

**TOWN OF WENDELL
BOARD OF COMMISSIONER MEETING MINUTES
November 28, 2016**

The Wendell Town Board of Commissioners held their regularly scheduled meeting on Monday, November 28, 2016, in the Town Board Room, Wendell Town Hall, 15 East Fourth Street.

PRESENT: Mayor Virginia Gray; Mayor Pro Tem Jon Lutz; Commissioners: John Boyette, David Myrick, Ben Carroll, and Jason Joyner.

STAFF PRESENT: Town Manger Teresa Piner, Special Assistant to the Manger-Town Clerk Sherry Scoggins, Finance Director Butch Kay, Planning Director David Bergmark, Parks & Recreation Director Jeff Polaski, IT Administrator Tamah Hughes, and Police Chief Bill Carter.

CALL TO ORDER:

Mayor Gray called the meeting to order at 7:00 p.m. and welcomed attendees.

PLEDGE OF ALLEGIANCE:

Hannah Cherry, fourth grade student at Lake Myra Elementary, led the Pledge of Allegiance.

INVOCATION:

Mr. Errol Briggerman of Wendell Baptist Church provided the invocation.

1. ADJUSTMENT AND APPROVAL OF THE AGENDA:

ACTION

Mover: Mayor Pro Tem Lutz moved to approve the agenda as presented.

Vote: Unanimous.

2. PUBLIC COMMENT PERIOD (*one hour time limit in total*):

No public comments were received by the Town Board.

3. CONSENT AGENDA

The Board of Commissioners uses a Consent Agenda to act on non-controversial and routine items quickly. The Consent Agenda is acted upon by one motion and vote of the Board. Items may be removed from the Consent Agenda and placed on the Regular Agenda at the request of the Mayor or a Commissioner. The Consent Agenda contains the following items:

- a. Approval of the Minutes from the November 14, 2016, regular meeting.
- b. Wake County – November 2016 Tax Report.
- c. Approval of updates to the 2013 personnel policy.

ACTION

Mover: Mayor Pro Tem Lutz moved to approve the consent agenda as presented.

Vote: Unanimous.

4. RECOGNITION OF LAKE MYRA ELEMENTARY TEACHER: KRISTAN WALL.
ACTION: Recognition

[Staff Report]

Item Summary

Ms. Wall has been at Lake Myra Elementary since it opened 8 years ago, as the Art teacher. Students in all grade levels love coming to Art with her. She is kind and supportive to all students. You can view her creativeness throughout the building by viewing a painted mural or creative quote. Prior to being at Lake Myra, Ms. Wall worked for 4 years at River Oaks Middle School as their Art teacher. She has dedicated 12 years to WCPSS. She recently completed her Masters in School Administration and is hoping to soon become a school leader.

Mayor Gray introduced and recognized Lake Myra Elementary teacher Kristan Wall; staff report included above in italics.

5. PRESENTATION OF PROCLAMATION RECOGNIZING LINDA B. JOHNSON FOR HER COMMUNITY SERVICE AND UPCOMING RETIREMENT.
ACTION: Presentation

[Staff Report]

Item Summary

The Wendell Town Board of Commissioners will recognize and present a proclamation to Linda B. Johnson for her community service and upcoming retirement.

Mayor Gray introduced and recognized Linda B. Johnson, Executive Director of East Wake Education Foundation; staff report included above in italics.

Mayor Gray read the following proclamation into the record:

“PROCLAMATION IN RECOGNITION OF THE RETIREMENT OF EAST WAKE EDUCATION EXECUTIVE DIRECTOR LINDA B. JOHNSON
WHEREAS, *Linda B. Johnson chose careers in which she dedicated herself as a servant to the citizens of Wake County - first as a social worker followed by serving on the Wake County Board of Education as a representative for eastern Wake County;*
WHEREAS, *Linda B. Johnson began her third career as the founder of the East Wake Education Foundation in October 1993;*
WHEREAS, *Linda’s steadfastness to the investment in early childhood education is evidenced by the many children she has prepared for kindergarten;*
WHEREAS, *in times of difficulty and limited public funds, Linda’s tireless efforts campaigning for early childhood education through cultivation of relationships with businesses, civic groups and individuals have made her an example of what may be accomplished when one perseveres;*
WHEREAS, *after 23 years of devoted and enthusiastic service to early childhood education at East Wake Education Foundation, Linda B. Johnson is retiring December 2016;*
WHEREAS *citizens of the Town of Wendell are grateful to Linda B. Johnson for her dedication in placing the needs of early childhood education as a priority, and for her outstanding*

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*leadership in preparing our children to enter school;
NOW THEREFORE, be it proclaimed, that I, Virginia Gray, Mayor of the Town of Wendell and on behalf of the Wendell Town Board of Commissioners, urge the citizens of the Town of Wendell to join with us as we extend sincere appreciation for the tireless efforts by Linda on behalf of our children, and wish Linda happiness in her future endeavors.
Duly proclaimed this 28th day of November 2016, while in regular session.”*

Ms. Linda Johnson stated it has been a pleasure working with the town officials and staff of Wendell. She introduced Tara Keegan as her replacement at the Foundation.

Mayor Gray presented the proclamation to East Wake Education Foundation Executive Director Linda Johnson.

**6. PRESENTATION OF EAGLE SCOUT PROJECT AT WENDELL COMMUNITY PARK BY EAGLE SCOUT TREVOR HAMILTON.
ACTION: Presentation.**

[Staff Report]

Item Summary:

Trevor Hamilton, with the help of troop 515, worked on a new beach volleyball court from October 15-22, 2016 as a part of his Eagle Scout project. The volleyball court is built on the site where the old playground was located at Wendell Community Park and is a wonderful addition. The Parks & Recreation Department is looking to start a Beach Volleyball League for next year. The town contributed \$500 towards this project.

Parks & Recreation Director Jeff Polaski introduced Eagle Scout Trevor Hamilton; staff report included above in italics.

Eagle Scout Trevor Hamilton presented a PowerPoint presentation of his Eagle Scout project:

Pre-project site



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Leveling the court area and removing hazardous debris



Digging holes for court net posts, mixing and pouring concrete



Posts set, leveled and secured



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Post temporary support removed, just waiting on the net to install



Net and boundary lines installed late into the evening, the court is done!



Volleyball court photo op 😊



Eagle Scout Trevor Hamilton shared he is not from Wendell. He chose the troop because he likes the people here. He did this project to give back to the people of Wendell.

Public Hearing Guidelines:

- Case is announced
 - Staff presentation
 - Applicant presentation
 - Public hearing is opened; citizens will follow the same rules as Public Comment Period and will have five minutes to speak
 - Close public hearing
 - Board members ask questions
 - Board may take action
-

7. PUBLIC HEARING TO CONSIDER A TEXT AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO INCLUDE DOWNTOWN RETAIL OVERLAY LAND USE CHART.

ACTION: Public hearing; Board may take action. *If action is taken, requires a 4/5 supermajority decision by the Board [UDO 15.11].*

[Staff Report]

Item Summary:

Prior to the adoption of the Unified Development Ordinance (UDO), the core of our downtown was subject to the Downtown Retail Overlay District (DROD). The purpose of the DROD was to “preserve a core of the Downtown Commercial (CD) zoning district for primarily retail, personal service, and financial service business uses while promoting an efficient use of space and enhancing the business community”. The overlay district accomplished this by restricting certain uses outright and by limiting other uses to the second floor in order to preserve the ground floor for businesses which create more foot-traffic.

When the UDO was adopted, this overlay district was not carried over into the new zoning code. While the Town was in the middle of the recession, this omission was not a great concern. However, now that economic conditions are improving, the absence of this type of overlay district makes Wendell vulnerable to having undesired uses locating within the core of our downtown. In order for retail businesses to thrive, they need to be surrounded by other businesses which generate foot-traffic and create the opportunity for mutual customers. The location of certain businesses within the downtown core, such as indoor storage uses, provides little or no benefit to adjacent businesses and should be discouraged from locating within the prescribed area.

The Downtown Mixed Use zoning district encourages a mix of business uses that are needed to support a healthy downtown. However, there are several uses permitted in the DMX that would not support the bustling retail district envisioned along Main Street and Third Street. The area covered by the proposed Downtown Retail Overlay further encourages retail uses by prohibiting non-traffic generating uses like storage, and reserving street level storefronts for customer-oriented enterprises. The proposed Downtown Retail Overlay boundary is included as Attachment A. This boundary has been modified to specifically focus on businesses along Main Street and Third Street, which represent the two primary corridors of the downtown.

Staff researched eight municipalities in North Carolina to compare their downtown regulations. All of the municipalities surveyed had a downtown commercial zoning district, but there was little consistency in the uses permitted within those districts. Several municipalities reviewed had

overlay districts. These overlay districts typically used design standards to encourage a walkable, pedestrian scaled commercial district. Some also had limits on square footage of a business and required shop windows, awnings, etc. on new development.

A copy of the proposed district standards and amendments to Wendell's UDO are included as Attachment B. The proposed changes are also included within this report with all modified language highlighted or crossed-out. The majority of the proposed changes pertain specifically to the proposed overlay district. However, during its review staff identified a few changes which made sense to address within the entire DMX district, rather than solely within the overlay district.

One such item staff has attempted to address through amendments to Chapter 3 is how to handle vehicle service and vehicle sales uses within the downtown. While the Town may not desire small body shops or used car dealerships from establishing themselves in the downtown, it also does not want to negatively impact larger established businesses of this type which currently support the downtown economy. In order to respond to these concerns, staff has drafted language which would prohibit new stand-alone vehicle service uses and which would require any new vehicle sales establishment to have a large indoor showroom. Staff would also note that existing regulations restrict vehicle sales to comprising no more than 16% of the DMX district.

Staff has also proposed that language be included within the UDO that will require Bars/Taverns/Night Club uses within the proposed overlay district to be open to the public, rather than be classified as a private club. The ABC Board defines any bar that generates less than 30% of sales from food as a private club. These types of venues often have limited hours and are closed during the day. While alcohol based establishments are a key part of entertainment in a vibrant downtown, staff does not believe that private club establishments are conducive to a vibrant, inclusive atmosphere within the downtown at this time. Please note that 'bottle shops' such as Wine and Beer 101 are not considered a bar by the ABC Board since less than 40% of their sales comes from on-site consumption.

Members of the Planning Board had expressed concerns regarding the proposed amendment requiring Bar/Tavern/Night Clubs not be classified as a private club. If the Town Board does not wish to prohibit Private Bars/Taverns/Night Clubs within the overlay district, this language could be removed.

Staff has received several inquiries throughout the years from church groups, nonprofits, and other organizations that wish to rent a downtown storefront for administrative office use. These types of uses do not receive clients and therefore don't generate foot traffic. Currently, Wendell's use code does not differentiate this use from the Professional Services use, which includes accountants, architects, insurance agents, and other intellectual-based services that receive clients. Staff has therefore proposed language defining the Office Administrative Services use and adding the use to the Use Table. Staff has also proposed allowing this use only on the second story within the Downtown Retail Overlay district.

Finally, staff has proposed to create a new 'Civic Club' use. Currently fraternal organizations and civic clubs are lumped into the 'Cultural or Community Facility' use category, which also includes uses such as art galleries and indoor theatres. Staff believes it would be more appropriate to make civic clubs its own use and restrict it to the second floor within the proposed overlay district. Much like other uses the overlay district is designed to address, civic clubs have sporadic periods of use and do not generate the foot traffic desired to support existing retail businesses.

Proposed Text Amendments

Proposed new language to the UDO is highlighted. Proposed deleted language is crossed-out.
Amend Section 2.18 to include the following proposed Downtown Retail Overlay district standards:

(Conditional Districts (CD) are currently in section 2.18 of the UDO and will move to section 2.19.)

2.18 Downtown Retail Overlay (DRO)

Purpose and Intent: *The purpose of the Downtown Retail Overlay district is to preserve a core of the Downtown Mixed Use (DMX) zoning district for primarily retail, restaurant, personal service, and entertainment business uses while promoting an efficient use of space and enhancing the business community. This objective is accomplished by restricting certain uses on the ground floor and upper floors of eligible properties which do not support the creation of a vibrant downtown consumer business community.*

A. Applicability: *The use of land permitted in Section 2.3C of the UDO for the underlying zoning district shall apply to the DROD, with the exception of those uses listed as prohibited below.*

Downtown Retail Overlay District (DROD) Prohibited Use Table

Prohibited Outright	Prohibited on Ground Floor
Gas Stations	Meeting Facilities
Funeral Homes	Community Service Organizations
Medical Services – Clinic, Urgent Care Center	Business Support Services
Post Offices	Research and Development*
Outdoor Recreational Facilities	Dwelling - Multifamily
Child/Adult Day Care Home	Office Administrative Services
Child/Adult Day Care Center	Media Production
Storage - Warehouse, indoor Storage	Schools – Vocational/Technical
Metal Products Fabrication, machine or welding shop	Medical Services – Doctor Office
Manufacturing - Light	Civic Club
General Retail – Greater than 50,000 sf	
Hospitals	
Dwelling - Single Family (detached)	
Family Care Home	
Group Care Facility	
Drive Thru Service	
Dwelling - Secondary	

**Requires Special Use Permit in the DMX District*

Amend Section 2.1C to include reference for the Downtown Retail Overlay district

C. Overlay Districts

In accordance with North Carolina General Statute 160A-382, the following overlay districts are established. These overlay districts impose additional requirements on properties within one or more underlying base or conditional districts.

Manufactured Housing Overlay (MHO) (Old MHOD)
Gateway Overlay (GO) (Old SHOD)
Downtown Retail Overlay (DRO)

Amend Section 3.3 (Additional Standards by Use) to add to supplemental standards that require vehicle services (major and minor) to be an accessory use to a vehicle sales operation, and to require vehicles sales within the DMX district to meet additional standards (#3).

Vehicle Sales (CMX, CC, DMX, CH, M&I)

1. **Equipment Display/Storage:** *No equipment for sale or rent shall be permitted to encroach on any required landscaping areas or buffer yards.*
 2. **Outdoor PA Systems:** *No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.*
 3. **DMX District:** *Vehicle Sales shall not at any time occupy more than 16 percent of the DMX District and must include a minimum of 3000 square feet of interior showroom space.*
- B. Vehicle Services – Minor Maintenance/Repair (CMX, CC, DMX, CH, M&I)**
1. *All vehicles, materials or equipment shall be stored within an enclosed building or outdoor storage with opaque fence or wall and restricted to the rear yard.*
 2. *Storage yards shall be set back a minimum of 50 feet from any residential district. No stored vehicles may be visible from any property line.*
 3. *Any operation which results in the creation of noxious vibrations, odors, dust, glare or sound is prohibited.*
 4. *No vehicle may be kept or used for parts for other vehicles.*
 5. *No vehicles may be stored for more than 30 calendar days without repair work.*
 6. *Car washes must be approved by the City of Raleigh Public Utilities Department.*
 7. *Within the DMX district, vehicles services must be an accessory use to a contiguous (excluding ROW) vehicle sales operation under the same ownership.*
- C. Vehicle Services – Major Repair/Body Work (CMX, DMX, CH, M&I)**
1. *All vehicles, materials or equipment shall be stored within an enclosed building or outdoor storage with opaque fence or wall and restricted to the rear yard.*
 2. *Storage yards shall be set back a minimum of 50 feet from any residential district. No stored vehicles may be visible from any property line.*
 3. *Any operation which results in the creation of noxious vibrations, odors, dust, glare or sound is prohibited.*
 4. *No vehicle may be kept or used for parts for other vehicles.*
 5. *No vehicles may be stored for more than 30 calendar days without repair work.*
 6. *Car washes must be approved by the City of Raleigh Public Utilities Department.*
 7. *Within the DMX district, vehicles services must be an accessory use to a contiguous (excluding ROW) vehicle sales operation under the same ownership.*

Amend Section 3.3 (Additional Standards by Use) to add to supplemental standards that require Bars, Taverns, and Night Clubs within the Downtown Overlay to be an accessory use to be open to the public (#2).

- H. Bar/Tavern/Night Club (NC*, CMX*, CC*, DMX*, CH*, TND*) *Special Use**
1. *No such facility shall be located within 300 feet of the property line of any lot containing a church or school or any residential district (R4, RR, R2, R3, R4, R7).*
 2. *Any facility within the Downtown Retail Overlay must be open to the general public (i.e. not a private club as classified by NC ABC).*

Amend Section 2.3C to include Office Administrative Services use within the Use Matrices

BASE DISTRICT	OSC	RA	RR	R2	R3	R4	R7	NC	CMX	CC	DMX	MH	CH	M&I	TND
Office/Service (cont)															
Office Administrative Services									P	P	P	P		P	P

Amend Section 19.3 to include the definition Office Administrative Services

Office Administrative Services: Location of business operations generally without daily face to face contact with customers or clients, including back office functions, telephone or internet based customer service and sales, or other business functions engaged in intellectual research or consulting, and call centers or data centers not located with distribution operations.

Amend Section 2.3C to remove the Special Use Permit requirement for Neighborhood Manufacturing in the DMX

BASE DISTRICT	OSC	RA	RR	R2	R3	R4	R7	NC	CMX	CC	DMX	MH	CH	M&I	TND
Manufacturing/Wholesale/Storage															
Manufacturing, Neighborhood	-	-	-	-	-	-	-	PS	PS	PS	PS	-	PS	P	PS

Amend Section 3.3 BB to require that Neighborhood Manufacturing in the DRO include a gallery or retail space open to the public.

BB. Manufacturing, Neighborhood (NC, CMX, CC, DMX*, CH, TND) *Special Use

- All materials or equipment shall be stored within an enclosed building.
- Any operation which results in the creation of noxious vibrations, odors, dust, glare or sound is prohibited.
- Uses such as, but not limited to, small woodworking shop, minor assembly, craftsman, and artisan are preferred.
- Neighborhood Manufacturing uses located on the ground floor in the Downtown Retail Overlay must include a minimum of 400 square feet of gallery and/or retail space that is accessible and open to the public during normal operating hours (i.e. not by appointment only).

Amend Section 2.3C to include the 'Civic Club' use within the Use Matrices

BASE DISTRICT	OSC	RA	RR	R2	R3	R4	R7	NC	CMX	CC	DMX	MH	CH	M&I	TND
Civic/Institutional															
Civic Club		SUP						SUP	SUP	SUP	SUP		SUP	SUP	SUP

Amend Section 19.3 to include the definition for Civic Club

Civic Club: A not for profit club for civic, social or fraternal purposes operated by a civic, social or fraternal organization, including offices for local, state and regional officials.

Amend Section 19.3 to remove non-profit civic or fraternal organizations from the 'Cultural or Community Facility definition and to clarify that studio uses are otherwise addressed in the use code.

Cultural or Community Facility: Facilities designed to promote cultural advancement and serve the community such as live theater, dance, or music establishments; art galleries, museums, exhibition, or similar facility; ~~non-profit civic or fraternal organizations~~; libraries; and community centers, such as the YMCA and YWCA. This

use shall not include smaller establishments covered under the 'studio – art, music, martial arts' use category. (LBOS S3800, S4400, ~~F5110, F5210, and FS6830~~)

Planning Board Recommendation:

At their October 17, 2016 meeting, the Planning Board voted to recommend denial of proposed text amendment. Planning Board members expressed concerns over the 'private club' provision for the Bar/Tavern/Nightclub use. They also expressed more general concerns over placing additional restrictions within the downtown. Following the Planning Board meeting, staff did amend the proposed overlay districts to consolidate the boundary to Main Street and Third Street, removing some properties which were included under the proposal reviewed by the Planning Board.

Voting to approve:

Voting to deny: *Harold Broadwell, Errol Briggerman, Victoria Curtis, Gilda Wall, Ruth Van der Grinten, Lloyd Lancaster, Kathe Schaecher, Allen Swaim*

Absent: *Ashley Anderson*

Staff Recommendation:

Staff recommends approval of the proposed text amendment.

Statement of Plan Consistency and Reasonableness:

Any recommended change to the UDO, if deemed necessary, should be accompanied by a statement explaining how the change is consistent with the comprehensive plan and is reasonable in nature.

Staff suggests that the recommended change adheres to the following principles highlighted in the comprehensive plan:

- *Principle 2: "Protect and enhance the strengths of the downtown core, making the area a place to experience";*
- *Principle 3: "Increase downtown and in-town retail, dining, and residential options; likewise, continue the tradition of local business."*

Planning Director David Bergmark provided an overview of the text amendment to the Unified Development Ordinance to include Downtown Retail Overlay Land Use Chart; staff report included above in italics. He provided Downtown Retail Overlay Land Use Chart as information; incorporated as ***Attachment A***.

Commissioner Boyette questioned how the current occupants of the downtown businesses feel about the retail overlay. Planning Director Bergmark stated it is mixed. This is intended to help the existing downtown businesses.

Mayor Pro Tem Lutz stated the Planning Board voted down the original proposal. He questioned the changes made by staff. Planning Director Bergmark stated the boundary does not go all the way to Cypress Street or Pine Street. The boundary was narrowed down after the Planning Board meeting. The district is more focused on the existing businesses.

Mayor Pro Tem Lutz questioned if the bar/tavern/night club was adjusted after the Planning Board meeting. Planning Director Bergmark stated that remained the same. Most of the Planning Board members were opposed.

Commissioner Myrick questioned how this will affect current businesses downtown. Planning

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Director Bergmark stated the businesses would continue operating. If a business in the district overlay is a prohibited use and the business moves out and the use changes, then that use would not be allowed to re-establish.

Commissioner Myrick stated his concern is if the current business is there and left and there is not a demand for retail, does not see how the vacant building would help the existing businesses. To him this is an over reach. If storage is the problem, questioned changing the current language. Planning Director Bergmark stated the Town Board could do that. Storage is a concern, and it is not the only concern.

Commissioner Myrick stated he does not know if it is the Town Board's place to legislate demand. He cannot think of any businesses on the prohibited use that would come to downtown. Planning Director Bergmark stated most of those would most not likely come.

Mayor Gray opened the public hearing at 7:35 p.m.

Paul White, Universal Chevrolet, stated he purchased the property at the corner behind the Town Hall for future expansion of his business. He stated it is currently being used as a car wash. He said he wanted to make sure that the proposed changes would not prohibit his intended use of the property.

Bruce Lynch, 114 S Cypress St., owns the building located at 204 North Main Street – corner of Main Street and Third Street. He concurs with Commissioner Myrick that the Planning Board should not be legislating the market. He stated Raleigh and Apex do not have the overlay district in downtown and allow office, service, non-profit and a mix of all those things. He stated he purchased the building for \$160,000 and when it was re-assessed last year it was worth less. He has a 1,000 square foot upstairs and to up-fit would cost \$100,000 plus and it is not feasible to do at this time.

Regina Harmon, 6616 Tells Branch Road, stated she owns two businesses in downtown. She understands the Total Connection is grandfathered. She concurs with Commissioner Myrick. She questioned if a Raleighwood would be allowed in downtown. Planning Director Bergmark stated it's not that it's restricted and civic groups would be allowed on the second floor. She stated she heard manufacturing and it reminded her of the owner of Agave's who wanted to change it into a steel factory. Planning Director Bergmark stated the DMX restricts certain uses such as industrial and that remains. Neighborhood manufacturing is more artisan and crafts and does not emit noise. She stated she understands moving offices upstairs, but she questioned if there is a rule for businesses to be located upstairs without an elevator.

Ann Stewart of Hollybrook Road recalled that the downtown had a paint ball store that came and went. She recalled someone wanted a tattoo shop on Main Street. She understands foot traffic so folks can walk from store to store.

Planning Director David Bergmark clarified office uses. Not all office uses would go upstairs. If an office is not set up to receive a client then those would be located upstairs. Mr. Lynch's office is allowable on the first floor because clients can go in and speak to him. Tattoo shops

are prohibited in the DMX. Mr. White's concern over the car wash would not be adversely impacted by this as it is currently adjacent to existing vehicle sales. He said the town was already in the practice of restricting uses in the downtown and elsewhere through the underlying zoning districts. He said the question was where to draw the line in what you restrict.

Mayor Gray closed the public hearing at 7:49 p.m.

Commissioner Boyette moved to table until after the retreat. He thanked town staff for the effort. He heard uses are restricted within in Town. This reminds him of a conditional use permit. The retail overlay is a lot of restriction and he does not see give on the part of the town. He thinks to make the downtown more walkable is to scale back on the amount of parking required for downtown businesses. Can expand the proposal to give back and acknowledge the businesses locating in downtown. The Town will not have a walkable downtown if it is filled with storage, steel factories, daycares and similar businesses. Also need to take a look at what the Town can do for the DMX and the downtown overlay. He would like to have a discussion at the mid-year retreat.

Mayor Gray requested Planning Director Bergmark to prepare information about the potential zoning changes for the DMX. She is concerned about prohibiting certain businesses in anticipation of the retreat.

ACTION

Mover: Commissioner Boyette moved to table until after the retreat.

Vote: Unanimous.

8. CITY WIDE SPEED LIMIT; FOLLOW UP FROM THE 11/14/2016 MEETING AND THE 9/12/2016 MEETING.

ACTION: Board may take action.

[Staff Report]

Item Summary:

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The Town Board asked that the speed limit reduction policy be reviewed and brought back to the Board for action on Monday, November 28, 2016. No comments or inquiries have been received regarding the policy since the Monday, November 14, 2016 board meeting.

PREVIOUS REPORT MATERIAL

November 11, 2016

The Board will find that the attached speed reduction policy will provide residents the mechanism to request a speed limit change as provided under G.S. 20-141(e) (f).

If the Town Board approves a speed limit change, it must do so by ordinance. Speeds do not go into effect until appropriate signage giving notice of the speed has been erected on the affected street.

The draft policy is before the board for review and comment. Depending upon comments received, the policy may be placed on the November 28, 2016 agenda for action.

Items for consideration in the policy include:

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- *Number or percentage of individuals required to submit petition needed to initiate a study. The policy currently states 20 percent. What percentage is reasonable, higher or lower?*
- *What is a reasonable time frame for surveys to be returned to planning staff? Draft policy currently reads 21 days.*
- *Should residents or homeowners be allowed to participate in the process? Draft policy currently reads residents.*

September 12, 2016

In follow up to the memo dated August 22, 2016, speeds in some neighborhoods have been recorded by the Town's radar sign posted within neighborhoods within the Town. Although there are outliers, most vehicles were found to be driving less than the posted speed, therefore traffic calming measures and other tools may need to be explored in addition to speed reduction measures.

On Monday, August 30, 2016, staff met with Mike Surasky with AMT to discuss criteria for speed limit changes. AMT has worked with other communities to assess and provide guidelines for traffic calming and speed limit reductions in an effort to assist residents and staff regarding the process and procedures for implementing traffic process and procedures that focus upon "the 5 E's".

- *Education – Neighborhood receive the necessary information and tools to be active participants in addressing their traffic concerns.*
- *Engineering – Traffic calming strategies that address community – identified traffic issues, traffic calming measure(s) are developed and applied.*
- *Evaluation – The applied traffic calming measure is evaluated for effectiveness. The policy criteria and standards should be regularly updated to reflect the results.*
- *Economics- Support implementation of the least restrictive and least expensive traffic calming methods to stay within budget.*
- *Enforcement – Police enforcement supports the traffic calming plan developed by residents, town staff, and public officials.*

Staff plans to review the material provided by AMT and bring back a proposal to the Town Board for its consideration to address speed and safety within neighborhoods.

August 22, 2016 Memo

At the Monday, August 8, 2016 Board meeting, the question was raised as to whether a 35 mph speed limit was suitable for all neighborhoods in the town limits. Chief Carter and I have met to discuss the best approach for assessing the speed limits within the town. All available information suggests that the best practices for setting speed zones should be based on an engineering study and analysis of free flow speeds.

In its September/October 2013 Issue of Public Roads, the Federal Highway Administration published an article entitled "Setting Speed Limits for Safety" by Davey Warren, Guan Xu, and Raghavan Srinivasan. The authors indicated that for residential streets, the Federal Highway Administration suggests the following should be included in any study:

- *Operating speed: 50th and 85th percentile speed as recorded by radar speed display equipment (The 85th percentile speed is the speed that 85 percent of drivers travel at or below. Similarly, the 50th percentile speed is the speed that 50 percent of drivers travel at or below. The 85th percentile is typically viewed as one of the best indicators of a reasonable and safe speed.),*
- *Crash statistics,*
- *Extent of pedestrian/bicyclist activity,*

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- *Presence/usage of on-street parking,*
- *Access density: driveways and unsignalized intersections per mile,*
- *Signals per mile,*
- *Area type,*
- *Presence/absence of adverse alignment,*

It is our desire to develop a comprehensive approach, using quantifiable and objective data such as that listed above, which can be used to determine the appropriateness of speeds along a street or combination of streets. Appropriate speeds are defined as those that are safe, credible, consistent, and enforceable.

Engineering study and analysis may lead to recommendation of any one or a combination of several of the following options:

- *Traffic calming devices*
- *Stop signs*
- *New or additional sidewalk installation (50/25/25)*
- *Prohibition of street parking*
- *Adjustment of speed limits*

As we conduct this study and evaluate recommendations it is critical that any recommendations be driven on ensuring all evaluated speed zones are set so that the speeds are safe, credible, consistent, and enforceable. According to the previously mentioned article the Federal Highway Administration reports that “studies show that setting speed limits lower than the prevailing speed without changing the road environment will have little effect on speed and might increase crash risk.” As a collateral issue best practice would preclude us from creating speed zones that actually impede traffic or create the impression of a speed trap.

As we move forward in our efforts on how to best address this issue, we are scheduling a meeting with the town’s traffic engineer to examine and prepare an objective and systematic approach to ensure a comprehensive process. This meeting is set for August 30, 2016.

On Monday, August 30, 2016, staff met with Mike Surasky with AMT to discuss criteria for speed limit changes.

Town Manager Teresa Piner provided an overview of the city wide speed limit policy; staff report included above in italics.

Commissioner Boyette thanked Town Manager Piner. He believes this policy is simple and may be a tool to address citizen concerns about pedestrian safety.

Commissioner Joyner questioned primary run routes for emergency services. Town Manager Piner stated it is a route used that is primary streets and not typically through neighborhoods.

Commissioner Joyner stated that seems like a subjective term for a policy.

Commissioner Boyette questioned who determines the route. Town Manager Piner stated typically EMS, Fire and the Town sat down to discuss the route used.

Commissioner Joyner questioned why an application would be denied or become void. Town Manger Piner stated if an application is idle too long or does not receive the 75 percent of signatures within a certain amount of time makes the application void or denied.

Commissioner Joyner stated the 21 days is too short if the process is begun during the summer as residents may be away. He would be in favor of stretching the window.

Commissioner Boyette stated 60 days would be sufficient.

ACTION

Mover: Commissioner Boyette moved to approve the policy with the amendment of 60 days from 21 days to void a petition.

Vote: Unanimous.

**9. DISCUSSION AND ACTION ON SIDEWALK IMPROVEMENTS AND FEE-IN-LIEU POLICY [REQUESTED BY TOWN BOARD AT THE MID-YEAR RETREAT]; FIRST DISCUSSED AT THE 10/24/2016 BOARD MEETING.
ACTION: Board may take action.**

[Staff Report]

Item Summary:

During the September 2016 mid-year retreat, staff was asked to examine the Town's current payment in lieu policy for the installation of sidewalk. A sidewalk fee in lieu allows for developers to request to pay a fee in lieu of constructing sidewalks. If accepted, the Town then uses the money collected to pay for sidewalk work elsewhere in town.

Currently sidewalk or multi-use paths are required by the Unified Development Ordinance (UDO) as part of any new development. The width of the sidewalk, as well as the requirement for sidewalk to be installed on one vs. both sides of the road varies based upon the zoning district in which the development occurs, as well as whether the development is located along a thoroughfare.

Chapter 13 of the UDO describes when sidewalk must be constructed as the result of changes to existing development and/or to nonconforming structures or uses. Per Chapter 13, sidewalks are to be installed when paved areas expand more than 40 percent, when there is reconstruction of property damaged more than 65 percent, and when there is the expansion of a non-residential structure by more than 25 percent of floor area.

Existing Language Related to Fee in Lieu of Sidewalk Construction:

Section 9.3 of the Unified Development Ordinance states that payment in lieu of physical improvements [to include sidewalks, curb and gutter, etc.] may be permitted by the Board of Commissioners.

This section contains no other standards for how and when fee in lieu may be accepted, giving the Town Board broad discretion in how to apply fee in lieu of sidewalk requirements. Although specific criteria do not currently exist for when the Town would accept payment in lieu, in the past sidewalks have been required to be installed except where drainage issues or major right of way improvements would have been required.

Proposed Policy:

The attached Fee in Lieu of Sidewalk Construction Policy (Attachment A) is meant to establish clear, equitable, and consistent standards for carrying out the fee in lieu of construction alternative provided for in Section 9.3 of the UDO, as it pertains to sidewalks and related

pedestrian facilities. This objective is achieved by establishing defined standards related to project eligibility, prioritization, and implementation.

This policy maintains the discretionary power of the Town Board, but clarifies applicable projects which collected sidewalk funds may be used for, and sets a time period for when the funds should generally be spent by the Town.

Staff Recommendation:

Staff recommends approval of the attached fee in lieu of sidewalk construction policy.

Planning Director David Bergmark provided an overview of the sidewalk improvements and fee-in-lieu policy; staff report included above in italics.

Commissioner Boyette questioned if there is a situation in which a fee-in-lieu-of could be considered an impact fee. Planning Director Bergmark he did not believe so.

Commissioner Boyette stated with the Town stating we can use the money somewhere else other than the project in question, there is no concern this would be considered an impact fee.

Commissioner Joyner stated no because the remedy is putting in the sidewalk. He thanked the staff.

ACTION

Mover: Commissioner Joyner moved to approve the sidewalk improvements and fee-in-lieu policy as presented.

Vote: Unanimous.

10. APPEARANCE COMMISSION UPDATE. [MURRAY RESIGNED. RECEIPT OF APPLICATION FROM THOMPSON.]

ACTION: Board may take action.

[Staff Report]

Specific Action Requested:

Ms. Kim Murray tendered her resignation from the Appearance Commission on November 1, 2016. Her vacancy opens a position with a term expiring June 30, 2018.

Ms. Leigh Ann Thompson submitted an application on November 4, 2016, to serve on the Appearance Commission.

The Wendell Town Board of Commissioners may appoint Ms. Leigh Ann Thompson to the Appearance Commission to complete the unexpired term through June 30, 2018.

Item Summary

The Wendell Appearance Commission is a very active citizen advisory board. Through its efforts, the Appearance Commission hosted activities that raised funds to make murals within Downtown Wendell possible. Ms. Thompson has attended several of the Appearance Commission meetings. Ms. Thompson has served as a volunteer for the Appearance Commission by staffing the Appearance Commission booth during the Harvest Festival.

Planning Director David Bergmark provided an update of the Appearance Commission; staff report included above in italics.

ACTION

Mover: Mayor Pro Tem Lutz moved to waive the requirement to vote by ballot.

Vote: Unanimous.

ACTION

Mover: Mayor Pro Tem Lutz moved to appoint Ms. Leigh Ann Thompson to complete the unexpired term through 6/30/2018.

Vote: Unanimous.

11. INTRODUCTION TO PROPOSED AMENDMENTS TO CHAPTER 12 OF THE UDO AS IT RELATES TO TEMPORARY SIGNS.

ACTION: Board may refer to the Planning Board.

[Staff Report]

Item Summary:

In January of 2015, the Town Board approved amendments to Chapter 12 of the UDO related to temporary signage. Significant features of the approved text amendment (see Attachment A) were that small ground signs erected by a non-profit operating within the Town's jurisdiction or a business located within the Town's jurisdiction could post up to 12 signs (no more than 2 per property) with no time limit. The text of the ordinance was based on language provided at the board meeting. Prior to these new rules, only 6 small ground signs could be erected at once and the permit was valid for 10 calendar days.

The intent of the 2015 amendment was to provide more flexibility to businesses wishing to erect temporary signs and to provide staff time to gauge the impact of the amendments passed. However, the current regulation which provides no expiration date for these temporary signs has created enforcement issues for staff and has caused complaints from citizens. Some citizen complaints have been related to signs being erected on their property without their permission. Other complaints were regarding temporary signs creating an overall unkempt and messy appearance along the town's entrance roadways. Even if properly placed and permitted, the omission of a duration period for smaller temporary sign permits increases the total number of temporary signs erected around town at any given time.

As a result, it is staff's recommendation that an expiration date of 14 days be re-established for all temporary sign permits. The proposed amendments also include modifications to other sections of Chapter 12 in order to make the Town's regulations more in line with the 'Reed vs. Town of Gilbert' court case. This case found that sign regulations should be content-neutral to the greatest extent possible.

Summary of Proposed Changes (for red-lined changes to Chapter 12, see Attachment B)

- *Make temporary 'ground signs- small' valid for 14 days, with 6 signs permitted per business (rather than 12).*
- *Remove content related language from the 'Banners' section and reword so that it is clear that banners placed on buildings are valid for 30 days, while banners mounted on poles in the ground are valid for 14 days (like other temporary signs).*
- *Amend 'sandwich board signs' so that the sign does not have to be located within 8 feet of a door. Instead, the sign simply has to be placed on or directly behind the sidewalk in front of the business, with at least 4 feet of clearance if placed on a sidewalk.*

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- *Remove the 'Mobile Sign' category from temporary signs. This provision is rarely used, and can be lumped into the 'All other temporary signs' category.*
- *Remove language related to 'special event signs of recognized non-profit or charitable organizations' from the 'Realtor and Non-Realtor Open House Signs, and Yard Sales Sign' section of 'Signs Not Requiring a Permit'. Special event signs should be addressed by the 'temporary sign permit' section.*

Planning Director David Bergmark provided an overview to the proposed amendments to Chapter 12 of the UDO as it relates to temporary signs; staff report included above in italics.

Commissioner Boyette questioned the state disallows signs in the right-of-way. Planning Director Bergmark stated yes, with an exception for political signs.

Commissioner Boyette has noticed signs in the right-of-way. He questioned if the Town is able to enforce removing signs in the state road right-of-way. Planning Director Bergmark stated the Town has regulations and the code enforcement officer does pull signs.

Commissioner Boyette questioned if he is the only one to enforce signage. Planning Director Bergmark stated the code enforcement officer handles sign concerns.

Mayor Gray stated the proposal is a fair compromise between what the Town used to have and what we are doing today.

Commissioner Joyner questioned if there is a way for the Economic Development Committee to review.

Mayor Gray stated the Economic Development Committee does not make recommendations to the Town Board.

Commissioner Boyette stated the Economic Development Committee could weigh in at the Planning Board meeting.

Commissioner Joyner questioned if the Economic Development Committee could be notified this item is coming before the Planning Board and to solicit the Economic Development Committee for input.

ACTION: Consensus of the Town Board to refer this item to the Planning Board for its January 2017 meeting and to invite the Economic Development Committee.

**12. WENDELL WONDERLAND TRAFFIC PLAN AND STREET CLOSING.
ACTION: Board may take action.**

[Staff Report]

Item Summary:

On Friday, December 2, 2016, the Town of Wendell will kick off the holiday season with the arrival of Santa Clause and the lighting of the Square. Other activities that evening will include

local musical performances, free trolley rides, ice and wood carving, a blacksmith, a Christmas Craft Market, the Wendell United Methodist Church Cookie Walk and the Wendell Baptist Church Concert. Many local businesses will have extended hours that evening in an effort to show visitors all that Wendell has to offer.

The growth of this event over the last few years, combined with the relocation of the Lake Myra Lights Show to its current site adjacent to the J. Ashley Wall Square and the Woman's Club, has led to increased turnout each year. With activities on both the Town Square and the Woman's Club Parking lot, attendees move back and forth across the section of Cypress Street from Second Street and Third Street.

In an effort to make the event as pedestrian friendly as possible, staff is requesting the board authorize the closure of Cypress Street from Second Street and Third Street on Friday, December 2, 2016 from approximately 3:30 p.m. until 10:30 p.m. or until the conclusion of the activities that evening.


Town Manager Teresa Piner provided an overview of the Wendell Wonderland traffic plan and [temporary] street closing request for the portion of Cypress Street between Third and Second Streets; staff report included above in italics.

ACTION

Mover: Mayor Pro Tem Lutz moved to authorize the [temporary] closure of Cypress Street between Third and Second Streets on Friday, December 2, 2016.

Vote: Unanimous.

13. UPDATE ON BOARD COMMITTEE(S) BY TOWN BOARD MEMBERS:

 **Capital Area Metropolitan Planning Organization (CAMPO) [Mayor Gray]**

Mayor Gray stated at the CAMPO meeting received an update on Title 6 Minority Limited and Efficiency and Low Income Public Outreach Plan; discussed the FY 2017 NCDOT Bicycle and Pedestrian Plan Grant applications; received an update on the Wake Transit Plan Implementation; and an update on the Low Income Public Outreach Plan.

 **Triangle J Council of Governments (COG) Board of Delegates [Mayor Pro Tem Lutz]**

Mayor Pro Tem Lutz stated the Triangle J Council of Governments Board of Delegates received a presentation on the Growing Together Project on boosting agriculture and the food industry and a presentation and discussion on economic development in each community.

14. COMMISSIONERS' REPORTS.

Commissioner Joyner, Commissioner Boyette, Commissioner Myrick, and Commissioner Carrol did not have a report.

Mayor Pro Tem Lutz invited all to come out and support the Wendell Wonderland this Friday night at the Town Square and to visit the Wendell Methodist Church for its cookie walk and the Wendell Baptist Church for its music program.

15. MAYOR'S REPORT.

Mayor Gray recognized Ms. Elizabeth Henry, the 2016 Mayor's Award recipient. Ms. Henry recently celebrated the 100th birthday. Ms. Henry had a business in Wendell for 71 years. She thanked Ms. Henry for being in attendance and for being the 2016 Mayor's Award recipient.

Mayor Gray stated in the last few days, the Town of Wendell acquired a 36 acre tract of land adjacent to the Wendell Community Park and abuts Wendell Falls Parkway. This acquisition is the result of grants from Wake County and the Clean Water Management Trust Fund. She thanked both groups for funding this project for the citizens of Wendell, Mr. David Proper of the Conservation Fund, and Town Manager Piner. The Town's 36 acre acquisition was less than \$10,000 and is suited for passive recreation because it is adjacent to Buffalo Creek. This will allow for a second entrance to the park, extension of disc golf, nature trails and picnic areas.

Mayor Gray provided the following notices:

- The worm puzzle is for sale by the Appearance Commission. Puzzles are available at Town Hall and the General Store.
- Christmas Decorating Contest submissions are due December 9, 2016. Entry forms are available on the Town website and at Town Hall.
- Wendell Community Library is having a cookie house activity with Santa this Saturday, December 3, 2016, from 1 to 2:30 p.m.
- Wendell Historical Society is having a Christmas Home Tour on Saturday, December 10, 2016, from 2 to 5 p.m. She has tickets for anyone interested in the tour.

16. CLOSED SESSION.

ACTION: Closed Session will be called if necessary.

No closed session called.

17. ADJOURN.

ACTION

Mover: Mayor Pro Tem Lutz moved to adjourn at 8:24 p.m.

Vote: Unanimous.

Duly adopted this 12th day of December 2016, while in regular session.

ATTEST:

Virginia R. Gray, Mayor

Sherry L. Scoggins, MMC; Town Clerk