayor Pro Tempore, may make a motion. A second is not required.

[town procedures]

### **Rule 19 – One Motion at a Time**

A member may only make one motion at a time.

[town procedures]

### **Rule 20 – Substantive Motion**

A substantive motion is out of order while another substantive motion is pending.

### **Rule 21 – Adoption by Majority Vote**

A motion shall be adopted if approved by a majority of the votes cast, unless otherwise required by these rules or North Carolina laws.

### **Rule 22 – Debate**

The Mayor (or individual presiding) shall state the motion and then open the floor to debate, presiding according to these general principles:

1. The member making the motion or introducing the ordinance, resolution, or order may speak first.
2. To the extent possible, the debate shall alternate between opponents and proponents of the measure.

[town procedures]

## Rule 23 – Procedural Motions

- a.) In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.
- b.) In order of priority (if applicable,) the procedural motions are:
  - 1.) *To Adjourn*. The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.
  - 2.) *To Recess*.
  - 3.) *To Call to Follow the Agenda*. The motion must be made at the first reasonable opportunity, or it is waived.
  - 4.) *To Suspend the Rules*. The motion requires a vote equal to a quorum.
  - 5.) *To Divide a Complex Motion*.
  - 6.) *To Defer Consideration* (also refers to “*tabled items*.” A substantive motion whose consideration has been deferred expires one hundred days thereafter, unless a motion to revive consideration is adopted.
  - 7.) *To Call the Previous Question*. The motion is not in order until every member has had opportunity to speak.
  - 8.) *To Postpone to a Certain Time or Day*.
  - 9.) *To Refer to Committee*. Sixty days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Board, regardless of whether the committee has reported the matter back to the Board.
  - 10.) *To Amend*. An amendment to a motion must be germane to the subject of the motion, but it may not achieve the opposite effect to the motion. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing.
  - 11.) *To Revive Consideration*. The motion is in order at any time within one hundred days of a vote deferring consideration. A substantive motion on which consideration has been deferred expires one hundred days after the deferral, unless a motion to revive consideration is adopted.
  - 12.) *To Reconsider*. The motion must be made at the same meeting where the

original vote was taken, and by a member who voted with the prevailing side. It cannot interrupt deliberation on a pending matter, but is in order any time before adjournment.

- 13.) *To Prevent Reconsideration for Six Months.* An agenda item may not be reconsidered for a period of six months after the initial vote, except by the vote of 4/5 of the Board of Commissioners.

#### **Rule 24 – Renewal of Motion**

A defeated motion may not be renewed at the same meeting.

#### **Rule 25 – Withdrawal of Motion**

A motion may be withdrawn by the introducer at any time before the chair puts the motion to a vote.

#### **Rule 26 – Duty to Vote**

It is the duty of each member to vote unless excused by a majority vote according to law. The Board may excuse members from voting on matters involving their own financial interest or official conduct. A member wishing to be excused from voting shall so inform the Mayor, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative.

[NC General Statute 160A-75]

#### **Rule 27 – Prohibition of Secret Voting**

No vote may be taken by secret ballot. If the Board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, then they may be destroyed.

[town procedures and NC GS 143-318.13]

### **Rule 28 – Action by Reference**

The Board shall not deliberate, vote or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or document number being referenced are available for public inspection at the meeting and are so worded that the people at the meeting can understand what is being discussed or acted on.

[town procedures]

### **Rule 29 – Introduction of Ordinances, Resolutions, and Orders**

A proposed ordinance shall be deemed introduced on the date the subject matter is first voted on by the Board.

[NC General Statute 160A-75]

### **Rule 30 – Adoption, Amendment, or Repeal of Ordinances**

To be adopted at the meeting where it is first introduced an ordinance or an action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or another similar ordinance requiring a public hearing before adoption) must be approved by two-thirds of the members of the Board of Commissioners. If the proposed measure is approved by a majority but not by all the members of the Board, or if the measure is not voted on at that meeting, it shall be considered at the next regular meeting of the Board. If it then or at any time thereafter within one hundred days of its introduction receives a majority of the votes cast, the measure is adopted and the Town Clerk has the permission of the Board to codify the ordinance once it is adopted.

[NC General Statute 160A-75]

### **RULE 31. Adoption of the Budget Ordinance**

Notwithstanding the provision of any town charter, general law or local act:

- 1.) Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the Board of Commissioners by a simple majority of those present and voting, a quorum being present;
- 2.) No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the Board of Commissioners; and
- 3.) The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the Board of Commissioners and ending with the adoption of the budget ordinance, the Board of Commissioners may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the Open Meetings Law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as:

1. Each member of the Board has actual notice of each special meeting called for the purpose of considering the budget; and
2. No business other than consideration of the budget is taken up.

This rule does not allow, and may not be construed to allow, the holding of closed meetings or closed sessions by the Board of Commissioners if it is otherwise prohibited by law from holding such a meeting or session.

[NC General Statute § 159-17 with minor modifications]

### **RULE 32. Quorum**

A majority of the actual membership of the Board of Commissioners, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

[NC General Statute § 160A-74]

### **RULE 33. Public Hearings**



Public hearing required by law or deemed advisable by the Board of Commissioners shall be organized by a special order, adopted by a majority vote that sets forth the subject, date, place and time of the hearing as well as any rules regarding the length of time for each speaker and other pertinent matters. The rules may include, but are not limited to, rules:

- 1.) Fixing the maximum time allotted to each speaker;
- 2.) Providing for the designation of spokespersons for groups of persons supporting or opposing the same positions;
- 3.) Providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made for those excluded from the hall to listen to the hearing); and
- 4.) Providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirement of the Open Meetings Law applicable to Board of Commissioners meetings shall also apply to public hearings at which a majority of the Board of Commissioners is present. A public hearing for which any notices required by the Open Meetings Law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of Rule IIC shall be followed in continuing a hearing at which a majority of the Board of Commissioners is present.

At the time appointed for the hearing, the mayor or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall declare the hearing ended.

[NC General Statute § 160A-81]

#### **RULE 34. Quorum at Public Hearings**

A quorum of the Board of Commissioners shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular Board of Commissioners meeting without further advertisement.

[NC General Statute § 160A-81]

**RULE 35. Minutes**

Full and accurate minutes of the Board of Commissioners proceedings shall be kept and shall be open to the inspection of the public, except as otherwise provided in this rule, within seven calendar days of the date of the meeting. The results of each vote shall be recorded in the minutes, and the ayes and noes upon any question shall be taken. Full and accurate minutes shall be kept of all actions taken during closed sessions. Minutes and other records of a closed session shall be sealed upon adoption and withheld from public inspection, for so long as public inspection would frustrate the purpose of the closed session. On January 1, or shortly thereafter each year, the Town Clerk, with the approval of the Town Manager, shall unseal all closed session minutes from the prior year(s), if appropriate.

[NC General Statute § 160A-72]

[Code of Ordinances Sec. 2 – 113]

**RULE 36. Appointments**

The process for appointments to boards and commissions shall be as follows:

1. The town clerk advertises opportunities for service at the beginning of each year, or as necessary. Each time the Board of Commissioners wishes to fill an advisory board vacancy, the Board of Commissioners establishes a deadline for receipt of the advisory board applications.
2. Interested citizens fill out applications and return them to the town clerk. If an applicant is interested in serving on multiple boards, the applicant should prioritize his/her preferences for board appointments.
3. The town clerk marks each application with a date stamp to show the date the application is received and enters all of the applications into a tracking table, which lists the names of citizens and the boards for which they wish to apply. This document is an internal document used by the clerk's staff for tracking purposes.

4. A letter is sent to applicants acknowledging receipt and thanking them for their application and noting the approximate schedule for appointments by the Board of Commissioners.
5. The town clerk fills-out the advisory board vacancies chart, which lists boards with openings and the schedule for consideration of appointment by the Board. This chart is an internal document used by the clerk's staff for tracking purposes.
6. Copies of applications are filed in the folder of each board for which each person applied.
7. Board members may not serve more than two consecutive full terms on any one particular advisory board. Consideration will be given to sitting members of an advisory board for reappointment to a second term; however, appointment for a second term is not guaranteed.
8. Immediate family members, as defined by the Town of Wendell Personnel Policy, of any elected official cannot be appointed to an advisory board / commission.
9. Town employees (full-time or part-time) cannot be appointed to an advisory board / commission.
10. Contractors / contract employees of the town cannot be appointed to an advisory board / commission.
11. At a regular meeting, the Board of Commissioners will vote on appointments to the various boards and commissions. Voting on advisory board appointments will be done by written ballot. Applicants must receive an affirmative vote from a majority of the Board members present and voting to be appointed. After each round of balloting, votes will be counted to determine if sufficient votes have been received by candidates for appointment. Once an applicant receives the majority of votes by the Board needed for appointment, his/her name will be removed from the ballot for any subsequent balloting, and he/she will be considered appointed. Additionally, the name of the lowest vote-getter from that round of voting (along with the names of anyone else who ties as the lowest vote getter for that particular round of voting) will also be removed from any subsequent ballot until the point in time when the proper number of board appointments has been made. If the applicant is appointed, a letter is mailed to their residence.
12. In general, appointees will start their new positions on July 1st of the new fiscal year.
13. No person can serve on multiple standing town advisory boards / commissions at the same time.
14. For those applicants not chosen, a letter is sent to them informing them that they were not chosen. Advisory Board applications will be kept on file for a period of at least twelve (12)

months for consideration of appointments to fill vacancies that may arise during the middle of a year. In order to ensure that information received is up-to-date, after annual appointments are made, anyone wishing to have an application considered in the future should submit a new application.

[town procedures]

### **Rule 37 – Committees and Boards**

The Board of Commissioners or the Mayor, as appropriate, may establish and appoint members for such temporary and standing committees and boards as are needed to help carry on the work of municipal government. Any specific provisions of law relating to particular committees and boards shall be followed.

The requirements of the Open Meetings Law shall apply to all committees and boards that are established by the Board of Commissioners.

[NC General Statute 143-318.10, 160A-146 and town procedures]

### **Rule 38 – Reference to Robert’s Rules of Order**

To the extent not provided for in these rules, and to the extent it does not conflict with North Carolina law or with the spirit of these rules, the Board of Commissioners shall refer to the most recent copy of *Robert’s rules of Order, Newly Revised*, to answer unresolved procedural questions.

→Initially effective on the 1<sup>st</sup> day of August 2008. Initially adopted on the 14<sup>th</sup> day of July, 2008.

→Revised on the 8<sup>th</sup> day of June 2009.

→Adopted as shown on the 12<sup>th</sup> day of April 2010

→Revised and adopted on the 23<sup>rd</sup> day of May 2016.

→Reformatted on the 3<sup>rd</sup> day of January 2020.

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Virginia Gray, Mayor

ATTEST:

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Megan Howard, Town Clerk

**Item Title:**

Approval of Resolution Directing the Clerk to Investigate a Non-Contiguous Annexation for 61.43 acres located at 1129 Edgemont Road (9 acres) identified by PIN# 1775-70-5631; 1213 Edgemont Road (11 acres) identified by PIN# 1775-71-4047; 0 Edgemont Road (13 acres) identified by PIN# 1775-60-5484; 0 Merganzer Road (20.62 acres) identified by PIN# 1775-50-6528; and 0 US 64 HWY E, (7.81 acres) identified by PIN# 1775-51-9103

**Report to the Board of Commissioners:**

August 10, 2020 – Direct Clerk to Investigate Annexation

**Specific Action Requested:**

Direct the Clerk to Investigate the Non-Contiguous Annexation Petition by approving the attached resolution.

**Item Summary:**

In accordance with North Carolina General Statute 160A-58.1, the Town Clerk is hereby directed to investigate the sufficiency of the petitions submitted for Annexation File A-20-04.

The Liles family has submitted an annexation request for a total of 61.43 acres located at 1129 Edgemont Road (9 acres) identified by PIN# 1775-70-5631; 1213 Edgemont Road (11 acres) identified by PIN# 1775-71-4047; 0 Edgemont Road (13 acres) identified by PIN# 1775-60-5484; 0 Merganzer Road (20.62 acres) identified by PIN# 1775-50-6528; and 0 US 64 HWY E, (7.81 acres) identified by PIN# 1775-51-9103.

A public hearing will be set by the Town Board for this item following the Town Clerk's certification of the petition's sufficiency once the Resolution Directing Investigation is adopted.

**Attachments:**

A. Resolution R-19-2020

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER NC G.S. 160A-58.1**

**RESOLUTION NO.: R-19-2020**

**WHEREAS**, petitions requesting annexation of areas described in said petitions were received on August 10, 2020, by the Wendell Town Board of Commissioners; and

**WHEREAS**, NC G.S. 160A-58.1 provides that the sufficiency of the petitions shall be investigated by the Town Clerk before further annexation proceedings may take place; and

**WHEREAS**, the Town Board of Commissioners of the Town of Wendell deems it advisable to proceed in response to this request for annexation.

**NOW THEREFORE, BE IT RESOLVED** by the Town Board of Commissioners of the Town of Wendell that:

The Town Clerk is hereby directed to investigate the sufficiency of the below described petition and to certify as soon as possible to the Town of Wendell the result of her investigation.

Duly resolved this 10<sup>th</sup> day of August 2020, while in regular session.

ATTEST:

\_\_\_\_\_  
Virginia R. Gray  
Mayor

\_\_\_\_\_  
Megan Howard  
Town Clerk

**A-20-04 – 1 non-contiguous parcel totaling 20.62 acres:** 0 Merganzer Road., PIN #1775-50-6528

**A-20-04 – 1 non-contiguous parcel totaling 7.81 acres:** 0 US 64 HWY E, PIN #1775-51-9103

**A-20-04 – 1 non-contiguous parcel totaling 13 acres:** 0 Edgemont Road, PIN #1775-60-5484

**A-20-04 – 1 non-contiguous parcel totaling 9 acres:** 1129 Edgemont Road, PIN #1775-70-5631

**A-20-04 – 1 non-contiguous parcel totaling 11 acres:** 1213 Edgemont Road, PIN #1775-71-4047

**Item Title:**

Public Hearing on a non-contiguous annexation petition for 10.272 acres located within the parcel addressed as 0 Eagle Rock Rd and identified by [PIN #1774-55-1916].

**Report to the Board of Commissioners:**

August 10, 2020- Public Hearing

July 27, 2020 - Receive Certificate of Sufficiency and set Public Hearing

March 23, 2020 - Direct Clerk to Certify Annexation Request

**Specific Action Requested:**

Hold a public hearing and consider approval of the ordinance for the annexation petition for 10.272 acres located at 0 Eagle Rock Road.

**Item Summary:**

520 State Street, LLC has submitted an annexation request for a 10.272 acre portion of the parcel addressed as 0 Eagle Rock Rd and identified by PIN# 1774-55-1916 (highlighted below). The annexation area represents the 10.272 portion south of Old Tarboro Road (of the 23.29 acre parcel). The applicant plans to subdivide the tract and develop the southern piece.

**Zoning District:**

The property is currently located within Wake County and is zoned R-30. The applicant has submitted a request to rezone to R4 Town of Wendell Zoning District.

**Police & Public Works & Utility Service:**

The proposed annexation area would require services from the Town's Police and Public Works Departments if annexed.



**Location Map:**



**Staff Recommendation:**

Staff recommends approval of the request

**Attachments:**

- A. Ordinance for Adoption

Return Address: Bryan Coates, Assistant Planning Director  
Town of Wendell  
15 E. Fourth Street  
Wendell, NC 27591

A20-03

**ORDINANCE NO. 0-26-2020**  
**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF**  
**THE TOWN OF WENDELL, NORTH CAROLINA**

WHEREAS, the Board of Commissioners has been petitioned under G.S. 160A-58.1, as amended, to annex the area described herein; and

WHEREAS, the Board of Commissioners has directed the Town Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at the Wendell Courtroom at 7:00 p.m. on the 10th day of August, 2020, after due notice by publication on the 30th day of July, 2020.

WHEREAS, the Board of Commissioners finds that the area described therein meets the standards of G.S. 160A-58.1(b) to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the Town;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the Town;
- c. The area described is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation:

WHEREAS, the Board of Commissioners further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Board of Commissioners further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Wendell, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the portion of the property identified by PIN # 1774-55-1916 located at 0 Eagle Rock Road, on the below identified survey plat is hereby annexed and made part of the Town of Wendell, North Carolina, as of the date of adoption of this Ordinance on August 24, 2020. The survey plat that describes the annexed territory is that certain survey plat entitled “Annexation Plat, Satellite Extension of Corporate Limits of the Town of Wendell” and recorded in Book of Maps Book Number \_\_\_\_\_, Page Number \_\_\_\_\_, Wake County Registry.

Section 2. Upon and after the adoption of this ordinance, the attached described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Wendell and shall be entitled to the same privileges and benefits as other parts of the Town of Wendell. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Wendell shall cause to be recorded in the Office of the Register of Deeds of Wake County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of the ordinance. Such map shall also be delivered to the County Board of Elections as required by G.S. 163.228.1.

Duly adopted the 24th day of August 2020.

(Town Seal)

\_\_\_\_\_  
Virginia R. Gray, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Megan Howard, Town Clerk

\_\_\_\_\_  
James P. Cauley III, Town Attorney

Page 2

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

CLERK’S CERTIFICATION

I, **MEGAN HOWARD**, Town Clerk of the Town of Wendell, North Carolina, do hereby certify that the attached is original ordinance **#0-26-2020**, as adopted by the Wendell Board of Commissioners on the 24<sup>th</sup> day of August, 2020 for a portion of the property owned by **520 State Street LLC**, and is approved for recording in the Wake County Register of Deeds.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Wendell, North Carolina this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

[TOWN SEAL]

\_\_\_\_\_  
Megan Howard, Town Clerk

**Item Title:**

Public hearing on a Zoning Map Amendment request to rezone 10.272 acres located within the parcel addressed as 0 Eagle Rock Road (off of Old Tarboro Rd).

**Report to the Board of Commissioners:**

- Monday, August 10, 2020

**Report to the Planning Board:**

- Monday, May 18, 2020

**Specific Action Requested:**

Holds a public hearing on the proposed rezoning request and consider adopting the attached ordinance, which includes a statement of comprehensive plan consistency and reasonableness.

**Applicant:**

Phoenix Land Venture

**Petition:**

The applicant has requested a change in zoning classification for property located at 0 Eagle Rock Road (PIN #1774-55-1916) from Wake County R-30 to Town of Wendell R4. The applicant has submitted a request to annex 10.272 acres of the parcel.

**Item Summary:**

This property is located within Wake County's jurisdiction and is currently zoned R-30. The rezoning request is a traditional map amendment (i.e. there is no accompanying development plan, which would be attached to a conditional district). This property abuts the Anderson Farm Subdivision that is currently under construction.

**Project Profile:**

PROPERTY LOCATION:	0 Eagle Rock Road
WAKE COUNTY PIN:	1774 55 1916
ZONING DISTRICT:	Proposed R4/ Current Wake County R-30
CROSS REFERENCES:	N/A
PROPERTY OWNER:	520 State Street, LLC 2912 Highwoods Blvd Raleigh, NC 27604
APPLICANT:	Phoenix Land Venture

PROPERTY SIZE:  
CURRENT LAND USE:  
PROPOSED LAND USE:

PO Box 90427  
Raleigh, NC 27604  
10.272 acres  
Agricultural  
Residential

**Project Setting – Surrounding Districts and Land uses:**

<u>DIRECTION</u>	<u>LANDUSE</u>	<u>ZONING</u>
North	Residential/Vacant	R4CU
South	Agricultural	R-30
East	Residential/Vacant	R4CU
West	Residential/Agricultural	R-30

**Zoning District:**

This property is located within Wake County's jurisdiction and is zoned R-30. The surrounding properties are currently zoned R4CU and Wake County R-30. The R4 district allows a minimum lot size of 6,000 sq. ft. North and east of this property is the Anderson Subdivision which is zoned R4CU with a minimum lot size of 6,000 sq. ft.

The R4 zoning district has the following minimum dimension standards;

- 50ft Lot Width
- 25ft Front Setback
- 20% of lot width combined
- 20ft rear setback
- 3 stories, maximum height

**Current Zoning Map (Requested Property outlined in red):**



### **Applicant's Justification:**

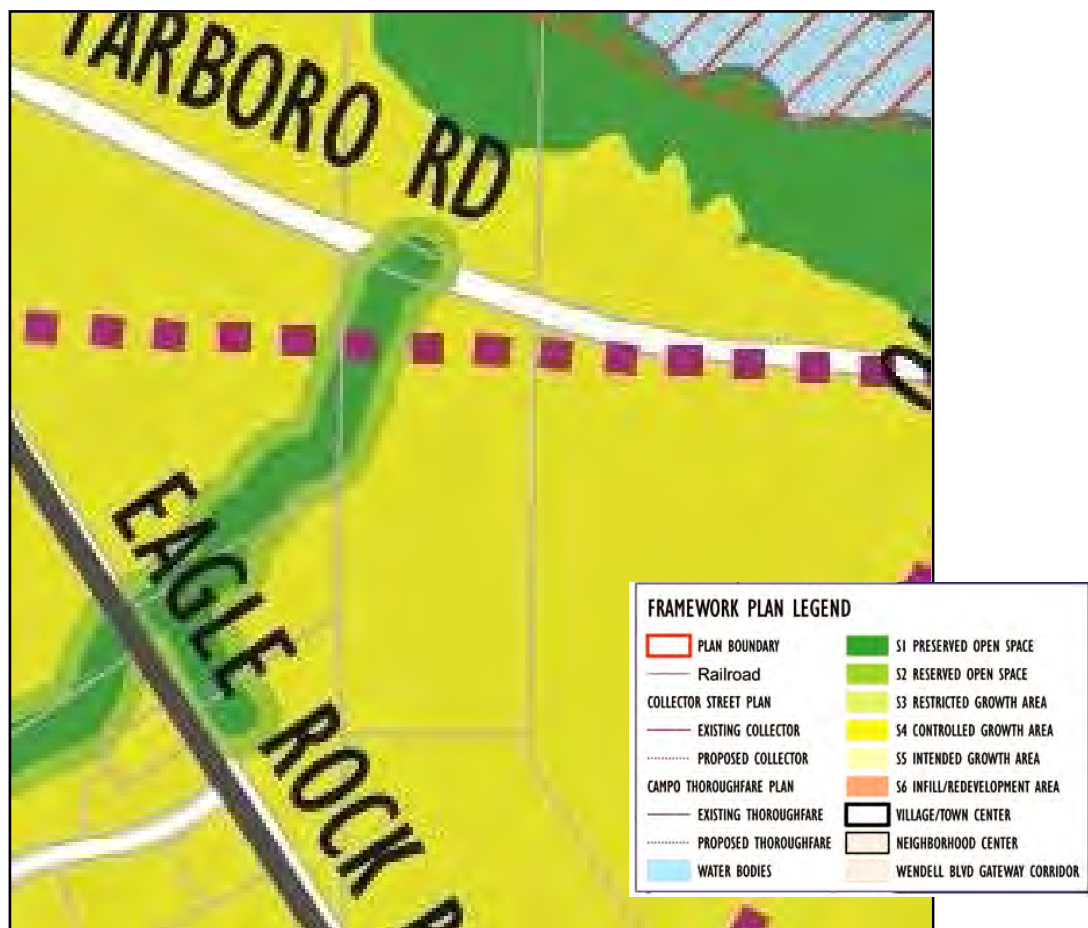
Applicants Justification Statement added as Attachment C.

### **Comprehensive Plan:**

The Wendell Comprehensive Plan defines this section as S-4 “Controlled Growth Sector” and partly in a Neighborhood Center.

The Comprehensive Plan states the S-4 sector typically consists of “lands that are typically close to thoroughfares and at key cross-road locations. This sector is where moderate intensity new development is appropriate and where the majority of the community’s new growth should occur. The typically envisioned community type for S-4 is a traditional neighborhood development (TND), which includes neighborhood serving commercial and civic uses surrounded by a mix of housing types that decrease in density as they get farther away from the commercial area.”

The following community types and uses are appropriate in the S-4 sector: traditional neighborhood developments, neighborhood centers, single-family and multifamily residential, neighborhood-serving commercial uses (retail and office), civic uses and industrial uses.



### **Planning Board Recommendation of Denial:**

At their May 18, 2020 meeting, the Planning Board voted 7-2 to deny the requested zoning map amendment.

**Voting in Favor of Denial:** Victoria Curtis, Jonathan Olson, Jimmena Huffman-Hall, Levin Jones, Deans Eatman, Michael Firstbrook and Allen Swaim

**Voting Against Denial:** Ryan Zakany and Brett Hennington

**Absent:** None

### **Technical Review Committee (TRC):**

The applicant would submit preliminary development plans if the proposed rezoning is approved. The preliminary development plan would need to meet all Town of Wendell Unified Development Ordinance regulations. TRC would review and approve any preliminary development plans for the property.

### **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.
  - In staff's opinion, the requested zoning map amendment is consistent with the recommended uses outlined in the Wendell Comprehensive Land Use Plan for the S-4 Sector and is reasonable to balance consistency with adjoining zoning districts.

### **Staff Recommendation:**

Staff recommends approval of this rezoning request.

### **Attachments:**

- A. Ordinance for Adoption
- B. Anderson Farm Site Plan
- C. Applicant's Justification

O-25-2020

AN ORDINANCE AMENDING THE ZONING MAP  
OF THE TOWN OF WENDELL

WHEREAS a petition has been filed with the Board of Commissioners of the Town of Wendell requesting an amendment to the Zoning Map of the Town of Wendell to include in the Residential 4 (R4) zoning district the property described below, said property formerly being zoned Wake County Residential-30 (R-30); and

WHEREAS said property is owned by 520 State Street, LLC; and

WHEREAS the Planning Board of the Town of Wendell reviewed the proposed change(s) and made a recommendation thereupon; and

WHEREAS notice of a public hearing to consider the proposed change was published in accordance with law in the Wake Weekly, a local newspaper, as required by Section 38-717 of the Wendell Code of Ordinances and by Section 160A-364 of the General Statutes; and

WHEREAS a notice of the proposed zoning classification action was mailed to the owner(s) of the parcel(s) of land involved, as shown on the County Tax Listings, and to the owners of all parcels of land abutting that (those) parcel(s) of land, as shown on the County Tax Listings, by depositing a copy of the same in the United States Mail, first class postage paid, as required by Section 38-717 of the Wendell Code of Ordinances and by Section 160A-384 of the General Statutes; and

WHEREAS, the Wendell Board of Commissioners reserves and exercised the right to change the existing zoning classification of the area in question or any part or parts thereof to a more restrictive general zoning classification without the necessity of withdrawal or modification of the petition.

WHEREAS the said public hearing was actually conducted at 7:00 p.m. on August 10, 2020 in the board room at Wendell Town Hall and wherein a reasonable opportunity was given to all those in attendance to speak either in favor or against the said change or to make relevant comments:

THEREFORE, after duly considering the matter, THE TOWN OF WENDELL DOES HEREBY ORDAIN;

SECTION 1. That the Zoning Map of the Town of Wendell is hereby amended to include in the **Residential 4 (R4)** zoning district 10.272 acres of land located within the parcel located at 0 Eagle Rock Road (PIN # 1774-55-1916).

SECTION 2. The requested zoning map amendment for the parcel within the rezoning area identified as ZM20-01 from Wake County Residential-30 (R-30) to **R4** is found to be reasonable in



order to balance consistency with adjoining zoning districts and is consistent with the recommended uses and development types outlined in the Wendell Comprehensive Land Use Plan for the S4 sector.

SECTION 3. That if any section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. That this ordinance shall become effective immediately upon its adoption.

DULY ADOPTED the 24th Day of August 2020

(Town Seal)

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Virginia R. Gray, Mayor

ATTEST:

APPROVED AS TO FORM:

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Megan Howard, Town Clerk

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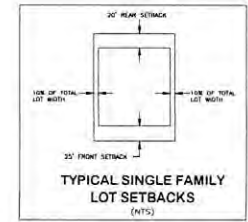
James P. Cauley III, Town Attorney

GENERAL NOTES

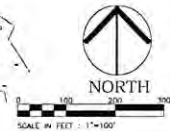
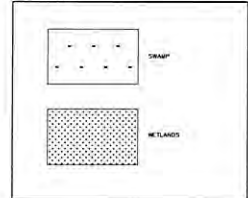
1. ALL MATERIALS AND METHODS OF CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE TOWN OF WENDELL AND THE STANDARDS OF NORTH CAROLINA STANDARDS AND SPECIFICATIONS.
2. CONTRACTOR SHALL HAVE NORTH CAROLINA ONE CALL (1-800-455-4645) LOCATE ALL EXISTING UTILITIES PRIOR TO BEGINNING CONSTRUCTION.
3. CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES AND ADJUST THE LOCATIONS OF ANY DISCREPANCIES OR CONFLICTS PRIOR TO BEGINNING CONSTRUCTION.
4. CONTRACTOR IS RESPONSIBLE FOR REPAIRING OR REPLACING ALL UTILITIES IN CONFLICT WITH NEW CONSTRUCTION. CONTRACTOR SHALL COORDINATE WITH UTILITY COMPANIES PRIOR TO DISBURSING.
5. LOTS MARKED WITH AN ASTERISK (\*) INDICATE LOTS GREATER THAN 10,000 SF.

NEW ROADWAY NOTES:

1. ALL NEW STREETS ARE CLASSIFIED AS LOCAL STREETS WITH 27'-0" B-W AND 27'-0" WIDE SIDEWALKS.
2. ALL NEW ALLEYS ARE 12' WIDE IN A 30' ACCESS EASEMENT.
3. NEW STREET M IS CLASSIFIED AS A MINOR THROUGHWAY, 3 LANE UNDIVIDED, ROADWAY (18' ROW, 5' B-W).
4. OLD BATTLE BRIDGE ROAD SHALL REMAIN A MAJOR THROUGHWAY, 3 LANE UNDIVIDED, ROADWAY (18' ROW, 5' B-W). SHALL BE REMOVED FOR THE CORNER CONDITIONS AND THE PHYSICAL SECTION ON THE DEED SHEET.



LEGEND



I hereby certify that this Plan was approved by the Administration or (ZNC) of the Town of Wendell on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Administrator



## ATTACHMENT C

The applicant is requesting a revision to the Town of Wendell Zoning Map for the 10.272 acre parcel located on the southern side of 0 Eagle Rock Rd (PIN: 1774-55-1916). The parcel is currently zoned R-30 and the rezoning request is for R-4 zoning. This request will also modify the current Comprehensive Land Use Plan, which shows this tract as Industrial, with a recommendation that the residential zoning of the area and surrounding property is retained and applied to this property.

With available utilities, and transportation corridors in this location, the current zoning of R-30 would not be the best use of this 10.272 acres of land south of Old Tarboro Road. In addition, the adjacent tract to the east of this property has received approval to construct residential homes and townhomes in a development known as Anderson Plantation. With the adjacent zoning of R-4 CU, it is reasonable to request the current R-30 zoning to become R-4 zoning.

The Future Land Use Plan shows this parcel's land use as Industrial, but the use of this property as residential zoning meets the surrounding area and provides residential homes in a section of town near existing residential properties, transportation corridors, and existing utilities. Extension of additional governmental services, utilities, police, garbage, and streets would be minimal as this property will be adjacent to these services in the proposed development of Anderson Plantation. Granting a zoning map change for this parcel will not hamper public safety nor create harmful impacts on adjacent properties.

**Item Title:**

Motion on a non-contiguous annexation for 4 parcels totaling 151.81 acres [12.28 for PIN #1765-85-2510, 50.16 for PIN #1765-96-2276, 57.16 for PIN #1765-85-6251 and 32.21 for PIN #1775-04-2139] located at 4501 Rolesville Road, 0 Davistown Road, 1401 Davistown Road and 6021 Yancey Drive.

**Report to the Board of Commissioners:**

August 10, 2020- Item for Decision  
July 27, 2020- Public Hearing  
June 22, 2020- Receive Certificate of Sufficiency and set Public Hearing  
February 10, 2020  
January 13, 2020  
November 12, 2019- Direct the Clerk to Investigate Sufficiency for the Annexation

**Specific Action Requested:**

Hold a public hearing and consider approval of the ordinance for the annexation petition for 4 parcels totaling 151.81 acres located at 4501 Rolesville Road, 0 Davistown Road, 1401 Davistown Road and 6021 Yancey Drive.

**Item Summary:**

Chris Rurkowski had originally submitted an annexation request for 3 non-contiguous parcels totaling 119.6 acres [12.28- PIN #1765-85-2510, 50.16- PIN #1765-96-2276 and 57.16- PIN #1765-85-6251] located at 4501 Rolesville Rd, 0 Davistown Road and 1401 Davistown Road, respectively. In order to satisfy the 3-mile requirement for satellite annexation, another parcel totaling 32.21 acres [PIN #1775-04-2139] located at 6021 Yancey Drive has been added to the annexation request. All these parcels are located in Wake County and are currently in the Residential-40 (R-40) Zoning District.

**Zoning District:**

The properties are located within the Wake County R-40 zoning district. 129.59 acres are contained within a R4 Conditional District request. The remaining acreage has been requested to be rezoned Rural Agricultural (RA).

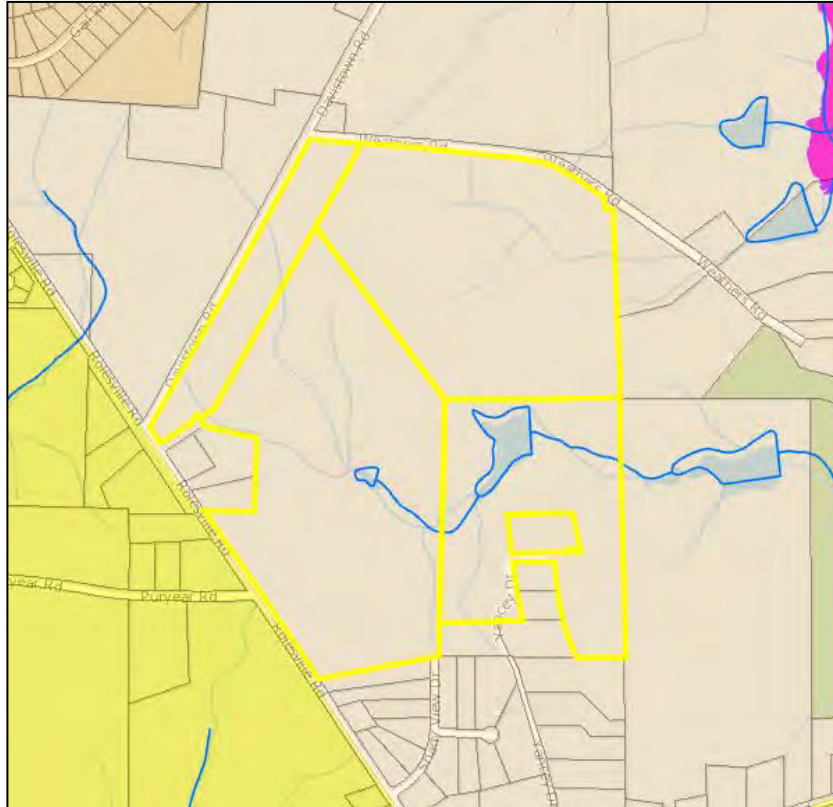
**Police & Public Works & Utility Service:**

The proposed annexation area would require services from the Town's Police and Public Works departments if annexed. The closest service area for the Police is at Kioti Drive to the south.



The closest residential area served by Public Works is Edgemont Landings and the recently approved Anderson Farm subdivision.

**Location Map:**



**Staff Recommendation:**

Staff recommends approval of the request

**Attachments:**

- A. Ordinance for Adoption

**Item Title:**

Motion on a non-contiguous annexation for 4 parcels totaling 151.81 acres [12.28 for PIN #1765-85-2510, 50.16 for PIN #1765-96-2276, 57.16 for PIN #1765-85-6251 and 32.21 for PIN #1775-04-2139] located at 4501 Rolesville Road, 0 Davistown Road, 1401 Davistown Road and 6021 Yancey Drive.

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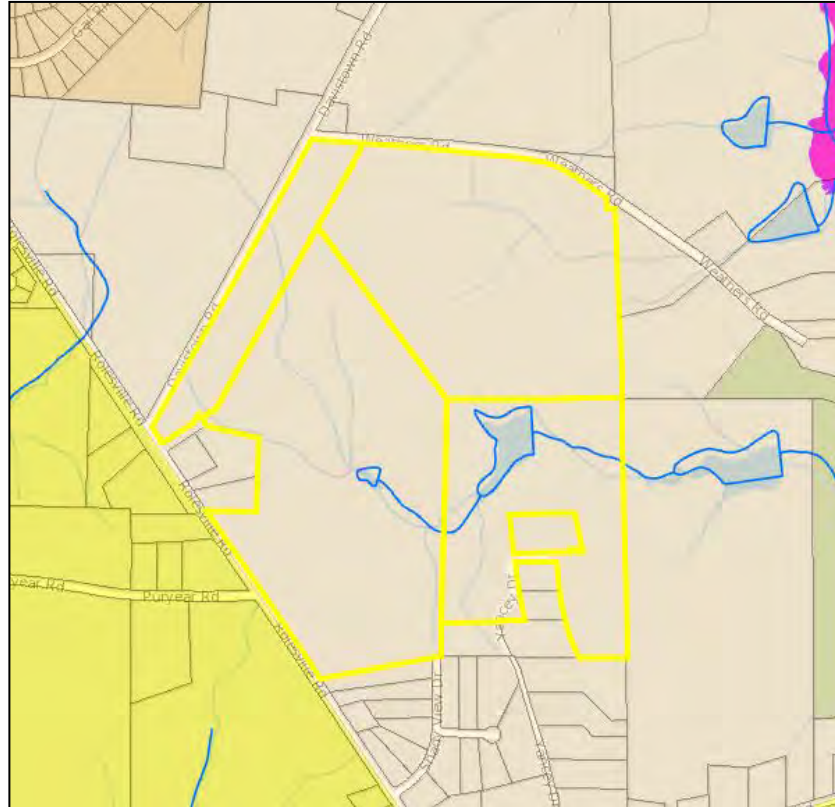
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The closest residential area served by Public Works is Edgemont Landings and the recently approved Anderson Farm subdivision.

**Location Map:**



**Staff Recommendation:**

Staff recommends approval of the request

**Attachments:**

- A. Ordinance for Adoption
- B. Written Public Comment Submitted within the 24-hour period of the Public Hearing on July 27, 2020

Return Address: Bryan Coates, Assistant Planning Director  
Town of Wendell  
15 E. Fourth Street  
Wendell, NC 27591

A19-04

**ORDINANCE NO. 0-22-2020**  
**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF**  
**THE TOWN OF WENDELL, NORTH CAROLINA**

WHEREAS, the Board of Commissioners has been petitioned under G.S. 160A-58.1, as amended, to annex the area described herein; and

WHEREAS, the Board of Commissioners has directed the Town Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at the Wendell Courtroom at 7:00 p.m. on the 27th day of July, 2020, after due notice by publication on the 16<sup>th</sup> day of July, 2020.

WHEREAS, the Board of Commissioners finds that the area described therein meets the standards of G.S. 160A-58.1(b) to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the Town;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the Town;
- c. The area described is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation:

WHEREAS, the Board of Commissioners further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Board of Commissioners further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Wendell, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the properties identified by PIN #s 1765852510, 1765962276, 1765856251 and 1775042139, also shown as the 12.28, 50.16, 57.16 and 32.21 acre tracts located at 4501 Rolesville Road, 0 Davistown Road, 1401 Davistown Road and 6021 Yancey Drive on the below identified survey plat are hereby annexed and made part of the Town of Wendell, North Carolina, as of the date of adoption of this Ordinance on August 10, 2020. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Plat, Satellite Extension of Corporate Limits of the Town of Wendell" and recorded in Book of Maps Book Number \_\_\_\_\_, Page Number \_\_\_\_\_, Wake County Registry.

Section 2. Upon and after the adoption of this ordinance, the attached described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Wendell and shall be entitled to the same privileges and benefits as other parts of the Town of Wendell. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Wendell shall cause to be recorded in the Office of the Register of Deeds of Wake County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of the ordinance. Such map shall also be delivered to the County Board of Elections as required by G.S. 163.228.1.



Duly adopted the 10th day of August 2020.

(Town Seal)

\_\_\_\_\_  
Virginia R. Gray, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Megan Howard, Town Clerk

\_\_\_\_\_  
James P. Cauley III, Town Attorney

Page 2

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

**CLERK’S CERTIFICATION**

I, **MEGAN HOWARD**, Town Clerk of the Town of Wendell, North Carolina, do hereby certify that the attached is original ordinance **#0-22-2020**, as adopted by the Wendell Board of Commissioners on the 10<sup>th</sup> day of August, 2020 for properties owned by **Amy Weathers Nuttall, John J Nuttall III, Eva Weathers Herring and George Stancil Yancey**, and is approved for recording in the Wake County Register of Deeds.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Wendell, North Carolina this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

[TOWN SEAL]

\_\_\_\_\_  
Megan Howard, Town Clerk

Written Public Comment Submitted within the 24-hour period of July 27, 2020 Town Board Meeting:

**July 27, 2020 Town Board Meeting Item 5a.) PUBLIC HEARING:** for a non-contiguous annexation for 4 parcels totaling 151.81 acres [12.28 for PIN #1765-85-2510, 50.16 for PIN #1765-96-2276, 57.16 for PIN #1765-85-6251 and 32.21 for PIN #1775-04-2139] located at 4501 Rolesville Road, 0 Davistown Road, 1401 Davistown Road and 6021 Yancey Drive.

**1. Kate Benson, 413 Lemon Pepper Place, Wendell, NC, 27591**

Good evening,

After watching this evening's board meeting live, I felt compelled to share my comments regarding the proposed annexation and development of the cluster of parcels along Rolesville and Davistown Roads.

I am a proud Wendell citizen. My husband is native to the area and I became a resident after we got married 5 years ago. I'm proud of this town. We are raising our children here, I shop (as much as I can) here, and I am excited to see the growth and positive change that this occurring here. I often encourage friends and coworkers that are looking for a change to consider Wendell and all it has to offer. I have always felt comfort in the adequate and above and beyond town services (fire, police, ems) attentiveness, and amenities (well maintained public spaces, parks, etc), and consider it a true gem of Wake County.

Recently, I have been extremely concerned over the proposed annexation of the aforementioned parcels and the development it would support. I am far from being in the "not in my backyard" camp. However, in addition to the concerns expressed by the property owners adjacent to the parcels, I would like to add my concern around how annexation and an influx of homes would affect those that live in other areas of the town. For instance, it was mentioned tonight by the developer's spokesperson that additional town resources would not be required to support this area because it already falls within the jurisdiction of town services currently. That may be true, but what does that mean for the rest of the residents who also rely on these services? Will we see increased response time to emergencies? Will there need to be an increased need for police patrol? Especially as this parcel is not within the "proposed" growth zone.

I understand Wendell has become an attractive opportunity for developers. And I can see why. But I am truly concerned about our town leadership's attention to such developers rather than the concerned citizens who love and are proud of Wendell. Growth is inevitable. Especially in this area of the state, and more so, county. I have seen the effects of uncontrolled and developer driven growth firsthand, as I grew up in Wake Forest and find that I hardly recognize the town I once called home - a once thriving downtown is left empty while the urban sprawl that caught hold of the once

charming town has continued to billow. I would hate to see Wendell, with all it has to offer, suffer the same fate.

Thank you for hearing me, and for considering my plea to reject the annexation and proposed development, with the added encouragement to develop and unite the space between downtown and Wendell falls. I believe in the town of Wendell, and I am grateful for the opportunity to share my voice.

Many thanks,

Kate Benson

413 Lemon Pepper Pl

Wendell NC 27591

919-418-1568

**2. John Nuttall, 4501 Rolesville Road, Wendell, NC, 27591**

Good Evening Everyone.

My name is John Nuttall and I live at 4501 Rolesville Rd. Along with my wife Amy Weathers, I am one of the owners of the properties requesting Annexation and rezoning by the town of Wendell.

Thank you for the opportunity to comment on these issues.

I have read the agendas, the minutes and the comments from all the hearings that began 14 months ago. As well as many hundreds of comments on Social Media, I have refrained from commenting.

I do feel that it is important and appropriate for me to do so now.

I wish to express my sincere thanks to Mayor Gray, Mayor Pro Tem Boyette, and Commissioners DeLoach, Joyner, Lutz and Tarnaski.

I appreciate and respect the decorum, professionalism, thoroughness and inclusiveness they have shown during these many months. I applaud their resourcefulness and willingness to adapt to the challenges brought on by COVID-19 while they continue to advance the goals and business of Wendell forward to the Future.

I would also like to thank the Planning Board.

Bryan Coates Acting Director & Staff as well as Chairman Swaim and Board Members Curtis, Jones, Hall, Olson, Firstbrook, Hennington, Zakany, & Eatman. I know from their meeting agendas & minutes as well as feedback received from Ashton Woods that the Planning Board has been professional and instructive, Complex projects like these require many meetings and hearings There are always revisions, adjustments, improvements and clarifications. Projects very rarely hit a home run first time at bat. The Board is to be commended for their patience and understanding.

I am especially thankful to the board for their vote on May 18 that passed the Project by a 6-3 super-majority.

I would like to comment next on Ashton Woods. Before I do that I should share some of my background, experience and expertise, I grew up in a family of home builders. My father, grandfather and great grandfather were all contractors. In my father's company I worked my way up from digging ditches and pounding nails to, at the young age of 22, the Production Manager for a 400 unit development of single family homes.

Over the years I've built everything from modest starter homes to waterfront mega mansions. Well over 1,000 homes worth of experience has shaped my perspective. So I am sincere when I tell you that Ashton Woods are excellent people. Dedicated, Driven, Persistent, Professional, Respectful and Creative are some of the words I use to describe Ashton Woods.

Right from the start this was obvious. They came with a plan and had done their homework. Our negotiations were courteous and professional. Ashton Woods negotiated with transparency and integrity. I knew from that experience that this would be the way they treated their home-buyers and the community of Wendell. The Overlook, the Project which Ashton Woods has created, is a LOW DENSITY, environmentally responsible community that completely aligns with Wendell's Economic Development Board's plans.

Ashton Woods is creating a neighborhood that will, like Wendell Falls, form a tight knit sense of community. It will be community of happy new Wendell citizens. It will be exactly what the Wendell Economic Plan is calling for ..... Quote:

***“ Full of young professionals, families and retirees looking for a place to call home, with proximity to everything the region offers”...***

Possibly best of all, these new high quality homes will be affordable. A very commendable thing to do.

Thank You for your time,

.....please approve these requests.....

**3. Amy Weathers Nuttall, 4501 Rolesville Road, Wendell, NC, 27591**

Amy Weathers Nuttall

4501 Rolesville Road

Wendell. NC 27591

July 28, 2020

Re: Board of Commissioners Meeting, July 27 Agenda

Agenda items 5a and 5b

Dear Commissioners:

Thank you for allowing me to speak last night, and please accept the following additional comments in support of this project. As you know, I am Amy Weathers Nuttall, and I am here to voice support from myself, my sister Eve Weathers Herring, and my husband John. We urge you to approve this development and ensure growth and prosperity for Wendell. In the words of Oliver Wendell Holmes, Wendell's namesake: To reach a port we must sail, sometimes with the wind and sometimes against it. But we must not drift or lie at anchor.

Since the first meeting with the Town of Wendell, Ashton Woods listened carefully

to the feedback from both the neighboring residents, Wendell citizens, and the Town of Wendell Boards. They have gone back to the "drawing board" several times in order to create a community in keeping with Wendell's vision, and in line with all recommendations requested by the Town of Wendell. Ashton Woods has "checked all of the boxes" as requested by Wendell. Even though the developer could have walked away from the contract at any time, Ashton Woods decided to make the changes (at considerable expense to them) because they believed in the quality neighborhood that they wished to bring.

Even after the start of the pandemic, Ashton Woods stayed committed to this project because home buying is still going strong. To quote Gaye Orr, President of the Raleigh-Wake Home Builders Association and President of Coldwell Banker Advantage New Homes in Raleigh:

Prior to the pandemic, we were seeing over 60 people per day moving to Wake County. We expect those numbers to increase as we are already seeing people wanting to escape large metropolitan areas looking for smaller towns and neighborhoods with homes with yards so children can play outside. We have seen a surge in sales through this pandemic. Our problem is inventory. Builders in our area are not only short on inventory but also on lot availability.

Freddie Mac reports that interest rates are the lowest over the past 50 years. There are bidding wars on homes listed for sale.

My family has always been an integral part of Wendell, even though we did not reside within the city limits. My father purchased his cars, trucks and farm supplies in Wendell. Our mother was a founding member and active in various organizations. We

attended elementary school in Wendell, took dance lessons there, shopped for clothing, and received health care from Dr. Brashear. Our friends and social activities revolved around Wendell.

The new residents of this project will do the same. Their children will be assigned to schools in Wendell, and just as my parents did, errands will be run after drop off or before pick up. They will grocery shop at the local markets, pets will receive care at the local veterinary clinic, children will take dance lessons, and these families will utilize other services such as eye care, dental care, auto repair, financial planning etc. Friends and social activities will revolve around Wendell.

For some people change is not comfortable, because they have their "piece of the pie" and do not want others to intrude. I understand the "not in my backyard" mentality, but had that prevailed in the 70's there would not be Candlewick or East Wake High School (originally Vaiden Whitley). Change is happening.

The largest ABC facility in Wake County is on Rolesville Road, Sheetz has come, Wake Technical Community College is planning a campus just down the road, and the DOT has documented plans for expanding Rolesville Road into a four lane roadway. Growth is coming, change is happening.

Those that are most opposed are not Wendell residents, do not pay taxes to the town, and cannot vote for elected officials. Is it in the best public interest for those folks to be allowed to direct and control the growth of Wendell? The interest of a relatively few folks should not override the interests of the 7,800 residents of Wendell. Citing the article written by Shawn Taylor and published on June 14, 2019 in the Wake Weekly, that number of residents is projected to increase to 20,000 within the next decade.

Quoting Marc Collins, Wendell Town Manager, from the same article: "Ten years from now, we are Knightdale, just like ten years ago they were Wendell." Eastern Wake County, as stated by Bob Matheny, Mayor of Zebulon, "...is the next frontier, and growth is inevitable". Mayor Bob Matheny continues: " Towns that don't grow their tax base will have to cut services or raise taxes in order to keep up with growing costs and demands." And remember, those increased taxes will directly impact the residents of Wendell. However the folks currently residing on Rolesville and Davistown Road will not be subject to an increase as they do not pay taxes.

I respectfully pose the following questions to you.

- Who knows when or if another large tract, over 100 acres, will become available?
- Who knows if any other large tracts of land will be agreeable for voluntary annexation?
- Who knows what developers will be so committed and act on the recommendations of neighbors, Wendell citizens, and Wendell Boards?

No one knows those answers, but what we do know is that eastern Wake County is going to grow. And should the Town of Wendell reject this project, it may set a precedent and head in a direction from which it cannot return.

To quote your Economic Development Board:

The Town's population growth, combined with an availability of land, access to I-87, and proximity to Raleigh, competitively position Wendell as a location for the next wave of development within the Research Triangle Park region. The goal of the plan is to build a plan that adapts to trends in economic development, resilient to changes in economic conditions and creates a foundation to ensure a sustainable and long-term growth that



enriches Wendell's economic and tax base.

Myself, my sister Eve Weathers Herring, and my husband John Nuttall are proud of what Ashton Woods has proposed, and we applaud their persistent commitment to create the very community which Wendell envisioned in 2007. We appreciate your dedication and service to Wendell, and thank you for time and consideration in this matter.

As Oliver Wendell Holmes reminds us:

Have the courage to act instead of react.

We have faith that you will follow your allegiance to your citizens and make the decision that is best for Wendell. Let others come to enjoy beautiful Eastern Wake County and Wendell. Let them experience for themselves the "Small town. Big Charm" of Wendell. Please accept this opportunity to voluntarily annex and rezone these parcels and vote yes to growth and opportunity.

Thank you.

Amy Weathers Nuttall

#### **4. Jamie Schwedler, 301 Fayetteville Street, Suite 1400, Raleigh, NC**

Good Evening Mayor and Commissioners,

Thank you for your time and patience last night. We wanted to follow up on the question posed on the price points of the single-family homes. With the change to Ashton Woods and accompanying architectural selections available, we believe the average home price will be \$325,000, and this was the number used by our economic analyst in estimating the \$620,000 annual revenue from Wendell's portion of real property tax increase above what the existing zoning would allow. I also wanted to clarify that this \$620k includes the special \$101k assessment for fire and emergency services.

During the hearing I did confirm that the stormwater ponds would be required to be maintained by the developer and then the HOA, and will not be turned over to Wendell for maintenance, so that will not be a cost to the Town.

Please let me know if I or the team can provide any additional details.

Thanks so much,

Jamie Schwedler

**5. Regina Harmon, 6616 Tells Branch Rd., Wendell, NC, 27591**

Hello

I listen to the town meeting last night alone with about 39 other citizens and heard we were able to send in email within 24 hour of the meeting over concerns. Thank you for this and thank you for Considering my thoughts and please go look at the comments that were made during the meeting.

1. Why would you or why would they want to jump over so much property to be annexed in to the city limits of Wendell. One reason only water and sewer so they can get more homes per acre. It's about the money plain and simple. More home Per acre means more profit. This was Done on the wendell falls side, and that's not even been fully developed. It makes no sense to go to the opposite side of our town and do the exact same thing.

2. The traffic will be 1000 time worst with this, the school and the project already being done from the Roseville side And wake teck coming

3. Schools, someone on the community page made a great point that the schools, we do not have the infrastructure to handle. Another great point somebody made during the meeting keep talking about the road out there on Roseville Road and DOT the developer has offered to pay to fix it when we both know DOT will do it when necessary and no cost to the town.

4. On the Wendell falls side a person on the community page made another great point that their is 1100 home out there but still no lights and no grocery store which I know is coming but at this point that could still be another 2-3 yrs out

5. Police and fire. Are you going to build another annex site for fire and police to service that side of town since there will be so many

Miles in between? That is what you ended up doing for the Wendell falls side because there was so many miles in between or city limits and the jump to a wendell falls . That cost will be to the citizens

6. Money, it sure looks like good money for the town. As far as taxes and such, but is it a good use of money To add hardship on to the tax payers, and this will be a hardship

on we the tax payers. Plus, this is money now and not enough to pay for schools, police and fire for future.

7. The developer is not being asked to go away. They are asking them not to be annexed into the city limits. That is it. They can still build just under country rule not town city limit rule just to get water and sewer.

8. The developer has over and over change the plan. Not because they are trying to help the people that live out there. From the beginning they did not have enough land to be put in the city limits. When they found that out it was pulled from the meeting and they bought the swamp land to put them in the 3 mile mark. The developer has changed things over and over because they keep finding out something is wrong with their plan, and before it passes, pull it from the vote to fix the issue not once but several times because it seem the developer has made several mistakes in the planing part of the project. So, if they are unable to do that correctly from the beginning what else will they do half way? Also, it was pointed out the project they have in Zebulon is only half finished and they have been working on that for year. Why? I would have a big concern over that. We know this is about trying to get the most out of the town over water and sewer. Again they are not being asked to not develop, they are Just being asking not to go into the city limits. The developer stated that they change this project over and over to help to people out there, if that was the case then they would develop under country rules not city limit annexation.

And who will pay for the water and sewer run to them? In ever meeting this has come up, I do not remember at all this question being answered. If the developer is paying for The water and sewer to run out there or we the citizens will be paying for water and sewer to be ran to the development.

9. They want in the city limits to put as many house per Acre as they can. Please look at the land, take out the swamp land only use the available land and look how many houses per acre it will be. Remember Wendell Falls has its own pod document.

A new developer coming in within the city limits doesn't get to use the same pod document as Wendell Falls is using. At least I don't think so.

Look at the swap land can that really be used for a

Park or anything at all?

10. You've already jumped over a large piece of property from the city limits in Wendell all the way out the Wendell Falls, why in the world would you want to go to the other side of town to do the exact same thing it's going to stretch everything Thin

11. I have heard the commissioners say over and over again when doing a vote we're gonna listen to the people and what they want, well let's see if that happens because you've had 50 to 60 citizens that live out there that have showed up every single meeting telling you over and over again they don't wanna be put in the city limits they're

not trying to stop the developer from building they just don't want seven houses per acre. You have a lot of citizens right here in Wendell that watch the meeting and spoke out about how crazy this is. So, please listen to the citizens they are telling you over and over That this is a bad idea and to vote no on this. We don't need to be stretched any thinner than we already are.

You could come back and you can say but it's going to give taxes to our community is going to help us do other things like get more business, we haven't even gotten the Wendell Falls side built out to its full capacity with Businesses or anything else, don't put the carriage before the horse.

We know these people who will buy homes out there are not going to do there shopping in Wendell on a daily bases. The people will go to Knightdale, Roseville to shop or stop on the way home from their job in Raleigh, so why should we pay to support other towns. By voting yes to this issue, that is what you will be doing. That is already happening with the Wendell falls citizens. It is easier for them to go to Knightdale than Wendell

And remember nobody is telling them they cannot buy the land and no one is telling them not to develop they're just saying what a mistake it would be to put them in the city limits of Wendell. They can build but build under the country rules.

Thank you for your time.

**Item Title:**

Motion on a R-4 Conditional District request for properties located at 4501 Rolesville Rd, 0 Davistown Road, 1401 Davistown Road and 6021 Yancey Drive.

**Report to the Board of Commissioners:**

- Monday, August 10, 2020- Item for Discussion
- Monday, July 27, 2020- Public Hearing
- Monday, February 10, 2020- Public Hearing

**Report to the Planning Board:**

- Monday, May 18, 2020 (Single Family Only)
- Monday, November 18, 2019 (Expanded Boundary & Revised)
- Monday, August 19, 2019
- Monday, July 15, 2019
- Monday, May 20, 2019 (Introduction – No Action)

**Specific Action Requested:**

Make a motion on the proposed R4 Conditional District request and consider adopting the attached ordinance to rezone the described area subject to conditions and in conformance with the associated Master Plan. The public hearing was held for this item on Monday July 27, 2020.

**Applicant:**

Chris Rurkowski of TMTLA Associates

**Petition:**

Due to the determination that a condition of a conditional district cannot allow a use that is not permitted in the base zoning district in some fashion, and since the R4 district does not allow townhomes, the applicant decided to revise the project to remove all townhomes and add single family homes in their place (rather than reclassify their conditional district request to R7).

The applicant has requested to create a R4 conditional district for approximately 129.59 acres of property within the parcels identified by PIN #1765852510, PIN #1765962276, PIN #1765856251 and PIN #1775042139. The proposed conditional district consists of 326 single family homes with associated open space, amenities, and infrastructure.

**Item Summary:**

The applicant's proposed conditional district has single-family homes, with an overall density of 2.50 dwellings units per acre. The 2.50 DUA figure only includes 10 acres of the 32-acre Yancey property within the Conditional District. The 2.50 DUA figure does not account for an additional

22 acres of open space within the Yancey property, which is now offered to the Town in its entirety as public open space. The remainder of the Yancey Property would be rezoned to Residential Agricultural (RA) at a subsequent meeting if the Conditional District is approved.

This project is located just northwest of East Wake High School, along Rolesville Road.

The applicant has made the following amendments in response to comments received from the Planning Board, Town Board and broader community:

1. Total unit count was reduced initially to 326 (originally 427 and later 374) and the overall density decreased from 2.88 to 2.50 DUA.
2. Developer changed from Starlight Homes to Ashton Woods.
3. Townhomes were removed from the proposal, single family homes are only permitted use.
4. The developer is dedicating approximately 32 acres to the Town for a future Town park.
5. The developer increased the number of conditions from 11 to 24, with only 1 condition considered a concession.
  - a. These conditions include several architectural design standards, schedules for installation of amenities, and increased landscaping.

Amenities include a clubhouse, a 6-lane Jr. Olympic pool, picnic and grill area, dog park, a small playground, a 9-hole disc golf course, and 32 acres within the Yancey Property offered to the Town as dedicated parkland.

The Overall Site Plan is included as Attachment A (with a link to the full Master Plan for download).

Based on comments received at the Planning Board Introduction meeting, the applicant voluntarily conducted a Neighborhood Meeting with adjacent property owners.

### **Purpose of a Conditional District:**

The purpose of the Conditional Districts (CD) is to provide an alternative means of land development and an alternative zoning procedure that may be used to establish residential, commercial, and industrial Conditional Districts at appropriate locations and in accordance with the planning and development objectives of the Town.

A CD may depart from the strict application of the requirements of the town's general zoning districts. A primary purpose of this section is to provide standards by which such flexibility may be achieved while maintaining and protecting the public health, safety and welfare of the citizens.

A second purpose of the conditional district is to establish a more complete living and working environment through the application of enlightened and imaginative approaches to community planning and property design. A CD should provide a variety of natural features and scenic areas, efficient and economical land use, improved amenities, orderly and economical development, and the protection of existing and future adjacent development.

The provisions of the CD Master Plan shall replace all conflicting development regulations set forth in the UDO which would otherwise apply to the development site. The Planning Board may recommend, and the Board of Commissioners may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed

use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to this Ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site.

### **Location and History:**

This property is currently located outside in Wake County's jurisdiction and is zoned Residential-40 (R-40). Annexation must be approved by the Wendell Board of Commissioners for the conditional district to take effect.

### **Project Profile:**

PROPERTY LOCATIONS:	4501 Rolesville Rd, 0 Davistown Rd, 1401 Davistown Rd and 6021 Yancey Drive (portion)
WAKE COUNTY PINS:	1765852510, 1765962276, 1765856251, & 1775042139 (portion)
CURRENT ZONING DISTRICT:	Wake County R-40
CROSS REFERENCES:	N/A
PROPERTY OWNERS:	Amy Weathers Nuttall & John J Nuttall III 4501 Rolesville Rd Wendell, NC 27591
	Eva Weathers Herring 1800 Eastwood Rd, Apt 219 Wilmington, NC 28403
	George Yancey 3632 Willow Bluff Drive Raleigh, NC 27604
APPLICANT:	Chris Rurkowski 5011 Southpark Dr, Ste 200 Durham, NC 27713
PROPERTY SIZE:	129.59 acres
CURRENT LAND USE:	Vacant
PROPOSED LAND USE:	Residential

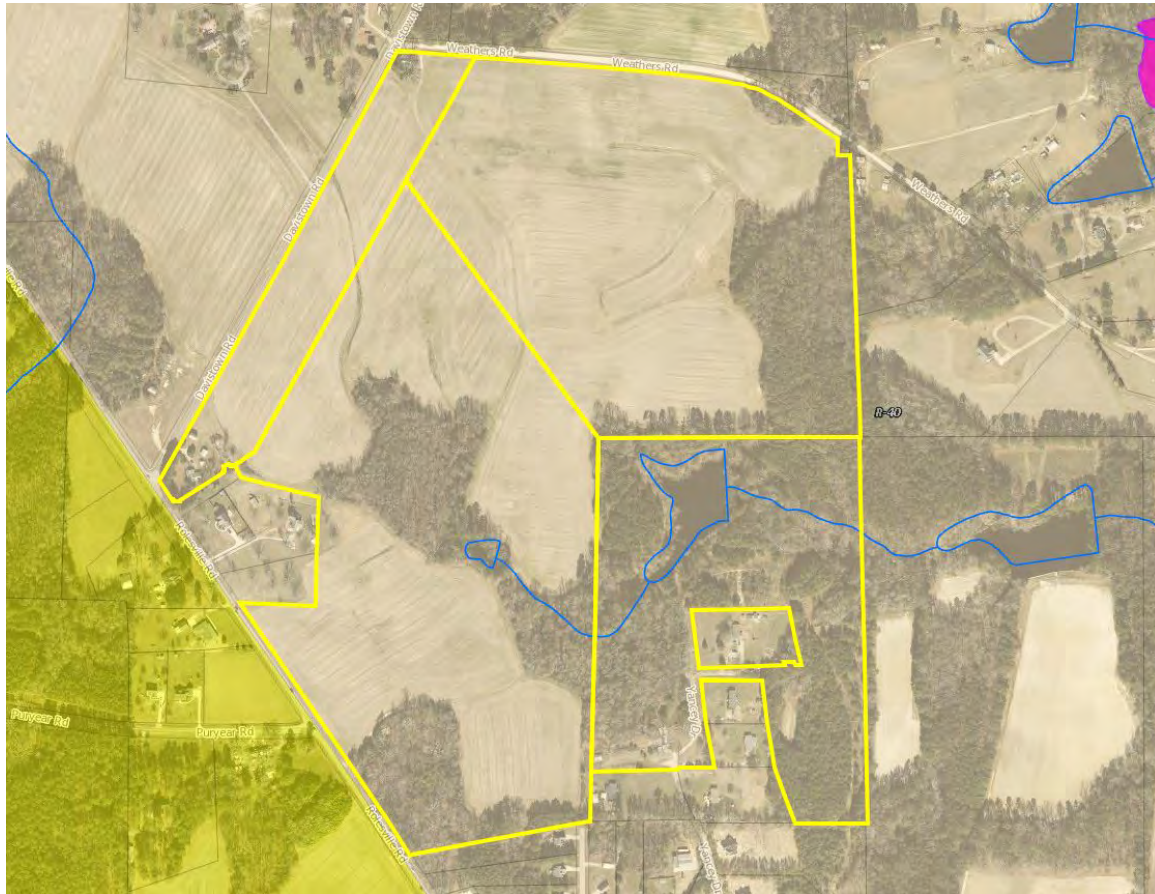
### **Project Setting – Surrounding Districts and Land uses:**

<u>DIRECTION</u>	<u>LANDUSE</u>	<u>ZONING</u>
North	Residential/Agricultural	R-40
South	Residential/Agricultural	R-30/R-40
East	Residential/Agricultural	R-40
West	Residential/Agricultural	R-30

The area along Rolesville Road is within the Town of Wendell's urban services area. It was designated Long Range Urban Services by Wake County in 2000. Long Range Urban Services Areas are expected to be urbanized beyond 10 years. Municipal utilities are nearby at East Wake High School.



### Current Zoning Map:



### Proposed Conditional District Conditions:

The applicant is proposing 24 conditions for the proposed CD, as detailed below. Only 1 of the 24 conditions represent concessions. The remaining 23 conditions are clarifications or represent improvements beyond what the UDO requires. Conditions added following the last Planning Board action meeting are underlined.

1. **[Clarification]** R4-CD Zoning Conditions: The maximum number of units allowed shall be 339 units
  - **Staff Note: This is to allow for flexibility during the construction document phase to allow for a maximum of 339 (The master plan shows 326).**
2. **[Improvement]** The developer shall preserve a minimum of 35 acres as open space. The development shall exceed all open space requirements as prescribed in Chapter 7 of the Unified Development Ordinance (UDO).
3. **[Improvement]** The developer shall dedicate approximately 32 contiguous acres of land (PIN 1775042139) to the Town for a future Town park prior to the recording of the plat for Phase 1. This dedication brings the total open space and dedicated land to approximately 65 acres. This dedication will include a minimum of 2 access points to public streets.
4. **[Improvement]** The use of vinyl siding shall be prohibited. Trim Elements such as windows, eaves, fascia, columns, and soffits may be vinyl or aluminum.



5. **[Improvement]** All units shall be designed to provide for a combination of at least two of the following materials on the front/primary façade facing the public street or open space: cultured stone, brick, lap siding, shakes, or board and batten, unless the front elevation is entirely brick or cultured stone.
6. **[Improvement]** Roof eaves shall have a minimum 10" overhang.
7. **[Improvement]** Front-loaded garage doors shall either contain windows or carriage style adornments.
8. **[Improvement]** All residential lots shall have Bermuda sod on the front, sides, and up to 25' beyond the rear line of the primary structure.
9. **[Clarification]** The neighborhood shall be governed by a Homeowner's Association (HOA) that shall maintain all open space that has been dedicated to the HOA.
10. **[Clarification]** The HOA shall be guided by a Declaration of Covenants, Conditions, and Restrictions.
11. **[Clarification]** Architectural Guidelines shall be included in the HOA documents that restrict and monitor landscaping, additions, outbuildings, fences, parking, and maintenance.
12. **[Improvement]** The developer shall complete the amenity area to include a 6 lane Jr. Olympic pool, poolhouse, bathrooms, covered seating area, and grilling area prior to the issuance of the 75th CO of Phase 1.
13. **[Improvement]** The developer shall construct a playground to include a central play structure and benches prior to the issuance of the 75th CO of Phase 1.
14. **[Improvement]** The developer shall complete the dog park to include a fenced mulch area, benches, and water station prior to the issuance of the 25th CO of Phase 2.
15. **[Improvement]** The developer shall complete a gravel walking trail connecting the dog park area and Phase 2 to the amenity center and Phase 1 prior to the 25th CO of Phase 2.
16. **[Improvement]** The developer shall construct an approximately 200 yard by 30 yard common green area to include a seating area, gazebo, walkway, and plantings in the median area of Avenue 'I' prior to the issuance of the 25th CO of Phase 3.
17. **[Improvement]** The developer shall construct a 9-hole disc golf course in the northeast open space area prior to the issuance of the 25th CO of Phase 3.
18. **[Improvement]** The developer shall construct a 35' wide Type 'B' perimeter buffer along the southern project boundary between Rolesville Rd and Shady View Dr.
19. **[Improvement]** The developer shall construct a 40' wide Type 'B' perimeter buffer along the project boundary bordering the N/F K&J Construction (PIN 1765-74-8520), N/F Oliver Winslow (PIN 1765-84-0581), and N/F Efren Castro (PIN 1765-84-0246) properties.
20. **[Improvement]** The developer shall construct a 6' privacy fence along the back of the project lots bordering with properties N/F Oliver Winslow (Wake County PIN 1765-84-0581) and N/F Efren Castro (Wake County PIN 1765-84-0246).
21. **[Clarification]** The developer shall provide a 10' landscape easement along the rear property line of lots along Davistown Road and shall be planted as a Type 'B' buffer as describe in the UDO (4 trees and 16 shrubs per 100 LF).
22. **[Clarification]** The developer shall pay a fee in lieu for ½ of improvements to Weathers Road for the rural road cross section as described on MP-4 of the Master Plan.
23. **[Concession]** There shall be one (1) cul de sac at a length greater than 300' but not longer than 425'.
  - **Staff note – Environmental site conditions warrant this deviation.**
24. **[Clarification]** The developer shall complete Rolesville Road improvements for ½ of the ultimate 110' cross section of Rolesville Rd prior to the 1<sup>st</sup> CO for the project.

- **Staff note – a bond would also be required by staff in order to approve the final plat. This note is for clarification. This is an existing requirement and does not have to be included within their condition language.**

### **Applicant's Justification:**

Applicants Justification Statement added as Attachment B.

### **Parking:**

Off-street parking shall be required for any active open space areas. The applicant is showing a total of 71 off-street parking spaces to serve their Pool/Amenity Center, Dog Park, and Disc Golf course.

### **Open Space:**

The applicant is required to provide 9.76 acres of passive open space and 3.25 acres of park space (with 1.08 acres of the park space being fully active). The applicant is providing well above the total amount of open space required (50.59 acres of open space is being provided within the conditional district boundary and ~20 more acres within the remainder of the Yancey Property offered to the Town), as well as much more improved open space than what is required. The applicant is providing 2.54 acres of fully active open space (1.08 acres required), comprised of a junior Olympic pool and clubhouse, playground, and 9-hole disc golf course. Additionally, the applicant is providing 4 acres of Park Space (2.5 acres required).

Approximately 5 acres of the passive open space falls within wetlands or riparian buffers.

### **Public Utilities:**

Development of this site will require extension of utilities along Rolesville Road from the High School site.

### **Streets:**

The Town's Arterial and Collector Street Plan calls for widening and improvements to Rolesville Rd (4-lane divided), and Davistown Road (2-lane undivided). The applicant is showing additional ROW dedication for Weathers road per Capital Area Metropolitan Planning Organization (CAMPO)'s transportation plans, but plans on requesting the Town Board to pay a fee in lieu of building their portion of a rural road cross-section, which is what is required by the Town.

The applicant's typical street sections are included on page 6 of their Master Plan. These sections include an 'Urban Street' with a center median, as well as a one-way street section. Both of these sections are not typical sections included within the Town's cross-sections and would be specific to this development.

### **Traffic Impact Assessment (TIA)**

The number of proposed dwelling units required the developer to prepare a Traffic Impact Assessment (TIA) report. This report is reviewed by NC-DOT, as well as the Town contracted

engineer. Since all impacted roads are DOT maintained, they would determine what if any improvements are required, based on the additional traffic being generated by this site. These improvements typically involve the addition of turn lanes, striping improvements, or signal improvements (when applicable).

Recommended improvements for this project include:

- A dedicated Right-Turn lane on Rolesville Rd into the new site's entrance.
- A dedicated Right-Turn lane on Rolesville Rd to turn onto Davistown Rd
- Striping Improvements at the intersection of Keiths Rd and Business 64.

The applicant's plans also show a dedicated left turn lane on Rolesville Rd into the new site's entrance.

### **Landscaping:**

All landscaping shall meet the requirements as set forth in the UDO at the time of the Final Development Plan, unless otherwise specified through the approved Master Plan. The applicant has included 4 conditions (#18-21) improving the site's landscaping beyond what is required.

### **Phasing:**

The applicant has identified 3 phases of development. The clubhouse and pool are included in Phase 1. The applicant's conditions detail when each amenity would be completed.

### **Comprehensive Plan:**

The Wendell Comprehensive Plan defines the subject properties as being completely within the S-3 "Restricted Growth Sector".

The Comprehensive Plan states that "although not a formal open space sector, S-3 is intended for very limited development under tightly controlled conditions." This sector is generally classified as lands that are not proximate to thoroughfares and that are not projected to be high growth areas due to limited access to the transportation network and utilities. Generally, the S-3 areas are outside of the short range urban service area for water and sewer service and are close to S-1 and S-2 areas."

The Comprehensive Plan lists the following uses as appropriate land uses/development types within this sector: low density cluster developments or hamlets (a clustering of buildings around a rural crossroad), single family residential development, very limited convenience retail uses, civic uses (parks, schools, religious and government uses), and some industrial uses.

The proposed development on the site consists of single-family detached homes, with an overall density of 2.50 DUA. The S-2 sector to the east is buffered from the proposed development with the inclusion of the disc golf course.



### **TRC Review:**

The Technical Review Committee has completed their review of the applicant's Master Plan and the applicant has made corrections based on their comments. Additional review would occur upon submittal of construction drawings (final development plan for conditional districts).

### **Planning Board Recommendation:**

At their May 18, 2020 meeting, the Planning Board voted 6-3 in favor of the requested Conditional District.

**Voting in Favor:** Jonathan Olson, Brett Hennington, Ryan Zakany, Jimmena Huffman-Hall, Deans Eatman and Levin Jones

**Voting Against:** Michael Firstbrook, Allen Swaim and Victoria Curtis

**Absent:** None

### **Statement of Plan Consistency and Reasonableness**

The proposed Conditional District is found to be consistent with the recommended uses and development types outlined in the Wendell Comprehensive Land Use Plan for the S-3 sector and reasonable due to its location along Rolesville Road and its proximity to I-87. Furthermore, the proposed amendments are found to be consistent with the following principle of the Comprehensive Plan:

- Principle Number 6: "Provide for a range of housing opportunities including upscale housing, senior housing and downtown living choices."

**Staff Recommendation:**

- Staff recommends approval of the proposed Weathers Property Master Plan.
  - The applicant has included numerous conditions improving buffers, open space, public park land, and architectural standards. In exchange, they are seeking 1 concession related to cul-de-sac length.
  - Proposed lot size is notably smaller than surrounding properties (which are served by well and septic), but overall project density is 2.50 dwelling units per acre, which is less than what would normally be allowed in the R4 zoning district.
  - This site is located less than a mile from an Interstate, on a future 4-lane thoroughfare, near an existing high school, with access to municipal water and sewer. All of these factors support a growth pattern other than ‘rural’.

**Attachments:**

- A. Overall Site Plan (Weathers Property)
  - a. Full Master Plan Link:  
<https://nmcdr.io/e186d21f8c7946a19faed23c3da2f0da/3834b95a93b14b3689a528c1f97c5d69/files/2020-6-2-Weathers-Property-Master-Plan.pdf>
- B. Applicant’s Justification Statement
- C. Ordinance for Adoption
- D. Written Public Comment Submitted within the 24-hour period of the Public Hearing on July 27, 2020

## **Weathers Property**

### Conditional District Narrative

4501 Rolesville Rd, 1401 Davistown Rd, 0 Davistown Rd, and 6201 Yancey Dr, commonly referred to as Weathers Property, is requesting rezoning to R4-CD as well as annexation into the Town of Wendell's ETJ. We are seeking a rezoning to R4-CD to allow flexibility for the development of this property which would allow appropriate lot sizes, slight variations to the street cross sections, and the ability to protect environmentally sensitive areas. The conditional district allows the design to take into account environmental barriers, wetlands, topography, and the parcel shape and allow for design flexibility to appropriately accommodate and utilize these features as amenities to the residents. Any conditions not herein modified or expressly stated shall defer to the Town of Wendell UDO standards for the R4 zoning district.

Included in this submittal is a Master Plan document which will define the general layout, configuration and quantity of lots, amenities, open space, park space, preliminary utility locations, and street cross sections. All elements of the Master Plan are subject to minor changes, as deemed so by the Town of Wendell Planning Department. The town framework plan included in the Comprehensive Plan indicates these parcels as S3, Restricted Growth Area. These parcels are also in close proximity to a Regional Activity Center, which intends to provide a wide variety of housing densities to support the regional hub centered around the US-64 interchange. The restricted growth area indicates a pattern of low-density growth which is defined as a development with less than 4 dwelling units per acre. The Weathers property is well within these criteria as it will have a density of approximately 2.5 dwelling units per acre. The proposed single-family homes are appropriate at this density given the proximity to the Regional Activity

Center and the development's frontage along a thoroughfare. The proposed master plan also provides an appropriate transition, providing preserved natural open space, in areas that border the S2 Reserved Open Space Sector, effectively extending the reserved open space sector and protecting the areas identified as environmentally sensitive within the Comprehensive Plan. Further, the development also proposes to provide approximately 10 acres of development area as well as an additional approximately 20 acres of adjacent land to the Town of Wendell for a future park, which is also land adjacent to the S2 Sector.

This project will have no negative impacts on surrounding properties. The property will be buffered appropriately from all developed or vacant surrounding parcels, with most buffers exceeding the required width and/or plant material required by the UDO and recommended road improvements per the Traffic Impact Analysis (TIA) shall be constructed or a payment in lieu shall be made to the Town of Wendell until such time as it is appropriate to make the road improvements. The 'Plan Area' as identified on page 7 of the Town of Wendell Comprehensive Plan from 2007 identifies the Weathers property as within the Town of Wendell urban service area and extra-territorial jurisdiction (ETJ) that the Town of Wendell has agreed upon with Wake County and neighboring municipalities. This represents areas that are likely to be served by Town of Wendell facilities including water and sewer services and emergency services. Based on the location of the project along the previously planned future 4 lane divided thoroughfare of Rolesville Rd and its close proximity to East Wake High School, US-64, and the Regional Activity Center, annexation into the Town of Wendell and the use of its urban services is consistent with the 2007 Comprehensive Plan and will not cause undue burden to Town of Wendell resources as verified by review of the appropriate governmental authorities. Impacts on

all public and governmental services have been analyzed with the guidance of Town of Wendell Staff and the appropriate governing body to verify that there are no negative impacts and no capacities are exceeded.



**ORD # 0-23-2020**  
**AN ORDINANCE AMENDING THE ZONING MAP**  
**OF THE TOWN OF WENDELL**

WHEREAS a petition has been filed with the Board of Commissioners of the Town of Wendell requesting an amendment to the Zoning Map of the Town of Wendell to create the R4 Conditional District (R4-CD19-03) for the properties described below, said properties formerly being zoned Wake County R-40; and

WHEREAS said properties are owned by Amy Weathers Nuttall, John J Nuttall III, Eva Weathers Herring and George Stancil Yancey; and

WHEREAS the Planning Board of the Town of Wendell reviewed the proposed change(s) and made a recommendation thereupon; and

WHEREAS notice of a public hearing to consider the proposed change was published in accordance with law in the Wake Weekly, a local newspaper, as required by Section 38-717 of the Wendell Code of Ordinances and by Section 160A-364 of the General Statutes; and

WHEREAS a notice of the proposed zoning classification action was mailed to the owner(s) of the parcel(s) of land involved, as shown on the County Tax Listings, and to the owners of all parcels of land abutting that (those) parcel(s) of land, as shown on the County Tax Listings, by depositing a copy of the same in the United States Mail, first class postage paid, as required by Section 160A-384 of the General Statutes; and

WHEREAS the said public hearing was actually conducted at 7:00 p.m. on July 27, 2020 at the Wendell Town Hall and wherein a reasonable opportunity was given to all those in attendance to speak either in favor or against the said change or to make relevant comments:

THEREFORE, after duly considering the matter, THE TOWN OF WENDELL DOES HEREBY ORDAIN;

SECTION 1. That the Zoning Map of the Town of Wendell is hereby amended to include the R4 Conditional District (R4-CD19-03) 129.59 acres of property within the parcels identified by PIN #s 1765852510, 1765962276, 1765856251 and 1775042139 (partial).

SECTION 2. The requested zoning map amendment for the parcels within the rezoning area identified as CD19-03 from Wake County R-40 to R4-CD19-03, due to the supporting infrastructure and proximity to the interstate, as well as its consistency with the types and nature of uses described in the S-3 Sector, is found to be reasonable and consistent with the recommendation of the Wendell Comprehensive Land Use Plan.

SECTION 3. That the application is approved with the following zoning/site plan conditions:

1. The maximum number of units allowed shall be 339 units
2. The developer shall preserve a minimum of 35 acres as open space. The development shall exceed all open space requirements as prescribed in Chapter 7 of the Unified Development Ordinance (UDO).
3. The developer shall dedicate approximately 32 contiguous acres of land (PIN 1775042139) to the Town for a future Town park prior to the recording of the plat for Phase 1. This

dedication brings the total open space and dedicated land to approximately 65 acres. This dedication will include a minimum of 2 access points to public streets.

4. The use of vinyl siding shall be prohibited. Trim Elements such as windows, eaves, fascia, columns, and soffits may be vinyl or aluminum.
5. All units shall be designed to provide for a combination of at least two of the following materials on the front/primary façade facing the public street or open space: cultured stone, brick, lap siding, shakes, or board and batten, unless the front elevation is entirely brick or cultured stone.
6. Roof eaves shall have a minimum 10" overhang.
7. Front-loaded garage doors shall either contain windows or carriage style adornments.
8. All residential lots shall have Bermuda sod on the front, sides, and up to 25' beyond the rear line of the primary structure.
9. The neighborhood shall be governed by a Homeowner's Association (HOA) that shall maintain all open space that has been dedicated to the HOA.
10. The HOA shall be guided by a Declaration of Covenants, Conditions, and Restrictions.
11. Architectural Guidelines shall be included in the HOA documents that restrict and monitor landscaping, additions, outbuildings, fences, parking, and maintenance.
12. The developer shall complete the amenity area to include a 6 lane Jr. Olympic pool, poolhouse, bathrooms, covered seating area, and grilling area prior to the issuance of the 75th CO of Phase 1.
13. The developer shall construct a playground to include a central play structure and benches prior to the issuance of the 75th CO of Phase 1.
14. The developer shall complete the dog park to include a fenced mulch area, benches, and water station prior to the issuance of the 25th CO of Phase 2.
15. The developer shall complete a gravel walking trail connecting the dog park area and Phase 2 to the amenity center and Phase 1 prior to the 25th CO of Phase 2.
16. The developer shall construct an approximately 200 yard by 30 yard common green area to include a seating area, gazebo, walkway, and plantings in the median area of Avenue 'I' prior to the issuance of the 25th CO of Phase 3.
17. The developer shall construct a 9-hole disc golf course in the northeast open space area prior to the issuance of the 25th CO of Phase 3.
18. The developer shall construct a 35' wide Type 'B' perimeter buffer along the southern project boundary between Rolesville Rd and Shady View Dr.
19. The developer shall construct a 40' wide Type 'B' perimeter buffer along the project boundary bordering the N/F K&J Construction (PIN 1765-74-8520), N/F Oliver Winslow (PIN 1765-84-0581), and N/F Efren Castro (PIN 1765-84-0246) properties.
20. The developer shall construct a 6' privacy fence along the back of the project lots bordering with properties N/F Oliver Winslow (Wake County PIN 1765-84-0581) and N/F Efren Castro (Wake County PIN 1765-84-0246).
21. The developer shall provide a 10' landscape easement along the rear property line of lots along Davistown Road and shall be planted as a Type 'B' buffer as describe in the UDO (4 trees and 16 shrubs per 100 LF).
22. The developer shall pay a fee in lieu for ½ of improvements to Weathers Road for the rural road cross section as described on MP-4 of the Master Plan.

23. There shall be one (1) cul de sac at a length greater than 300' but not longer than 425'.
24. The developer shall complete Rolesville Road improvements for ½ of the ultimate 110' cross section of Rolesville Rd prior to the 1<sup>st</sup> CO for the project.

SECTION 4. That if any section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. That this ordinance shall become effective immediately upon its adoption.

DULY ADOPTED the 10<sup>th</sup> Day of August 2020

(Town Seal)

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Virginia Gray, Mayor

ATTEST:

APPROVED AS TO FORM:

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Megan Howard, Town Clerk

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James P. Cauley III, Town Attorney

Written Public Comments within the 24-hour period of July 27, 2020 Town Board Meeting:

**July 27, 2020 Town Board Meeting Item 5b.) PUBLIC HEARING:** for a request by Chris Rurkowski of TMTLA Associates to rezone approximately 129.59 acres of property along Rolesville Rd within the parcels identified by PIN #1765852510, PIN #1765962276, PIN #1765856251 and PIN #1775042139 to an R4 Conditional District.

**1. Kate Benson, 413 Lemon Pepper Place, Wendell, NC, 27591**

Good evening,

After watching this evening's board meeting live, I felt compelled to share my comments regarding the proposed annexation and development of the cluster of parcels along Rolesville and Davistown Roads.

I am a proud Wendell citizen. My husband is native to the area and I became a resident after we got married 5 years ago. I'm proud of this town. We are raising our children here, I shop (as much as I can) here, and I am excited to see the growth and positive change that this occurring here. I often encourage friends and coworkers that are looking for a change to consider Wendell and all it has to offer. I have always felt comfort in the adequate and above and beyond town services (fire, police, ems) attentiveness, and amenities (well maintained public spaces, parks, etc), and consider it a true gem of Wake County.

Recently, I have been extremely concerned over the proposed annexation of the aforementioned parcels and the development it would support. I am far from being in the "not in my backyard" camp. However, in addition to the concerns expressed by the property owners adjacent to the parcels, I would like to add my concern around how annexation and an influx of homes would affect those that live in other areas of the town. For instance, it was mentioned tonight by the developer's spokesperson that additional town resources would not be required to support this area because it already falls within the jurisdiction of town services currently. That may be true, but what does that mean for the rest of the residents who also rely on these services? Will we see increased response time to emergencies? Will there need to be an increased need for police patrol? Especially as this parcel is not within the "proposed" growth zone.

I understand Wendell has become an attractive opportunity for developers. And I can see why. But I am truly concerned about our town leadership's attention to such developers rather than the concerned citizens who love and are proud of Wendell. Growth is inevitable. Especially in this area of the state, and more so, county. I have seen the effects of uncontrolled and developer driven growth firsthand, as I grew up in Wake Forest and find that I hardly recognize the town I once called home - a once thriving downtown is left empty while the urban sprawl that caught hold of the once charming town has continued to billow. I would hate to see Wendell, with all it has to offer, suffer the same fate.

Thank you for hearing me, and for considering my plea to reject the annexation and proposed development, with the added encouragement to develop and unite the space between downtown and Wendell falls. I believe in the town of Wendell, and I am grateful for the opportunity to share my voice.

Many thanks,

Kate Benson

413 Lemon Pepper Pl

Wendell NC 27591

919-418-1568

**2. John Nuttall, 4501 Rolesville Road, Wendell, NC, 27591**

Good Evening Everyone.

My name is John Nuttall and I live at 4501 Rolesville Rd. Along with my wife Amy Weathers, I am one of the owners of the properties requesting Annexation and rezoning by the town of Wendell.

Thank you for the opportunity to comment on these issues.

I have read the agendas, the minutes and the comments from all the hearings that began 14 months ago. As well as many hundreds of comments on Social Media, I have refrained from commenting.

I do feel that it is important and appropriate for me to do so now.

I wish to express my sincere thanks to Mayor Gray, Mayor Pro Tem Boyette, and Commissioners DeLoach, Joyner, Lutz and Tarnaski.

I appreciate and respect the decorum, professionalism, thoroughness and inclusiveness they have shown during these many months. I applaud their resourcefulness and willingness to adapt to the challenges brought on by COVID-19 while they continue to advance the goals and business of Wendell forward to the Future.

I would also like to thank the Planning Board.

Bryan Coates Acting Director & Staff as well as Chairman Swaim and Board Members Curtis, Jones, Hall, Olson, Firstbrook, Hennington, Zakany, & Eatman.

I know from their meeting agendas & minutes as well as feedback received from Ashton Woods that the Planning Board has been professional and instructive, Complex projects like these require many meetings and hearings There are always revisions, adjustments, improvements and clarifications. Projects very rarely hit a home run first time at bat. The Board is to be commended for their patience and understanding.

I am especially thankful to the board for their vote on May 18 that passed the Project by a 6-3 super-majority.

I would like to comment next on Ashton Woods. Before I do that I should share some of my background, experience and expertise, I grew up in a family of home builders. My father, grandfather and great grandfather were all contractors. In my father's company I worked my way up from digging ditches and pounding nails to, at the young age of 22, the Production Manager for a 400 unit development of single family homes.

Over the years I've built everything from modest starter homes to waterfront mega mansions. Well over 1,000 homes worth of experience has shaped my perspective. So I am sincere when I tell you that Ashton Woods are excellent people. Dedicated, Driven, Persistent, Professional, Respectful and Creative are some of the words I use to describe Ashton Woods.

Right from the start this was obvious. They came with a plan and had done their homework. Our negotiations were courteous and professional. Ashton Woods negotiated with transparency and integrity. I knew from that experience that this would be the way they treated their home-buyers and the community of Wendell. The Overlook, the Project which Ashton Woods has created, is a LOW DENSITY, environmentally responsible community that completely aligns with Wendell's Economic Development Board's plans.

Ashton Woods is creating a neighborhood that will, like Wendell Falls, form a tight knit sense of community. It will be community of happy new Wendell citizens. It will be exactly what the Wendell Economic Plan is calling for ..... Quote:

***“ Full of young professionals, families and retirees looking for a place to call home, with proximity to everything the region offers”...***

Possibly best of all, these new high quality homes will be affordable. A very commendable thing to do.

Thank You for your time,

.....please approve these requests.....

**3. Amy Weathers Nuttall, 4501 Rolesville Road, Wendell, NC, 27591**

Amy Weathers Nuttall

4501 Rolesville Road

Wendell. NC 27591

July 28, 2020

Re: Board of Commissioners Meeting, July 27 Agenda

Agenda items 5a and 5b

Dear Commissioners:

Thank you for allowing me to speak last night, and please accept the following additional comments in support of this project. As you know, I am Amy Weathers Nuttall, and I am here to voice support from myself, my sister Eve Weathers Herring, and my husband John. We urge you to approve this development and ensure growth and prosperity for Wendell. In the words of Oliver Wendell Holmes, Wendell's namesake: To reach a port we must sail, sometimes with the wind and sometimes against it. But we must not drift or lie at anchor.

Since the first meeting with the Town of Wendell, Ashton Woods listened carefully to the feedback from both the neighboring residents, Wendell citizens, and the Town of

Wendell Boards. They have gone back to the "drawing board" several times in order to create a community in keeping with Wendell's vision, and in line with all recommendations requested by the Town of Wendell. Ashton Woods has "checked all of the boxes" as requested by Wendell. Even though the developer could have walked away from the contract at any time, Ashton Woods decided to make the changes (at considerable expense to them) because they believed in the quality neighborhood that they wished to bring.

Even after the start of the pandemic, Ashton Woods stayed committed to this project because home buying is still going strong. To quote Gaye Orr, President of the Raleigh-Wake Home Builders Association and President of Coldwell Banker Advantage New Homes in Raleigh:

Prior to the pandemic, we were seeing over 60 people per day moving to Wake County. We expect those numbers to increase as we are already seeing people wanting to escape large metropolitan areas looking for smaller towns and neighborhoods with homes with yards so children can play outside. We have seen a surge in sales through this pandemic. Our problem is inventory. Builders in our area are not only short on inventory but also on lot availability.

Freddie Mac reports that interest rates are the lowest over the past 50 years. There are bidding wars on homes listed for sale.

My family has always been an integral part of Wendell, even though we did not reside within the city limits. My father purchased his cars, trucks and farm supplies in Wendell. Our mother was a founding member and active in various organizations. We attended elementary school in Wendell, took dance lessons there, shopped for clothing,



and received health care from Dr. Brashear. Our friends and social activities revolved around Wendell.

The new residents of this project will do the same. Their children will be assigned to schools in Wendell, and just as my parents did, errands will be run after drop off or before pick up. They will grocery shop at the local markets, pets will receive care at the local veterinary clinic, children will take dance lessons, and these families will utilize other services such as eye care, dental care, auto repair, financial planning etc. Friends and social activities will revolve around Wendell.

For some people change is not comfortable, because they have their "piece of the pie" and do not want others to intrude. I understand the "not in my backyard" mentality, but had that prevailed in the 70's there would not be Candlewick or East Wake High School (originally Vaiden Whitley). Change is happening.

The largest ABC facility in Wake County is on Rolesville Road, Sheetz has come, Wake Technical Community College is planning a campus just down the road, and the DOT has documented plans for expanding Rolesville Road into a four lane roadway. Growth is coming, change is happening.

Those that are most opposed are not Wendell residents, do not pay taxes to the town, and cannot vote for elected officials. Is it in the best public interest for those folks to be allowed to direct and control the growth of Wendell? The interest of a relatively few folks should not override the interests of the 7,800 residents of Wendell. Citing the article written by Shawn Taylor and published on June 14, 2019 in the Wake Weekly, that number of residents is projected to increase to 20,000 within the next decade. Quoting Marc Collins, Wendell Town Manager, from the same article: "Ten years from

now, we are Knightdale, just like ten years ago they were Wendell." Eastern Wake County, as stated by Bob Matheny, Mayor of Zebulon, "...is the next frontier, and growth is inevitable". Mayor Bob Matheny continues: " Towns that don't grow their tax base will have to cut services or raise taxes in order to keep up with growing costs and demands." And remember, those increased taxes will directly impact the residents of Wendell. However the folks currently residing on Rolesville and Davistown Road will not be subject to an increase as they do not pay taxes.

I respectfully pose the following questions to you.

- Who knows when or if another large tract, over 100 acres, will become available?
- Who knows if any other large tracts of land will be agreeable for voluntary annexation?
- Who knows what developers will be so committed and act on the recommendations of neighbors, Wendell citizens, and Wendell Boards?

No one knows those answers, but what we do know is that eastern Wake County is going to grow. And should the Town of Wendell reject this project, it may set a precedent and head in a direction from which it cannot return.

To quote your Economic Development Board:

The Town's population growth, combined with an availability of land, access to I-87, and proximity to Raleigh, competitively position Wendell as a location for the next wave of development within the Research Triangle Park region. The goal of the plan is to build a plan that adapts to trends in economic development, resilient to changes in economic conditions and creates a foundation to ensure a sustainable and long-term growth that enriches Wendell's economic and tax base.

Myself, my sister Eve Weathers Herring, and my husband John Nuttall are proud of what Ashton Woods has proposed, and we applaud their persistent commitment to create the very community which Wendell envisioned in 2007. We appreciate your dedication and service to Wendell, and thank you for time and consideration in this matter.

As Oliver Wendell Holmes reminds us:

Have the courage to act instead of react.

We have faith that you will follow your allegiance to your citizens and make the decision that is best for Wendell. Let others come to enjoy beautiful Eastern Wake County and Wendell. Let them experience for themselves the "Small town. Big Charm" of Wendell. Please accept this opportunity to voluntarily annex and rezone these parcels and vote yes to growth and opportunity.

Thank you.

Amy Weathers Nuttall

**4. Andrew J. Petesch, 127 W. Hargett Street, Suite 500, Raleigh, NC, 27601**

**\*\*See Memorandum PDF**

**5. Matthew Davis, 4812 Appling Ct., Wendell, NC, 27591**

July 28, 2020

Town of Wendell Board Members,

My name is Matthew Davis and I reside at 4812 Appling Ct Wendell, NC 27591.

I am writing this email to express my concerns with the Ashton Woods subdivision on Rolesville Rd (Item 5B, 7/27/20 agenda). Shady View Dr and Appling Ct are very small residential roads that service Shadowbrook Subdivision (2 street subdivision). I purchased my property in 2009 due to the small size of the neighborhood (less than 15 houses). To think the developer can turn a small residential street which services 15 homes, into a major street which will service 320 residences and a Wendell City Park

seems absolutely ludicrous to me. I understand there will be multiple entrances to the Ashton Woods property, however, this entrance on Shady View Dr specifically, will dramatically affect the safety of my family, my neighbor's families, and deteriorate the quality of life (small, quite subdivision) for all of Shadowbrook residents. This entrance point is a very dangerous and poor design decision made by the developer. My subdivision usually has less than 50 people travelling the streets on any given day. If this project is approved, it is likely that hundreds of vehicles will travel these same small neighborhood streets.

I am not against community growth, when done properly. However, I am against this specific project and especially the entrance into Shadowbrook Subdivision, which will create safety hazards and deteriorate the quality of life for residents of Shadowbrook Subdivision. I respectfully request that you take this information into consideration when voting on this issue.

Sincerely,

Matthew Davis

4812 Appling Ct

Wendell, NC 27591

919-280-5155

**6. Jamie Schwedler, 301 Fayetteville Street, Suite 1400, Raleigh, NC**

Good Evening Mayor and Commissioners,

Thank you for your time and patience last night. We wanted to follow up on the question posed on the price points of the single-family homes. With the change to Ashton Woods and accompanying architectural selections available, we believe the average home price will be \$325,000, and this was the number used by our economic analyst in estimating the \$620,000 annual revenue from Wendell's portion of real property tax increase above what the existing zoning would allow. I also wanted to clarify that this \$620k includes the special \$101k assessment for fire and emergency services.

During the hearing I did confirm that the stormwater ponds would be required to be maintained by the developer and then the HOA, and will not be turned over to Wendell for maintenance, so that will not be a cost to the Town.

Please let me know if I or the team can provide any additional details.

Thanks so much,

Jamie Schwedler

## MEMORANDUM OPINION LETTER (VIA EMAIL)

Date: July 27, 2020

To: James P. Cauley, III  
Town Attorney  
Town of Wendell  
15 E. Fourth Street  
Wendell NC 27591  
jcauley@cauleypridgen.com

Re: CD19-03 (Application for Conditional District Rezoning)

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I represent Joy Davis, who owns property and resides at 1729 Davistown Road, Wendell, North Carolina. I am writing to notify the Town of Wendell of my legal opinion that the version of rezoning application CD19-03 (hereinafter, the “Application”), which is currently on the Board’s July 27, 2020 agenda for public hearing, is improperly before the Board of Commissioners (the “Board”) and cannot lawfully be considered.

My client’s position is that the Application was tabled at the Board’s February 10, 2020 meeting and never taken back up. Therefore, the Application remains in the same form it existed on February 10th. As discussed in detail below, the proper and lawful procedure is for the Board to take the matter back up and vote on the February 10th version of the Application without any of the amendments or revisions that have been offered after the February 10, 2020 public hearing was closed.

### I. Background & Unlawful Procedure

The Town Board held a public hearing on the CD19-03 on February 10, 2020 during which I submitted a memorandum opinion on behalf of Ms. Davis explaining that the Application did not comply with the requirements of the Town of Wendell’s Unified Development Ordinance (“UDO”). After all hearing attendees were afforded an opportunity to present comments, Mayor Gray closed the public hearing. The Board then recessed the meeting to allow further consideration of the memorandum opinion I presented. See Town of Wendell Board of Commissioners Meeting Minutes, February 10, 2020.

After Mayor Gray called the meeting back to Order, the Applicant voluntarily requested that any further consideration of CD19-03 be deferred so that the Applicant’s legal team could have time to consult with the Town’s legal team. The Council then passed a motion by a 5-0 vote to table the Application until the Board’s March 9, 2020 regular meeting. See id.

Upon information and belief, the Board never took the Application back up for further consideration or action at its March 9, 2020 meeting or any other preceding or subsequent meeting up to the scheduling of a second public hearing before the Board on July 13, 2020.

Upon information and belief, that public hearing was rescheduled for July 27, 2020 in order to correct potential defects in the required public notices.

At some point after the February 10, 2020 public hearing – although the matter was still lawfully before the Town Board – the Applicant submitted a number of changes to the CD19-03 Application, which the Town Planning Department apparently accepted. The Application was placed, presumably by Town Planning Staff, on the Town Planning Board's May 18, 2020 meeting agenda for reconsideration and second recommendation to the Town Board. By a vote of 6-3, the Planning Board recommended that the Board of Commissioners approve the Application. As noted above, CD19-03 was then scheduled for a second public hearing before the Board.

## II. Lawful Procedure

It is settled law in North Carolina that local governments are bound to follow the procedural requirements set out in their own lawfully adopted ordinances. Humble Oil & Refining Co. v. Board of Aldermen of the Town of Chapel Hill, 284 N.C. 458, 202 S.E.2d 129 (1974). In the Town of Wendell, the approval process for conditional district rezoning applications is governed by several sections within Chapter 15 of the UDO, which became effective on July 27, 2010.

Section 15.2.A. states that the “provisions of this Chapter shall be applicable to all development activity under the jurisdiction of the Town of Wendell.” The administrative procedures and approval requirements for conditional district rezonings are set out in § 15.13, which established that the “procedure for approval of the Master Plan shall follow the procedure outlined in the table in subsection H below and in Section 15.12, Map Amendments (Rezoning).” UDO § 15.13.D.1. (emphasis added). As discussed in §§ 15.13.B.3., the master plan is heart of the conditional district rezoning application.

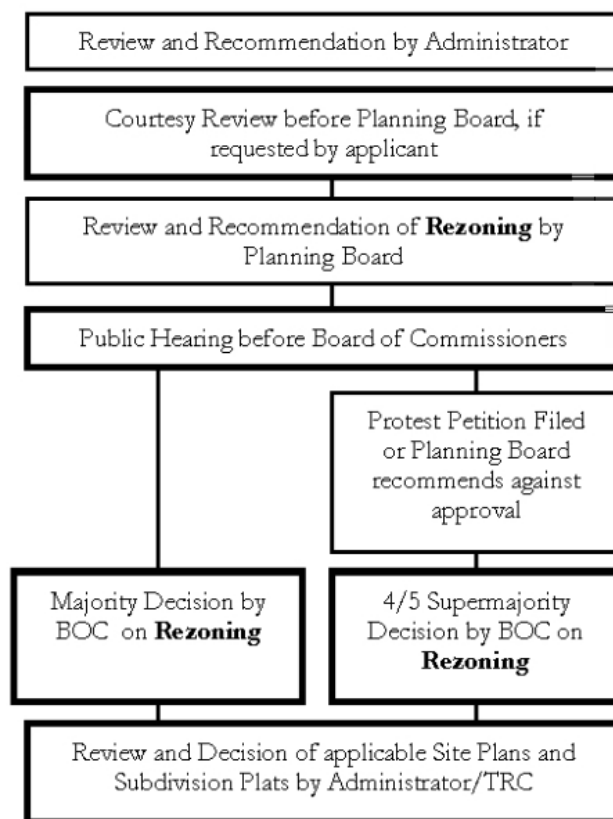
Subsection H of § 15.13 contains a table outlining the procedure for condition district rezoning and master plan approval:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL AUTHORITY
Conditional District: Rezoning w/ Master Plan (16.5)	Administrator	Review submittal procedures and requirements. Review for completeness & code compliance. Issue Staff Report.	n/a
	Planning Board	Courtesy hearing, if requested	n/a
	Planning Board	Review and recommendation of Conditional District application	n/a
	Board of Commissioners	Public hearing	n/a
	Board of Commissioners	Grant Conditional District - or - Denial and Request for Rehearing	Superior Court
	Planning Board	Approve Final Development Plan	n/a

The purpose of § 15.12 is to “establish uniform procedures for amending the zoning classification of land as shown on the Zoning Map.” UDO § 15.12.A. Subsection C of § 15.12 contains a similar table outlining the procedure for map amendment rezonings:<sup>1</sup>

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL AUTHORITY
Map Amendments (Rezoning): The Administrator must receive petitions 30 calendar days prior to the next regular meeting of the Planning Board to be considered at that meeting. The petition shall state the nature of the proposed amendment, and if applicable, a description of the property involved, names and address of the owners of the property, and a statement why the proposed amendment is necessary to promote public health, safety, and general welfare.	Administrator	Review submittal procedures and requirements Review for completeness & code compliance. Issue Staff Report	n/a
	Planning Board	Courtesy review, if requested by applicant	n/a
	Planning Board	Review and recommendation of Rezoning application	n/a
	Board of Commissioners	Public hearing*	n/a
Board of Commissioners	Grant Rezoning – or – Denial and Request for Rehearing	Superior Court	

Section 15.12 also includes a flowchart illustrating the rezoning approval procedures:



Both tables and the flowchart indicate that the next step after the close of the public hearing is a decision by the Board. The § 15.12 Table includes a notation regarding public hearings

<sup>1</sup> The UDO § 15.12 table outlining rezoning procedures includes the following notation: *\*Applicant can request that the Board of Commissioners adopt the Amendment at the same meeting as the public hearing. Otherwise, decision to adopt will be made no sooner than the next Board meeting.*



clarifying that the Applicant can request a vote by the Board at the same meeting that the public hearing is held. Otherwise, the Board's decision cannot be made until the next Board meeting. See Fn. 1, supra.

These procedures do not provide any guidance as to the circumstances under which an applicant, by its own initiative, may make voluntary revisions or amendments to the application. Section 15.13.B.4. does address "Fair and Reasonable Conditions[.]" specifically:

- The Planning Board may recommend and the Board of Commissioners may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s).
- Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to this Ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site.
- The applicant will have a reasonable opportunity to consider and respond to any additional requirements proposed by either the Planning Board or the Board of Commissioners prior to final action.

None of the changes made by the Applicant after the February 10, 2020 Public Hearing was closed were in response to conditions recommended by the Planning Board or proposed by the Board of Commissioners. See Town of Wendell Planning Board Meeting November 18, 2019 Minutes & Board of Commissioners Meeting Minutes, February 10, 2020.

The conditional district rezoning and master plan decision process is legislative. Therefore, a proper analysis of procedural requirements under the UDO must also include § 15.19, entitled "Legislative Procedures—General Provisions," which establishes "uniform procedures for processing matters requiring a legislative approval process." UDO § 15.19.A. This section provides greater clarity as to the Board's decision-making process, stating in plain language that "[o]nce the public hearing has been conducted the Town Board shall render a decision on the petition." UDO § 15.19.D. (emphasis added). Subsection D goes on to list the only five (5) options the Board has in deciding a rezoning application:

1. A decision concerning a petition for rezoning shall be as follows:
  - a. Grant the rezoning as requested; or,
  - b. Grant the rezoning with a reduction in the area requested; or,
  - c. Grant the rezoning to a more restrictive general zoning district; or,
  - d. Grant the rezoning with a combination of b and c above; or,
  - e. Deny the application.

(emphasis added). The plain language of the UDO shows that the Board does not have the authority to attach conditions to a rezoning after the public hearing has been closed. Stated another way, once the public hearing is over, the Board must make a decision on the rezoning request, and the UDO provides the Board with five clear decision options, none of which

include adding conditions. This is because the Applicant must have a “reasonable opportunity to consider and respond to any such additional requirements.” UDO § 15.13.B.4.

III. Options Once a Public Hearing Has Been Closed

As explained above, the UDO requires that the Board render a decision once the public hearing has been conducted. At an applicant’s request, that decision may be made at the same meeting as the public hearing. Otherwise, the decision may be made no earlier than the Board’s next meeting. See Fn. 1, supra.

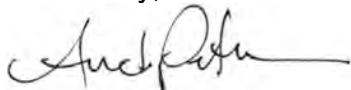
However, this does not mean the Applicant is without any opportunity to amend its Application as the Town, in adopting its procedural rules, included a relief valve for circumstances such as this. Specifically, the UDO does allow an applicant, subsequent to a decision by the Board, to seek reconsideration by filing an application for rehearing – a process which includes potential changes to the conditions of the original application. See UDO § 15.19.E.

III. Conclusion

The procedural requirements of the UDO, to which the Town is legally bound, do not allow amendments to a rezoning application between the closure of the public hearing and a final decision by the Town Board. The plain language of the UDO provides that the Board must render a decision on the February 10, 2020 version of the Application. Then, pursuant to the provisions of the UDO, the Applicant may seek a rehearing.

Anything else would be a violation of the unambiguous limits on the Town’s authority.

Yours truly,



Andrew J. Petesch

cc:	Mayor Virginia Gray	(via email)
	Mayor Pro Tem John Boyette	(via email)
	Commissioner Joe DeLoach	(via email)
	Commissioner Jason Joyner	(via email)
	Commissioner Jon Lutz	(via email)
	Commissioner Philip Tarnaski	(via email)
	Marvin Collins, Town Manager	(via email)
	Brian Coates, Assistant Planning Director	(via email)
	Jamie Schwedler, Esq.	(via email)
	Joy Davis	(via email)

**Item Title:**

Motion on a R7 Conditional District for properties located at 0 & 815 Old Zebulon Road.

**Report to the Board of Commissioners:**

- Monday, August 10, 2020- Item for Decision
- Monday, July 27, 2020- Public Hearing

**Report to the Planning Board:**

- Monday, June 1, 2020
- Tuesday, January 21, 2020

**Specific Action Requested:**

Make a motion on the proposed R7 Conditional District request and consider adopting the attached ordinance to rezone the described area subject to conditions and in conformance with the associated Master Plan. The public hearing was held for this item on Monday, July 27, 2020.

**Applicant:**

Brian Duncan, The Spaulding Group, PA

**Petition:**

The applicant has requested to create an R7 Conditional District for 68.55 acres of property within the parcels identified by PIN #1794-15-7657, PIN #1794-05-6758, PIN #1794-25-6786, PIN #1794-16-1410, PIN #1794-05-2762 and PIN #1794-06-6233. The proposed conditional district consists of a mix of both single-family and townhome dwelling units.

**Item Summary:**

The applicant's proposed R7 conditional district will feature 174 single family homes and 146 townhomes. Based on their application, the applicant is proposing the R7 Conditional District in order to be consistent with one of the general principles in the Comprehensive Plan that says, "Provide for a range of housing opportunities." The applicant also references the Town's Framework Plan that identifies the area as located in the S-4 sector, where both single-family and multi-family development are considered appropriate.

Amenities include a pool, cabana, beach volleyball court, tot lot, dog park in a central location in Phase 1A and a playground located in Phase 1B. The amenities are being proposed in the early phases of development. The proposed plan requires 10.34 acres of open space, the applicant is providing 19.87 acres of open space. The amenities and open space would be maintained by a homeowners association (HOA).

The Overall Site Plan is included as Attachment A (Along with a link to the full Master Plan for download).

The applicant provided additional buffers as well as a wooden privacy fence bordering all existing residential properties based on feedback from neighbors.

### **Purpose of a Conditional District:**

The purpose of the Conditional Districts (CD) is to provide an alternative means of land development and an alternative zoning procedure that may be used to establish residential, commercial, and industrial Conditional Districts at appropriate locations and in accordance with the planning and development objectives of the Town.

A CD may depart from the strict application of the requirements of the town's general zoning districts. A primary purpose of this section is to provide standards by which such flexibility may be achieved while maintaining and protecting the public health, safety and welfare of the citizens.

A second purpose of the conditional district is to establish a more complete living and working environment through the application of enlightened and imaginative approaches to community planning and property design. A CD should provide a variety of natural features and scenic areas, efficient and economical land use, improved amenities, orderly and economic development, and the protection of existing and future adjacent development.

The provisions of the CD Master Plan shall replace all conflicting development regulations set forth in the UDO which would otherwise apply to the development site. The Planning Board may recommend and the Board of Commissioners may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to the UDO and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site.

### **Location and History:**

Four of the included properties are currently located in the corporate limits of the Town of Wendell and are zoned R3. The remaining two properties are in the Town's extraterritorial jurisdiction and are zoned Rural Agricultural (RA).

### **Project Profile:**

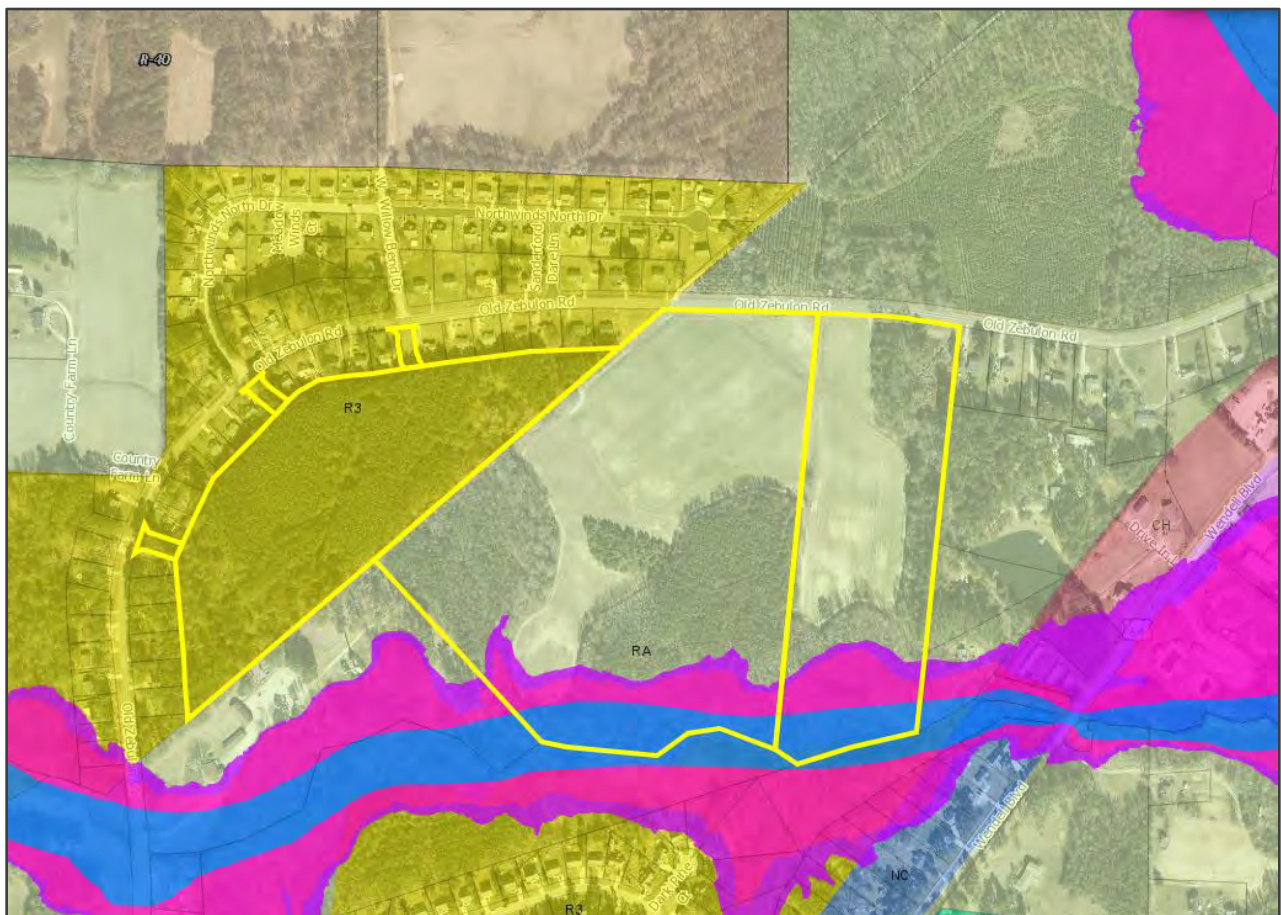
PROPERTY LOCATION:	815 Old Zebulon Road
WAKE COUNTY PINS:	1794157657, 1794056758, 1794256786, 1794161410, 1794052762 & 1794066233
CURRENT ZONING DISTRICT:	R3/RA
CROSS REFERENCES:	N/A
PROPERTY OWNERS:	Aubrey Sidney Baynes & Ann Knott Baynes PO Box 968 Wendell, NC 27591 Olde Heritage Builders & Realty, Inc. PO Box 40 Zebulon, NC 27597

APPLICANT:	Brian Duncan, The Spaulding Group, PA 1611 Jones Franklin Road, Suite 101 Raleigh, NC 27606
PROPERTY SIZE:	68.55 acres
CURRENT LAND USE:	Vacant
PROPOSED LAND USE:	Residential

**Project Setting – Surrounding Districts and Land uses:**

DIRECTION	LANDUSE	ZONING
<b>North</b>	Residential/Agricultural	R3/RA
<b>South</b>	Residential/Agricultural	R3RA
<b>East</b>	Residential	RA
<b>West</b>	Residential	R3

**Current Zoning Map (Subject Properties Outlined in Yellow):**



**Proposed Conditional District Conditions:**

The applicant is proposing 13 conditions for the proposed CD, as follows:

1. UDO Section 2.3 A. - Multifamily dwellings (limited to townhomes only) shall be a permitted use in R7-CD and shall not exceed 45% of the total number of units - UDO 2.7 B.
  - a. Such multifamily dwellings may be front-loaded - UDO 5.10 B.
2. UDO Section 9.7.E.4.- Maximum block length shall exceed 800' on Street 'C' as necessary to preserve environmental features.
3. In order to promote variation in home appearance, no single-family home can be constructed with an exterior elevation (front façade) or color palette that is identical to the home on either side or directly across the street from it, to provide an anti-monotony development.
4. Garage doors shall either contain windows or carriage style adornments.
5. The use of vinyl-siding shall be prohibited, except for trim elements of the dwelling unit façade.
6. UDO Section 2.7 B. 1.-The minimum lot size for single-family shall be 4,600 sq. ft.
7. UDO Section 5 - Front-loaded single-family lots shall have a minimum allowed lot width of 40 feet.
8. Adjacent to all existing single-family lots, a six-foot tall wooden privacy fence shall be installed, at the developer's expense. This fence will be maintained in perpetuity by the Homeowners' Association.
9. A Type 'B' landscape buffer shall be installed along the eastern property line, more specifically adjacent to the following Wake County PIN(s): 1794352900; 1794350547; and 1794350314. This buffer area shall be owned and maintained by the Homeowners' Association in perpetuity and shall be thirty feet in width.
10. A Type 'B' landscape buffer shall be installed adjacent to all existing single-family residences that face Old Zebulon Road. This buffer area shall be owned and maintained by the Homeowners' Association in perpetuity and shall be twenty feet in width.
11. UDO Section 9.7.E.4- Maximum cul-de-sac length shall exceed 300' on street 'B' as necessary to preserve environmental and topographic features.
12. McKenzie Ridge will have a Home Owners Association. The HOA will be responsible for the townhome's roofs, yard maintenance, and pest control.
13. The Town requires, pursuant to N.C.G.S § 160A-372, the dedication and construction of streets and rights of way, as shown in the approved Wendell Transportation Plan and Wendell Pedestrian Plan, to create conditions essential to public health, safety, and the general welfare. The developer recognizes this and would like to voluntarily offer a one-

time contribution of \$100,000 to the Town of Wendell to be used in accordance with recommended improvements as outlined in the aforementioned Wendell Transportation Plan and Wendell Pedestrian Plan.

### **Applicant's Justification:**

Applicants Justification Statement added as Attachment B.

### **Parking**

Off-street parking shall be required for any active open space areas. The applicant is showing a total of 45 off-street parking spaces to serve their Pool/Cabana Center, Dog Park, Tot Lot, and Playground. They are also providing 44 off-street parking spaces within the townhome section of the proposed master plan.

### **Open Space**

The applicant is required to provide 10.34 acres of open space, they are providing 19.87 acres of open space. The applicant is providing a full range of active open space comprised of a pool, cabana, beach volleyball court, tot lot, dog park and playground.

### **Public Utilities:**

Development of this site will require connection to city water and sewer which is available nearby. The parcels that are not already in the city limits will need to be annexed.

### **Streets:**

The applicant will be responsible for making the required road improvements to Old Zebulon Road which include sidewalk, bike lanes, landscape area and curb and gutter.

### **Traffic Impact Assessment (TIA)**

The number of proposed dwelling units required the developer to prepare a Transportation Impact Assessment (TIA) report. This report is reviewed by NCDOT, as well as the Town contracted engineer. Since all impacted roads are DOT maintained, they would determine what if any improvements are required, based on the additional traffic being generated by this site. These improvements typically involve the addition of turn lanes, striping improvements, or signal improvements when applicable.

Recommended improvements for this project include:

- A dedicated 100' Left-Turn lane from Wendell Boulevard onto Old Zebulon Road.

### **Landscaping:**

All landscaping shall meet the requirements as set forth in the UDO at the time of the Final Development Plan, unless otherwise specified through the approved Master Plan. The applicant has included 3 conditions (#8-10) improving the site's landscaping beyond what is required.



### **Phasing:**

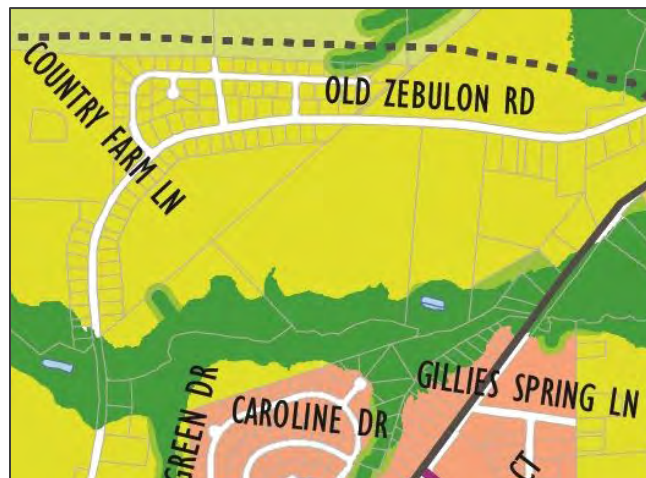
The applicant has indicated that there will be phasing on this project, the current plan shows four phases. Phases 1A-1B include the amenities planned for the neighborhood.

### **Comprehensive Plan:**

The Wendell Comprehensive Plan defines the subject property as being within the S-4 Controlled Growth Sector.

The Comprehensive Plan states that S-4 areas “are typically close to thoroughfares and at key cross-road locations. This sector is where moderate intensity new development is appropriate and where the majority of the community’s new growth should occur. The typically envisioned community type for S-4 is a traditional neighborhood development (TND), which includes neighborhood serving commercial and civic uses surrounded by a mix of housing types that decrease in density as they get farther away from the commercial area.”

The following development types and uses are appropriate for the S-4 sector: traditional neighborhood developments, neighborhood centers, single-family and multi-family residential, neighborhood-serving commercial uses (retail and office), civic uses and industrial uses. The proposed development on the site meets the appropriate uses.



### **Technical Review Committee (TRC) Comments:**

The Technical Review Committee has completed their review of the applicant’s Master Plan and the applicant has made corrections based on their comments. Additional review would occur upon submittal of construction drawings (final development plan for conditional districts).

### **Planning Board Recommendation:**

At their June 1, 2020 meeting, the Planning Board voted 4-1-1 in favor of the requested Conditional District.

**Voting in Favor:** Ryan Zakany, Jonathan Olson, Brett Hennington and Deans Eatman

**Voting Against:** Michael Firstbrook



**Abstained from Voting:** Allen Swaim

**Absent:** Victoria Curtis, Jimmena Huffman-Hall and Levin Jones

**Statement of Plan Consistency and Reasonableness:**

The proposed Conditional District is found to be generally consistent with the recommended uses and development types outlined in the Wendell Comprehensive Land Use Plan for the S-4 Sector and is reasonable as it is consistent with the following principle of the Comprehensive Plan:

- Principle Number 6: “Provide for a range of housing opportunities including upscale housing, senior housing and downtown living choices.”

**Staff Comments:**

- Staff recommends approval of the proposed McKenzie Meadows Master Plan.
  - The applicant has included numerous conditions improving buffers and landscaping, open space and architectural standards. In exchange, they are seeking the ability to permit front loading townhomes and exceed the length related to cul-de-sac length.
  - The applicant is proposing a master plan that contains a strong amenity package that rivals many more suburban locations but is within 1.3 miles from the heart of downtown Wendell.

**Attachments:**

- A. Overall Site Plan
  - a. Full Master Plan Link:  
<https://nmcndn.io/e186d21f8c7946a19faed23c3da2f0da/3834b95a93b14b3689a528c1f97c5d69/files/2020-03-06---McKenzie-Meadows-Subdivision---Master-Plan.pdf>
- B. Applicant’s Justification Statement
- C. TIA – Congestion management report
- D. Ordinance for Adoption
- E. Written Public Comment Submitted within the 24-hour period of the Public Hearing on July 27, 2020



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### Baynes Subdivision Master Plan Narrative

The proposed rezoning request consists of approximately 67.96 acres and is located at 815 Old Zebulon Road. A portion of the subject parcels are currently zoned Rural Agricultural (RA), which is intended to be rural, extremely low dense development. Other subject parcels are zoned R3 which is intended to allow for medium density development and has a minimum lot size of 10,000 square feet. The proposed rezoning request is to rezone the subject property to R-7 Conditional District. The developer is seeking a Conditional Use district as necessary to create greater flexibility in lot sizes, and front-loaded residential product in exchange for architectural commitments which ensure high quality development that the Town has come to expect.

The minimum lot size in the RA district is one acre and developments of more than five acres are not permitted. However, the UDO does state in Chapter 2.5 that RA "is intended to reserve developable areas until utility infrastructure can be installed to allow for planned growth." The current zoning of RA was never envisioned to be the 'highest and best use' of the property. Additionally, the R3 zoning was a result of the development of the Northwinds subdivision, which was approved in the 1980's but was never continued into the subject parcels for whatever reason. As a result, the parcels will now be required to meet all current state and local stormwater, environmental and open space regulations – all components that were not a thought over thirty years ago. The robust regulations of today will translate into smart growth that takes into account thoughtful planning that is sensitive to the surrounding community.

So just what is the planned growth for this parcel? Adopted in 2007, the Town of Wendell's Comprehensive Plan contains several defined development sectors, which dictate appropriate densities and land uses. The Comprehensive Plan designates the subject property as 'S-4 Controlled Growth Area'. As stated in the Plan, "This sector is intended to feature modern intensity new development and where the majority of the community's new growth should occur." This is evident given the fact that this subdivision will be in close proximity to Business 64/Wendell Boulevard, which has long since established itself is a prominent commercial corridor as well as the rapidly growing downtown area. This residential subdivision will create an appropriate density that will support these nearby commercial uses as well as being an appropriate transition to existing residences along Old Zebulon Road. This proposed rezoning of R-7, will show diverse and high-quality housing types while providing active open space for its residents. Open space requirements will be met by providing several pocket parks throughout the neighborhood, which allows the residents to get to know their neighbors and allow everyone to live within a reasonable distance to an amenity.

The developer has designed the subdivision as necessary to create appropriate transitions. The immediate adjacent residential properties which front Old Zebulon Road will be adjacent to the largest single-family lots in the subdivision. Along the southern property line, significant floodplain areas will ensure for a sizable, permanent buffer for both residents of the subject future subdivision as well as





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developed residents south of the property. Additionally, the developer has offered to provide a six foot tall wooden privacy fence along the eastern property line as well as adjacent to all existing single-family residences facing Old Zebulon Road. Therefore, the developer does not see any adverse impacts of this future subdivision to other properties.

One of the general principles contained within the Comprehensive Plan is "Provide for a range of housing opportunities." The proposed rezoning to R-7 Conditional Use District allows that housing diversity to occur. This is supported by both single-family and multifamily development being identified as appropriate in the S-4 sector. The Town of Wendell's demographics are changing. More families are opting to live in multifamily dwellings like townhomes in addition to single-family, that feature maintenance-free yards and elevations and walkable amenities. The town has long since realized this, as this was an original goal within the Comprehensive Plan since the plan was first adopted in 2007. The proposed subdivision will consist of both single-family as well as townhomes, which will allow for diversity within the same neighborhood. Families can evolve and not have to move out of their community depending on what stage of life they are currently in.

It is important to note that Wake County public schools require all proposed residential development to submit a residential notification form that outlines the number of units and the year breakdown that they will be completed in. At the time of master plan submittal, this project submitted this form and clearly indicated the proposed units, complete with bedroom breakdowns.

Developers also plan for community facilities such as police, fire and EMS when designing a development. All interior streets are required to be designed to accommodate the largest emergency response vehicle. The turning template is then submitted and reviewed by staff to ensure that the vehicle can safely maneuver through all access points and amenity parking areas. Existing emergency response facilities are located within close proximity and no issues are perceived with regards to insufficient response time.

The proposed subdivision will be a pedestrian-friendly one. This project will have sidewalk on both sides of its interior streets. A traffic impact analysis was required with this request, and the developer will be responsible for all associated traffic improvements that are recommended from the analysis.

The Baynes rezoning and master plan request meets both the Comprehensive Plan. When developed, this infill residential project will offer a walkable, thoughtful concept that will be a welcomed part of Wendell.



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

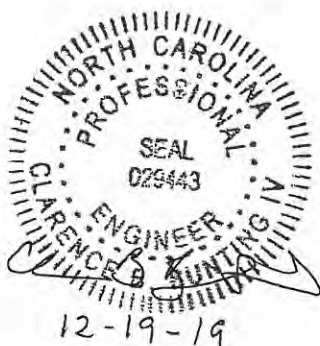
JAMES H. TROGDON, III  
SECRETARY

December 19, 2019

# Baynes Subdivision

## Traffic Impact Analysis Review Report Congestion Management Section

TIA Project: SC-2019-225  
Division: 5  
County: Wake



Doumit Y. Ishak, Regional Engineer  
Clarence B. Bunting, IV, P.E. Project Engineer  
Braden M. Walker, Project Design Engineer

Mailing Address:  
NC DEPARTMENT OF TRANSPORTATION  
TRANSPORTATION MOBILITY & SAFETY DIVISION  
1561 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1561

Telephone: (919) 814-5000  
Fax: (919) 771-2745  
Customer Service: 1-877-368-4968

Website: [www.ncdot.gov](http://www.ncdot.gov)

Location:  
750 N. GREENFIELD PARKWAY  
GARNER, NC 27529



## Baynes Subdivision

SC-2019-225

Wendell

Wake County

Per your request, the Congestion Management Section (CMS) of the Transportation Mobility and Safety Division has completed a review of the subject site. The comments and recommendations contained in this review are based on data for background conditions presented in the Traffic Impact Analysis (TIA) and are subject to the approval of the local District Engineer's Office and appropriate local authorities.

Date Initially Received by CMS	12/09/19	Date of Site Plan	12/05/19
Date of Complete Information	12/09/19	Date of Sealed TIA	12/09/19

### Proposed Development

The TIA assumes the development is to be completed by 2025 and consist of the following:

Land Use	Land Use Code	Size
Single Family Detached	210	170 d.u.
Multifamily Housing (Low-Rise)	220	146 d.u.

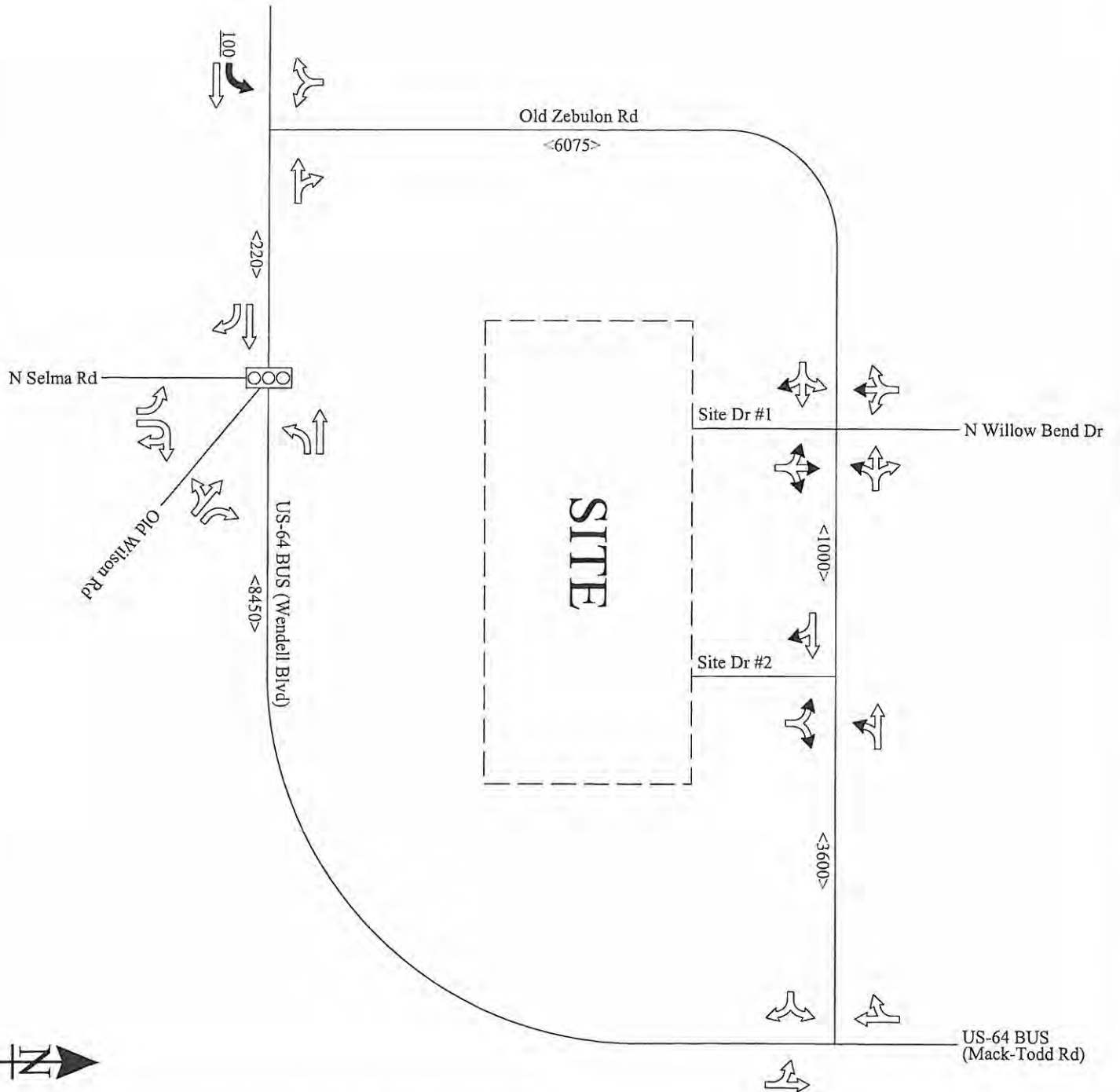
### Trip Generation - Unadjusted Volumes During a Typical Weekday








	IN	OUT	TOTAL
AM Peak Hour	48	146	194
PM Peak Hour	158	94	252
Daily Trips			2,757

### General Reference

For reference to various documents applicable to this review please reference the following link: <http://www.ncdot.org/doh/preconstruct/traffic/tepp/Topics/C-37/C-37.html>

Once the driveway permit has been approved and issued, a copy of the final driveway permit requirements should be forwarded to this office. If we can provide further assistance, please contact the Congestion Management Section.



	Existing Laneage
	Recommended Laneage
	Laneage Built By Others
	NCDOT Recommendation
	Existing Signal
	Signal Proposed By Others
	Developer Proposed Signal
XXX	Storage
XXX	NCDOT Recommended Storage
<XXX>	Distance Between Intersections
IPS	Internal Protected Stern
All Distances in Feet	
Drawing Not to Scale	

**ORD # 0-24-2020**  
**AN ORDINANCE AMENDING THE ZONING MAP**  
**OF THE TOWN OF WENDELL**

WHEREAS a petition has been filed with the Board of Commissioners of the Town of Wendell requesting an amendment to the Zoning Map of the Town of Wendell to create the R7 Conditional District (R7-CD19-08) for the properties described below, said properties formerly being zoned R3 and Rural Agricultural (RA); and

WHEREAS said properties are owned by Aubrey Sidney Baynes & Ann Knott Baynes and Olde Heritage Builders & Realty, Inc.; and

WHEREAS the Planning Board of the Town of Wendell reviewed the proposed change(s) and made a recommendation thereupon; and

WHEREAS notice of a public hearing to consider the proposed change was published in accordance with law in the Wake Weekly, a local newspaper, as required by Section 38-717 of the Wendell Code of Ordinances and by Section 160A-364 of the General Statutes; and

WHEREAS a notice of the proposed zoning classification action was mailed to the owner(s) of the parcel(s) of land involved, as shown on the County Tax Listings, and to the owners of all parcels of land abutting that (those) parcel(s) of land, as shown on the County Tax Listings, by depositing a copy of the same in the United States Mail, first class postage paid, as required by Section 160A-384 of the General Statutes; and

WHEREAS the said public hearing was actually conducted at 7:00 p.m. on July 27, 2020 at the Wendell Town Hall and wherein a reasonable opportunity was given to all those in attendance to speak either in favor or against the said change or to make relevant comments:

THEREFORE, after duly considering the matter, THE TOWN OF WENDELL DOES HEREBY ORDAIN;

SECTION 1. That the Zoning Map of the Town of Wendell is hereby amended to include the R7 Conditional District (R7-CD19-08) 68.55 acres of property within the parcels identified by PIN #s 1794-15-7657, 1794-05-6758, 1794-25-6786, 1794-16-1410, 1794-05-2762 and 1794-06-6233.

SECTION 2. The requested zoning map amendment for the parcels within the rezoning area identified as CD19-08 from R3 and Rural Agricultural (RA) to R7-CD19-08, due to the supporting infrastructure and proximity to other residential zoning districts, as well as its consistency with the types and nature of uses described in the S-4 Sector, is found to be reasonable and consistent with the recommendation of the Wendell Comprehensive Land Use Plan.

SECTION 3. That the application is approved with the following zoning/site plan conditions:

1. UDO Section 2.3 A. - Multifamily dwellings (limited to townhomes only) shall be a permitted use in R7-CD and shall not exceed 45% of the total number of units - UDO 2.7 B.
  - a. Such multifamily dwellings may be front-loaded - UDO 5.10 B.
2. UDO Section 9.7.E.4.- Maximum block length shall exceed 800' on Street 'C' as necessary to preserve environmental features.
3. In order to promote variation in home appearance, no single-family home can be constructed

- with an exterior elevation (front façade) or color palette that is identical to the home on either side or directly across the street from it, to provide an anti-monotony development.
4. Garage doors shall either contain windows or carriage style adornments.
  5. The use of vinyl-siding shall be prohibited, except for trim elements of the dwelling unit façade.
  6. UDO Section 2.7 B. 1.-The minimum lot size for single-family shall be 4,600 sq. ft.
  7. UDO Section 5 - Front-loaded single-family lots shall have a minimum allowed lot width of 40 feet.
  8. Adjacent to all existing single-family lots, a six-foot tall wooden privacy fence shall be installed, at the developer's expense. This fence will be maintained in perpetuity by the Homeowners' Association.
  9. A Type 'B' landscape buffer shall be installed along the eastern property line, more specifically adjacent to the following Wake County PIN(s): 1794352900; 1794350547; and 1794350314. This buffer area shall be owned and maintained by the Homeowners' Association in perpetuity and shall be thirty feet in width.
  10. A Type 'B' landscape buffer shall be installed adjacent to all existing single-family residences that face Old Zebulon Road. This buffer area shall be owned and maintained by the Homeowners' Association in perpetuity and shall be twenty feet in width.
  11. UDO Section 9.7.E.4- Maximum cul-de-sac length shall exceed 300' on street 'B' as necessary to preserve environmental and topographic features.
  12. McKenzie Ridge will have a Home Owners Association. The HOA will be responsible for the townhome's roofs, yard maintenance, and pest control.
  13. The Town requires, pursuant to N.C.G.S § 160A-372, the dedication and construction of streets and rights of way, as shown in the approved Wendell Transportation Plan and Wendell Pedestrian Plan, to create conditions essential to public health, safety, and the general welfare. The developer recognizes this and would like to voluntarily offer a one-time contribution of \$100,000 to the Town of Wendell to be used in accordance with recommended improvements as outlined in the aforementioned Wendell Transportation Plan and Wendell Pedestrian Plan.

SECTION 4. That if any section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. That this ordinance shall become effective immediately upon its adoption.

DULY ADOPTED the 10<sup>th</sup> Day of August 2020

(Town Seal)

\_\_\_\_\_  
Virginia Gray, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Megan Howard, Town Clerk

\_\_\_\_\_  
James P. Cauley III, Town Attorney



Written Public Comment Submitted within the 24-hour period of July 27, 2020 Town Board Meeting:

**July 27, 2020 Town Board Meeting Item 5c.) PUBLIC HEARING:** to consider a request by Brian Duncan of the Spaulding Group, PA to rezone approximately 68.55 acres of property along Old Zebulon Rd within the parcels identified by PIN #1794-15-7657, PIN #1794-05-6758, PIN #1794-25-6786, PIN #1794-16-1410, PIN #1794-05-2762 and PIN #1794-06-6233 to an R7 Conditional District.

**1. Darrell and Cindy Carver, 4821 Wendell Blvd., Wendell, NC, 27591**

Dear Mayor and Commissioners,

Thank you for the opportunity to see and hear with clarity the Town Board Meeting on July 27, 2020.

We are writing in regard to Agenda Item 5C, regarding the request to rezone land designated on Old Zebulon Road.

Brian Duncan from the Spaulding Group presented the request and the proposed development. When asked about the location of the privacy fence and the 30 foot buffer on the eastern property line, Mr. Duncan replied that the fence would probably be built around 20 feet from the eastern property line and landscaped on the eastern side of the fence. We do not feel that this plan constitutes a 30 foot privacy buffer; this would be a twenty foot or less buffer. When we met with a town representative in the fall of 2019, we were asked "what would you like to see happen regarding a buffer". We initially asked for a fifty foot buffer for homes on the eastern property line AND the homes on Old Zebulon Road. We also stated we would like to see the existing natural trees and vegetation remain as much as possible, with the fence being built thirty feet from the property lines. We later learned of the actual proposal of a 30 foot eastern border buffer and a 20 foot Old Zebulon Road buffer.

We would like to see the buffer fence built thirty feet from the eastern property line.

Thank you for your consideration in this matter.

Darrell and Cindy Carver

**Item Title:**

Update on board committee(s) by Town Board members.

 Wendell Volunteer Fire Department Board of Directors – Commissioner Jason Joyner

**Specific Action Requested:**

None

**Attachments:**

None

**Item Title:**

Commissioners' Reports.

**Specific Action Requested:**

None

**Attachments:**

None

**Item Title:**

Mayor's Report.

**Specific Action Requested:**

None

**Attachments:**

None

**Item Title:**

Closed Session [NC GS 143-318.11].

**Specific Action Requested:**

Will be called if necessary for one or more of the following within NC GS 143-318.11(a):

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
- (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
- (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
- (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment. Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
- (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
- (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues

may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

(7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.

(8) To formulate plans by a local board of education relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team.

(9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.

(10) To view a recording released pursuant to G.S. 132-1.4A.

**Attachments:**

None