Wendell Town Board of Commissioners

Board Room

15 E. Fourth Street, Wendell, NC 27591

Town Board Meeting Agenda

Monday, February 8, 2021 @ 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 February 8, 2021 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 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, February 5th at 5 p.m.

CALL TO ORDER

- Welcome – Mayor Virginia Gray
- Pledge of Allegiance – Police Chief Bill Carter
- Invocation – Wendell Council of Churches

1. ADJUSTMENT AND APPROVAL OF THE AGENDA

2. PUBLIC COMMENT PERIOD

- The Public Comment period for the February 8, 2021 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 by Friday, February 8th 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, February 5th 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. Adoption of January 25, 2021 Town Board Meeting Minutes

Staff Contact: Town Clerk Megan Howard
mhoward@townofwendell.com

3b. Adoption of a Resolution setting the Filing Fee for Candidate seeking the Office of Mayor or Commissioner, in accordance with NC G.S. 163A-1620(e)

Staff Contact: Town Clerk Megan Howard
mhoward@townofwendell.com

4. RECOGNITIONS, REPORTS, AND PRESENTATIONS

No presentations, reports and recognitions scheduled for this meeting.

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 February 8th, 2021 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 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, February 5th at 5 pm 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.

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- 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, February 5th 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.

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5a. **Public Hearing** for disinterment, relocation, and reinterment of Graves located at 5301 Rolesville Road to Oakwood Cemetery in Raleigh

Staff Contact: Assistant Planning Director Bryan Coates
njones@townofwendell.com

5b. **Public Hearing** on a Text Amendment (ZTA20-04) to the Arterial and Collector Street Plan and Map.

Staff Contact: Planning Director Niki Jones
njones@townofwendell.com

5c. **Public Hearing** on a R4 (Residential-4) Conditional District for the Watson Tract located at 5060 Wendell Boulevard.

Staff Contact: Assistant Planning Director Bryan Coates
bcoates@townofwendell.com

5d. **Public Hearing** of a Non-contiguous Annexation for one Parcel totaling 47.42 acres [PIN 1794-55-1682] located at 5060 Wendell Boulevard.

Staff Contact: Assistant Planning Director Bryan Coates
bcoates@townofwendell.com

5e. **Public Hearing** of a Non-contiguous Annexation for one Parcel totaling 50.63 acres [PIN 1774-72-4863] located at 0 Eagle Rock Road.

Staff Contact: Assistant Planning Director Bryan Coates
bcoates@townofwendell.com

5f. **Public Hearing** to formally close the Right-of-Way known as the Alley located between Fourth Street and East Depot Street.

Staff Contact: Planning Director Niki Jones
njones@townofwendell.com

5g. **Public Hearing** on Text Amendments to the Town of Wendell Code of Ordinances and Unified Development Ordinance (UDO) to comply with Chapter 160D of the North Carolina General Statutes.

Staff Contact: Planning Director Niki Jones
njones@townofwendell.com

6. ADMINISTRATIVE ITEMS

6a. Decision on rezoning approximately 16.18 acres located at 2891 Wendell Boulevard and 969 Marshburn Road [PIN 1784-45-6183 and 1784-54-2734] from Rural Agricultural (RA) to Corridor Mixed- Use (CMX).

Staff Contact: Assistant Planning Director Bryan Coates
bcoates@townofwendell.com

6b. Decision for a Contiguous Annexation for two Parcels totaling 28.28 acres [23.9 acres for PIN 1784-45-6183 and 4.38 acres for PIN 1784-54-2734] located at 2891 Wendell Blvd & 969 Marshburn Road.

Staff Contact: Assistant Planning Director Bryan Coates
bcoates@townofwendell.com

6c. Sub-recipient Agreement between the Town of Wendell and Wake County for Community Development Block Grant (CDBG) Funding

Staff Contact: Planning Director Niki Jones
njones@townofwendell.com

6d. Interlocal Agreement between the Town of Wendell and Wake County for Building Inspections and Building Plan Review.

Staff Contact: Planning Director Niki Jones
njones@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

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

The Wendell Town Board of Commissioners held their virtual, regular meeting on Monday, January 25, 2021, in the Town Board Room, Wendell Town Hall, 15 East Fourth Street.

PRESENT: Mayor Virginia Gray; Mayor Pro Tem John Boyette (virtually); Commissioners: Jason Joyner, Jon Lutz, Joe DeLoach (virtually), and Philip Tarnaski

ABSENT: None.

STAFF PRESENT: Town Manager Marc Collins, Town Clerk Megan Howard, Town Attorney Jim Cauley, Assistant to the Manager Stephanie Smith, Police Chief Bill Carter, Planning Director Niki Jones, and Assistant Planning Director Bryan Coates.

SPECIAL NOTICE

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CALL TO ORDER

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

Police Chief Bill Carter led the Pledge of Allegiance.

Pastor Chris Hilliard of the Wendell Council of Churches provided the invocation.

1. ADJUSTMENT AND APPROVAL OF THE AGENDA

ACTION

Mover: Commissioner Lutz made a motion to approve the agenda, as presented.
Ayes: Commissioners Jason Joyner, Joe DeLoach, Philip Tarnaski, John Boyette and Jon Lutz.
Nays: None.
Vote: 5-0

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

2. PUBLIC COMMENT PERIOD

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- 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.

Nobody signed up to speak at this meeting.

3. CONSENT AGENDA

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3a. Wake County Tax Report

Staff Contact: Town Clerk Megan Howard
mhoward@townofwendell.com

3b. Adoption of January 11, 2021 Town Board Meeting Minutes

Staff Contact: Town Clerk Megan Howard
mhoward@townofwendell.com

3c. Approval of Certificate of Sufficiency and Resolution Setting the Public Hearing of a non-contiguous annexation for one parcel totaling 47.42 acres [PIN 1794-55-1682] located at 5060 Wendell Boulevard.

Staff Contact: Town Clerk Megan Howard
mhoward@townofwendell.com

3d. Approval of Certificate of Sufficiency and Resolution Setting the Public Hearing of a non-contiguous annexation for one parcel totaling 50.63 acres [PIN 1774-72-4863] located at 0 Eagle Rock Road.

Staff Contact: Town Clerk Megan Howard
mhoward@townofwendell.com

3e. Adoption of a Resolution Authorizing the Sale of Surplus Personal Property Valued at less than $30,000 by electronic auction.

Staff Contact: Finance Director Butch Kay
bkay@townofwendell.com

3f. Adoption of a Resolution Ratifying the Town of Wendell's Vote on the North Carolina League of Municipalities Legislative Advocacy Goals

Staff Contact: Town Clerk Megan Howard
mhoward@townofwendell.com

3g. Replacement of a Planning Board member on the Blueprint Wendell 2030 Comprehensive Plan Steering Committee

Staff Contact: Planning Director Niki Jones
njones@townofwendell.com

ACTION
Mover: Commissioner Lutz made a motion to approve the consent agenda.
Ayes: Commissioners Joyner, DeLoach, Tarnaski, Lutz and Boyette
Nays: None.
Vote: 5-0

4. RECOGNITIONS, REPORTS, AND PRESENTATIONS

4a. Presentation on Updated Capital Expenditure Plan for Projects funded by the Issuance of Debt.

Staff Contact: Town Manager Marc Collins
mcollins@townofwendell.com

Town Manager Marc Collins presented the following staff report and Power Point

presentation, below in italics:

Item Summary:

The Board voted approved the Reimbursement Resolution in April 2020 identifying capital projects to be reimbursed with the issuance of debt in fiscal year 2021 (FY 21). Further, the adopted FY 21 Budget identifies the balanced revenues and expenses to accomplish the capital project goals of the Town.

The presentation will provide an update on the capital project schedules, revised cost estimates, and funding strategy in preparation of releasing construction bids and debt issuance. An updated reimbursement resolution will be prepared for consideration in February 2021.

Updated Capital Expenditures for Planned Borrowing in FY 2021

- Adopted
  - Wendell Blvd. Pedestrian Project $366,835
  - Multi-Purpose Trail Project $134,340
  - Neighborhood Improvement Program $627,240
  - Park Access Road & Repaving Project $1,110,000
  - Park Land Acquisition $161,585
  - Town Hall Project $6,100,000
- Total $8,500,000
- Proposed
  - Police Station Land Acquisition $603,744
  - Public Works Land Acquisition $250,000
  - Park Access Road & Repaving Project $1,110,000
  - Town Hall Project $7,499,333.10
- Total $10,080317.10

Mr. Collins said that the Neighborhood improvement Program item should be in both the proposed and the adopted category.

Considerations

- Local Government Commission (LGC) Approval
- Length of term – 10, 15, or 20 year borrowing
- Rate – 2%, 2.5%, or 3%
- Items to fund with Debt vs General Fund Reserve
- Timing of borrowing – Likely start of FY 2022
- Deferring Principle and/or interest to next fiscal year
- Retire Debt vs. Capital needs / Increased Valuation over Time

Next Steps

- Current Schedule
  - February / March 2021 – Update Reimbursement Resolution for changes
  - By May - Obtain Construction Bids for Town Hall
  - May 2021 - Submit Application to LGC
  - June - LGC Approval
  - July – Close on Bank Borrowing
  - July / August 2022 – deferred 1st payment

Mr. Collins offered to answer any questions that the Board might have.

Commissioner Joe DeLoach asked if the payment estimation was based on a 4% appetite.

Mr. Collins said that their original estimates were on 4% based on what the LGC said about their current applications. He said they're expecting more around 2-2.7% at this point, as the Town has good credit for a lower rate in bank loans of this amount.

Commissioner Jason Joyner asked if the Board could get a copy of the schedule in an email.

Mr. Collins said he'd be happy to provide it and said that it is subject to change.

4b. Presentation on Upcoming Downtown Improvements.

Staff Contact: Assistant to the Town Manager Stephanie Smith
ssmith@townofwendell.com

Assistant to the Town Manager Stephanie Smith presented the following staff report and Power Point presentation, below:

Item Summary:

Since the Board voted to adopt the Downtown Initiatives at their October 26, 2020 meeting, staff has been working to execute plans for the approved initiatives. Staff will provide an update on parking, bike racks and solid waste service downtown prior to implementation.

WENDELL
Board of Commissioners

Agenda Item #4b: Presentation on Upcoming Downtown Improvements

Specific Action Requested:
Receive presentation on upcoming downtown improvements.

Item Summary:
Since the Board voted to adopt the Downtown Initiatives at their October 26, 2020 meeting, staff has been working to execute plans for the approved initiatives. Staff will provide an update on parking, bike racks and solid waste service downtown.

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

WENDELL
Board of Commissioners

Agenda Item #4b: Presentation on Upcoming Downtown Improvements

Parking Update:
Staff evaluated current parking downtown and established a task list to make improvements. Items include adding or removing signage, restriping existing parking spots, adding striping to areas where none exist so new spots can be established, and correcting out of compliance parking areas.

Approximately 10 new parking spaces will be added to the downtown area through this work. In addition, work will include striping the Women's Club Lot and adding concrete berm to identify parking locations at the Park & Ride Lot (approximately 50 spots between both locations).

The cost for improvements is expected to cost $5,700 and can be covered by the current fiscal year budget.

WENDELL
Board of Commissioners

Agenda Item #4b: Presentation on Upcoming Downtown Improvements

Parking Updates Include:
Adding "Public Parking" signs on Main Street & 4th Street pointing both left and right to direct to on-street parking on 4th Street and at Park & Ride Lot and on 3rd Street to direct to Tobacco Alley next to Town Square

Adding parking spots on 4th Street between Main Street & Cypress Street, on N Cypress Street between 4th Street & 5th Street, on 3rd Street past Pine Street

Stripe Women's Club Lot & add concrete berms to the Park & Ride Lot

Restripe W Campen Street (work will coordinate with new dumpster installation)

Remove incorrectly placed signs and parking spots at intersection of Main Street & 4th Street (visibility issues), at 3rd Street & Main (hydrant)

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

WENDELL
Board of Commissioners

Agenda Item #4b: Presentation on Upcoming Downtown Improvements

Bike Rack Update:

Staff has prepared a recommendation to add bike racks to downtown Wendell. The locations selected are Main Street & 3rd Street, the Town Square and the Park & Ride lot. The additional locations have been supported by the Appearance Commission and provide additional space for users to ride their bikes downtown and have a space to park.

There is also an opportunity to work with the Appearance Commission to use the bike racks to implement their "turn mundane objects into art" project.

The total cost for this project is estimated to be around $1,500 and can be covered by the current fiscal year budget.

Existing & Proposed Bike Rack Locations Downtown

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

WENDELL
Board of Commissioners

Agenda Item #4b: Presentation on Upcoming Downtown Improvements

Solid Waste Removal Update:
Staff was awarded $10,000 through the Wake County Waste Reduction Grant program. Funds will be used to add recycling cans to the trash receptacle areas for the public, as well as to install new dumpster pads at W Campen Street and the Women's Club Lot for business use. Both locations will house trash, recycling and cardboard dumpsters.

Once installed, staff will work with businesses in the Downtown area to bring any existing dumpsters into compliance.

The total cost for this project is estimated to be around $30,000, $10,000 of which will be covered by the Wake County Waste Reduction Grant. The remaining funds can be covered by the current fiscal year budget.

WENDELL
Board of Commissioners

Agenda Item #4b: Presentation on Upcoming Downtown Improvements

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

Downtown Dumpster Locations

Ms. Smith offered to answer any questions that the Board might have.

Mayor Gray asked where the dumpster is going to be on the Women's Club Lot.

Ms. Smith said that staff explored several locations, making sure it's easily accessible.

Mr. Collins said that staff is looking at future uses for that property, such as a splash pad for the open field next to the property. He said that they're looking at the back of the house in between the gate openings for the field and the Women's Club, midblock on the back side of the lot so that it's not the most visible thing when people are in the Town Square property.

Commissioner Jason Joyner mentioned working with other businesses to get the dumpsters up to standard. He asked if staff knew which ones needed to be brought up to compliance.

Ms. Smith said that the dumpsters on Town property are out of compliance and would need special permission from the Town. She said that staff wants to work with the businesses and make sure that they have opportunities to dispose of their trash. She said that staff doesn't want to enforce any of the regulations until an alternative solution has been offered. Ms. Smith said that the primary focus is to get the other dumpster locations installed and offer that as an alternative solution to the existing dumpsters that

businesses are currently using.

4c. Presentation of a Resolution acknowledging a Congratulations to Representative Darren Jackson and his Appointment to the North Carolina Court of Appeals.

Presentation by: Mayor Virginia Gray
vgray@townofwendell.com

Mayor Virginia Gray read the following Resolution, below:

Resolution of Congratulations to Representative Darren Jackson and his Appointment to the North Carolina Court of Appeals

R-05-2021

WHEREAS, on December 30, 2020, Governor Roy Cooper announced that he has appointed North Carolina State Representative Darren Jackson to his seat on the North Carolina Court of Appeals;

WHEREAS, Representative Jackson has served as a Representative in the North Carolina General Assembly for 12 years and has spent his legal career serving his state of North Carolina with honor;

WHEREAS, Representative Jackson has provided inspiring Leadership, performance, and dedication to his community;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Wendell support and extend congratulations and appreciation to Representative Darren Jackson for his Appointment to the North Carolina Court of Appeals.

DULY RESOLVED this the 25th day of January 2021 while in regular session.

Commissioner Joyner congratulated Mr. Jackson on his appointment.

ACTION
Mover: Commissioner Joyner made a motion to approve the Resolution of Congratulations to Representative Darren Jackson and his Appointment to the NC Court of Appeals.
Ayes: Commissioners Joyner, DeLoach, Tarnaski, Lutz and Boyette
Nays: None.
Vote: 5-0

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

4d. Presentation of a Resolution acknowledging a Congratulations to Knightdale Mayor James Roberson and his Appointment to the North Carolina General Assembly.

Presentation by: Mayor Virginia Gray
vgray@townofwendell.com

Mayor Virginia Gray read the following Resolution, below:

Resolution of Congratulations to Knightdale Mayor James Roberson and his Appointment to the North Carolina General Assembly

R-06-2021

WHEREAS, on January 11, 2021, Governor Roy Cooper announced that he has appointed Knightdale Mayor James Roberson to his seat on the North Carolina General Assembly in House District 39 in eastern Wake County;

WHEREAS, Mayor Roberson has served on Knightdale Town Council since 2007, and is the Senior Dean of Instructional Support and Chief Campus Officer of Wake Technical Community College's Western Wake Campus;

WHEREAS, Mayor Roberson has served on numerous boards and committees connecting community members with many opportunities and has provided inspiring Leadership, performance, and dedication to his community;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Wendell support and extend congratulations and appreciation to Mayor James Roberson for his Appointment to the North Carolina General Assembly.

DULY RESOLVED this the 25th day of January 2021 while in regular session.

ACTION
Mover: Commissioner Lutz made a motion to approve the Resolution of Congratulations to Mayor James Roberson and his Appointment to the North Carolina General Assembly.
Ayes: Commissioners Joyner, DeLoach, Tarnaski, Lutz and Boyette
Nays: None.
Vote: 5-0

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

5. PUBLIC HEARINGS

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5a. Public Hearing to rezone approximately 16.18 acres located at 2891 Wendell Boulevard and 969 Marshburn Road [PIN 1784-45-6183 and 1784-54-2734] from Rural Agricultural (RA) to Corridor Mixed- Use (CMX).

Staff Contact: Assistant Planning Director Bryan Coates
bcoates@townofwendell.com

Assistant Planning Director Bryan Coates presented the following staff report, below in italics:

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

Item Summary:

The applicant is requesting to rezone one parcel and a portion of another, located within the Town's extraterritorial jurisdiction (ETJ) that are currently zoned RA. The applicant is requesting a rezoning that is not part of a conditional district. The intent of the rezoning is to develop multi-family housing. Multi-family housing requires a special use permit and would require approval from the Board of Commissioners.

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

Property Information Summary	
Location	*East of Food Lion and West of Marshburn Rd.* ***Addresses:*** *2891 Wendell Blvd. (Partial), 969 Marshburn Road* ***PINs:*** *1784-45-6183, 1784-54-2734*
Current Zoning	*RA*
Requested Zoning	*CMX*
Area of Request	*16.18 acres*
Corporate Limits	*ETJ*
Property Owner	*G3 Properties LLC*
Applicant	*John Oglesby of CSD Engineering*

Project Setting – Surrounding Districts and Land uses:

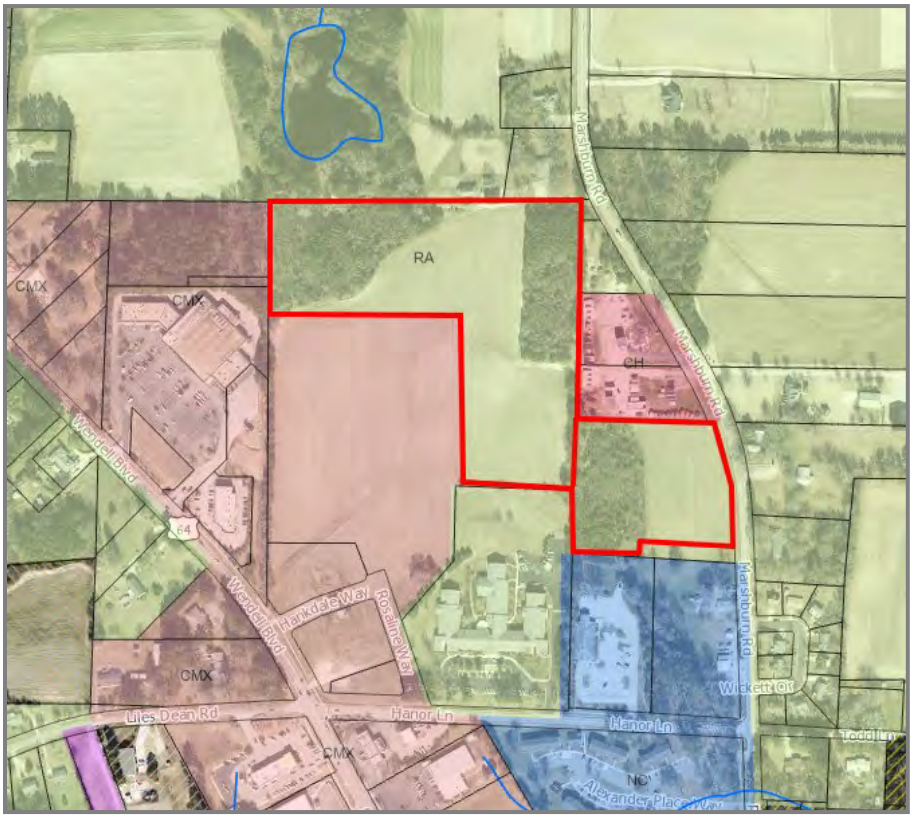
DIRECTION	LANDUSE	ZONING
North	*Residential/Agricultural*	*RA*
South	*Residential/Commercial*	*RA/CMX*
East	*Residential/Agricultural/Commercial*	*RA/CH*
West	*Commercial*	*CMX*

Zoning District:

The subject properties are currently located in the RA zoning district. The surrounding properties are zoned RA, CH and CMX.

Current Zoning Map (requested properties outlined in red):

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021



Comprehensive Plan:

The Wendell Comprehensive Plan defines this section as S-4 Controlled Growth Area, Neighborhood Center and partly in the Wendell Blvd Gateway Corridor.

S-4 lands 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:

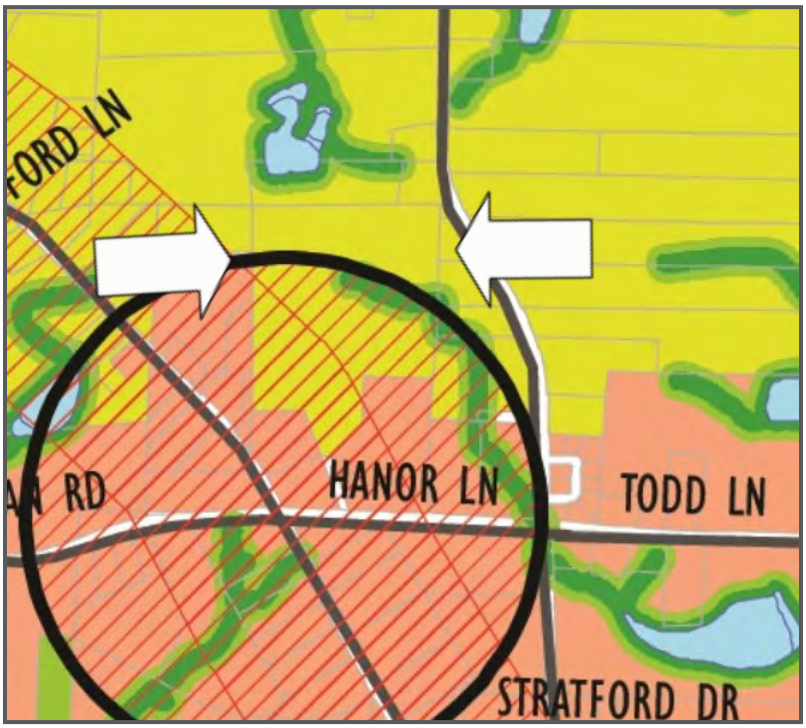
- *traditional neighborhood developments*
- *neighborhood centers*
- *single-family and multifamily residential*
- *neighborhood-serving commercial uses (retail and office)*
- *civic uses*
- *industrial uses*

Neighborhood Centers are shown on the framework plan in the smaller circles, are based on a ¼-mile radius (a typical 5-minute walk) from a major intersection. They are intended

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

to be mixed-use activity centers serving surrounding neighborhoods with retail, services, civic uses, and higher density housing. A neighborhood center should not contain more than 80,000 to 120,000 square feet of retail uses. A grocery-anchored mixed-use development is a typical use for a neighborhood center.

The Wendell Boulevard Gateway Zone a special zone along Wendell Boulevard between downtown and the US 64 interchange. This area is experiencing immediate development pressure and much of the area is already zoned for non-residential uses. This Plan recommends that it be an area for professional office and service uses and some higher density residential uses. Additional design guidelines for building and site design to protect the visual character (including the mature trees and forested areas that define parts of the corridor) should be added to the Town's regulating ordinances. Retail uses along this corridor should be limited to the identified centers or nodes in the Framework Plan.



Planning Board Recommendation:

At their December 21, 2021 meeting, the Planning Board voted unanimously to recommend approval of the requested zoning map amendment (Attachment D).

> ***Voting in Favor:*** *Jonathan Olson, Levin Jones, Deans Eatman, Cande Killian Wood, Ryan Zakany, Jimmena Huffman-Hall & Allen Swaim.*
>
> ***Voting Against:*** *None*
>
> ***Absent:*** *Michael Firstbrook*

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

***Statement of Plan Consistency Reasonableness**:*

The requested zoning map amendment is consistent with the recommended uses outlined in the Wendell Comprehensive Land Use Plan for the S-4 Sector, Neighborhood Center and Wendell Blvd Gateway Zone and is reasonable as it is consistent with adjacent uses and zoning districts.

Mr. Coates offered to answer any questions that the Board might have.

Mayor Gray opened the public hearing and asked if the applicant had anything they would like to say.

John Oglesby of CSD Engineering, 1449 S. Hollybrook Road, thanked the Board of Commissioners for their time.

Commissioner Jason Joyner said there was a question posed at the Planning Board meeting about a pathway with an adjoining property owner. He asked if the applicant had addressed that.

Mr. Oglesby said that an agreement has been reached with the adjacent property owner.

Commissioner Joe DeLoach asked if that was the historical road discussed.

Mr. Coates said that yes, it was a farm path and it provides property access to the north.

Amy Painter Benson, 6836 NC-50N, Benson, North Carolina, 27504, spoke during public comment period, thanking the Board for the time to voice her concerns. She said she owns the farm adjoining the property and was concerned about the development being multi-family and trespassing. She asked that buffers be developed to be good enough to prevent that. Mrs. Benson said the longest buffers should be between the two properties to prevent liability. She said that at this point, the developer and her are working on an agreement to purchase the farm path that is on Amos Greene's land.

Mayor Gray closed the public hearing subject to the receipt of written public comment within 24 hours. She said that the Board will take a vote on this item at the February 8, 2021 Town Board Meeting.

5b. Public Hearing for a contiguous annexation for two parcels totaling 28.28 acres

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

[23.9 acres for PIN 1784-45-6183 and 4.38 acres for PIN 1784-54-2734] located at 2891 Wendell Blvd & 969 Marshburn Road.

Staff Contact: Assistant Planning Director Bryan Coates
bcoates@townofwendell.com

Assistant Planning Director Bryan Coates presented the following staff report, below in italics:

Item Summary:

John Oglesby on behalf of G3 Properties LLC has submitted an annexation request for two parcels totaling 28.28 acres [23.9 acres for PIN 1784-45-6183 and 4.38 acres for PIN 1784-54-2734] located at 2891 Wendell Blvd & 969 Marshburn Road.

The two requested parcels are part of the Wendell Village development that is under development by G3 Properties LLC. The applicant has submitted a rezoning petition for the portions zoned Residential-Agriculture (RA).

Zoning District:

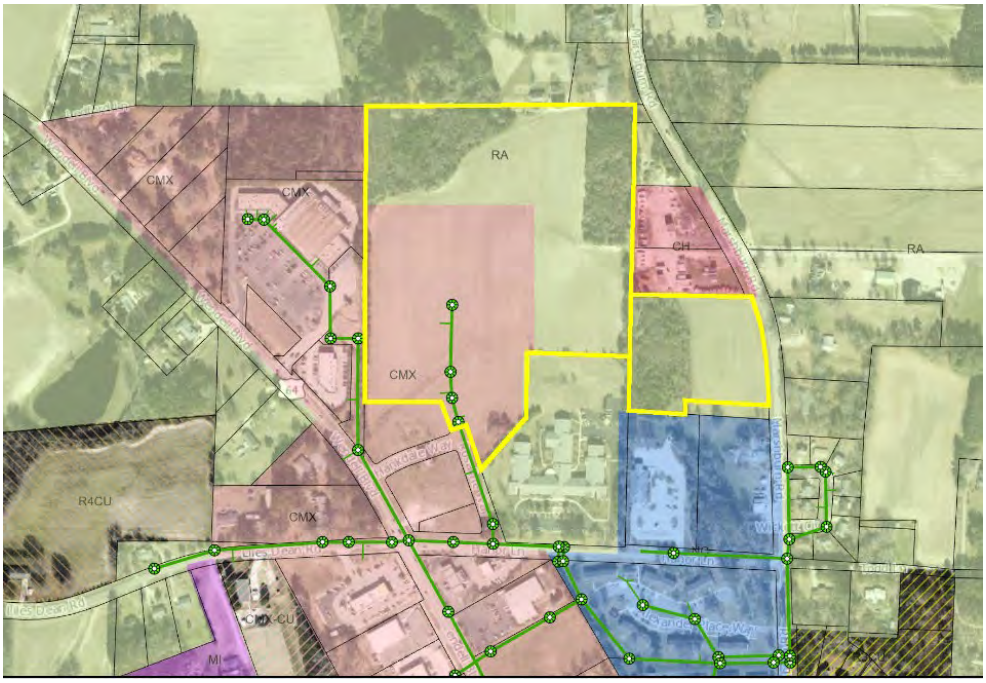
The parcels are located in the Town of Wendell extra-territorial jurisdiction (ETJ) and are currently in the Residential-Agriculture (RA) and Corridor Mixed Use (CMX) zoning districts.

Impacts to Town Services:

The proposed annexation area would require services from the Town's Police, Public Works, and Parks and Recreation Departments if annexed and developed. Secondary service impacts will be incurred by other Town departments that support the operational departments. The property is already served by the Wendell-Holmes Fire District. Water and sewer are readily available to the property and provided by the Wendell Service Area by the City of Raleigh Utilities Department. Specific impacts are dependent on the use, density, and design of development and subject to approvals for utility allocations and land use.

***Location Map**:*

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021



Mr. Coates offered to answer any questions that the Board might have.

Mayor Gray opened the public hearing.

Commissioner Philip Tarnaski asked where the farm road was located on the map.

Mr. Coates showed the Board of Commissioners that the farm road was located along the back right on the map of the property.

John Oglesby of CSD Engineering, 1449 S. Hollybrook Road, thanked the Board of Commissioners for their time.

Amy Painter Benson, 6836 NC-50N, Benson, North Carolina, 27504, said she understood that growth is a part of progress.

Mayor Gray closed the public hearing subject to the receipt of written public comment within 24 hours. She said that the Board will take a vote on this item at the February 8, 2021 Town Board Meeting.

6. ADMINISTRATIVE ITEMS

6a. Downtown Façade Improvement Grant Updates

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

Staff Contact: Planning Director Niki Jones
njones@townofwendell.com

Planning Director Niki Jones presented the following staff report, below in italics:

Item Summary:

At the November 23, 2020 Board of Commissioner's Meeting, staff was asked to update the Downtown Façade Improvement Grant policy. Subsequently, staff made several updates to the policy and reported out to the Board via a presentation at the December 14, 2020 Board of Commissioner's Meeting.

At that meeting, staff reviewed the proposed changes with the Board. The Board agreed with the changes and provided additional guidance. The proposed changes and additional guidance were as follows:

Current Policy
- *Owner must wait for **three years** to reapply if awarded a grant.*
- *Project must be complete **within the fiscal year***
- *Lacks clarity on whether signs are permitted as an eligible exterior improvement.*
- *$10,000 per façade*
- *Silent on geographic location*

Proposed Policy
- *Owner must wait for **two years** to reapply if awarded a grant.*
- *Project must be complete **within 1-year** of grant award*
- *Signage is **not** an eligible exterior improvement.*
- *$5,000 per façade*
- *Only within the DMX (Downtown Mixed-Use) Zoning District*

***Additional Guidance**:*
- *Ensure that if an applicant is awarded a grant, the work is to be completed within an appropriate amount of time.*
- *Market the program more frequently and with various strategies*

***Response**:*
- *All work must be completed within one-year of grant approval or if a valid building permit is open.*
- *Staff will coordinate various marketing strategies ahead of each cycle.*

After the December 14, 2020 Board of Commissioners meeting, staff took the proposed updates the Appearance Commission for their review. The Appearance Commission voted in favor the changes as they were presented.

Mr. Jones offered to answer any questions that the Board might have.

Commissioner Jason Joyner said that, historically, the Board's ability to fund this has

been based on budget. He asked why the amount was reduced from $10,000 to $5,000 as a cap on the grant. He asked if it was still an option for staff to waive that cap in the event that it's needed.

Mr. Jones said that the cap was reduced so that the Town could "spread the wealth" among multiple businesses but said that the policy can show that staff has the capability to waive that cap in situations where it's needed to make a larger impact.

Commissioner Joyner said he liked the idea of having staff recommendations to have the capacity to waive that cap if the opportunity presents itself to be as helpful as possible to a business in need. He asked if the wording regarding the repair or purchase of awnings being explicit about not paying for signage could still be allowed within the policy.

Mayor Gray said she struggled with using taxpayer money to pay for signage of the names of businesses. She said that sometimes businesses move and she wanted there to be a way for awnings to be allowed in the grant, so long as the name of the business can be removed from the awning if the business moves.

Mr. Jones said he could make those amendments to the policy.

Commissioner Jon Lutz said that there's currently an awning downtown with an old name on it. He said he agrees with the Mayor on not using taxpayer dollars on business signage. He cautioned the Board on the sizeable change being needed for a sizeable amount. Commissioner Lutz said he didn't want the Board to award the $10,000 to a building that already looks nice.

Mayor Gray asked if there was a way to word it with the $5,000 being the typical cap.

Commissioner Joyner said that "with staff recommendation' could cover that.

Attorney Jim Cauley said that having it as an exception would cover that.

Commissioner Philip Tarnaski asked if the $10,000 is all they had in the budget for the grant, each year. He asked if one person received the full amount, if that would be it for the entire year.

Mr. Jones confirmed.

Mr. Collins said that each year, the Board has the capability to add or subtract from the amount allotted for each fiscal year.

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

ACTION	
Mover:	Commissioner Joyner moved to approve the Downtown Façade Improvement Grant Updates with the amendments of waiving the $10,000 cap at staff's recommendation as well as allowing awning signage when removeable.
Ayes:	Commissioners Joyner, DeLoach, Tarnaski, Lutz and Boyette
Nays:	None
Vote:	5-0

6b. Agreement for Professional Services for Stormwater Utility Study Phase I with contracted Town Engineer, WithersRavenel, Inc.

Staff Contact: Town Manager Marc Collins
mcollins@townofwendell.com

Town Manager Marc Collins presented the following staff report, below in italics:

Item Summary:

Under the Federal Clean Water Act, National Pollutant Discharge Elimination System (NPDES) enforced by the Environmental Protection Agency (EPA), the Town is required to maintain and enforce a stormwater program. The Federal requirements are monitored and enforced at the State level through the NC Department of Environmental Quality (NCDEQ) though annual compliance reporting and periodic program audits. The Town of Wendell is scheduled to receive its stormwater program audit in 2022.

In preparation for the audit, staff worked with WithersRavenel, Town Engineer of record, to prepare a Stormwater Program Gap Analysis in 2020. The study identified actions necessary to advance the current Town stormwater program to a compliant program. The proposed next step is the study of operational and capital project needs in conjunction with identifying and studying funding options to implement the necessary projects.

Public Works staff worked with the Town Engineer to develop the attached Task Service Agreement (Attachment A) that identifies six (6) as set out in the stormwater scope document. Brief descriptions of each task are as follows.

Task 1: Project Planning / Management – Establishes a Project Leadership Group (PLG) composed of Town staff to work with the consultant to maintain project schedule, scope, and prepare for presentation of findings to the Board.

Task 2: Capital Improvement Plan – Establishes a list of ten (10) stormwater projects to be considered in the Capital Improvement Plan (CIP) with rough cost estimates for implementation over a 10-year time frame.

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

Task 3: Budget Development – Prepare an operating budget for the FY 2021-2022 Budget for the stormwater program. The budget includes expenses for staffing, operations, maintenance, engineering capital project support, and emergency repairs.

Task 4: Financial Analysis Model – Develop a financial analysis model to analyze financial variables associated with the establishment of a stormwater utility for the Town to develop a sustainable financial model for the program to be used in future years.

Task 5: Stormwater Fee Modeling - Provides information for various fee options, revenue estimates for annual fiscal cycles and comparisons to other municipalities. The evaluation of a fee provides for revenue options outside of ad valorem taxes to meet program cost needs for regulatory compliance.

Task 6: Presentation of Final Deliverables – Presentation to the Town of all material and working with staff to deliver accurate data to be used for budget preparation.

The project cost of $21,000 will be funded through stormwater consultant services in the Public Works Department line adjusted in the end of year Budget Amendment. The project schedule provides for the program analysis to be completed and presented to the Board by the April Budget Work Session to assist with timing and funding in Fiscal Year 2022. The final goal being to develop a stormwater program that is regulatory compliant prior to the 2022 program audit by NCDEQ.

Mr. Collins offered to answer any questions that the Board might have.

No questions were asked.

ACTION	
Mover:	Commissioner Lutz moved to authorize the Town Manager to sign the Agreement for Professional Services for Stormwater Utility Study Phase I with contracted Town Engineer, WithersRavenel, Inc.
Ayes:	Commissioners Joyner, DeLoach, Tarnaski, Lutz and Boyette
Nays:	None
Vote:	5-0

6c. Agreement for Professional Services for Americans with Disabilities Act (ADA) Assessment and Transition Plan with contracted Town Engineer WithersRavenel, Inc.

Staff Contact: Town Manager Marc Collins
mcollins@townofwendell.com

Town Manager Marc Collins presented the following staff report, below in italics:

Item Summary:

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

Under the Americans with Disabilities Act (ADA), enforced by the U.S. Department of Justice (USDOJ), the Town is required to maintain compliant programs, facilities, infrastructure, and communication upon reaching a 50-employee threshold. The Town is required to complete an assessment and develop a Transition Plan that identifies the steps and schedule to bring the public, Town property into compliance.

The FY 2021 Budget includes funding for the acquisition of professional services to complete the required work. A request for proposals (RFP) process was used to solicit responses by interested companies to complete the work identified in the scope of work. The Town received sic (6) responses that were reviewed by a staff panel. After ranking and reviewing the responses, two (2) finalists were invited to participate in a virtual interview for follow-up questions. Staff selected WithersRavenel, Inc. based on responsiveness to the RFQ criteria and follow-up interview.

The project will provide for ADA consulting services, public meeting for plan input, a facility inventory and assessment, assessment of sidewalks and curb ramps, inventory of inspected locations with corrective actions and cost estimates, and drafting of the ADA Transition Plan, presentation to the Board with opportunity of public review, and modification and preparation of the final plan for adoption.

The project cost of $34,000 will be funded appropriated project line in the Administration Department and adjusted in the end of year Budget Amendment. The appropriated project cost was $32,000 and is $2,000 below the negotiated project cost in the Agreement. The project schedule provides for the completion of the assessment and development of the ADA Transition Plan by June 20, 2021.

Mr. Collins offered to answer any questions that the Board might have.

ACTION
Mover: Commissioner Lutz moved to authorize the Town Manager to sign the Agreement for Professional Services for Americans with Disabilities Act (ADA) Assessment and Transition Plan with contracted Town Engineer WithersRavenel, Inc.
Ayes: Commissioners Joyner, DeLoach, Tarnaski, Lutz and Boyette
Nays: None
Vote: 5-0

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:

- Capital Area Metropolitan Planning Organization (CAMPO) – Mayor Virginia Gray

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

Mayor Gray said that CAMPO met virtually and they held a Public Hearing on the recommended list of LAPP projects that were submitted for public comment that started January 6th and will continue through February 14th if anyone would like to submit public comment on those projects. She said they held a Public Hearing on a locally-preferred alternative for a downtown Cary transit center, held elections for their chair and vice chair for 2021 and remained the same as the previous year. Mayor Gray said they received a draft on the 2050 Scenario Development which is part of the Metropolitan Transportation Plan. She said they received the 2020 Wake Transit Annual Report, the Greater Triangle Commuter Rail Phase 2 Study Progress update, a DOT update, LAPP Project Restart Policy update, discussed CAMPO prospect projects and funding updates which were approved. She said they received safety performance measures and targets for 2021, received information about joint MPO Transportation Public Principles and Priorities, and various staff reports.

Technical Review Committee (TRC) – Mayor Pro Tempore John Boyette

Mayor Pro Tempore Boyette said the TRC held multiple meetings, the first in reference to the new Town Hall with an overview on the 15-16,000 square-foot building on 6.5 acres and discussed the fire access road design materials and whether or not the road would have any edging. He said that the TRC discussed stormwater erosion surveying issues, and parking lot design regarding traffic site triangle landscaping and lighting. He said that at the second meeting, the TRC met regarding a development called Peyton Place with some environmental and stormwater items that were brought up as well as some street design and sidewalk questions. The TRC discussed utilities and how they would be extended to the property and whether or not those were easements or if they were going to be run within the roadway. He said that Peyton Place is located on Old Tarboro Road, which is a dirt road that used to be the main road between Raleigh and Tarboro, backing up to Anderson Farms. He said that the third meeting was regarding a development that's going to be near the intersection of Wendell Falls and Eagle Rock Road, halfway between the stoplight and Central Baptist Church. The TRC discussed stormwater, retaining pond design on the commercial section of the property, street width, parking, the length of street, and the location of open space as Wendell Falls Parkway is a very busy road and they had some open park space that abutted Wendell Falls Parkway which brought up questions of open space next to a high-volume road. Amenities were also discussed and whether or not a multi-use path along Wendell Falls Parkway was going to be installed instead of a standard-size sidewalk.

Mayor Gray asked what the TRC's thoughts were on the surfacing of the fire access road at the new Town Hall.

Mayor Pro Tem Boyette said the architect/engineer assured the Town and Fire Chief that it would be engineered to withstand the all-weather weight of any fire apparatus that were to drive on it. He said the Public Works Director brought up questions regarding it being an unpaved gravel surface which is why edging was discussed. He said the firm said it would find engineering suitable for that road's intended use.

Eastern Wake Senior Center – Commissioner Joe DeLoach

Commissioner Joe DeLoach said the Eastern Wake Senior Center met virtually and a presentation was made by Program Director Jennie Griggs regarding information given in response to some surveys that were sent out to each of the Senior Center members. Commissioner DeLoach said that there are 407 members and the Senior Center received 205 of those surveys providing great feedback about the programs given, transportation and facilities. He said that they named the weekly newsletter *The Voice*, which anyone can subscribe to and the Town promotes the newsletter through social media. He said there is also a daily Facebook Live every day at 3:30 p.m. and will begin to have a special guest on Mondays who will provide relevant information and will partner with local businesses that can also provide information that is helpful to seniors. He encouraged business owners to participate and reach out to himself or the Senior Center directly to get involved. He said it's not meant as a sales pitch, but rather information given that is helpful to seniors. Commissioner DeLoach thanked his fellow Rotary member, Braxton Honeycutt, for assisting the Senior Center with that. He said the Senior Center elected new officers up to 2021. Commissioner DeLoach said that it is a delight to be a member of this group, as they are truly a blessing to the community. He said if you are age 55 or older, you can join the Senior Center and get involved. He said that they were very appreciative of the Town's assistance of the cleanup at the Center. The Center is eager to reopen, but they also understand precautions that are being taken so it's still tentative.

8. COMMISSIONERS' REPORTS / COMMENTS

Commissioner Joyner spoke about the Covid numbers in Wake County in comparison with the vaccine backlog and the working process of getting vaccines out. He said Wendell's numbers are still increasing and encouraged people to wear masks even though he understands it is frustrating. He said Wendell is one of the highest communities for catching COVID in Wake County. He said the quicker the community works together, the quicker things will get back to normal and encouraged safety precautions.

Commissioner DeLoach said he agreed with Commissioner Joyner about taking safety precautions, as he is currently quarantined to virtual attendance himself. He asked the

community to continue to do what is necessary and respectful to others and said the community will get through it. He encouraged citizens to reach out if they need anything.

Commissioner Boyette thanked Chief Carter for providing the COVID numbers on a regular basis. He said the numbers have been increasing and he hopes with the vaccines, that those numbers will decrease. He said he's happy to see Wake County prioritizing harder-hit areas with Zebulon Park now being a permanent vaccine site. Commissioner Boyette said that he knows that there has been some discussion between staff and Wake County on a regular basis regarding vaccines and it's good to see all of these entities work together. He encouraged people to practice the safety precautions such as wearing a mask, social distancing, and washing hands. He said he's seen a lot more people wearing masks at the grocery store and he hopes we can get it behind us, moving forward.

9. MAYOR'S REPORTS / COMMENTS

Mayor Gray thanked the Planning Department for their work on the façade grant before receiving applications and entering budget season. She congratulated the 52 seniors that graduated from East Wake High School last year at the mid-year graduation. She said this was for students that graduate early. Mayor Gray said this was the first mid-year graduation that she's missed but congratulated all kids that have graduated, whether early or not. Mayor Gray said that she attended a virtual meeting with the Wake County Mayor's Association and the Wake County Delegation to the North Carolina General Assembly and discussed COVID relief to municipalities, COVID testing sites, and the need for sites in eastern Wake County which has produced testing sites in Wendell and Zebulon. She thanked Hephzibah Baptist Church for stepping up several times for the Town during the pandemic. She said she would like to see testing and vaccine sites closer to the downtown within walking distance for those who might not have transportation. Mayor Gray said they also discussed DOT funding, which might need assistance from the General Assembly. She said they also worked with the North Carolina League of Municipalities on common advocacy goals submitted by towns because those are a reflection of what all towns need. Mayor Gray said that she also had a lunch and learn with the Wendell Chamber of Commerce with Katie Coble of East Wake High School who is the career development and internship coordinator at the school. She said students are able to choose a career path for study and she is trying to get Wendell businesses involved in the internship program. Mayor Gray encouraged businesses to reach out and participate. She said the email address is kcoble@wcpss.net for those interested. Mayor Gray said that the Farmer's Market is now accepting applications for vendors. She said the season begins May 1st and goes to October 2nd on Saturdays from 8 a.m. to 12 p.m.

10. CLOSED SESSION

Closed session will be called if necessary.

TOWN OF WENDELL
BOARD OF COMMISSIONER REGULAR MEETING MINUTES
JANUARY 25, 2021

11. ADJOURN

ACTION
Mover: Commissioner Lutz moved to Adjourn at 8:46 p.m.
Ayes: Commissioners Joyner, DeLoach, Tarnaski, Lutz and Boyette
Nays: None.
Vote: 5-0

Duly adopted this 8 day of February 2021 while in regular session.

Virginia R. Gray,

Mayor

ATTEST:

Megan Howard,

Town Clerk

TOWN OF WENDELL NORTH CAROLINA

15 E Fourth Street, Wendell NC 919.365.4450
www.townofwendell.com

RESOLUTION SETTING FILING FEE FOR CANDIDATE SEEKING THE OFFICE OF MAYOR OR COMMISSIONER

R-11-2021

WHEREAS, NC GS 163A-1620(e) states that the filing fee shall be fixed by the governing body for candidates seeking the office of Mayor and Board of Commissioners.

NOW, THEREFORE, be it resolved that the Town Board of Commissioners of the Town of Wendell that beginning with the regular municipal election to be held in 2021, the filing fee for the office of Mayor shall be twenty-five dollars ($25.00) and the filing fee for the office of Commissioner shall be twenty-five dollars ($25.00).

Duly resolved by the Wendell Town Board of Commissioners this 8th day of February 2021 while in regular session.

_____
Virginia R. Gray,
Mayor

ATTEST:

_____
Megan Howard, Town Clerk

Date: February 8, 2021 **Item # 5a**

Item Title:

Public Hearing for disinterment, relocation, and reinterment of Graves located at 5301 Rolesville Road to Oakwood Cemetery in Raleigh.

Report to the Board of Commissioners:

February 8, 2021 Public Hearing

Specific Action Requested:

Hold a public hearing on the proposed request and consider a motion to approve the requested disinterment, relocation, and reinternment as requested.

Item Summary:

This petition for grave disinterment, relocation, and reinterment is submitted by Ellen Turco of Richard Grubb Associates (RGA) on behalf of Wake Technical Community College. The purpose of this petition is to remove the remains within the graves from the 45.75-acre parcel (PIN 1774-39-7752) located at 5301 Rolesville Road, and to reinter them in Oakwood Cemetery at 701 Oakwood Avenue where they will have perpetual care.

The actual number of graves at this location cannot be determined with certainty, until site work begins. The petitioner indicates that the removal of this cemetery is necessary to accommodate the construction of the Wake Tech Community College campus and to provide better protection of the remains by relocating them to a perpetual care cemetery.

Compliance with NCGS

Section 65-106 (a) (4) of the North Carolina General Statutes requires that the Town of Wendell Board of Commissioners holds a public hearing when graves are proposed to be removed by a party other than the next of kin.

Under the North Carolina General Statutes, any grave that is disinterred is required to be reinterred in a suitable cemetery. The remains within these graves that are petitioned for removal, if approved, would be reinterred within Oakwood Cemetery where they will receive perpetual care.

The disinterment, removal, and reinterment of the remains within this cemetery shall be performed by a licensed funeral director, and the Wake County Environmental Services staff shall be on site to observe the process (as required by state law). The funeral director, or petitioner, shall be required to file a Removal of Graves Certificate with the Wake County Register of Deeds office after the work is completed in order to document the relevant facts of the disinterment and reinterment.

North Carolina General Statute requires the petitioner provide a 30-day written notice of intention to the next of kin. The petitioner placed a legal advertisement in the Raleigh News and Observer newspaper for four (4) consecutive weeks in an attempt to notify any next of kin or any other interested parties. The legal notices appeared in the newspaper on September 2nd, 9th, 16th and 23rd of 2020. The petitioner has indicated that they did not receive any response to the newspaper advertisements.

Additionally, the Town of Wendell Planning staff posted a public hearing notification sign along Rolesville Road and ran two public hearing notices in the Wake Weekly newspaper on January 28th and February 4th.

In addition to the legal notice, 51 individuals (living) were identified who are potentially related to families who owned the subject parcel in the twentieth century. These individuals were notified of the proposed grave relocation by letter. Richard Grubb Associates sent notification letters on behalf of Wake Tech to these individuals on September 21, 2020 as required by NC GS 65-106(b). The letter requested assistance in identifying the persons buried in the cemetery. Six individuals responded to the letter but were not aware of any family members buried on site.

The identities of individuals interred in the cemetery remain unknown. Based on historical background research, it is plausible that the cemetery predates the 1893 acquisition by the Todd family. It is not known if the deceased were owners of the tract, tenant farmers who worked the land but did not own it or were enslaved individuals. Any of these scenarios is plausible in eastern Wake County.

The petitioner has fulfilled all the requirements for the removal and relocation of the remains within this cemetery as outlined by the North Carolina General Statutes, Section 65-106.

Attachments:

A. Wendell Cemetery Report- Prepared by Richard Grubb Associates
https://nmcdn.io/e186d21f8c7946a19faed23c3da2f0da/3834b95a93b14b3689a528c1f97c5d69/files/2020-210NC-Wendell-Cemetery-Grave-Removal-10-26-2020f.pdf

Date: February 8, 2021 **Item # 5b**

Item Title:

Public Hearing on a Text Amendment (ZTA20-04) to the Arterial and Collector Street Plan and Map.

Board of Commissioners Meetings:

February 8, 2021 - Public Hearing

Specific Action Requested:

Hold a public hearing on the proposed rezoning request.

Summary and Analysis:

In September 2015, the Town adopted the Arterial and Collector Street Plan. The adoption of this plan provided standards for design and articulated the Town's vision on future roadway connections. When the plan was created, staff and the consultants aimed to make future connections that made sense at the time. Many of those connections were shown as "new facilities" and did not have the right-of-way to construct the new roads shown on the map.

Due to community feedback in 2019, the Town amended the Arterial and Collector Street Plan and infrastructure improvement requirements to reduce the financial burden on developers seeking to build along arterial or collector roads. At this time, the Transportation Plan Map was not impacted.

The 2019 amendment was recognition that staff understood that financing was an important consideration as it relates to road construction and transportation improvements. The financing of road construction is more than labor and material costs. Other key factors to consider are environmental and topographical challenges. Several of the proposed roads in the Transportation Plan Map would need to overcome these challenges. One of those proposed roads is between Wendell Boulevard and Morphus Bridge Road. This segment is proposed to be a Minor Thoroughfare (4-lane divided).

Minor thoroughfares are intended to connect smaller activity centers, allow greater access, and as such permit lower traveling speeds. Large residential areas are envisioned to be connected by minor thoroughfares.

David Bergmark of McAdams submitted a Text Amendment application to the Town's Planning Department and requested the following:

1. **Delete the Proposed Minor Thoroughfare (4-lane divided road) shown crossing Old Quarry Road on the Transportation Plan Map. This facility connects to Wendell Boulevard to the north and Morphus Bridge Road to the south.**

This road is shown as a future connection in CAMPO's long-range transportation plans. The intent of this road is to connect Wendell Boulevard and Morphus Bridge Road which would provide a future traffic movement to the south. This would require crossing two floodplains, a railroad track, and navigating around a rock quarry (See Attachment C). Therefore, there are environmental challenges and a very high financial hurdle to overcome.

Statement of Plan Consistency and Reasonableness:

The proposed amendment could be found to be consistent with the following principles of the comprehensive plan and deemed reasonable and desirable in order to ensure that Town acknowledges sustainable development practices are.

- General Principle #9: "Protect and preserve Wendell's natural resources and amenities, including its streams, lakes, wetlands, and hardwood forests while balancing private property rights.
- Key Principle #6: Preserve Open Space, Farmland, Natural Beauty, and Critical Environmental Areas.

Planning Board Action:

At their January 19, 2021 meeting, the Planning Board voted 3-3 on the motion to approve the requested zoning text amendment. Since a simple majority vote is required to pass a motion, the motion failed. Therefore, no formal recommendation is being made by the Planning Board on this item.

Voting in Favor: Cande Killian Wood, Deans Eatman and Levin Jones

Voting Against: Allen Swain, Ryan Zakany and Jonathan Olson

Absent: Michael Firstbrook and Jimmena Huffman-Hall

Since no subsequent motion was made by the Planning Board, a supermajority of the Board of Commissioners will not be required to approve the requested text amendment.

Applicant Justification:

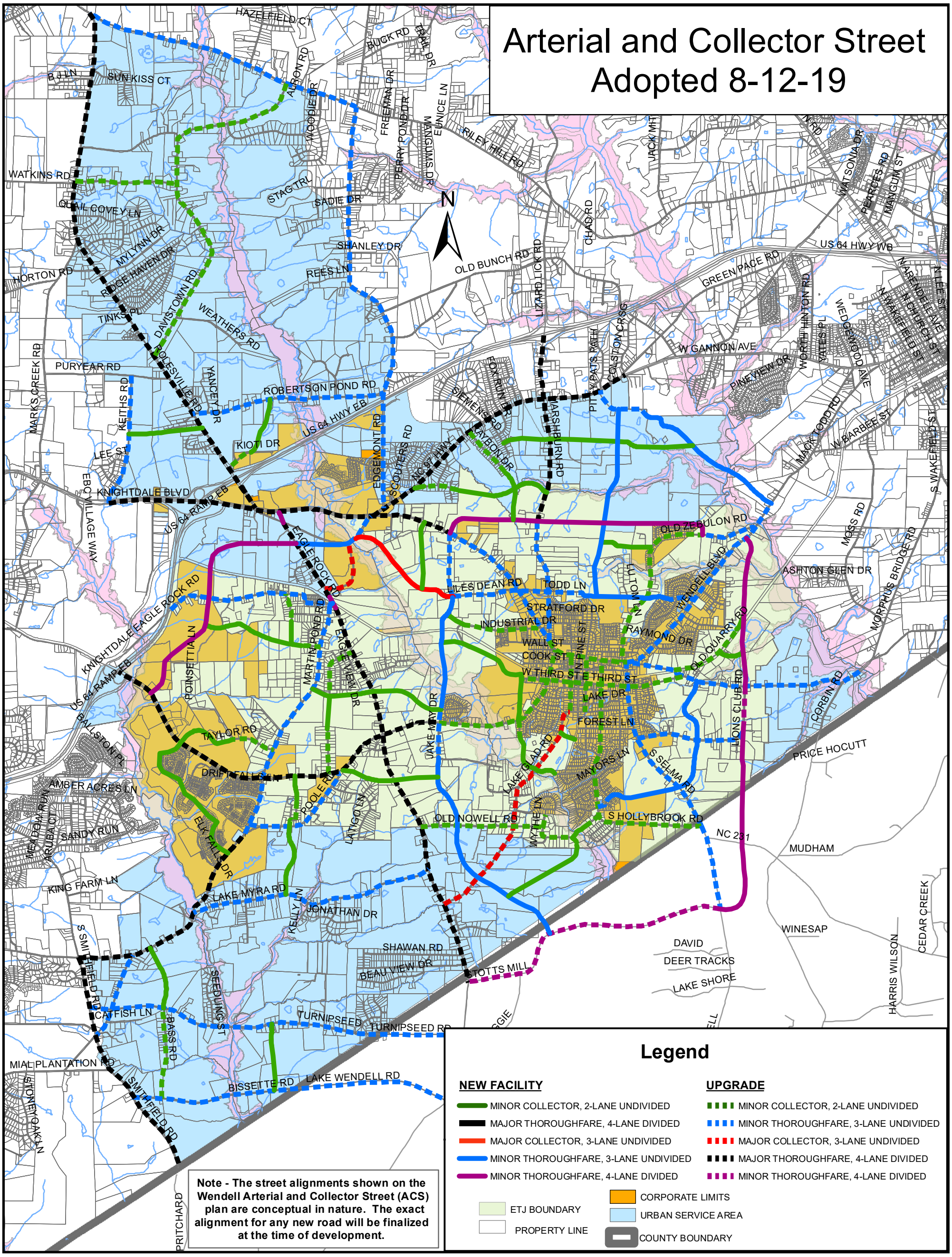
The applicant's justification statement is included in their petition to the Town (Attachment D).

Attachments:

A. Arterial and Collector Street Map
B. Proposed Map Change
C. Environmental Map

D. Applicant's Submittal Information
E. Ordinance
F. Planning Board Recommendation

EXHIBIT 1


Arterial and Collector Street
Adopted 8-12-19
N
HAZELFIELD CT
BUCK RD
ALISON RD
WOODIE DR
FREEMAN DR
PERRY POND DR
MAGNOLIA DR
EUNICE LN
RILEY HILL RD
JACK MHT
WATSONIA DR
PEARCES RD
MANGUM ST
B J LN
SUN KISS CT
WATKINS RD
STAG TRL
SADIE DR
QUAIL COVEY LN
MYLYNN DR
RIDGE HAVEN DR
SHANLEY DR
REES LN
OLD BUNCH RD
CHAD RD
LIZZARD LICK RD
US 64 HWY WB
GREEN PACE RD
HORTON RD
TINKS PL
DAVISTOWN RD
WEATHERS RD
WORTH HINTON RD
YATES PL
WEDGEWOOD AVE
N WAKE FIELD ST
W WAKE FIELD ST
NITE ST
MARKS CREEK RD
PURYEAR RD
ROLESVILLE RD
JANCEY DR
ROBERTSON POND RD
KEITHS RD
LEE ST
KIOTI DR
US 64 HWY EB
EDGEMONT RD
S COUTERS RD
NC 97 HWY
FOX RUN DR
SIEMENS RD
MARSHBURN RD
PITTY PATS PATH
COLISTON CRSG
W GANNON AVE
PINEVIEW DR
MACK TODD RD
W BARBEE ST
S WAKE FIELD ST
EBCY VILLAGE WAY
KNIGHTDALE BLVD
US 64 RAMP EB
EAGLE ROCK RD
OLD ZEBULON RD
MOSS RD
MORPHUS BRIDGE RD
ASHTON GLEN DR
WENDELL BLVD
ELTOM LN
TODD LN
LILES DEAN RD
STRATFORD DR
INDUSTRIAL DR
WALL ST
COOK ST
W THIRD ST
E THIRD ST
NINE ST
RAYMOND DR
OLD QUARRY RD
LAKE DR
FOREST LN
LIONS CLUB RD
CORBIN RD
PRICE HOCUTT
MAYORS LN
S SELMA RD
LAKE GLADE RD
KNIGHTDALE EAGLE ROCK RD
POINSETTIA LN
MARTIN FORD RD
EAGLE VIEW DR
JAKE MAY DR
TAYLOR RD
DRIFTDALE DR
BALLSTON PL
AMBER ACRES LN
ROOLE RD
LAITIGO LN
WAYNE LN
OLD NOWELL RD
S HOLLYBROOK RD
NC 231
MUDHAM
MEADOW RUN
ARUBA CT
SANDY RUN
ELK FALLS DR
KING FARM LN
LAKE MYRA RD
KELLY LN
JONATHAN DR
SHAWAN RD
BEAU VIEW DR
STOTTS MILL
WINESAP
DAVID
DEER TRACKS
LAKE SHORE
HARRIS WILSON
CEDAR CREEK
S SMITHFIELD RD
SEEDLING ST
CATFISH LN
BASS RD
TURNIPSEED
TURNIPSEED RD
MIAL PLANTATION RD
STONEY OAK LN
SMITHFIELD RD
BISSETTE RD
LAKE WENDELL RD
PRITCHARD
Note - The street alignments shown on the Wendell Arterial and Collector Street (ACS) plan are conceptual in nature. The exact alignment for any new road will be finalized at the time of development.
Legend
NEW FACILITY
MINOR COLLECTOR, 2-LANE UNDIVIDED
MAJOR THOROUGHFARE, 4-LANE DIVIDED
MAJOR COLLECTOR, 3-LANE UNDIVIDED
MINOR THOROUGHFARE, 3-LANE UNDIVIDED
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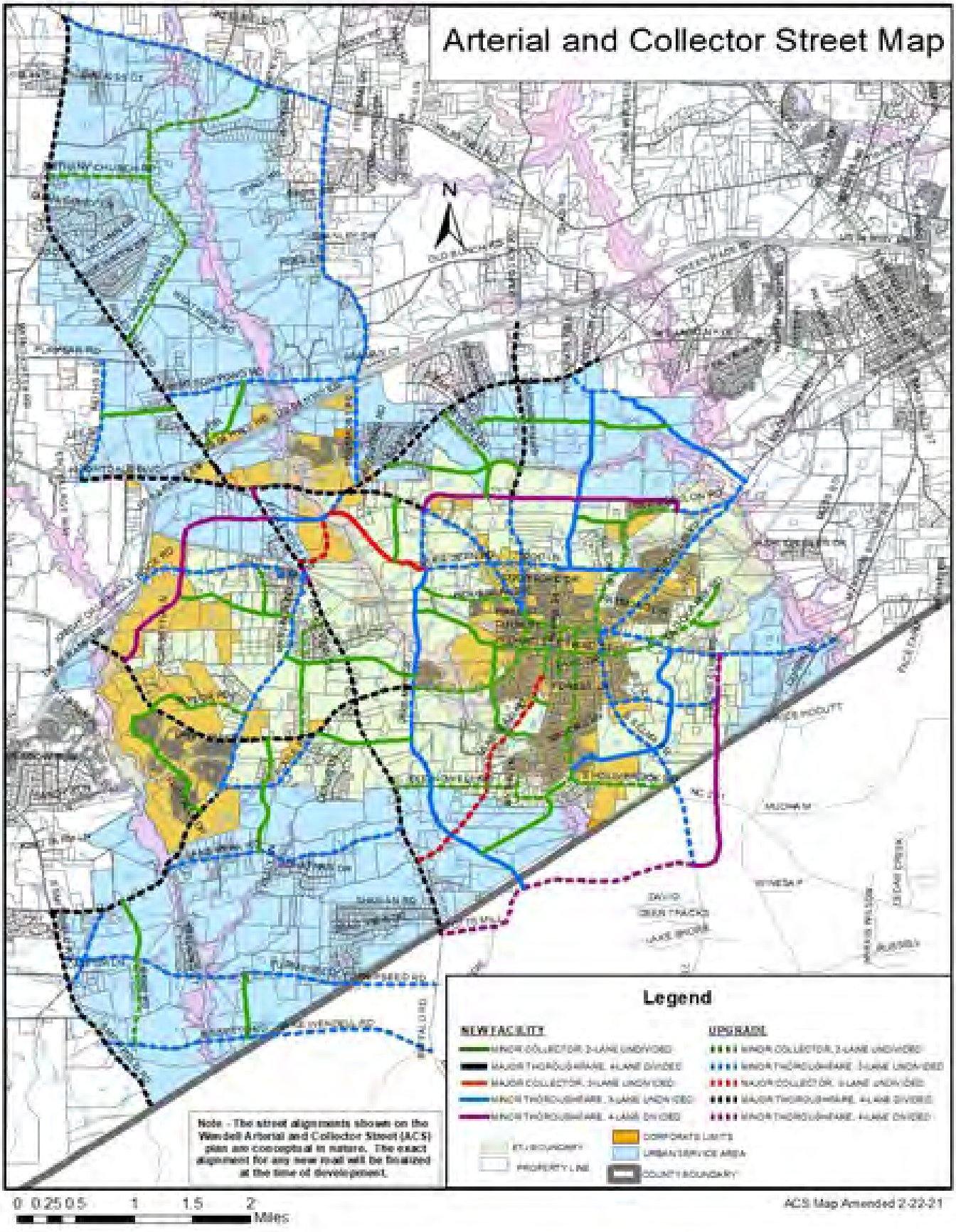
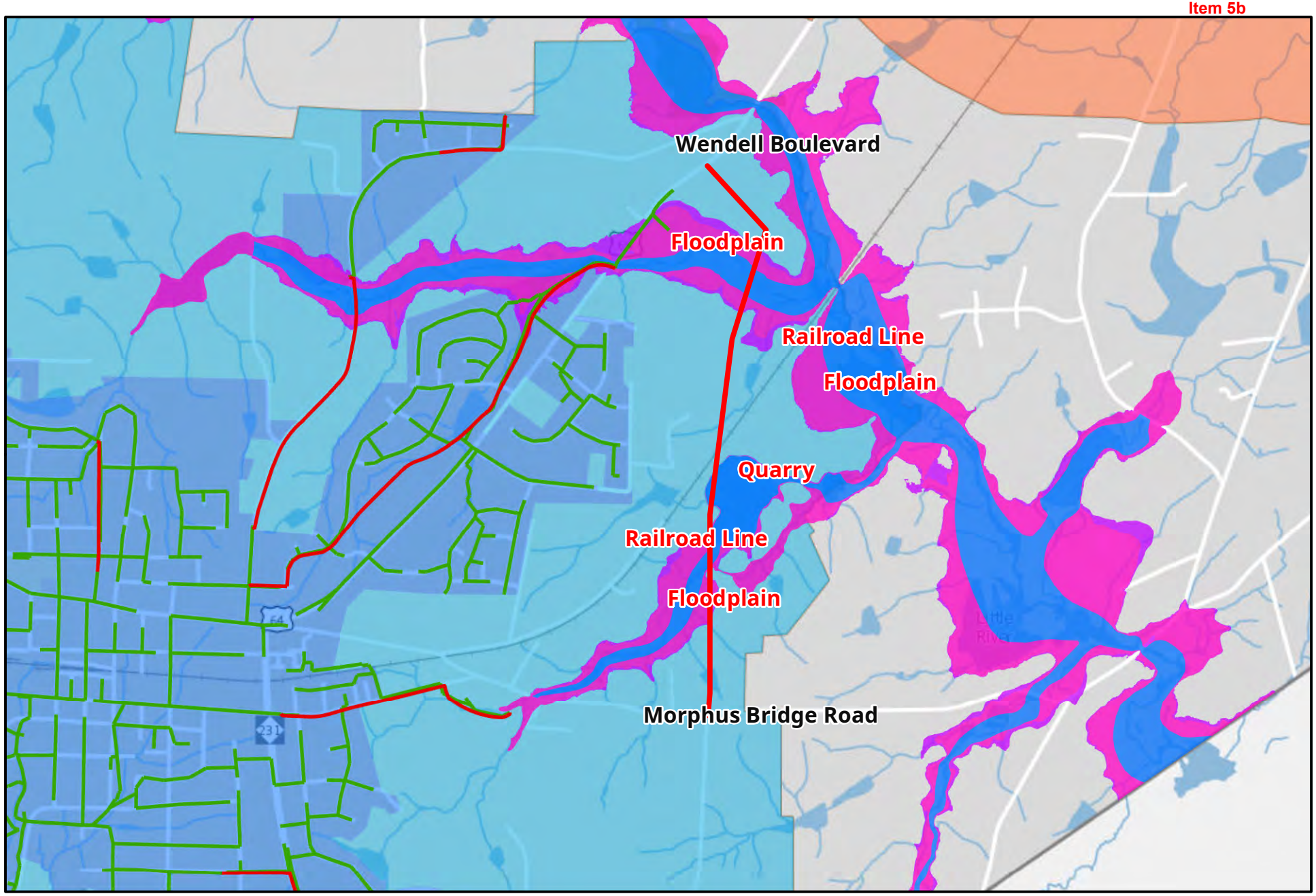
MAJOR THOROUGHFARE, 4-LANE DIVIDED
MINOR THOROUGHFARE, 4-LANE DIVIDED
ETJ BOUNDARY
PROPERTY LINE
CORPORATE LIMITS
URBAN SERVICE AREA
COUNTY BOUNDARY
0 0.25 0.5 1 1.5 2
Miles

EXHIBIT 1


Arterial and Collector Street Map
N
Legend
NEW FACILITY
UPGRADE
Note - The street alignments shown on the Wendell Arterial and Collector Street (ACS) plan are conceptual in nature. The exact alignment for any new road will be finalized at the time of development.
0 0.25 0.5 1 1.5 2
Miles
ACS Map Amended 2-22-21



N

0 850 1,700 3,400 ft

1 inch = 1,600 feet

Disclaimer

*iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied ,are provided for the data therein, its use,or its interpretation.*

2020 TOWN OF WENDELL ZONING TEXT AMENDMENT PACKET

Town of Wendell Planning Department
15 E. Fourth St.
Wendell, NC 27591

Phone: 919.365.4448
Fax: 919.366.1462
www.townofwendell.com

Acknowledgement of Zoning Text Amendment Information

I, David Bergmark, acknowledge the receipt of the following items for the Zoning Text Amendment request to amend section Appendix C of the Wendell Unified Development Ordinance pertaining to the Arterial and Collector Street Plan Map.

X Application

X Submittal Schedule

X Amendment Procedures

X District Use Matrices

Submittal Deadline Date: 10-17-20

David Bergmark — Applicant

10-1-20 — Date

Item 5b

Petition To Amend The Zoning Text

To be reviewed by both the Planning Board and the Town Board of Commissioners Form last updated 11/30/09

PETITION# ZT-
Date:

Applicant's Name: David Bergmark	Phone: 919-449-4005	Fax:
Mailing Address: 2905 Meridian Parkway, Durham, NC 27713		

This petition is a request to amend Appendix C of the Wendell Unified Development Ordinance to allow the amendment of a North-South Minor Thoroughfare to end at Morphus Bridge Rd.

As a
- □ Permitted Use
- □ Special Use
- □ Permitted with additional Standards

in the
- □ RR – Rural Residential Zoning District
- □ RA – Residential Agricultural
- □ OSP – Open Space Preserve
- □ R2 – Residential, (15,000 sq. ft min. lot size)
- □ R3 – Residential (10,000 sq. ft min. lot size)
- □ R4 – Residential (6,000 sq. ft min. lot size)
- □ R7 – Residential (3,500 sq. ft min. lot size)
- □ DMX – Downtown Mixed Use Zoning District
- □ CH – Highway Commercial Zoning District
- □ M&I – Manufacturing & Industrial Zoning District
- □ MH – Manufactured Home Zoning District
- □ CC – Community Center Zoning District
- □ CMX – Corridor Mixed Use Zoning District
- □ NC – Neighborhood Center Zoning District

A brief description of the proposed text amendment is: We petition to amend the Wendell ACS Plan (and Appendix C the UDO) to alter the terminating point of the Eastern Wendell Thoroughfare (4- lane Minor Thorughfare which aligns N-S with Lions Club Road), such that it does not extend north of Morphus Bridge Rd.

The amendment is necessary because: To connect to Wendell Blvd (as currently shown) this 4-lane road would have to cross the floodplain twice, the railroad once, and circumvent the old quarry. The combination of these significant environmental impacts and fiscal hurdles, coupled with the limited need for this robust traffic flow on the eastern side of Town warrant the proposed amendment to make the terminating point Morhpus Bridge Rd.

David Bergmark
Applicant's Signature

8-18-20
Date

OFFICE USE ONLY Fee Paid: _____ Date Paid: _____

PLANNING BOARD Date Petition Was Reviewed: _____ Recommendation: □ Approval □ Denial

The decision was consistent with the Comprehensive Plan: □ Yes □ No

The decision of the Planning Board was based on the following considerations: _____

TOWN BOARD OF COMMISSIONERS Date Public Hearing Scheduled:

Dates Public Hearing Advertised: (#1): _____ in _____ *AND* (#2): _____ in _____

Town Board Recommendation: □ Approval □ Denial

The decision was consistent with the Comprehensive Plan: □ Yes □ No

Town Clerk's Signature Date

Mayor's Signature Date

Town of Wendell
2020 Zoning Text Amendment Submittal Schedule

Planning Department
15 E. Fourth St.
Wendell, NC 27591
Phone: 919.365.4448
Fax: 919.366.1462

Zoning Text Amendment Submittal Deadline [A]* ($550 Fee Due)	Zoning Text Amendment Submittal Deadline [B]* ($550 Fee Due)	Planning Board Courtesy Review (If Requested) [C]	Planning Board Review and Action	Board of Commissioners Review Session	Public Hearing By BOC (BOC Action**)	Board of Commissioners Action**
15-Nov-19	20-Dec-19	16-Dec-19	20-Jan-20	27-Jan-20	10-Feb-20	9-Mar-20
20-Dec-19	17-Jan-20	20-Jan-20	17-Feb-20	24-Feb-20	9-Mar-20	13-Apr-20
17-Jan-20	14-Feb-20	17-Feb-20	16-Mar-20	23-Mar-20	13-Apr-20	11-May-20
14-Feb-20	20-Mar-20	16-Mar-20	20-Apr-20	27-Apr-20	11-May-20	8-Jun-20
20-Mar-20	17-Apr-20	20-Apr-20	18-May-20	26-May-20	8-Jun-20	13-Jul-20
17-Apr-20	15-May-20	18-May-20	15-Jun-20	22-Jun-20	13-Jul-20	10-Aug-20
15-May-20	19-Jun-20	15-Jun-20	20-Jul-20	27-Jul-20	10-Aug-20	14-Sep-20
19-Jun-20	17-Jul-20	20-Jul-20	17-Aug-20	24-Aug-20	14-Sep-20	12-Oct-20
17-Jul-20	21-Aug-20	17-Aug-20	21-Sep-20	28-Sep-20	12-Oct-20	9-Nov-20
21-Aug-20	18-Sep-20	21-Sep-20	19-Oct-20	26-Oct-20	9-Nov-20	14-Dec-20
18-Sep-20	16-Oct-20	19-Oct-20	16-Nov-20	23-Nov-20	14-Dec-20	11-Jan-21
16-Oct-20	20-Nov-20	16-Nov-20	21-Dec-20	28-Dec-20	11-Jan-21	8-Feb-21
20-Nov-20	18-Dec-20	21-Dec-20	18-Jan-21	25-Jan-21	8-Feb-21	8-Mar-21

[A]: Submittal Deadline if the applicant **does** request a courtesy review by the Planning Board.

[B]: Submittal Deadline if the applicant **does not** request a courtesy review by the Planning Board.

[C]: The applicant may request the Planning Board hold a review session for the proposed amendment. No vote will be taken by the board at this session.

* A Pre Application Submittal Meeting must be held at least 7 days prior to the applicable submittal deadline

** Applicant may submit written request to Board of Commissioners for action to be taken the same night as the public hearing.

***Meeting may be canceled or rescheduled due to holiday. Confirm date with Planning Dept. Staff

Item 5H

Attachment A: Proposed Map Amendment to the Eastern Wendell Thoroughfare.

EXHIBIT 1

Arterial and Collector Street Adopted 8-12-19

Remove Clouded Portion. Terminate proposed thoroughfare at Morhpus Bridge Road.

Note - The street alignments shown on the Wendell Arterial and Collector Street (ACS) plan are conceptual in nature. The exact alignment for any new road will be finalized at the time of development.

Legend

NEW FACILITY

- MINOR COLLECTOR, 2-LANE UNDIVIDED
- MAJOR THOROUGHFARE, 4-LANE DIVIDED
- MAJOR COLLECTOR, 3-LANE UNDIVIDED
- MINOR THOROUGHFARE, 3-LANE UNDIVIDED
- MINOR THOROUGHFARE, 4-LANE DIVIDED

UPGRADE

- MINOR COLLECTOR, 2-LANE UNDIVIDED
- MINOR THOROUGHFARE, 3-LANE UNDIVIDED
- MAJOR COLLECTOR, 3-LANE UNDIVIDED
- MAJOR THOROUGHFARE, 4-LANE DIVIDED
- MINOR THOROUGHFARE, 4-LANE DIVIDED

- ETJ BOUNDARY
- PROPERTY LINE
- CORPORATE LIMITS
- URBAN SERVICE AREA
- COUNTY BOUNDARY

0 0.25 0.5 1 1.5 2 Miles

ORD # 0-06-2021
AN ORDINANCE TO AMEND APPENDIX C - ARTERIAL AND COLLECTOR STREET PLAN, EXHIBIT 1 OF THE TOWN OF WENDELL UNIFIED DEVELOPMENT ORDINANCE.

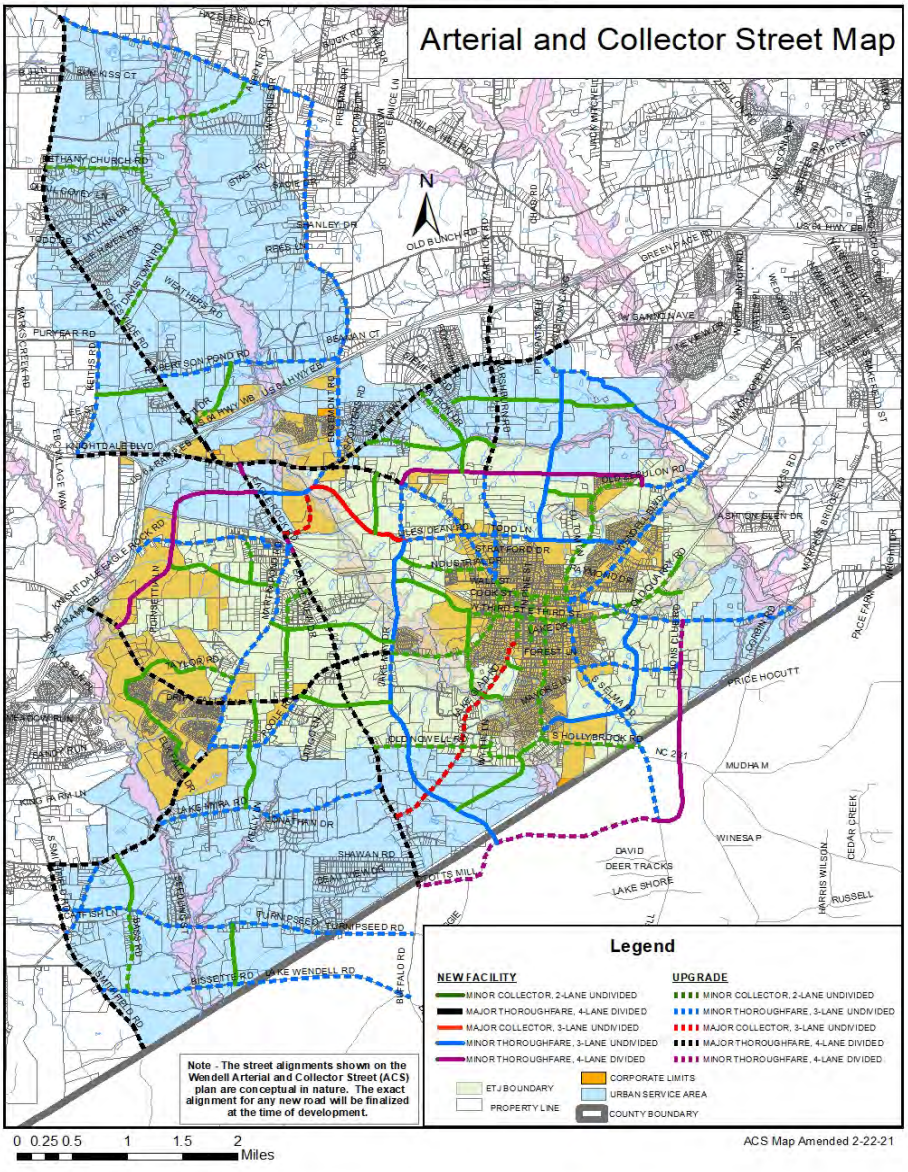
WHEREAS, Appendix C of the UDO contains Exhibit 1 of the Town's Arterial and Collector Street Plan; and

WHEREAS, the Town of Wendell Unified Development Ordinance Section 15.11 establishes uniform procedures for amending the text of the Ordinance;

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

SECTION 1. That Exhibit 1 of Appendix C of the UDO be amended as follows:

EXHIBIT 1



SECTION 2. That all laws and clauses of law in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 3. That if this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of this ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable.

SECTION 4. That the proposed text amendment to Exhibit 1 of Appendix C of the UDO is found to be consistent with General Principle # 9 and Key Principle #6 of the Wendell comprehensive plan and is reasonable and desirable in order to ensure that the Town acknowledges sustainable development practices.

> General Principle Number 9: "Protect and preserve Wendell's natural resources and amenities, including its streams, lakes, wetlands, and hardwood forests while balancing private property rights."
> Key Principle Number 6: "Preserve Open Space, Farmland, Natural Beauty, and Critical Environmental Areas."

SECTION 5. That this ordinance has been adopted following a duly advertised public hearing of the Town Board and following recommendation by the Planning Board.

SECTION 6. That this ordinance shall be enforced as provided in G.S. 160A-175 or as provided for in the Wendell Town Code.

SECTION 7. That this ordinance shall become effective upon its adoption by the Wendell Board of Commissioners.

DULY ADOPTED the 22nd day of February 2021.

(Town Seal)

_____
Virginia R. Gray, Mayor

ATTEST:

_____
Megan Howard, Town Clerk

APPROVED AS TO FORM:

_____
James P. Cauley III, Town Attorney

WENDELL

Planning Department

Wendell Planning Board Recommendation to the Wendell Board of Commissioners

ZTA20-04:
Unified Development Ordinance
Text Amendment to the Arterial and Street Collector Plan in Appendix C of the Unified Development Ordinance (UDO).

Case Description:

- In September 2015, the Town adopted the Arterial and Collector Street Plan. The adoption of this plan provided standards for design and articulated the Town's vision on future roadway connections. When the plan was created, staff and the consultants aimed to make future connections that made sense at the time. Many of those connections were shown as "new facilities" and did not have the right-of-way to construct the new roads shown on the map.

- David Bergmark of McAdams submitted a Text Amendment application to the Town's Planning Department and requested the following:

  1. **Delete the Proposed Minor Thoroughfare (4-lane divided road) shown crossing Old Quarry Road on the Transportation Plan Map. This facility connects to Wendell Boulevard to the north and Morphus Bridge Road to the south.**

  This road is shown as a future connection in CAMPO's long-range transportation plans. The intent of this road is to connect Wendell Boulevard and Morphus Bridge Road which would provide a future traffic movement to the south. This would require crossing two floodplains, a railroad track, and navigating around a

rock quarry (See Attachment C). Therefore, there are environmental challenges that would have to be overcome and a very high financial hurdle to jump.

Minor thoroughfares are intended to connect smaller activity centers, allow greater access, and as such, permit lower traveling speeds. Large residential areas are envisioned to be connected by minor thoroughfares.

Planning Board Action:

At their January 19, 2021 meeting, the Planning Board voted 3-3 on the motion to approve the requested zoning text amendment. Since a simple majority vote is required to pass a motion, the motion failed. Therefore, no formal recommendation is being made by the Planning Board on this item.

Voting in Favor: Cande Killian Wood, Deans Eatman and Levin Jones

Voting Against: Allen Swaim, Ryan Zakany and Jonathan Olson

Absent: Michael Firstbrook and Jimmena Huffman-Hall

Since no subsequent motion was made by the Planning Board, a supermajority of the Board of Commissioners will not be required to approve the requested text amendment.

Statement of Plan Consistency:

- The proposed zoning text amendment could be found to be consistent with the following principles of the comprehensive plan and deemed reasonable and desirable in order to ensure that the Town acknowledges sustainable development practices.
  - General Principle #9: "Protect and preserve Wendell's natural resources and amenities, including its streams, lakes, wetlands, and hardwood forests while balancing private property rights.
  - Key Principle #6: Preserve Open Space, Farmland, Natural Beauty, and Critical Environmental Areas.

Signed by Planning Board Chairperson

Planning Board Chairperson **Date** 20 Jan 2021

Date: February 8, 2021 **Item # 5c**

Item Title:

Public hearing on a R4 (Residential-4) Conditional District for the Watson Tract located at 5060 Wendell Boulevard.

Report to the Board of Commissioners:

February 8, 2021- Public Hearing

Specific Action Requested:

Hold a public hearing on the proposed Conditional District request.

Item Summary:

The applicant has requested to create an R4 Conditional District for 47.42 acres of property currently located in the town's extraterritorial jurisdiction (ETJ). The applicant's proposed R4 conditional district, will feature 89 single family homes. The applicant is providing 17.25 acres of open space which is 13.67 acres above the 3.58 acres required by the UDO. Additionally, the applicant is required to provide .89 acres of park space and is providing 1.9 acres of park space.

The applicant has also applied for a Text Amendment to modify the Arterial and Collector Street Plan.

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

Property Information Summary	
Location	Off Wendell Blvd. near the junction of Old Zebulon Road **Addresses:** 5060 Wendell Blvd. **PIN:** 1794-55-1682
Current Zoning	M&I
Requested Zoning	R4-CD
Area of Request	47.42 acres
Corporate Limits	Town of Wendell ETJ- will need to annex to receive utilities
Property Owner(s)	Watson Family II LLC
Applicant	David Bergmark of McAdams

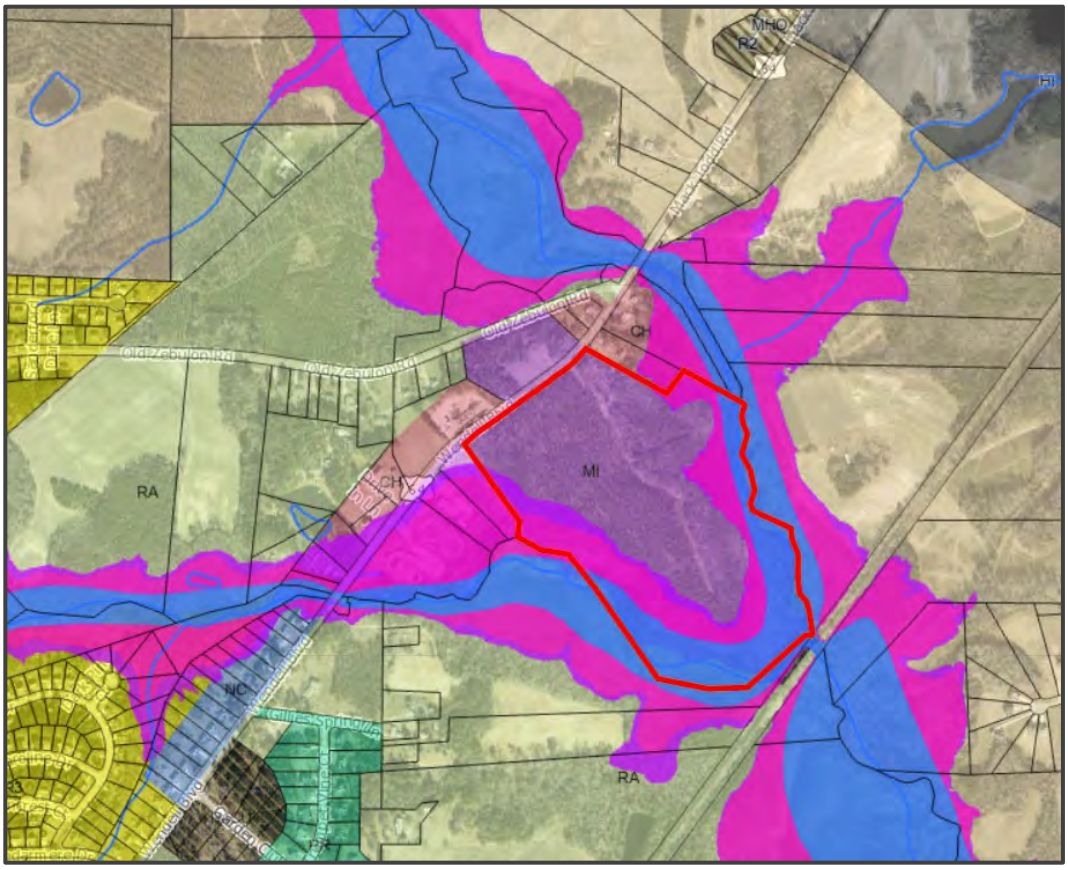
Project Setting – Surrounding Districts and Land uses:

DIRECTION	LANDUSE	ZONING
North	Residential/Vacant/Commercial	M&I/ CH
South	Vacant/Agricultural	RA
East	Residential/Agricultural	RA/R-40
West	Industrial/Vacant	M&I/ CH

Zoning District:

The subject property is currently located in the Manufacturing & Industrial (M&I) zoning district. The surrounding properties are zoned RA and CH, M&I and R-40. The RA district allows a minimum lot size of 1 acre. CH and M&I are commercial zoning districts and R-40 is Wake County. The Residential-4 zoning district allows for single-family with a minimum lot size of 6,000 square feet.

Current Zoning Map (Subject Property Outlined in Red):



Purpose of a Conditional District:

The purpose of the Conditional District (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; allowing flexibility 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 Unified Development Ordinance (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.

Proposed Conditional District Conditions:

The applicant is proposing 12 Conditions for the proposed CD, as follows:

1. Permit 1 cul-de-sac to exceed 300' length
2. Permit 1 street segment to exceed 800' block length max (loop road ~ 1200)
3. Provide natural overlook with gazebo/covered area bordering the Little River.
4. Provide a minimum of 75,000 sq. ft of improved park space (38,938 SF required for 89 units)
5. Provide access easement along Little River for potential future greenway.
6. Decorative garage doors shall be utilized within the Development and shall include carriage hardware and/or windows.
7. Vinyl siding materials used on building facades shall be of high quality, show texture, and have a minimum width of 5 inches and a minimum thickness of 0.046 inches.
8. No SFD home shall have a front exterior elevation that is identical to a home within two lots along the same side of the street, or homes directly across the street.
9. All homes shall use roof eaves which extend at least 6 inches from the façade plane.
10. 100% of homes shall be Energy Star Certified, and shall include the following green standards:
    a. High Performance Toilets
    b. Water-Efficient Faucets & Flow-Smart Showerheads
    c. ENERGY STAR® Certified Appliances
    d. Advanced Framing & Thermostats
    e. Minimum MERV 8 HVAC Filtration
    f. Thermal Breaks
    g. Conditioned Attics
    h. Spray Foam Insulation
    i. UV-Blocking Windows: Low-E Windows
    j. Sealed Insulated Ducts
    k. Low-to-Zero VOC Materials, Paints, Stains & Adhesives

11. Sidewalk shall be provided on both sides of the road (UDO only requires 1-side).
12. Foundations: Top of slabs shall be elevated a minimum of 12 inches above finished grade. Finished grade shall fall a minimum of 6 inches within the first 10 feet away from the structure to ensure positive drainage.

Public Utilities:

Development of this site will require connection to city water and sewer which is available nearby. Parcel will need to be annexed and the applicant has filed an annexation petition.

Streets:

The applicant will be responsible for making the required road improvements to Wendell Blvd which is a 3-lane undivided right-of-way that contains curb & gutter, 5-foot bike lanes, 6-foot sidewalks and street trees.

Parking:

The proposed development plan is providing 17 guest parking spaces and 2 ADA spaces next to the mail kiosk, tot lot, gazebo and park.

Phasing:

The applicant is proposing one phase for the proposed development plan.

Open Space & Landscaping Plan:

The applicant is providing a 40 ft. street buffer yard when only 10 ft. is required and a greenway easement along Little River.

Comprehensive Plan:

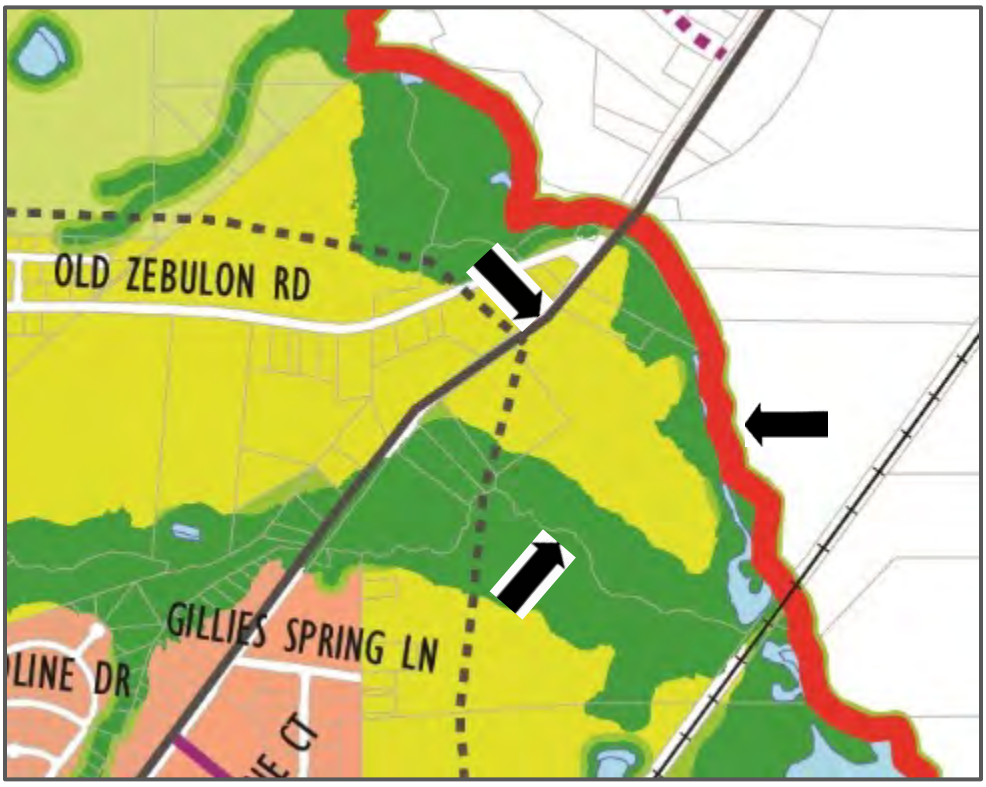
The Wendell Comprehensive Plan defines the subject property as being within the S-4 Controlled Growth Sector.

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
- industrial uses.

The proposed development on the site meets the appropriate uses.



Planning Board Recommendation:

At their January 19, 2021 meeting, the Planning Board voted unanimously in favor of the requested Conditional District.

> **Voting in Favor:** Ryan Zakany, Jonathan Olson, Deans Eatman, Levin Jones and Cande Killian Wood
>
> **Voting Against**: None
>
> **Absent**: Michael Firstbrook & Jimmena Huffman-Hall

Statement of Plan Consistency Reasonableness:

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

- The requested zoning map amendment is consistent with the uses outlined in the Wendell Comprehensive Land Use Plan for the S-4 Sector and is reasonable in that it supports Principle #9: "Protect and preserve Wendell's natural resources and amenities including its streams, lakes, wetlands, and hardwood forests while balancing private property rights."

Applicant's Justification:

See Attachment C.

Technical Review Committee (TRC) Comments:

The Technical Review Committee had comments on the street length, open space/tot lot details, buffers, site triangles and landscaping. TRC also discussed not having street "B" extend to the property to the west as it contains floodplain and a connection would not occur. The applicant has addressed all TRC concerns.

Staff Comments:

- Staff recommends approval of the request.

Attachments:

A. Conditional District Application
B. Overall Site Plan
    a. Full Master Plan Link: https://nmcdn.io/e186d21f8c7946a19faed23c3da2f0da/3834b95a93b14b3689a528c1f97c5d69/files/MRH20000-Combined-Master-Plan-3rd-Submittal.pdf
C. Applicant's Justification
D. Planning Board Recommendation
E. Revised Conditions
F. Vinyl Spec Sheets
G. Ordinance for Adoption

TOWN OF WENDELL CONDITIONAL DISTRICT PACKET

Town of Wendell Planning Department
15 E. Fourth St.
Wendell, NC 27591

Phone: 919.365.4448
Fax: 919.366.1462
www.townofwendell.com

ACKNOWLEDGEMENT OF CONDITIONAL DISTRICT INFORMATION

I, Johnny Watson, acknowledge the receipt of the following items pertaining to the Conditional District rezoning of the property located at 5060 Wendell Blvd.

X Application
X Submittal Schedule
X Framework Plan Map
X District Use Regulations Table
X Conditional District Procedures

Submittal Deadline Date: 10-1-20

Johnny Watson
Applicant

09-22-2020
Date

TOWN OF WENDELL
CONDITIONAL DISTRICT APPLICATION

Date of Application: _____ Application Number: _____

Project Name: Watson Tract Conditional District

Location of Property: 5060 Wendell Blvd, Wendell NC

Current Zoning District: M&I Wake Co. PIN: 1794551682

Requested Zoning District: R4-Conditional District

Applicant's Name: Gray Methven

Applicant's Mailing Address: 3300 Paramount Pkwy, Suite 120

City/State/ZIP: Morrisville, NC 27560

Phone: 919-926-2622 Email: gray.methven@meritagehomes.com

Property Owner's Name: Watson Family II LLC

Property Owner's Address: 6220 Forestville Rd

City/State/ZIP: Raleigh, NC 27604

Phone: _____ Email: _____

Intended use of property, building or structure as a Conditional District (describe below):
89-unit single family dwelling subdivision

The following information MUST be included before the application will be accepted and processed:

□ Attachment A – Legal Description of Property: Include on a sheet of paper the property survey, Wake County Tax Map PIN Number, block or lot numbers with metes and bounds description of the area, or any other legal information available.

□ Attachment B – A list of adjacent property owners (including across public right-of-ways) and their mailing and physical addresses.

□ Attachment C – Proposed Conditions and Why Property Should Be a Conditional District: Include on a sheet of a paper the proposed conditions (with UDO sections referenced) and an explanation in detail of why you feel the property should be rezoned as a conditional district. The explanation should include if the rezoning coincides with the Comprehensive Land Use Plan and if the impact of the proposed rezoning affects adjacent or surrounding properties. Also within this attachment should be the impact on governmental services (utilities, schools, police protection, streets, etc.), that the uses permitted within the requested district would create.

The undersigned property owner hereby authorizes the filing of this application and any subsequent revisions thereto. The filing of this application authorizes the Town of Wendell staff to enter upon the site to conduct relevant site inspections as deemed necessary to process the application.

Signature: Johnny Walton Date: 09-22-2020

After completing the attachments listed above, I certify that I am the owner or have the consent of the owner and act on his or her behalf in making this petition for an amendment to the zoning map. It is further understood that if the Conditional District as requested herein is not started within twelve (12) months from the date of approval, that the district shall become invalid. Fees are nonrefundable. The applicant is responsible for presenting their case to the town.

Signature: _____ Date: _____

OFFICE USE ONLY

Fee Paid: _____ Check #_____ Recvd By: _____ Date: _____

Planning Board Meeting : _____

Planning Board Recommendation □ Approval □ Approval with Conditions □ Denial

The decision was consistent with the Comprehensive Plan: □ Yes □ No

BOARD OF COMMISSIONERS Date of Public Hearing: _____ Date Sign Erected: _____

Dates Public Hearing Advertised (#1)_____ in _____ (#2)_____ in _____

Town Board Recommendation □ Approval □ Approval with Conditions □ Denial

Conditions _____

_____

_____ _____

Town Clerk Signature Date

_____ _____

Mayor's Signature Date

TOWN OF WENDELL
2020 CONDITIONAL DISTRICT SUBMITTAL SCHEDULE

MASTER DEVELOPMENT PLAN

PLANNING DEPARTMENT
15 E. Fourth St.
Wendell, NC 27591
Phone: 919.365.4448
Fax: 919.366.1462

Items Due at Time of Submittal

- Completed Conditional District Application
- Legal Description of Property
- List of Adjacent Property Owners
- Proposed Conditions and Why Property Should Be a Conditional District
- Master Development Plan with Proposed Conditions Listed on the Plan

Fees Due at Time of Submittal

- Zoning Map Amendment: **$550**
- Engineering Fees: **$1,000**
- Site Plan Review Fees
  - Commercial Site Plan Review/Preliminary Plat: **$400**
  - Major Subdivision Preliminary Plat: **$400 + $5 per lot**
  - Resubmittal Fee (if applicable): **½ original site plan review fee**

Submittal Timeline for Conditional District Application & Master Development Plan

Pre-Submittal Review Deadline	Submittal Deadline	Comments Sent to Applicant	*TRC Meeting 9:30 am*	*Planning Board Informational Meeting 7:00 pm*	Revisions Due for Planning Board Action Meeting	*Planning Board Action Meeting 7:00 pm*	Submittal Deadline of TRC Approved Plan to Commissioners	*Commissioners Meeting 7:00 pm*
November 21, 2019	December 5, 2019	January 6, 2020	January 9, 2020	January 20, 2020	February 3, 2020	February 17, 2020	February 24, 2020	March 9, 2020
December 19, 2019	January 2, 2020	February 10, 2020	February 13, 2020	February 17, 2020	March 2, 2020	March 16, 2020	March 23, 2020	April 13, 2020
January 23, 2020	February 6, 2020	March 9, 2020	March 12, 2020	March 16, 2020	March 30, 2020	April 13, 2020	April 20, 2020	May 11, 2020
February 20, 2020	March 5, 2020	April 6, 2020	April 9, 2020	April 20, 2020	May 4, 2020	May 18, 2020	May 25, 2020	June 8, 2020
March 19, 2020	April 2, 2020	May 11, 2020	May 14, 2020	May 18, 2020	June 1, 2020	June 15, 2020	June 22, 2020	July 13, 2020
April 23, 2020	May 7, 2020	June 8, 2020	June 11, 2020	June 15, 2020	June 29, 2020	July 13, 2020	July 20, 2020	August 10, 2020
May 21, 2020	June 4, 2020	July 6, 2020	July 9, 2020	July 20, 2020	August 3, 2020	August 17, 2020	August 24, 2020	September 14, 2020
June 18, 2020	July 2, 2020	August 10, 2020	August 13, 2020	August 17, 2020	August 31, 2020	September 14, 2020	September 21, 2020	October 12, 2020
July 23, 2020	August 6, 2020	September 7, 2020	September 10, 2020	September 21, 2020	October 5, 2020	October 19, 2020	October 26, 2020	November 9, 2020
August 20, 2020	September 3, 2020	October 5, 2020	October 8, 2020	October 19, 2020	November 2, 2020	November 16, 2020	November 23, 2020	December 14, 2020
September 17, 2020	October 1, 2020	November 9, 2020	November 12, 2020	November 16, 2020	November 30, 2020	December 14, 2020	December 21, 2020	January 11, 2021
October 22, 2020	November 5, 2020	December 7, 2020	December 10, 2020	December 21, 2020	January 4, 2021	January 18, 2021	January 25, 2021	February 8, 2021
November 19, 2020	December 3, 2020	January 11, 2021	January 14, 2021	January 18, 2021	February 1, 2021	February 15, 2021	February 22, 2021	March 8, 2021

1. The applicant is expected to attend all meetings listed in *italics*.
2. No action is sought at the Planning Board Informational Meeting. The meeting is intended as an opportunity for the applicant to receive Planning Board feedback to supplement feedback from the TRC. Action to recommend approval or denial of the CD to the Board of Commissioners is not sought until the Planning Board Action Meeting.
3. Unless otherwise requested by the TRC, all resubmissions will be reviewed digitally. Resubmissions are accepted every Monday and returned in two weeks.

TOWN OF WENDELL
2020 CONDITIONAL DISTRICT SUBMITTAL SCHEDULE

FINAL DEVELOPMENT PLAN

PLANNING DEPARTMENT
15 E. Fourth St.
Wendell, NC 27591
Phone: 919.365.4448
Fax: 919.366.1462

- Final development plan submissions for the TRC are accepted every Monday. Comments are returned for first submittals in four weeks and resubmittal comments are returned in two weeks.
- Once a final development plan has been reviewed by the TRC and determined ready for Planning Board review by the Zoning Administrator, it may be submitted to the Planning Board.
- The Planning Board shall determine if the final development plan reflects the basic development concept of the CD.
- If in the judgement of the Planning Board, the final development plan alters the basic development concept of the CD, the Planning Board may require concurrent approval by the Board of Commissioners.
- The Planning Board can take action at the meeting listed below, but no action is required to be taken at the session. Action must be taken within 30 days of the Planning Board hearing the case.
- Copies may be submitted for signatures after approval by the Planning Board and all TRC members.

Submittal Timeline for Planning Board Review After TRC Approval

Submittal Deadline for Planning Board Review	*Planning Board Review and Action 7:00 pm*
January 27, 2020	February 18, 2020
February 24, 2020	March 16, 2020
March 23, 2020	April 20, 2020
April 27, 2020	May 18, 2020
May 25, 2020	June 15, 2020
June 22, 2020	July 20, 2020
July 27, 2020	August 17, 2020
August 24, 2020	September 21, 2020
September 28, 2020	October 19, 2020
October 26, 2020	November 16, 2020
November 23, 2020	December 21, 2020

Item 5c

Master Plan Components – UDO Section 16.5

Cover Sheet
- Vicinity Map
  - Site & streets labeled w/i ½ mi
  - North arrow
  - Scale or labeled NTS
- Title Information
  - Development name & address
  - Owners' & designer's name, signature & address
  - Designer's seal
  - Graphic & numeric scale
  - North arrow
  - Date of plan
- Site Data Block & Calculations
  - Site & surrounding zone
  - Total site area & by use
  - Disturbed & impervious area
  - Number & size of lots
  - Number of housing units
  - Ft^2 of all non-res buildings
  - Gross density per acre
  - Linear feet of streets
  - Flood map & date
- Sheet index
- Certification statements
- Signature blocks

Existing Conditions
- Boundary & street centerline bearings, curve data & distances
- Plat & deed book references
- Surrounding owner's names w/ references
- Locations & descriptions of all monuments, markers & controls
- Setback lines
- Zoning of site & adjacent parcels
- Building, parking area, driveway, street, R/W & sidewalk locations
- Demolition landfills
- Storage & refuse collection areas
- Location, size and description of easements.
- Original topography at 2' intervals
- Vegetation & natural features
- May use existing digital geographic data obtained from a public source. It should be field verified for accuracy.

Proposed Site Plan
- Structures & improvements
- Limits of construction
- Impervious surface calculations
- Location, dimension & surface type of all parking, circulation areas, walkways & drives
- Location, name & dimension of all streets, alleys & R/W
- Curb & gutter location
- Detailed plans of parks, recreation & open space
- Future ownership dedications or reservations
- Lot lines, dimensions, numbers & building setbacks
- Block numbers
- Location of any building restriction areas (e.g. buffers)
- Traffic flow
- Location, size & description of easements
- Storage & refuse collection areas
- Phase lines
- Stormwater devise locations & descriptions

Typical Street Cross Sections
- R/W & pavement widths
- Curb & gutter profile
- Widths & locations of planting strips, sidewalks & underground utilities
- Building setbacks

Utility Plan
- Includes all public & private storm sewer, sanitary sewer & water distribution w/ irrigation & fire
- Location and size of utility lines, easements and R/W
- Connections to existing systems

Landscape Plan
- Site Data Block & Calculations
  - Proposed & surrounding uses
  - Site & surrounding zone
  - Total site area
  - Building ft^2 total & by use
  - Required & provided parking
  - Landscape requirements
- Proposed Landscaping
  - Location of buildings, driveways, parking areas & walkways
  - Traffic patterns & sightlines
  - Location of all utilities
  - Existing vegetation
  - Areas to stay in natural state
  - Location & massing of proposed landscape material
- Plant Lists
  - Common & botanical name
  - Quantity & spacing
  - Size at time of landscaping

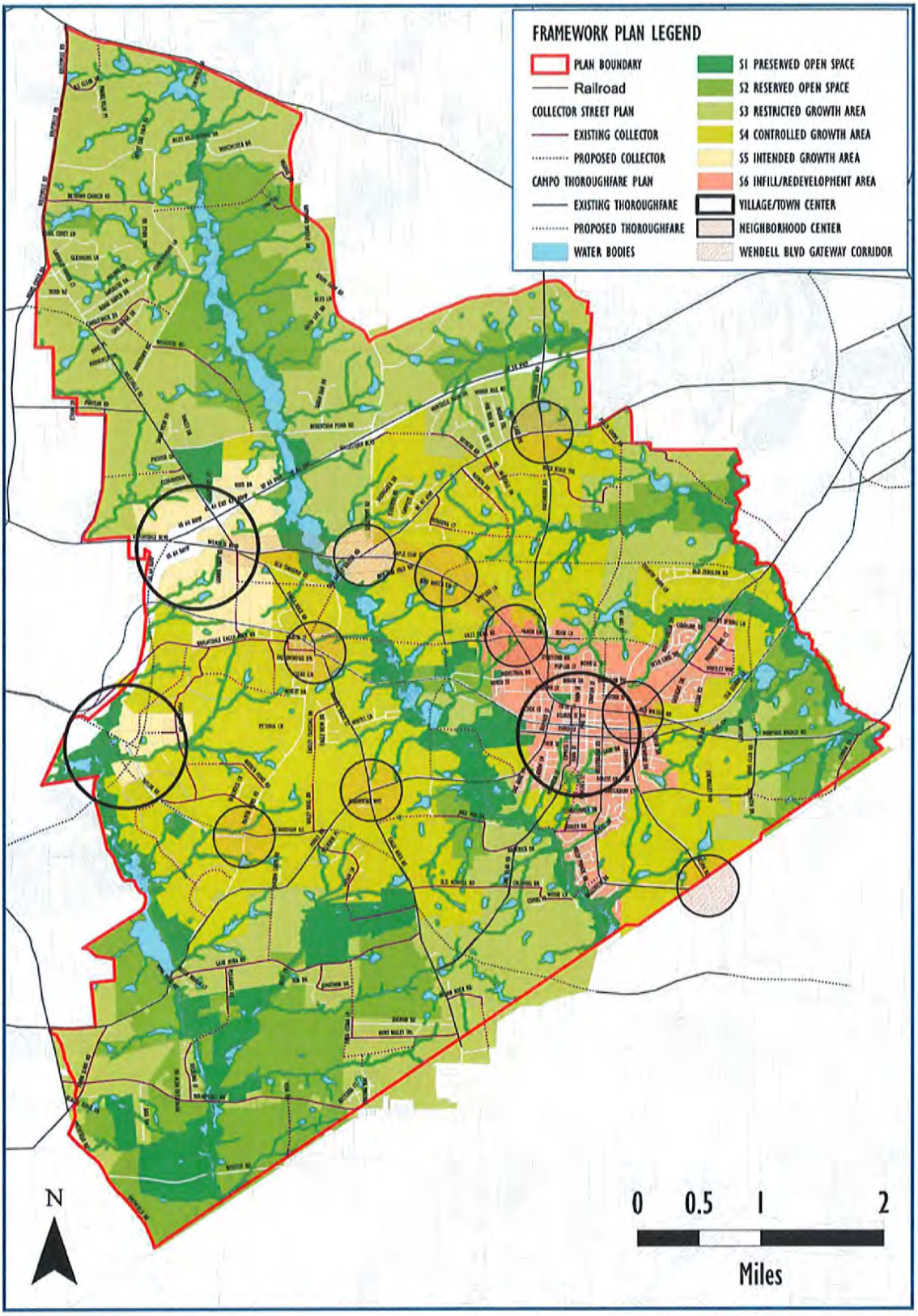
Building Elevations

Details

Traffic Impact Analysis
- Typically, if generating 100 peak hour trips

Certificate of Appropriateness
- For historic properties only

Floodplain Development Permit and Certification Application
- If developing in Special Flood Hazard Area


FRAMEWORK PLAN LEGEND
PLAN BOUNDARY
Railroad
COLLECTOR STREET PLAN
EXISTING COLLECTOR
PROPOSED COLLECTOR
CAMPO THOROUGHFARE PLAN
EXISTING THOROUGHFARE
PROPOSED THOROUGHFARE
WATER BODIES
S1 PRESERVED OPEN SPACE
S2 RESERVED OPEN SPACE
S3 RESTRICTED GROWTH AREA
S4 CONTROLLED GROWTH AREA
S5 INTENDED GROWTH AREA
S6 INFILL/REDEVELOPMENT AREA
VILLAGE/TOWN CENTER
NEIGHBORHOOD CENTER
WENDELL BLVD GATEWAY CORRIDOR
N
0 0.5 1 2
Miles

The John R. McAdams Company, Inc.
2905 Meridian Parkway
Durham, NC 27713
919. 361. 5000
www.mcadamsco.com

RE: Tracts 1-3
WATSON TRACT

Being a tract of land, the Watson Tract, said land being in Marks Creek Township, Town of Wendell, Wake County, North Carolina, and being more fully described in the following description:

BEGINNING at a 1-inch iron pipe on the south right of way of Wendell Boulevard (US Highway 64 Business, variable width public right of way), said iron pipe being a common corner with Little River Soil Farm (Deed Book 8558, Page 238, Wake County registry);
Thence with the Little River Soil Farm line South 61 Degrees 01 Minutes 28 Seconds East a distance of 264.06 feet to a ¾-inch bent iron pipe located at its base;
Thence continuing with the Little River Soil Farm line South 61 Degrees 04 Minutes 39 Seconds East a distance of 268.13 feet to a new iron pipe;
Thence continuing with the Little River Soil Farm line North 36 Degrees 40 Minutes 34 Seconds East a distance of 164.00 feet to a new iron pipe, said pipe being on the line of Parrish Realty Company of Zebulon, Inc. (Deed Book 8304, Page 749);
Thence with the Parrish Realty Company of Zebulon, Inc. line South 61 Degrees 04 Minutes 39 Seconds East a distance of 354.29 feet to a 1-inch iron pipe in the line of Town of Wendell & Town of Zebulon (Deed Book 9240, Page 1794);
Thence South 61 Degrees 04 Minutes 39 Seconds East a distance of 42.12 feet to a point along the run of Little River;
Thence with and along the run of Little River the following 16 courses:

1. South 10 Degrees 40 Minutes 34 Seconds West a distance of 60.21 feet to a point;
2. South 01 Degrees 39 Minutes 43 Seconds East a distance of 57.27 feet to a point;
3. South 29 Degrees 28 Minutes 06 Seconds East a distance of 59.09 feet to a point;
4. South 15 Degrees 36 Minutes 00 Seconds West a distance of 123.53 feet to a point;
5. South 29 Degrees 08 Minutes 26 Seconds East a distance of 103.52 feet to a point;
6. South 12 Degrees 48 Minutes 29 Seconds East a distance of 124.76 feet to a point;
7. South 20 Degrees 00 Minutes 01 Seconds West a distance of 77.70 feet to a point;
8. South 22 Degrees 38 Minutes 20 Seconds East a distance of 43.15 feet to a point;
9. South 64 Degrees 58 Minutes 03 Seconds East a distance of 236.14 feet to a point;
10. South 08 Degrees 54 Minutes 36 Seconds East a distance of 69.71 feet to a point;
11. South 22 Degrees 44 Minutes 45 Seconds East a distance of 85.92 feet to a point;
12. South 00 Degrees 59 Minutes 40 Seconds West a distance of 143.56 feet to a point;

13. South 08 Degrees 29 Minutes 49 Seconds East a distance of 84.31 feet to a point;
14. South 41 Degrees 21 Minutes 07 Seconds East a distance of 64.11 feet to a point;
15. South 09 Degrees 25 Minutes 38 Seconds East a distance of 70.99 feet to a point;
16. South 24 Degrees 12 Minutes 25 Seconds East a distance of 83.51 feet to a point;

Said point being along the run of Todd's Mill Branch;

Thence along and with the run of Todd's Mill Branch the following 10 courses:

1. South 59 Degrees 11 Minutes 02 Seconds West a distance of 209.68 feet to a point;
2. South 62 Degrees 57 Minutes 25 Seconds West a distance of 142.72 feet to a point;
3. South 78 Degrees 20 Minutes 20 Seconds West a distance of 201.80 feet to a point;
4. North 77 Degrees 07 Minutes 02 Seconds West a distance of 212.69 feet to a point;
5. North 58 Degrees 31 Minutes 24 Seconds West a distance of 199.54 feet to a point;
6. North 49 Degrees 25 Minutes 30 Seconds West a distance of 145.37 feet to a point;
7. North 42 Degrees 30 Minutes 20 Seconds West a distance of 158.58 feet to a point;
8. North 44 Degrees 45 Minutes 19 Seconds West a distance of 160.94 feet to a point;
9. North 60 Degrees 46 Minutes 57 Seconds West a distance of 354.46 feet to a point, said point being a former corner with Tract 2 of the Watson Tract (Deed Book 13189, Page 1920);
10. North 77 Degrees 20 Minutes 58 Seconds West a distance of 63.21 feet to an iron pipe;

Thence North 36 Degrees 09 Minutes 03 Seconds West a distance of 201.83 feet to a ¾" iron pipe, said iron pipe being a common corner with Jared Ollison (Deed Book 16908, Page 1694) and also being a former corner with Tract 1 of the Watson Tract (Book of Maps 1988, Page 1744);

Thence with the Ollison line North 36 Degrees 11 Minutes 25 Seconds West a distance of 546.19 feet to a new iron pipe, said iron pipe being North 10 Degrees 12 minutes 25 Seconds West a distance of 8.48 feet to geodetic monument "HYDRANT", said iron pipe also being on the south right of way line of Wendell Boulevard;

Thence with the south right of way line of Wendell Boulevard the following five courses:

1. North 51 Degrees 44 Minutes 49 Seconds East a distance of 100.66 feet to a new iron pipe;
2. North 54 Degrees 05 Minutes 30 Seconds East a distance of 129.73 feet to a new iron pipe;
3. North 54 Degrees 19 Minutes 53 Seconds East a distance of 297.29 feet to a ¾" iron pipe;
4. Thence North 54 Degrees 22 Minutes 58 Seconds East a distance of 156.58 feet to a new iron pipe;
5. Thence with a curve turning to the left with an arc length of 207.33 feet, with a radius of 1,128.43 feet, with a chord bearing of North 47 Degrees 05 Minutes 48 Seconds East , and with a chord length of 207.04 feet to a 1-inch iron pipe;

Which is the point of BEGINNING, having an area of 2,065,703 square feet, 47.42 acres more or less.

ATTACHMENT B: List of adjacent Property Owners (Watson Tract)

PIN	Owner	Mail Address 1	Mail Address 2
1794368192	WAKE COUNTY - Attorney's Office	PO BOX 550	Raleigh NC 27602
1794446769	HARRIS, RUDOLPH HARRIS, NATALIE H	808 GILLIES SPRING LN	WENDELL NC 27591-9304
1794447353	HARRIS PARKER, WILLIE L. PALUMBO, PHYLLIS MONTAGUE	204 ARBORDALE CT	CARY NC 27518-3003
1794450663	CUTCHINS, JAMES C JR	PO BOX 233	ZEBULON NC 27597-0233
1794451783	OLLISON, JARED	103 INDIAN TRL	WENDELL NC 27591-9427
1794464535	WILLIAMS, JOEL L	1306 WALNUT ST	CARY NC 27511-4733
1794467702	STEPHENS, JANE F	5121 WENDELL BLVD	WENDELL NC 27591-6919
1794468708	HARRIS, CAROLYN CREWS	5141 WENDELL BLVD	WENDELL NC 27591-6919
1794551682	WATSON FAMILY II LLC	6220 FORESTVILLE RD	RALEIGH NC 27604-8618
1794560467	WENDELL AMERICAN LEGION 148 INC	5100 WENDELL BLVD	WENDELL NC 27591-6918
1794562710	PARRISH REALTY CO OF ZEBULON INC	PO BOX 1128	Zebulon NC 27597
1794652993	LITTLE RIVER SOIL FARM	PO BOX 1097	ZEBULON NC 27597-1097
1794755288	PEARCE, BARBARA CROOM	PO BOX 915	ATLANTIC BEACH NC 28512-0915

September 30, 2020

5060 Wendell Blvd – R4-CD Conditions & Justification Statement

To Whom it May Concern:

McAdams has been hired to prepare an R4 Conditional District application for the 'Watson Tract' located at 5060 Wendell Blvd. Attached you will find proposed conditions to be tied to this R4 Conditional district request. After consultation with planning staff and the Town Manager, a conditional district was chosen as the most appropriate means of permitting residential development in order to address site constraints created by the surrounding floodplain and establish quality assurances for the development.

Currently the property is vacant and is zoned Manufacturing and Industrial (MI). The property is surrounded by floodplain on all sides, except for its frontage along Wendell Boulevard (Business 64). It is our position that this property's location on the eastern edge of Wendell (approximately 5.6 miles from I-87) makes it a poor choice for any quality manufacturing and industrial uses the Town would want to attract. It is simply too far from the interstate to support serious manufacturing or distribution facilities. Furthermore, the environmentally sensitive nature of the land surrounding this property on three sides makes manufacturing and industrial uses an environmental risk. For these reasons, we believe that a residential zoning designation (specifically an R-4 Conditional District) to be more appropriate and suitable at this location.

The Wendell Comprehensive Plan identifies this area as an S4 Controlled Growth Area. The S4 sector is described as "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 Comprehensive Plan describes the following community types and uses as 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
- Industrial uses

It is our position that shifting the zoning away from Manufacturing and Industrial, given the significant amount of floodplain and Neuse riparian buffers on site, supports Principle # 9 of the Comprehensive Plan: "*Protect and*

preserve Wendell's natural resources and amenities, including its streams, lakes, wetlands, and hardwood forests while balancing private property rights."

Thus, the proposed R4-Conditional District, which would create an **89-unit** single family development at a density of less than 2 dwelling units per acre is aligned with the uses and intensity described in the Comprehensive Plan for this area. The R4 Conditional district was chosen to permit residential lots of 6,000 square feet or more to allow the density needed to make development of this environmentally constrained parcel feasible, while still protecting the surrounding sensitive lands. It is our intention that this Meritage Community be one that embraces the natural environment which surrounds it and attracts buyers who desire that closer tie to nature.

This property, with frontage along Wendell Blvd, is well served by the existing transportation network. At less than 100 units, the traffic impacts of this single-family development will be minor (as reflected by the fact that a neighborhood of this size does not generate enough traffic to warrant a Transportation Impact Assessment per Wendell Code). As called for by the Town's Arterial and Collector Street (ACS) Plan, the developer will be performing widening along the property's frontage on Wendell Boulevard to help create the 3-lane undivided cross-section shown in the ACS plan, further facilitating turning movements and reducing congestion. Existing waterlines are present along Wendell Blvd. Due to the topography of the site, McAdams is currently working with the City of Raleigh to design a pump station to support sewer service to the proposed lots.

The proposed neighborhood's small size will have very limited impacts on schools, police protection, streets, and municipal services. Though this development will be a satellite annexation, it is in close proximity to the existing neighborhoods of Olde Wendel, Woodlands of Timberlake, and Northwinds North, making it a natural and cost-efficient service extension for police and public works.

We look forward to helping bring this new community to the growing Town of Wendell. If you have questions about this conditional district request, please feel free to contact me by e-mail at bergmark@mcadamsco.com.

Sincerely,

MCADAMS

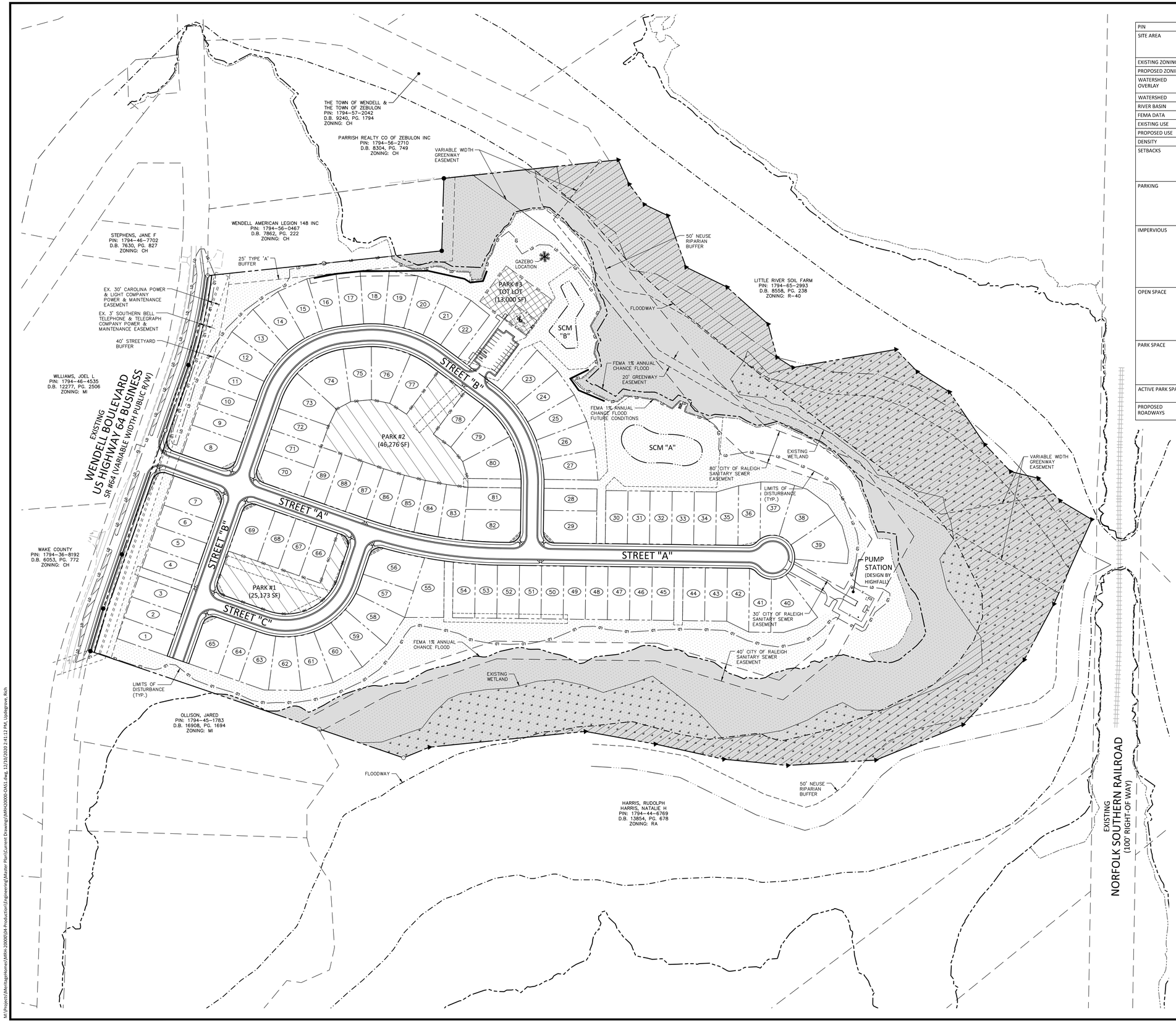
David Bergmark

David Bergmark
Senior Planner, Planning + Design Group

Watson Tract R-4 Conditional District Proposed Conditions:

Conditions:

1. Permit 1 cul-de-sac to exceed 300' length
2. Permit 1 street segment to exceed 800' block length max (loop road ~ 1200)
3. Provide natural overlook with gazebo/covered area bordering the Little River.
4. Provide a minimum of 75,000 sq. ft of improved park space (38,938 SF required for 89 units)
5. Provide access easement along Little River for potential future greenway.
6. Decorative garage doors shall be utilized within the Development and shall include carriage hardware and/or windows.
7. Vinyl siding materials used on building facades shall be of high quality, show texture, and have a minimum thickness of 0.045 inches.
8. No SFD home shall have a front exterior elevation that is identical to homes on either side or directly across the street.
9. All homes shall use roof eaves which extend at least 6 inches from the façade plane.
10. 100% of homes shall be Energy Star Certified, and shall include the following green standards:
    a. High Performance Toilets
    b. Water-Efficient Faucets & Flow-Smart Showerheads
    c. ENERGY STAR® Certified Appliances
    d. Advanced Framing & Thermostats
    e. Minimum MERV 8 HVAC Filtration
    f. Thermal Breaks
    g. Conditioned Attics
    h. Spray Foam Insulation
    i. UV-Blocking Windows: Low-E Windows
    j. Sealed Insulated Ducts
    k. Low-to-Zero VOC Materials, Paints, Stains & Adhesives



SITE DATA

PIN	1794-55-1682	
SITE AREA	GROSS AREA:	2,065,703 SF / 47.42 AC
	R/W DEDICATION:	8,490 SF / 0.19 AC
	NET AREA:	2,057,213 SF / 47.23 AC
EXISTING ZONING	MI	
PROPOSED ZONING	R4-CD	
WATERSHED OVERLAY	NONE	
WATERSHED	LITTLE RIVER	
RIVER BASIN	NEUSE	
FEMA DATA	FIRM PANEL #3720179400J, DATED MAY 2, 2006	
EXISTING USE	VACANT	
PROPOSED USE	RESIDENTIAL - 89 SINGLE FAMILY DETACHED UNITS	
DENSITY	89 UNITS / 47.23 AC = 1.88 DU/AC (ONE PHASE)	
SETBACKS	REQUIRED	FRONT YARD: 25' CORNER YARD: 25' SIDE YARD: 10% OF LOT WIDTH REAR YARD: 20'
PARKING	REQUIRED	2/UNIT x 89 UNITS = 178 SPACES
	PROPOSED	178 GARAGE SPACES 178 DRIVEWAY SPACES 19 DRIVEWAY SPACES 375 TOTAL SPACES
IMPERVIOUS	EXISTING	0.00 AC
	PROPOSED	0.15 AC PUMP STATION/ACCESS ROAD 2.29 AC ROADWAYS 0.14 AC PARKING 0.93 AC SIDEWALKS 5.52 AC LOTS 9.03 AC (19.12%)
OPEN SPACE	REQUIRED	1,750 SF/UNIT x 89 UNITS = 155,750 SF
	PROPOSED	291,327 SF PASSIVE OUTSIDE OF FLOODPLAIN 375,776 SF PASSIVE CREDITED WITHIN FLOODPLAIN (660,908 SF PASSIVE TOTAL WITHIN FLOODPLAIN) 84,449 SF PARKS 751,552 SF (375,776 SF FLOODPLAIN - 50%)
PARK SPACE	REQUIRED	25% X 155,750 SF = 38,938 SF
	PROPOSED	PARK #1: 25,173 SF PARK #2: 46,276 SF PARK #3: 13,000 SF TOTAL: 84,449 SF
ACTIVE PARK SPACE	REQUIRED	1/3 X 38,938 SF = 12,979 SF
	PROPOSED	13,000 SF
PROPOSED ROADWAYS	3,560 LF	

SITE LEGEND

- SIGNAGE
- YARD LIGHTS
- LIGHT POLE
- POWER POLE
- TRAFFIC DIRECTIONAL ARROW
- ACCESSIBLE PARKING STALL (ACC)
- VAN ACCESSIBLE PARKING STALL (VAN)
- PARKING SPACE COUNT (XX)
- ACCESSIBLE RAMPS (TYPE A, TYPE B, TYPE C)
- ACCESSIBLE ROUTE
- PHASE LINE
- PROPERTY LINE
- RIGHT-OF-WAY LINE
- LOT LINE
- EASEMENT LINE
- CENTERLINE
- WETLANDS
- FEMA 1% ANNUAL CHANCE FLOOD
- FEMA 1% ANNUAL CHANCE FLOOD FUTURE CONDITIONS
- FLOODWAY
- OPEN SPACE - PASSIVE
- OPEN SPACE - PARK (OS)
- OPEN SPACE - ACTIVE PARK (OS)

GRAPHIC SCALE
0 50 100 200
1 inch = 100 ft.

PRELIMINARY DRAWING - NOT RELEASED FOR CONSTRUCTION

McADAMS
The John R. McAdams Company, Inc.
2905 Meridian Parkway
Durham, NC 27713

phone 919. 361. 5000
fax 919. 361. 2269
license number: C-0293, C-187

www.mcadamsco.com

CLIENT

MERITAGE HOMES
3300 PARAMOUNT PARKWAY, SUITE 150
MORRISVILLE, NC 27560

Meritage Homes

WATSON TRACT
MASTER PLAN
5060 WENDELL BOULEVARD
WENDELL, NORTH CAROLINA, 27591

NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 033840 CHRISTIS M. BLAZIER — NOT FOR CONSTRUCTION

REVISIONS

NO.	DATE	
1	11. 20. 2020	PER TOWN COMMENTS
2	12. 10. 2020	PER TOWN COMMENTS

PLAN INFORMATION

PROJECT NO.	MRH-20000
FILENAME	MRH20000-OAS1
CHECKED BY	CMB
DRAWN BY	RLU
SCALE	1"=100'
DATE	09. 30. 2020

SHEET

OVERALL SITE PLAN

C2.00

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September 30, 2020

5060 Wendell Blvd – R4-CD Conditions & Justification Statement

To Whom it May Concern:

McAdams has been hired to prepare an R4 Conditional District application for the 'Watson Tract' located at 5060 Wendell Blvd. Attached you will find proposed conditions to be tied to this R4 Conditional district request. After consultation with planning staff and the Town Manager, a conditional district was chosen as the most appropriate means of permitting residential development in order to address site constraints created by the surrounding floodplain and establish quality assurances for the development.

Currently the property is vacant and is zoned Manufacturing and Industrial (MI). The property is surrounded by floodplain on all sides, except for its frontage along Wendell Boulevard (Business 64). It is our position that this property's location on the eastern edge of Wendell (approximately 5.6 miles from I-87) makes it a poor choice for any quality manufacturing and industrial uses the Town would want to attract. It is simply too far from the interstate to support serious manufacturing or distribution facilities. Furthermore, the environmentally sensitive nature of the land surrounding this property on three sides makes manufacturing and industrial uses an environmental risk. For these reasons, we believe that a residential zoning designation (specifically an R-4 Conditional District) to be more appropriate and suitable at this location.

The Wendell Comprehensive Plan identifies this area as an S4 Controlled Growth Area. The S4 sector is described as "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 Comprehensive Plan describes the following community types and uses as 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
- Industrial uses

It is our position that shifting the zoning away from Manufacturing and Industrial, given the significant amount of floodplain and Neuse riparian buffers on site, supports Principle # 9 of the Comprehensive Plan: "*Protect and*

preserve Wendell's natural resources and amenities, including its streams, lakes, wetlands, and hardwood forests while balancing private property rights."

Thus, the proposed R4-Conditional District, which would create an **89-unit** single family development at a density of less than 2 dwelling units per acre is aligned with the uses and intensity described in the Comprehensive Plan for this area. The R4 Conditional district was chosen to permit residential lots of 6,000 square feet or more to allow the density needed to make development of this environmentally constrained parcel feasible, while still protecting the surrounding sensitive lands. It is our intention that this Meritage Community be one that embraces the natural environment which surrounds it and attracts buyers who desire that closer tie to nature.

This property, with frontage along Wendell Blvd, is well served by the existing transportation network. At less than 100 units, the traffic impacts of this single-family development will be minor (as reflected by the fact that a neighborhood of this size does not generate enough traffic to warrant a Transportation Impact Assessment per Wendell Code). As called for by the Town's Arterial and Collector Street (ACS) Plan, the developer will be performing widening along the property's frontage on Wendell Boulevard to help create the 3-lane undivided cross-section shown in the ACS plan, further facilitating turning movements and reducing congestion. Existing waterlines are present along Wendell Blvd. Due to the topography of the site, McAdams is currently working with the City of Raleigh to design a pump station to support sewer service to the proposed lots.

The proposed neighborhood's small size will have very limited impacts on schools, police protection, streets, and municipal services. Though this development will be a satellite annexation, it is in close proximity to the existing neighborhoods of Olde Wendel, Woodlands of Timberlake, and Northwinds North, making it a natural and cost-efficient service extension for police and public works.

We look forward to helping bring this new community to the growing Town of Wendell. If you have questions about this conditional district request, please feel free to contact me by e-mail at bergmark@mcadamsco.com.

Sincerely,

MCADAMS

David Bergmark

David Bergmark
Senior Planner, Planning + Design Group

Watson Tract R-4 Conditional District Proposed Conditions:

Conditions:

1. Permit 1 cul-de-sac to exceed 300' length
2. Permit 1 street segment to exceed 800' block length max (loop road ~ 1200)
3. Provide natural overlook with gazebo/covered area bordering the Little River.
4. Provide a minimum of 75,000 sq. ft of improved park space (38,938 SF required for 89 units)
5. Provide access easement along Little River for potential future greenway.
6. Decorative garage doors shall be utilized within the Development and shall include carriage hardware and/or windows.
7. Vinyl siding materials used on building facades shall be of high quality, show texture, and have a minimum thickness of 0.045 inches.
8. No SFD home shall have a front exterior elevation that is identical to homes on either side or directly across the street.
9. All homes shall use roof eaves which extend at least 6 inches from the façade plane.
10. 100% of homes shall be Energy Star Certified, and shall include the following green standards:
    a. High Performance Toilets
    b. Water-Efficient Faucets & Flow-Smart Showerheads
    c. ENERGY STAR® Certified Appliances
    d. Advanced Framing & Thermostats
    e. Minimum MERV 8 HVAC Filtration
    f. Thermal Breaks
    g. Conditioned Attics
    h. Spray Foam Insulation
    i. UV-Blocking Windows: Low-E Windows
    j. Sealed Insulated Ducts
    k. Low-to-Zero VOC Materials, Paints, Stains & Adhesives

WENDELL

Planning Department

Wendell Planning Board Recommendation to the Wendell Board of Commissioners

CD20-03:
Request to create an R4 (Residential-4) Conditional District for the Watson Tract located at 5060 Wendell Blvd.

Case Description:

- The applicant has requested to create an R4 Conditional District for 47.42 acres of property currently located in the town's extraterritorial jurisdiction (ETJ). The applicant's proposed R4 conditional district will feature 89 single family homes. The applicant is providing 17.25 acres of open space which is 13.67 acres above the 3.58 acres required by the UDO. Additionally, the applicant is required to provide .89 acres of park space and is providing 1.9 acres of park space.

Property Information Summary	
Location	Off Wendell Blvd. near the junction of Old Zebulon Road **Addresses:** 5060 Wendell Blvd. **PIN:** 1794-55-1682
Current Zoning	M&I
Requested Zoning	R4-CD
Area of Request	47.42 acres
Corporate Limits	Town of Wendell ETJ- will need to annex to receive utilities
Property Owner(s)	Watson Family II LLC
Applicant	David Bergmark of McAdams

Proposed Conditional District Conditions:

The applicant is proposing 12 Conditions for the proposed CD, as follows:

1. Permit 1 cul-de-sac to exceed 300' length
2. Permit 1 street segment to exceed 800' block length max (loop road ~ 1200)
3. Provide natural overlook with gazebo/covered area bordering the Little River.
4. Provide a minimum of 75,000 sq. ft of improved park space (38,938 SF required for 89 units)
5. Provide access easement along Little River for potential future greenway.
6. Decorative garage doors shall be utilized within the Development and shall include carriage hardware and/or windows.
7. Vinyl siding materials used on building facades shall be of high quality, show texture, and have a minimum width of 5 inches and a minimum thickness of 0.046 inches.
8. No SFD home shall have a front exterior elevation that is identical to homes on either side or directly across the street.
9. All homes shall use roof eaves which extend at least 6 inches from the façade plane.
10. 100% of homes shall be Energy Star Certified, and shall include the following green standards:
    a. High Performance Toilets
    b. Water-Efficient Faucets & Flow-Smart Showerheads
    c. ENERGY STAR® Certified Appliances
    d. Advanced Framing & Thermostats
    e. Minimum MERV 8 HVAC Filtration
    f. Thermal Breaks
    g. Conditioned Attics
    h. Spray Foam Insulation
    i. UV-Blocking Windows: Low-E Windows
    j. Sealed Insulated Ducts
    k. Low-to-Zero VOC Materials, Paints, Stains & Adhesives
11. Sidewalk shall be provided on both sides of the road (UDO only requires 1-side).
12. Foundations: Top of slabs shall be elevated a minimum of 8 inches above finished grade. Finished grade shall fall a minimum of 6 inches within the first 10 feet away from the structure to ensure positive drainage.

Planning Board Action:

At their January 19, 2021 meeting, the Planning Board voted 8-1 in favor of the requested Conditional District.

Voting in Favor: Ryan Zakany, Jonathan Olson, Deans Eatman, Allen Swaim, Levin Jones and Cande Killian Wood

Voting Against: None

Absent: Jimmena Huffman-Hall, Michael Firstbrook

Statement of Plan Consistency:

The requested zoning map amendment is consistent with the uses outlined in the Wendell Comprehensive Land Use Plan for the S-4 Sector and is reasonable in that it supports Principle #9: "Protect and preserve Wendell's natural resources and amenities including its streams, lakes, wetlands, and hardwood forests while balancing private property rights."

Approved by the Planning Board Chairperson

Planning Board Chairperson

28 Jan 2021

Date

Watson Tract R4- CD (Revised Conditions 1/21/21)

Conditions:

1. Permit 1 cul-de-sac to exceed 300' length
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    e. Minimum MERV 8 HVAC Filtration
    f. Thermal Breaks
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12. Foundations: Top of slabs shall be elevated a minimum of 12 inches above finished grade. Finished grade shall fall a minimum of 6 inches within the first 10 feet away from the structure to ensure positive drainage.

Item 5c

RICHER, DARKER COLORS!

Charter Oak®

REINFORCED PREMIUM VINYL SIDING

The Ultimate Way to Create Lasting Beauty

THE SIDING THAT CHANGED THE INDUSTRY

.046 Premium Thickness!

Alside®

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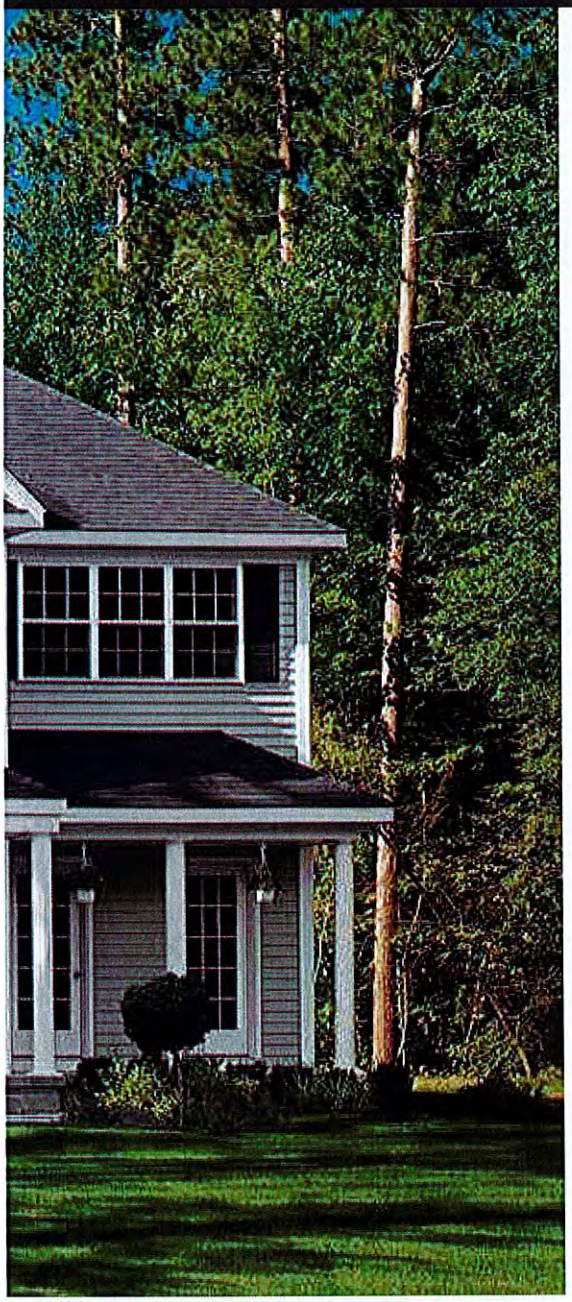
CHARTER OAK® . . . GIVE YOUR HOME A BEAUTIFUL NEW LOOK

with the most advanced vinyl siding you can buy. Outstanding beauty begins with exceptional product quality.

A PREMIER HOME EXTERIOR

Refined style, outstanding performance and a lifetime of protection – that's the power of Charter Oak® Premium Vinyl Siding. Distinguished for its superb durability and versatile design options, Charter Oak is the leading choice for the most distinctive homes. Featuring a wide range of traditional and architectural colors in the timeless beauty of clapboard and handcrafted old-world charm of dutch lap, Charter Oak makes it easy for you to achieve custom elegance for your home.

If you like the idea of having more free time and less home maintenance, you will appreciate Charter Oak. It recreates the beauty of freshly painted wood siding, but without the worries of rotting, splitting or insect damage. An occasional rinse with a garden hose will remove most airborne dust and dirt to restore the like-new beauty.



QUALITY YOU CAN COUNT ON

Made to be the best. And made to last. That's what you can count on when you choose Charter Oak Premium Vinyl Siding. You have the confidence that comes when working with a company recognized and respected for its manufacturing and quality control excellence. Plus you have the assurance that comes with Alside's lifetime limited warranty.*

Make your first choice the best choice . . . Charter Oak Premium Vinyl Siding.

MADE WITH ONLY THE VERY BEST MATERIALS

Developing a tough, durable and beautiful vinyl siding such as Charter Oak requires the technical skills of a chemical process engineer and the visual sensibilities of an architect. That's because the premium vinyl used in Charter Oak is more than just a simple vinyl resin. It's a proprietary compound, with each ingredient chosen to add specific benefits to the final product.

PureStrength vinyl resin gives Charter Oak its basic strength and weather resistance. It prevents moisture infiltration from rain and humidity, so panels won't rot, warp, shrink or swell. The result is low-cost, easy-care maintenance.

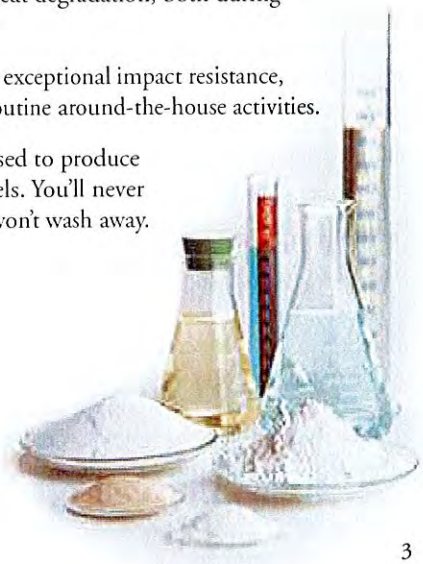
Ti-Shield titanium dioxide prevents ultraviolet degradation, so even hot summer sun won't damage Charter Oak's beautiful surface.

StayRight vinyl stabilizers also help prevent heat degradation, both during manufacturing and after installation.

TrueShield impact modifiers give Charter Oak exceptional impact resistance, helping to prevent denting and dinging from routine around-the-house activities.

DesignersChoice pigment concentrates are used to produce colors that go clear through Charter Oak panels. You'll never have to stain or paint again, because the color won't wash away.

Charter Oak. Technically, it's beautiful.

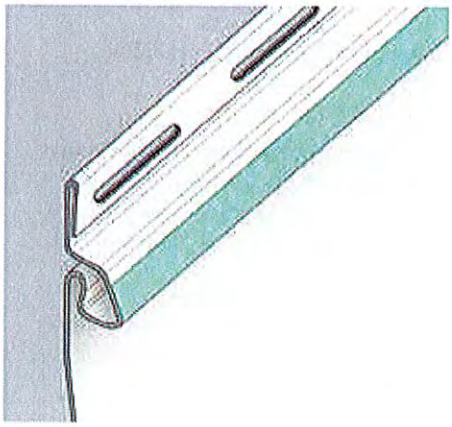


*See printed warranty for complete details.

CHARTER OAK'S TRIBEAM® SYSTEM
Designed for Maximum Performance.

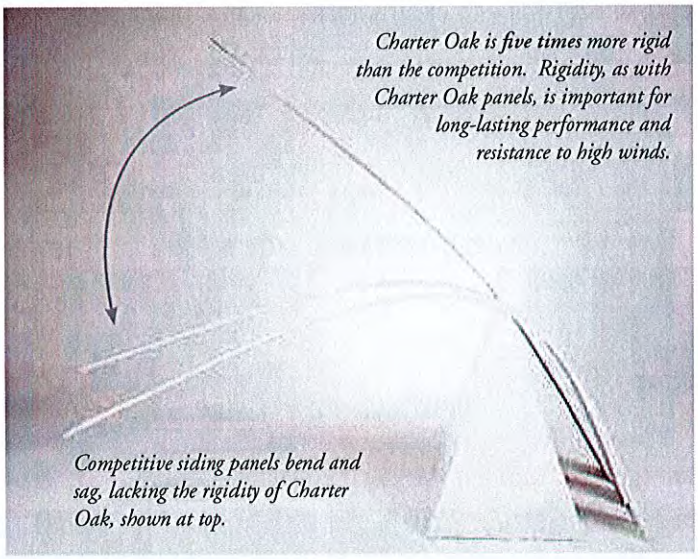
EXCLUSIVE TRIBEAM® SYSTEM PROVIDES UNSURPASSED PANEL RIGIDITY AND SUPERIOR WIND RESISTANCE

Charter Oak's lasting beauty isn't a result of just blending premium raw materials. Product engineers have created a superior – and exclusive – design for Charter Oak that provides exceptional rigidity and resistance to high winds.



The unique TriBeam system gives Charter Oak superior rigidity, helping to ensure straight course lines and even walls, on both new and existing homes. The result is a particularly beautiful installation with the built-in strength to maintain an enduring appearance.

The TriBeam illustration above shows another feature that's especially important if you live in an area where high winds are common. It's a rolled-edge nail hem that gives Charter Oak its superior ability to resist the force of extreme winds. To define extreme, we put Charter Oak to another test. The result: Charter Oak stayed nailed in place in winds reaching the intensity of Category 5 hurricane winds, the designation used by the National Hurricane Center to identify the most destructive storms.



NO SAGGING. TESTS PROVE IT.

Can other vinyl sidings deliver the same wall-straightening rigidity? Not according to independent product tests. In these strictly controlled laboratory comparisons, Charter Oak left the competition sagging. Three separate tests were conducted, using five premium-priced competitive sidings. The photo says it all: With Charter Oak, there's simply no comparison.

AN ECO-FRIENDLY CHOICE

As a sustainable product with a long service life, vinyl siding is environmentally responsible in several ways. In addition to conserving wood and other natural resources often used for building materials, vinyl siding helps reduce the deposit of paint, stain and maintenance-related materials into the solid waste stream because it never needs to be painted.

DID YOU KNOW for nearly two decades vinyl siding has been a leading choice for exterior cladding on new single-family homes. This broad appeal stems not only from its beauty, durability, and easy upkeep, but also from the fact that vinyl siding adds value to homes.

EXPRESS YOURSELF *with* RICH COLORS

Introducing New Richer Colors Tailored to Your Style.

CHOOSING COLOR FOR YOUR HOME HAS NEVER BEEN EASIER

From Deep Espresso to Laguna Blue, the new line-up of architectural colors don't shy away from bold and beautiful. Mix and match complementary shades for a look that is fresh and serene or combine more than one shade to bring richness and sophistication to your home.

STANDARD COLOR COLLECTION

Glacier White | *Antique Parchment* | *Natural Linen* | *Platinum Gray* | *Cape Cod Gray* | *Mystic Blue* | *Coastal Sage*

Juniper Ridge | *Adobe Cream* | *Maple* | *Monterey Sand* | *Vintage Wicker* | *Tuscan Clay*

ARCHITECTURAL COLOR COLLECTION

Fired Brick | *Canyon Drift* | *Flagship Brown* | *Deep Espresso* | *Rustic Timber* | *Mountain Fern* | *Deep Moss*

Harbor Blue | *Midnight Blue* | *Laguna Blue* | *Riviera Dusk* | *Storm* | *Sterling Gray* | *Ageless Slate*

Charcoal Smoke | *Cast Iron*

Note: Colors are as accurate as printing techniques allow. Make final color selections using actual vinyl samples. Color availability may vary by market. See your Alside Sales Representative for details.

ChromaTrue®

Our darker siding colors are fortified with ChromaTrue® technology for superior color retention. This advanced copolymer compound provides long-term color stability and better performance on darker colors.

THE ART OF THE MIX

There's no need to settle for siding and trim that almost match. Alside's ColorConnect® Color Matching System offers smart solutions for every design approach. ColorConnect standards have been painstakingly applied to select Alside products to ensure you are making tasteful color choices with enduring aesthetic value and the custom look you desire.

Whether it's a rich color that draws your eye to an interesting architectural detail, or neutral hues applied to a historic home, the Alside ColorConnect Color Matching System helps you successfully match the color of your siding with other Alside exterior products and accessories.

colorconnect® color matching system

ALL PRODUCTS ARE COLOR-COORDINATED WITH CHARTER OAK SIDING

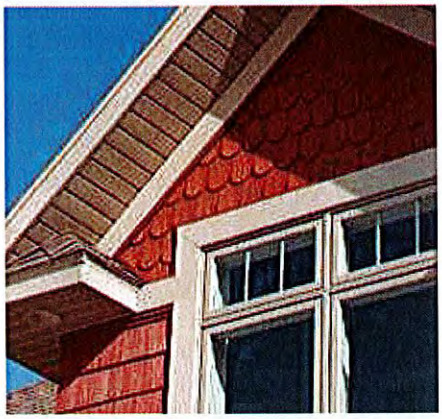
When you're creating an exterior design, the delight is in choosing the details. Siding color defines the total mass of your home; trim and accent details focus on particulars, highlighting those special features and characteristics that set your home apart.

Alside offers a wide selection of trim and accent products made to complement the beauty and colors of Charter Oak siding.

Trimworks® three-piece beaded corner post.

Trimworks 7" fluted corner post.

Alside Premium Shakes – the classic look of deep-grained cedar shakes.

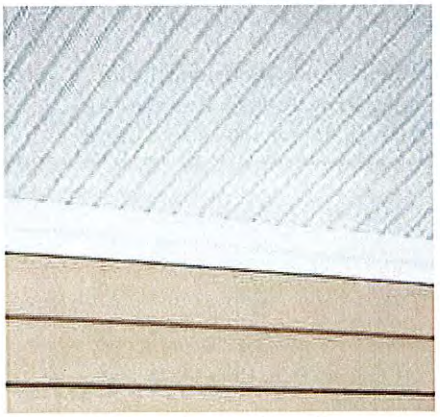


Alside Premium Scallops – Victorian inspired half-round shingles.

Charter Oak clapboard with Trimworks 5" window trim.

Charter Oak dutch lap with Trimworks 3-1/2" window trim.

Trimworks custom crown molding used with wood window trim.



Greenbriar® Vintage Beaded soffit and Trimworks soffit crown molding.

Horizontal band board provides a strong horizontal accent.

— CHARTER OAK PREMIUM VINYL SIDING —

Item 5c

The BEST *of* AMERICA'S ARCHITECTURAL HERITAGE . . .
Made Convenient for Today's Busy Homeowners

INDEPENDENTLY TESTED FOR QUALITY AND SAFETY

When you choose Charter Oak, you get more than Alside's assurance of quality. Under an independent program sponsored by the Vinyl Siding Institute (VSI), Charter Oak has received ASTM D3679 certification, the industry standard for quality.

SUSTAINABLE SOLUTIONS FOR YOUR BEAUTIFUL HOME

Choosing the best exterior for your home not only presents exciting design opportunities, it also offers the chance to take a positive step toward environmental stewardship and resource efficiency. When you consider the numerous advantages vinyl siding offers in appearance and performance, you'll see why it's a leading choice – one that meets your every design inspiration while reducing our carbon footprint and protecting the planet.

From its two simple and natural building blocks of salt and natural gas to its efficient manufacturing process and modest transportation energy use . . . vinyl siding has lower environmental impacts throughout its lifecycle, especially when compared to other exterior cladding. In the overall environmental impact by life cycle stage:

- Brick has nearly 5X the environmental impact of vinyl siding and nearly 4X the impact of insulated vinyl siding
- Fiber cement has nearly 3X the environmental impact of vinyl siding and more than 2X the environmental impact of insulated vinyl siding

With a strong commitment to environmental stewardship, Alside vinyl siding helps promote resource efficiency – virtually no manufacturing waste, fuel-efficient transport, minimal installation scrap and safe to install. It's a smart choice for you and a positive choice for the environment!

Source for performance data included in this spread: "Today's Vinyl Siding: Verifiably Green," January 2013. BEES Online, National Institute of Standards and Technology, http://ws680.nist.gov/Bees; October 2012.

PEACE OF MIND

Charter Oak Premium Vinyl Siding and Alside accessories are backed by lifetime limited warranties.** For complete warranty information, including limitations, please see a printed copy of the warranty.

CERTIFIED VINYL SIDING

Pertains to Charter Oak Vinyl Siding
Consult the VSI website at *www.vinylsiding.org* for a current list of certified products and colors.

Alside

Alside 3773 State Road Cuyahoga Falls, Ohio 44223
1-800-922-6009 *www.alside.com*

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O-05-2021

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-CD20-03) for the property described below, said property formerly being zoned Manufacturing & Industrial (M&I); and

WHEREAS said properties are owned by Watson Family II, 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 February 8, 2021 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 **R4 Conditional District (R4-CD20-03)** zoning district 47.42 acres of land located at 5060 Wendell Blvd. (PIN 1794-55-1682).

SECTION 2. The requested zoning map amendment for the parcels within the rezoning area identified as CD20-03 from Manufacturing & Industrial (M&I) to **R4-CD20-03** is found to be reasonable in that it supports Principle #9 of the Comprehensive Plan “Protect and preserve

Wendell's natural resources and amenities including its streams, lakes, wetlands, and hardwood forests while balancing private property rights." and is found to be consistent with the recommended uses and development types outlined in the Wendell Comprehensive Land Use Plan for the S4 sector.

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

1. Permit 1 cul-de-sac to exceed 300' length
2. Permit 1 street segment to exceed 800' block length max (loop road ~ 1200)
3. Provide natural overlook with gazebo/covered area bordering the Little River.
4. Provide a minimum of 75,000 sq. ft of improved park space (38,938 SF required for 89 units)
5. Provide access easement along Little River for potential future greenway.
6. Decorative garage doors shall be utilized within the Development and shall include carriage hardware and/or windows.
7. Vinyl siding materials used on building facades shall be of high quality, show texture, and have a minimum width of 5 inches and a minimum thickness of 0.046 inches.
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    j. Sealed Insulated Ducts
    k. Low-to-Zero VOC Materials, Paints, Stains & Adhesives
11. Sidewalk shall be provided on both sides of the road (UDO only requires 1-side).
12. Foundations: Top of slabs shall be elevated a minimum of 12 inches above finished grade. Finished grade shall fall a minimum of 6 inches within the first 10 feet away from the structure to ensure positive drainage.

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 22nd Day of February 2021

(Town Seal)

_____
Virginia R. Gray, Mayor

ATTEST:

_____
Megan Howard, Town Clerk

APPROVED AS TO FORM:

_____
James P. Cauley III, Town Attorney

Date: February 8, 2021 **Item # 5d**

Item Title:

Public Hearing for a Non-contiguous Annexation for one Parcel totaling 47.42 acres [PIN 1794-55-1682] located at 5060 Wendell Boulevard.

Report to the Board of Commissioners:

February 8, 2021- Public Hearing
January 25, 2021- Receive Certificate of Sufficiency and set Public Hearing
January 11, 2021- Direct Clerk to Certify the Sufficiency of the Annexation Petition

Specific Action Requested:

Hold a public hearing for the requested annexation and consider adopting the attached ordinance.

Item Summary:

David Bergmark on behalf of Watson Family II LLC has submitted an annexation request for one parcel totaling 47.42 acres [PIN 1794-55-1682] located at 5060 Wendell Boulevard.

The applicant has submitted a Conditional R-4 rezoning petition for the parcel.

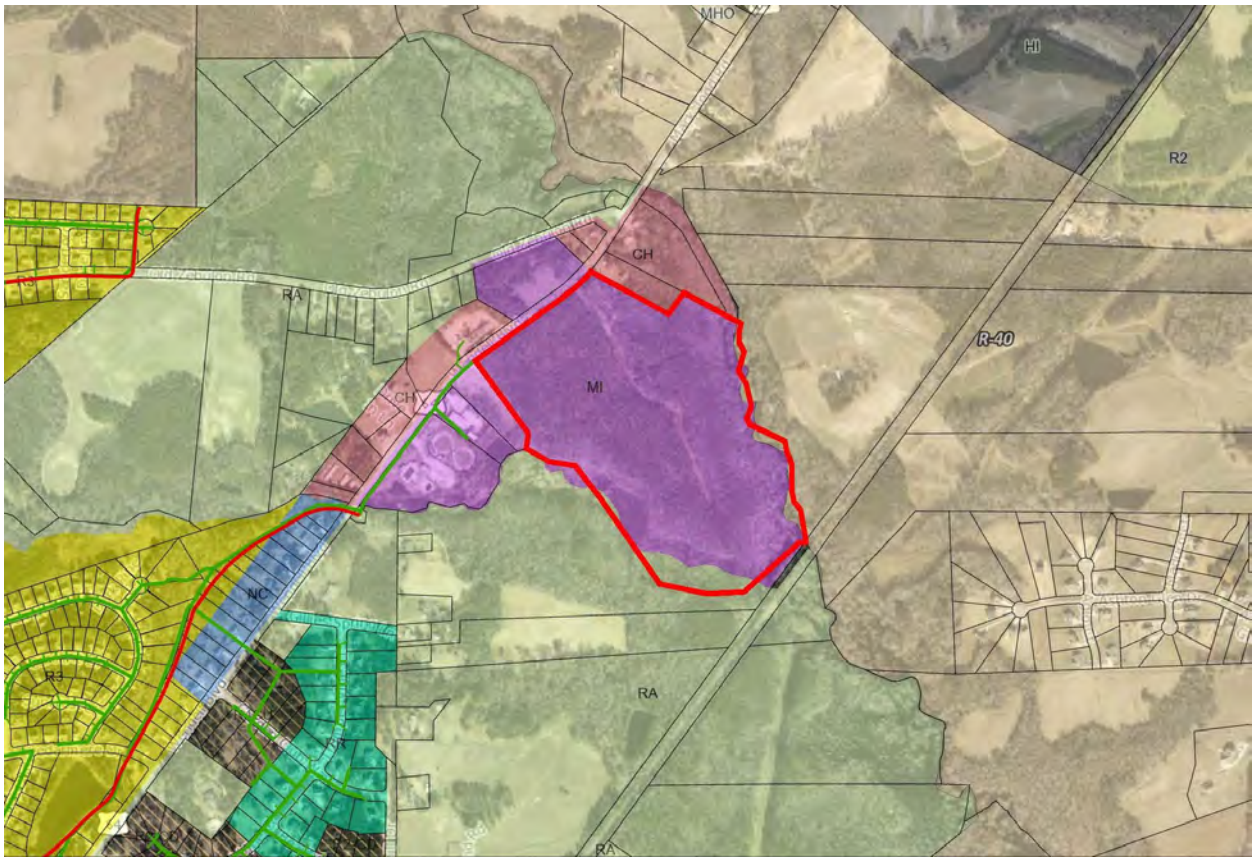
Zoning District:

The parcel is located in the Town of Wendell's extra-territorial jurisdiction (ETJ) and is currently in the Manufacturing Industrial (MI) zoning district.

Impacts to Town Services:

The proposed annexation area would require services from the Town's Police, Public Works, and Parks and Recreation Departments if annexed and developed. Secondary service impacts will be incurred by other Town departments that support the operational departments. The property is already served by the Wendell-Holmes Fire District. Water and sewer are readily available to the property and provided by the Wendell Service Area by the City of Raleigh Utilities Department. Specific impacts are dependent on the use, density, and design of development and subject to approvals for utility allocations and land use.

Location Map:



Attachments:

A. Ordinance for Adoption

Return Address: Niki Jones, Planning Director
Town of Wendell
15 E. Fourth Street
Wendell, NC 27591

A20-07

ORDINANCE NO. 0-9-2021
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 8th day of February, 2021, after due notice by publication on the 28th day of January, 2021.

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 property identified by PIN 1794551682 and also shown as the 47.42 acre tract located at 5060 Wendell Blvd. 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 February 22, 2021. 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 22nd day of February 2021.

(Town Seal)

_____
Virginia R. Gray, Mayor

ATTEST:

_____
Megan Howard, Town Clerk

APPROVED AS TO FORM:

_____
James P. Cauley III, Town Attorney

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-__-2021**, as adopted by the Wendell Board of Commissioners on the 22nd day of February,

2021 for property owned by **Watson Family II 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 _____, 2021.

[TOWN SEAL]

_____
Megan Howard, Town Clerk

Date: February 8, 2021 **Item # 5e**

Item Title:

Public Hearing for a Non-contiguous Annexation for one Parcel totaling 50.63 acres [PIN 1774-72-4863] located at 0 Eagle Rock Road.

Report to the Board of Commissioners:

February 8, 2021- Public Hearing
January 25, 2021- Receive Certificate of Sufficiency and set Public Hearing
January 11, 2020- Direct Clerk to Certify the Sufficiency of the Annexation Petition

Specific Action Requested:

Hold a public hearing for the requested annexation and consider adopting the attached ordinance.

Item Summary:

Sesha Debnam on behalf of 520 State Street LLC has submitted an annexation request for one parcel totaling 50.63 acres [PIN 1774-72-4863] located at 0 Eagle Rock Road. The property is required to be annexed before access to municipal water and sewer service. At this time no development plans have been submitted for Technical Review Committee (TRC) review.

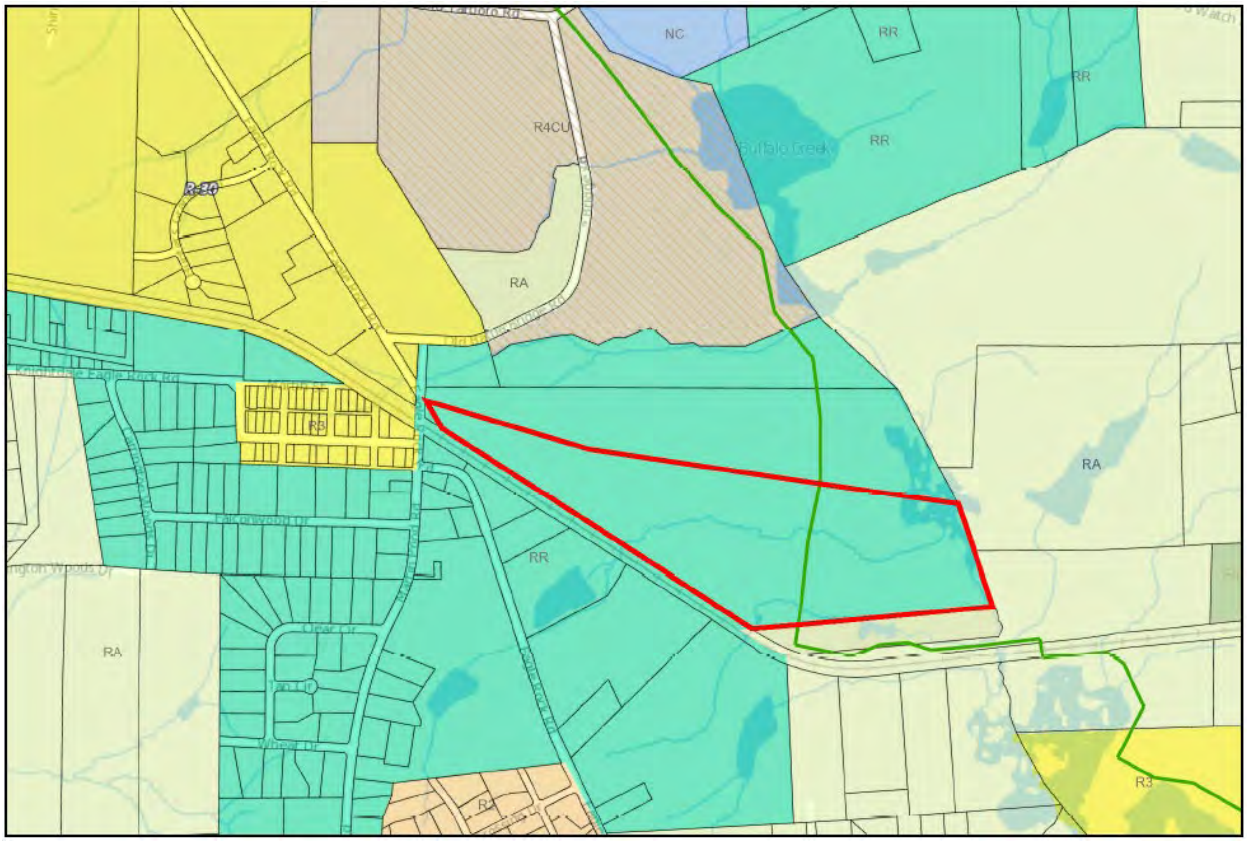
Zoning District:

The parcel is located in the Town of Wendell's extra-territorial jurisdiction (ETJ) and is currently in the Residential-3 (R3) zoning district. The property was rezoned from Rural Residential (RR) to Residential-3 (R3) at the September 28, 2020 Board of Commissioners Meeting.

Impacts to Town Services:

The proposed annexation area would require services from the Town's Police, Public Works, and Parks and Recreation Departments if annexed and developed. Secondary service impacts will be incurred by other Town departments that support the operational departments. The property is already served by the Wendell-Holmes Fire District. Water and sewer are readily available to the property and provided by the Wendell Service Area by the City of Raleigh Utilities Department. Specific impacts are dependent on the use, density, and design of development and subject to approvals for utility allocations and land use.

Location Map:



Attachments:

A. Ordinance for Adoption

Return Address: Niki Jones, Planning Director
Town of Wendell
15 E. Fourth Street
Wendell, NC 27591

A20-12

ORDINANCE NO. 0-08-2021
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 8th day of February, 2021, after due notice by publication on the 28th day of January, 2021.

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 property identified by PIN 1774724863 and also shown as the 50.63 acre tract 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 February 22, 2021. 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 22nd day of February 2021.

(Town Seal)

_____
Virginia R. Gray, Mayor

ATTEST:

_____
Megan Howard, Town Clerk

APPROVED AS TO FORM:

_____
James P. Cauley III, Town Attorney

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-__-2021**, as adopted by the Wendell Board of Commissioners on the 22nd day of February, 2021 for 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 _____, 2021.

[TOWN SEAL]

_____
Megan Howard, Town Clerk

Date: February 8, 2021 **Item # 5f**

Item Title:

Public Hearing to formally close the Right-of-Way known as the Alley located between Fourth Street and East Depot Street.

Report to the Board of Commissioners:

February 8, 2021- Public Hearing
January 11, 2021- Resolution of Intent

Specific Action Requested:

Hold a public hearing on the proposed request and consider adoption of an Order Closing an Unimproved Road Right-of-Way.

Item Summary:

Carter Kennemur of Fossil Key Properties LLC is requesting to formally close the entire (1,368 square feet) alley located between Fourth Street & East Depot Street in Downtown Wendell (Attachment A). The alley splits the properties owned by Fossil Key Properties LLC and East Wake Education Foundation identified by PIN#s 1784-70-0311 & 1784-70-1360. On February 27, 1906, a final plat was recorded (Book of Maps 1885 Page 61) for the creation of downtown Wendell. There is a north and south district bisected by the railroad tracks (see Attachment B).

The alley requested for closure has not been improved or accepted for maintenance by NCDOT. However, it is still shown as right-of-way on Wake County's GIS records. When the buildings located at 36-42 North Main Street and 37 North Pine Street were built in 1952 the alley was never officially closed. The buildings were constructed over the right-of-way.

According to §160A-299 (Attachment C), for a road or alley to be formally closed, the municipality's Town Board must first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question (Attachment D). This resolution must be published in the newspaper for four successive weeks, and notices must be mailed to adjoining property owners and posted on the property.

The requested right-of-way will be allocated to the two buildings that currently occupy the right-of-way.

Staff Recommendation:

Staff recommends that the Board adopt the attached Order Closing an Unimproved Road Right-of-Way.

Attachments:

A. Applicant's letter of request
B. Book of Maps 1885, Page 61
C. General Statute §160A-299- Road & Alley Closing
D. Resolution of Intent to Close Road Right-of-Way.
E. Wake County GIS Map of Area
F. Order Closing an Unimproved Road Right-of-Way

KENNEMUR & ASSOCIATES
REAL ESTATE

Mr. Bryan Coates
Assistant Planning Director
Town of Wendell

December 16, 2020

Good afternoon,

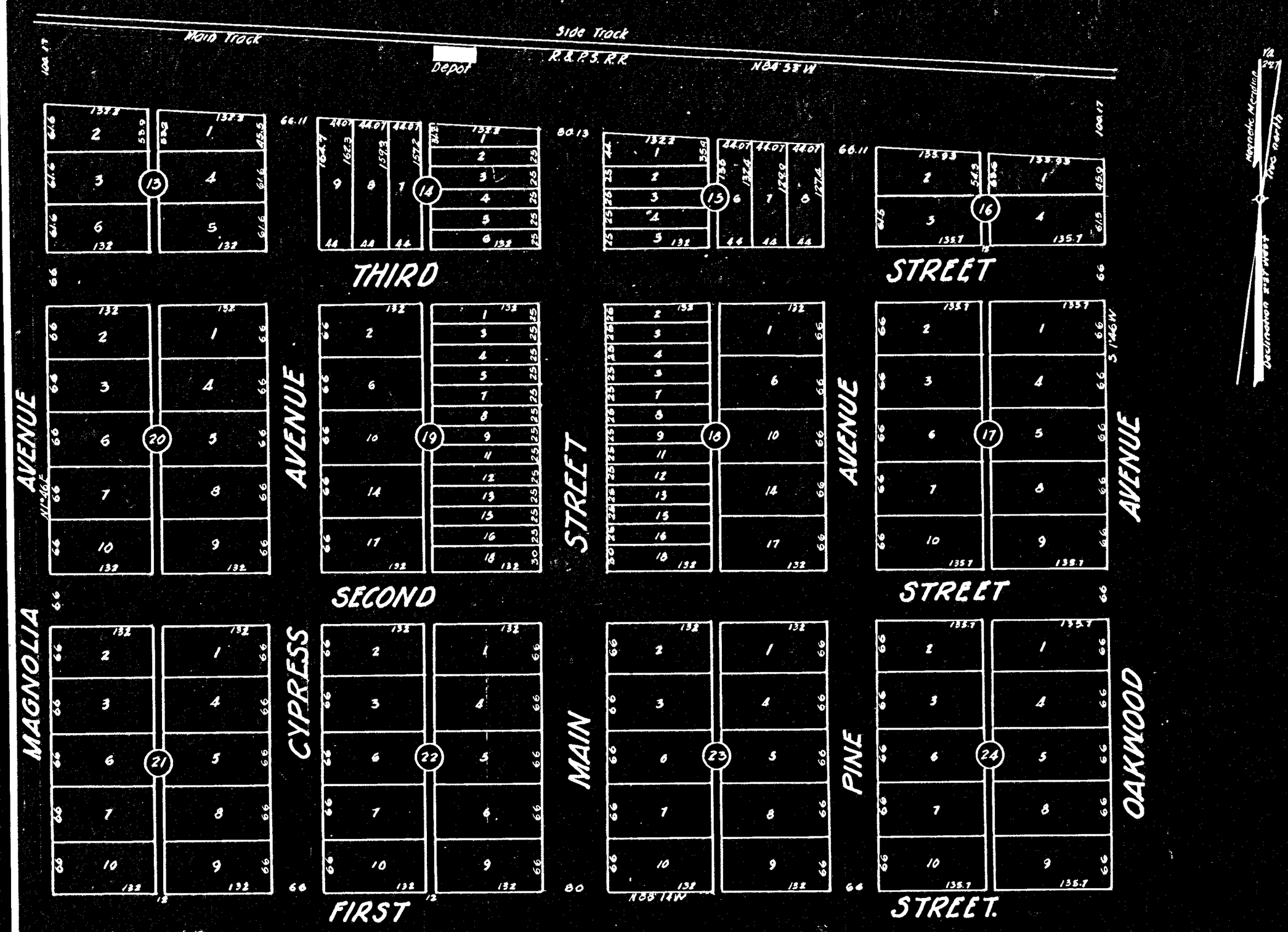
I am the new owner of the properties located at 36-42 N. Main Street, and I am in the process of acquiring the warehouse building located at 37 N. Pine Street. Looking at tax maps, it came to my attention that an old alley that is located (on paper) running from Fourth Street to Depot Street was never closed when these buildings were built in the 1950's. Please accept this letter as my request to officially close that alley. Thanks so much, and please let me know if you need anything from me.

Sincerely,

B. Carter Kennemur, CCIM
Managing Member
Fossil Key Properties, LLC

805 North Wakefield Street
Zebulon, North Carolina 27597
(919) 269-6400 Office
(919) 714-0522 Facsimile

BKBM1885PG00061



PLAT OF WENDELL
WAKE CO. N.C.
Scale 1 inch = 100 ft. - 1908
Recorded this 27 day of February 1906

ACTUAL DATE UNKNOWN

Book 1885 Page 61

BKBM1885PG0061A

Item 5f

WILSON AVENUE

AVENUE

R. B. Richardson's

FIFTH STREET

FOURTH STREET

MAGNOLIA AVENUE

CYPRESS AVENUE

MAIN STREET

PINE AVENUE

OAKWOOD AVENUE

R. P. S. Ry Main Track

Side Track

ACTUAL DATE UNKNOWN

WENDELL

Book 1885 Page 61

§ 160A-299. Procedure for permanently closing streets and alleys.

(a) When a city proposes to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street, or any portion thereof, is located.

(b) Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the city council, the council's decision to close the street was in accordance with the statutory standards of subsection (a) of this section and any other applicable requirements of local law or ordinance.

No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

(c) Upon the closing of a street or alley in accordance with this section, subject to the provisions of subsection (f) of this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

The provisions of this subsection regarding division of right- of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

(d) This section shall apply to any street or public alley within a city or its extraterritorial jurisdiction that has been irrevocably dedicated to the public, without regard to whether it has actually been opened. This section also applies to unopened streets or public alleys that are shown on plats but that have not been accepted or maintained by the city, provided that this section shall not abrogate the rights of a dedicator, or those claiming under a dedicator, pursuant to G.S. 136-96.

(e) No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto.

(f) A city may reserve a right, title, and interest in any improvements or easements within a street closed pursuant to this section. An easement under this subsection shall include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public interest. The reservation of an easement under this subsection shall be stated in the order of closing. The reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.

(g) The city may retain utility easements, both public and private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the city council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements. Notice by certified or registered mail shall be provided to the party withdrawing the street from dedication under G.S. 136-96 at least five days prior to the hearing. The declaration must be passed prior to filing of any plat or map or declaration of withdrawal with the register of deeds. Any property owner filing such plats, maps, or declarations shall include the city declaration with the declaration of withdrawal and shall show the utilities retained on any map or plat showing the withdrawal. (1971, c. 698, s. 1; 1973, c. 426, s. 47; c. 507, s. 5; 1977, c. 464, s. 34, 1981, c. 401; c. 402, ss. 1, 2; 1989, c. 254; 1993, c. 149, s. 1; 2015-103, s. 1.)

TOWN OF WENDELL NORTH CAROLINA

RESOLUTION DECLARING INTENT TO CLOSE ROAD RIGHT-OF-WAY

RESOLUTION # R-04-2021

BE IT RESOLVED that, the Town of Wendell does hereby declare its intent to close the alley located between East Depot Street and Fourth Street right-of-way, being approximately 1,365 square feet and located in downtown Wendell in the town limits, bordering the lots identified by PINs # 1784-70-0311 & 1784-70-1360.

BE IT FURTHER RESOLVED that the Board of Commissioners hereby orders that a public hearing on this matter be held on Monday, February 8, 2021 at 7:00 p.m. in the Wendell Town Hall, following the public notice of intent as required by §160A-299.

Duly adopted this 11th day of January, 2021.

Virginia R. Gray, Mayor

Attest:

Megan Howard, Town Clerk

N

0 25 50 100 ft

1 inch = 50 feet

Disclaimer

*iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied ,are provided for the data therein, its use,or its interpretation.*

Return Address: Marvin Collins, Town Manager
Town of Wendell
15 E. Fourth Street
Wendell, NC 27591

STATE OF NORTH CAROLINA
COUNTY OF WAKE -SEAL-

CLERK'S CERTIFICATION

I, **Megan Howard,** Town Clerk of the Town of Wendell, North Carolina, do hereby certify that the attached is original ordinance **#O-10-2021**, as adopted by the Wendell Board of Commissioners on the 22nd day of February 2021 at a regular meeting 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 22nd day of February 2021.

_____
Megan Howard, Town Clerk

ORDINANCE NO. O-10-2021
ORDER CLOSING AN UNIMPROVED ROAD RIGHT-OF-WAY

WHEREAS, a request to close the unimproved alley between Fourth Street & East Depot Street right-of-way located in the Town of Wendell was received by the Wendell Board of Commissioners; and

WHEREAS, the Wendell Board of Commissioners did on January 11th, 2021 adopt a resolution declaring its intent to close the unimproved road right-of-way identified as an

approximately 1,365 square feet of alley located between Fourth Street & East Depot Street in the Town of Wendell, adjacent to the lots identified by PIN #s 1784-70-0311 and 1784-70-1360; and

WHEREAS, a public hearing regarding the question of closing the road right-of-way was held in conformance with §160A-299 on February 8th, 2021 in the Wendell Boardroom; and

WHEREAS, in recognition of the facts presented at the public hearing held on the matter of closing the road right-of-way, it was determined that closing the unimproved right-of-way as hereinafter described is not contrary to the public interests and that no individual owning property in the vicinity of the unimproved road right-of-way hereinafter described would thereby be deprived of reasonable means of ingress and egress to his property;

IT IS NOW ORDERED, subject to the reservation of easements to the Town of Wendell for utility pruposes, that the following described unimproved road right-of-way be closed pursuant to the provisions of §160A-299:

> That certain unimproved road right-of-way (alley between Fourth Street & East Depot Street) being an approximately 12 feet wide on the northern and southern boundaries, 114 feet wide on the eastern and western boundaries, containing a strip of land running between Fourth Street & East Depot Street shown on the recorded plat BM 1885 PG 61; adjacent to the lot identified by PIN#s 1784-70-0311 and 1784-70-1360.

IT IS FURTHER ORDERED by the Wendell Board of Commissioners that the above-described unimproved road right-of-way is permanently closed and abandoned pursuant to the provisions of §160A-299 and all right, title and interest in the unimproved road right-of-way so closed shall be presumed to be vested in those persons owning lots or parcels of land adjacent to the unimproved road right-of-way and the title of such adjoining landowners for the length and width of the buildings that have been constructed upon the unimproved road right-of-way pursuant to §160A-299(c).

Adopted the 22nd day of February 2021 while in regular session.

(Town Seal)

_____

Virginia R. Gray, Mayor

ATTEST:

_____

Megan Howard, Town Clerk

Date: February 8, 2021 **Item # 5g**

Item Title:

Public Hearing on Text Amendments to the Town of Wendell Code of Ordinances and Unified Development Ordinance (UDO) to comply with Chapter 160D of the North Carolina General Statutes.

Report to the Board of Commissioners:

February 8, 2021- Public Hearing

Specific Action Requested:

Hold a public hearing on the proposed Text Amendment requests.

Item Summary:

Chapter 160D of the North Carolina General Statutes is a new chapter that consolidates current city- and county-enabling legislation for development regulations into a single, unified chapter. Chapter 160D creates a more logical organization of the regulations. The new law does not make major policy changes or shifts in the scope of authority granted to local governments. The changes do provide many clarifying amendments and consensus reforms that are required to be incorporated into the Town's UDO.

Chapter 160D is effective now, but local governments have until July 1, 2021 for the development, consideration, and adoption of necessary amendments to conform local ordinances to this new law. All city and county zoning, subdivision, and other development regulations, including unified-development ordinances, will need to be updated by that date to conform to the new law.

Staff proposes to bring forward 160D text amendments to the Board of Commissioners once per month over the next 6 months. This schedule will allow the Town to meet the July 1 deadline. The first of the proposed text amendments are related to terminology and definitions. We are required to update any reference to provisions in G.S. Chapter 160A to replace any relevant provisions in Chapter 160D.

Proposed Amendments:

To align ordinance terminology with Chapter 160D terminology for *conditional zoning* and *special use permits*; the Town must delete use of the terms *conditional use permit*, *special exception*, *conditional use district zoning*, and *special use district zoning*.

Also, we must ensure that ordinance definitions for the following terms are not inconsistent with definitions provided in NC General Statues: *building*, *dwelling*, *dwelling unit*, *bedroom*, and *sleeping unit*.

Staff recommends amending the sections of the Town of Wendell Code of Ordinances and Unified Development Ordinance to read as noted in the attached Staff Analysis (Attachment B). The changes are noted as being highlighted and deletions are shown with strikethroughs. The additions are shown as **bolded and underlined**.

Planning Board Recommendation:

At their January 19, 2021 meeting, the Planning Board voted unanimously to approve the requested zoning text amendments.

Voting in Favor: Cande Killian Wood, Deans Eatman, Levin Jones, Allen Swain, Ryan Zakany and Jonathan Olson

Voting Against: None

Absent: Michael Firstbrook and Jimmena Huffman-Hall

Statement of Plan Consistency:

The Wendell Board of Commissioners concludes that the proposed ordinance amendment is reasonable and in the public interest because it brings the local ordinances into compliance with applicable North Carolina law. Additionally, the proposed ordinance amendment supports Key Principle # 9 (Make development decisions predictable, fair, and cost effective) in the Town's adopted Comprehensive Plan:

Staff Recommendation:

Staff recommends that the Board of Commissioners approve the proposed text amendments to comply with the new Chapter 160D of the NC General Statues.

Attachments:

A. Ordinance for Adoption
B. Staff Analysis
C. Planning Board Recommendation

ORD # 0-07-2020
AN ORDINANCE TO AMEND MULTIPLE SECTIONS OF THE TOWN OF WENDELL CODE OF ORDINANCE AND UNIFIED DEVELOPMENT ORDINANCE TO COME INTO COMPLIANCE WITH CHAPTER 160D OF THE NORTH CAROLINA GENERAL STATUTES.

WHEREAS, Part I, Subpart A- Charter, Sec. 2.2- Extension of Corporate Boundaries, Sec. 6.1- Conditional use zoning districts, Sec 1-2- Definitions and rules of construction, Sec. 1-17- Corporate Limits, Sec.1-18- General penalty, Division 2- Planning Board, Division 3- Board of Adjustment, Sec. 2-335- Ordinance making procedure, Chapter 4- Animals, Sec. 12.6- Establishment of primary fire limits, Sec. 18-213- Enforcement, Sec. 26.03- Annexation required when service requested, Article III- Trees, Sec. 30-20- Building permits application; certification, Sec. 34-19- Purpose, Sec. 34-89- Failure to comply with order, Sec. 34-90- Appeals, Sec. 34-91- Petition to superior court, Sec 34-93- In rem action by inspector; placarding, Sec. 34-94- Costs as lien on premises of the Town of Wendell Code of Ordinances and Section 1.3- Authority, Section 1.4- Jurisdiction, 1.5- B, Section 2.1- General Intent, Section 3.3- Additional Standards by use, Section 6.5- Stormwater Runoff Provisions: Post-Construction Stormwater Ordinance, Section 6.7- Flood Damage Protection Ordinance, Section 12.2- Applicability, Section 13.10- Nonconforming Plans, Section 14.2- Planning Board, Section 14.3- Board of Adjustment, Section 14.4- Technical Review Committee, Section 15.3- Administrator, Section 15.14- Vested Rights, Section 15.16- Administrative Appeals and Section 19.3- Definitions of the UDO contains references to North Carolina General Statute 160A; and

WHEREAS, the Town of Wendell Unified Development Ordinance Section 15.11 establishes uniform procedures for amending the text of the Ordinance;

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

SECTION 1. That Part I, Subpart A- Charter, Sec. 2.2- Extension of Corporate Boundaries, Sec. 6.1- Conditional use zoning districts, Sec 1-2- Definitions and rules of construction, Sec. 1-17- Corporate Limits, Sec.1-18- General penalty, Division 2- Planning Board, Division 3- Board of Adjustment, Sec. 2-335- Ordinance making procedure, Chapter 4- Animals, Sec. 12.6- Establishment of primary fire limits, Sec. 18-213- Enforcement, Sec. 26.03- Annexation required when service requested, Article III- Trees, Sec. 30-20- Building permits application; certification, Sec. 34-19- Purpose, Sec. 34-89- Failure to comply with order, Sec. 34-90- Appeals, Sec. 34-91- Petition to superior court, Sec 34-93- In rem action by inspector; placarding, Sec. 34-94- Costs as lien on premises of the Town of Wendell Code of Ordinances be amended to read as follows:

PART I CHARTER AND LOCAL LAWS
Subpart A - CHARTER
State Law reference— General laws supplementary to the charter, G.S. 160D-111**.**

ARTICLE II. - CORPORATE BOUNDARIES
Sec. 2.2. - Extension of corporate boundaries.
State Law reference— Corporate limits, G.S. Article 2 of Chapter 160D of the General Statutes

ARTICLE VI. - PLANNING AND REGULATION OF DEVELOPMENT (Delete Entirely)
Sec. 6.1. - Conditional use zoning districts. (Delete Entirely)

Sec. 1-2. - Definitions and rules of construction.

State Law reference— Similar state law definitions, G.S. 1-593, 12-3, 160A-1, 160D-102**.**

Sec. 1-17. - Corporate limits.
State Law reference— Boundaries to be as specified by Charter and altered as permitted by law or by local act of the General Assembly, G.S. 160A-21; map of corporate limits to be kept in office of town clerk, G.S. 160D-105.

Sec. 1-18. - General penalty.
State Law reference— Authority of town to impose penalty, G.S. 160A-175, G.S. 160D-404; violation of town ordinances, G.S. 14-4.

DIVISION 2. - PLANNING BOARD
State Law reference— Planning board, G.S. 160D-301

DIVISION 3. - BOARD OF ADJUSTMENT
State Law reference— Board of adjustment, G.S. 160D-302.

Sec. 2-335. - Ordinance-making procedure.
State Law reference— Town's general ordinance-making power, G.S. 160A-174; Article 4 of G.S. 160D.

Chapter 4 - ANIMALS
State Law reference— Protection of animals, G.S. ch. 19A; dogs, G.S. ch. 67; regulation of domestic animals pursuant to town's police power, G.S. 160A-174, Article 4 of G.S. 160D, 160A-186**.**

Sec. 12-6. - Establishment of primary fire limits.
Pursuant to G.S. 160D-1128, the primary fire limits of the town shall be and are defined as the exact boundaries of the downtown retail overlay district as illustrated in the map in section 38-204.

Sec. 18-213. - Enforcement.
(a) Violation of this article shall be a misdemeanor as provided under G.S. 160A-175, G.S. 160D-404 and G.S. 14-4. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175.
(b) The town may also secure effective and other appropriate equitable remedies to ensure compliance with this article, as provided by G.S. 160A-175 and G.S. 160D-404.

Sec. 26-3. - Annexation required when service requested. (Delete Entirely)

ARTICLE II. - TREES
State Law reference— Restriction of forestry activities prohibited, G.S. 160D-921.

Sec. 30-20. - Building permits application; certification.
State Law reference— Permit requirements, G.S. 160D-1110.

ARTICLE II. - MINIMUM HOUSING CODE
Sec. 34-19. - Purpose.
(a) Pursuant to G.S. 160D-1201, it is found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(b) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. 160D-202 et seq., it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160D-1201.

Sec. 34-89. - Failure to comply with order.
(a) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the minimum housing inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the inspector shall submit to the board of commissioners at its next regular meeting a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by G.S. 160D-1203(5).
(b) *Order to repair, posting, etc.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (a) of this section, the inspector shall submit to the board of commissioners an ordinance ordering the inspector to cause the dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition, to placard the dwelling as provided by G.S. 160D-1203(4).

Sec. 34-90. - Appeals.
(b) Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board all the papers constituting the record on which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the inspector certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished by the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown on not less than one day's written notice to the inspector, by the board, or by a court of record upon petition made pursuant to G.S. 160D-1208(d) and section 34-89.

Sec. 34-91. - Petition to superior court.
Any person aggrieved by an order issued by the minimum housing inspector or a decision rendered by the board of commissioners shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. 160D-1208(d).

Sec. 34-93. - In rem action by inspector; placarding.
(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the board of commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. 160D-1203(5). and section 34-89, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the board of commissioners. He shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words:
This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.

(b) Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the granter index, as provided by G.S. 160D-1203(5).

Sec. 34-94. - Costs as lien on premises.
(a) As provided by G.S. 160D-1203(7), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the minimum housing inspector pursuant to section 34-89 shall be a lien against the real property upon which the cost was incurred.
(b) Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. 160D-1201 et seq.

SECTION 2. That Section 1.3- Authority, Section 1.4- Jurisdiction, 1.5- B, Section 2.1- General Intent, Section 3.3- Additional Standards by use, Section 6.5- Stormwater Runoff Provisions: Post-Construction Stormwater Ordinance, Section 6.7- Flood Damage Protection Ordinance, Section 12.2- Applicability, Section 13.10- Nonconforming Plans, Section 14.2- Planning Board, Section 14.3- Board of Adjustment, Section 14.4- Technical Review Committee, Section 15.3- Administrator, Section 15.14- Vested Rights, Section 15.16- Administrative Appeals and Section 19.3- Definitions of the Town of Wendell Unified Development Ordinance be amended to read as follows:

1.3 - Authority
The zoning provisions in this UDO are enacted herein are under the authority of North Carolina General Statute § 160D, which extends to cities the authority to enact regulations which promote the health, safety, and the general welfare of the community. It further authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each use class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.
The subdivision provisions in this UDO are enacted herein are under the authority of G.S. § 160D, Article 8 which provides for the coordination of streets within proposed subdivisions with existing or planned streets and with other public facilities; the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to provide recreation opportunities serving residents of more than one neighborhood; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

1.4 - Jurisdiction
The provisions of the UDO shall apply within the corporate limits of the Town and within the extraterritorial jurisdiction established by ordinance, as provided under GS §160D-202, the jurisdiction being delineated on a map and approved by the Wake County Board of Commissioners. These regulations apply to the development and use of all land and structures within the corporate limits of the Town of Wendell, North Carolina, and within the extraterritorial jurisdiction exercised by ordinance and denoted on the Zoning Map as is on file at the Wendell Planning Department. This map and its boundaries shall be incorporated and made part of this Ordinance.

1.5 - Compliance or Required Conformance to UDO Provisions
B. Exemptions for Bona Fide Farms.
1. As established by House Bill 168 (Session Law 2011-363) and described in G.S. 160D-903, property that is used for bona fide farm purposes within Wendell's Extra Territorial Jurisdiction (ETJ) shall be exempt from the provisions of this ordinance. For the purpose of applying exemptions to bona fide farms, "property" means a single tract of property or an identifiable

portion of a single tract. In order to determine whether a property is being used for bona fide farm purposes, refer to G.S. 160D-903, or see the definition for "Bona Fide Farm" contained in Chapter 19.

2. As permitted under Senate Bill 263 (Session 2011), an accessory building of a "bona fide farm" as defined by G.S. 160D-102(3) within the Town of Wendell's zoning jurisdiction has the same exemption from the building code as it would have under county zoning as provided by 160D-903 of the General Statutes.

2.1 - General Intent

A. Establishment of Base Districts. In accordance with North Carolina General Statute 160D-703 that sets forth the establishment of zoning regulation by district, the Town of Wendell is hereby divided into various zoning districts that set forth uniform regulations for the development of land within each district.

C. Overlay Districts. In accordance with North Carolina General Statute 160D-703, the following overlay districts are established. These overlay districts impose additional requirements on properties within one or more underlying base or conditional districts.

3.3 - Additional Standards by Use

A. **Adult Establishment (M&I).** The purpose of this ordinance shall be to permit the location of adult establishments within the industrial district of the town provided the proposed business adheres to the guidelines established herein.

6.5 - Stormwater Runoff Provisions: Post-Construction Stormwater Ordinance

B. Authority: The Town of Wendell is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; the municipal Charter of the Town of Wendell; G.S. 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185, Chapter 160D-925, Stormwater Control [as well as Chapter 113A, Article 4 (Sedimentation Pollution Control)]; [Article 21, Part 6 (Floodway Regulation)]; [Chapter 160D]; as well as Chapter 160D related to statutory authority for planning and regulation of development, including particularly but not limited to G.S. 160D-404 (enforcement), G.S. 160D Article 8 (subdivision), G.S. 160D Article 7 (zoning).

6.7 - Flood Damage Protection Ordinance

A. Statutory Authorization. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Chapter 160D-923; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Wendell, North Carolina, does ordain as follows:

F. General Provisions.

8. Penalties for Violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Wendell from taking such other lawful action as is necessary to prevent or remedy any violation.

12.2 - Applicability

D. Per G.S. 160D-908, Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

13.10 - Nonconforming Plans

A. Any site specific plan (including but not limited to master plans, preliminary plats, final plats, conditional district plans) for the development of property and/or construction of a building which has received final approval by the Town of Wendell for development and/or construction, but does not conform to this Ordinance, may be developed and/or constructed in accordance with the Ordinance, rules, and regulations, including any conditions imposed upon approval. Any plan approved prior to the adoption of this Ordinance, but which conforms to its provisions, shall be administered, interpreted, amended and implemented in accordance with the provisions of this Ordinance. For additional information, please refer to Chapter 15, Administration.

14.2 - Planning Board

The authority to establish a Planning Board for the Town of Wendell is granted under the authority of G.S. 160D-301 & 604.

B. Membership and Terms of Office

1. The Planning Board shall consist of a total of nine members. In accordance with G.S. 160D-307, the total membership of the Planning Board shall be proportional to the population of residents of the Town of Wendell and residents in the ETJ area. Population shall be determined by best available U.S. Census/GIS Data.

14.3 - Board of Adjustment

The authority to establish a Zoning Board of Adjustment for the Town of Wendell is granted under the authority of G.S. 160D-302.

14.4 - Technical Review Committee

The authority to establish the Technical Review Committee for the Town of Wendell is granted under the authority of G.S. 160D-301 & 803.

15.3 - Administrator

The authority to establish an Administrator for the Town of Wendell is granted under the authority of G.S. 160D-402.

15.14 - Vested Rights

A. General Procedures/Establishment of Vesting:

1. Pursuant to G.S. 160D-108 and not withstanding any other provision or amendment, a landowner may apply for approval of a site-specific development plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.

B. Approval procedures and approval authority

2. Notwithstanding the provisions of 15.14.B.1 above, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee, or administrative official other than the Board of Commissioners in order to obtain a zoning vested right, the applicant must request in writing at the time of the application that the application be considered and acted on by the Board of Commissioners

following notice and a public hearing as provided in North Carolina General Statute §160D-601.

5. Each map, plat, site plan, or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under North Carolina General Statute § 160D-108**.** Unless terminated at an earlier date, the zoning vested right shall be valid until _____."

C. Duration

3. Upon issuance of a building permit, the expiration provisions of North Carolina General Statute § 160D-1111 and the revocation provisions of North Carolina General Statute § 160D-1115 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

E. Voluntary Annexation

1. A petition for annexation filed with the Town under North Carolina General Statute § 160A-31 or North Carolina General Statute § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to petition has been established under North Carolina General Statute § 160D-108 or North Carolina General Statute § 160A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be determined.

F. Limitations

1. Nothing in this subchapter is intended or shall be deemed to create any vested right other than those established pursuant to North Carolina General Statute § 160D-108.

G. Repealer

1. In the event that North Carolina General Statute § 160D-108 is repealed, this subchapter shall be deemed repealed and the provisions hereof no longer effective.

15.16 - Administrative Appeals

E. Appeals

1. Appeals from the enforcement and interpretation of this Ordinance, and requests for variances shall be filed with the Administrator, who shall transmit all such records to the Board of Adjustment and/or the Board of Commissioners.

Chapter 19 - DEFINITIONS

19.3 - Definitions

Dwelling means any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of Chapter 160D of the General Statutes, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose**.**

Existing Development means those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

(a) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

(b) Having an outstanding valid building permit as authorized by the General Statutes (G.S. 160D-108), or

(c) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 160D-108).

Extraterritorial Jurisdiction (ETJ) means that land lying beyond the municipal limits of the Town of Wendell and within the extraterritorial jurisdiction boundary as delineated on the official zoning map of the Town of Wendell in accordance with G.S. 160D-202. The authority is granted to a locality to exercise zoning powers for a specified distance outside its boundaries. It is intended to protect activities on the edge of communities from being encroached on by incompatible adjacent activities.

SECTION 3. That all laws and clauses of law in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 4. That if this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of this ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable.

SECTION 5. That the proposed text amendments to Part I, Subpart A- Charter, Sec. 2.2, Sec. 6.1,Sec 1-2, Sec. 1-17, Sec.1-18, Division 2- Planning Board, Division 3- Board of Adjustment, Sec. 2-335, Chapter 4- Animals, Sec. 12.6, Sec. 18-213, Sec. 26.03, Article III- Trees, Sec. 30-20, Sec. 34-19, Sec. 34-89, Sec. 34-90, Sec. 34-91, Sec 34-93, Sec. 34-94 of the Code of Ordinances and Section 1.3, Section 1.4, Section 1.5, Section 2.1, Section 3.3, Section 6.5, Section 6.7, Section 12.2, Section 13.10, Section 14.2, Section 14.3, Section 14.4, Section 15.3, Section 15.14, Section 15.16 and Section 19.3 the UDO is found to be consistent with Key Principle #9 of the Wendell comprehensive plan and is reasonable because it brings the local ordinances into compliance with applicable North Carolina law..

Key Principle Number 9: “Make development decisions predictable, fair, and cost effective.”

SECTION 6. That this ordinance has been adopted following a duly advertised public hearing of the Town Board and following recommendation by the Planning Board.

SECTION 7. That this ordinance shall be enforced as provided in G.S. 160A-175 or as provided for in the Wendell Town Code.

SECTION 8. That this ordinance shall become effective upon its adoption by the Wendell Board of Commissioners.

DULY ADOPTED the 22nd day of February 2021.

(Town Seal)

_____
Virginia R. Gray, Mayor

ATTEST:

_____
Megan Howard, Town Clerk

APPROVED AS TO FORM:

_____
James P. Cauley III, Town Attorney

WENDELL
Planning

Staff Analysis

Request:

Amend the Wendell Code of Ordinances and the Unified Development Ordinance to comply with the new Chapter 160D of the NC General Statues.

Profile:

Project Name: Required 160 D Text Amendments
Applicant**:** Town of Wendell
Type of Public Hearing**:** Legislative
General Statues Reference: 160 D

Item Summary:

Chapter 160D of the North Carolina General Statutes is a new chapter that consolidates current city- and county-enabling legislation for development regulations (now in Chapters 153A and 160A) into a single, unified chapter. Chapter 160D creates a more logical, coherent organization of the regulations. The new law does not make major policy changes or shifts in the scope of authority granted to local governments., The changes do provide many clarifying amendments and consensus reforms that are required to be incorporated into the Town's UDO.

Chapter 160D is effective now, but local governments have until July 1, 2021 for the development, consideration, and adoption of necessary amendments to conform local ordinances to this new law. All city and county zoning, subdivision, and other development regulations, including unified-development ordinances, will need to be updated by that date to conform to the new law.

Staff proposes to bring forward 160D text amendments to the Board of Commissioners once per month over the next 6 months. This schedule will allow the Town to meet the July 1 deadline. The first of the proposed text amendments are related to terminology and definitions. We are required to update any reference to provisions in G.S. Chapter 160A to replace any relevant provisions in Chapter 160D.

Also, while reviewing the reference to 160A in Section 26.3 of the Code of Ordinances regarding annexation required when service requested, staff determined that, due to the fact that the ordinance pre-dates the Town's agreement with The City of Raleigh, the information is no longer valid. Staff is proposing to remove all of Section 26.3.

Strategic Plan Areas:

GOAL 3: Infrastructure, Transportation, and the Environment Develop and maintain infrastructure and *policies to support new growth, improve the quality of life for residents, and provide for a clean and green environment.*

Fiscal Impact:

N/A

Staff Recommendation:

The Wendell Board of Commissioners concludes that the proposed ordinance amendment is reasonable and in the public interest because it brings the local ordinances into compliance with applicable North Carolina law. Additionally, the proposed ordinance amendment supports Key Principle # 9 (Make development decisions predictable, fair, and cost effective) in the Town's adopted Comprehensive Plan.

The changes are noted as being highlighted and deletions are shown with strikethroughs. The additions are shown as **bolded and underlined**.

TOWN OF WENDELL CODE OF ORDINANCES

PART I CHARTER AND LOCAL LAWS

Subpart A - CHARTER

State Law reference— General laws supplementary to the charter, G.S. ~~160A-3~~ **160D-111**.

ARTICLE II. - CORPORATE BOUNDARIES

Sec. 2.2. - Extension of corporate boundaries.

State Law reference— Corporate limits, ~~G.S. 160A-21 et seq.~~ **Article 2 of Chapter 160D of the General Statutes**

~~ARTICLE VI. - PLANNING AND REGULATION OF DEVELOPMENT~~

~~Sec. 6.1. - Conditional use zoning districts.~~

~~In addition to the powers granted to the town in G.S. 160A-381 et seq. 160D-702 et seq., the town may provide for the creation of conditional use zoning districts.~~

~~It is the purpose and intent of this section to permit the town to create, through the legislative process, both general use districts, in which a variety of uses are permitted, and conditional use districts, in which limited uses are permitted only upon approval by the town.~~

~~A person petitioning for rezoning of a tract of land where conditional use districts are authorized by ordinance may elect to request a general use district or a conditional use district for the tract. If the petitioner elects to petition for the general use zoning, and if the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district. If the petitioner elects to petition for conditional use district zoning, the petition must specify the actual use or uses which are intended for the property specified in the petition. If the petition is for conditional use district zoning, the town is to approve or disapprove the petition on the basis of the specific use or uses requested~~.

Sec. 1-2. - Definitions and rules of construction.

State Law reference— Similar state law definitions, G.S. 1-593, 12-3, 160A-1, **160D-102.**

Sec. 1-17. - Corporate limits.

State Law reference— Boundaries to be as specified by Charter and altered as permitted by law or by local act of the General Assembly, G.S. 160A-21; map of corporate limits to be kept in office of town clerk, G.S. ~~160A-22~~ **160D-105**.

Sec. 1-18. - General penalty.

State Law reference— Authority of town to impose penalty, G.S. 160A-175, **G.S. 160D-404**; violation of town ordinances, G.S. 14-4.

DIVISION 2. - PLANNING BOARD

State Law reference— Planning board, G.S. ~~160A-361~~, **160D-301**

DIVISION 3. - BOARD OF ADJUSTMENT

State Law reference— Board of adjustment, G.S. ~~160A-388~~ **160D-302**.

Sec. 2-335. - Ordinance-making procedure.

State Law reference— Town's general ordinance-making power, G.S. 160A-174; **Article 4 of G.S. 160D**.

Chapter 4 - ANIMALS

State Law reference— Protection of animals, G.S. ch. 19A; dogs, G.S. ch. 67; regulation of domestic animals pursuant to town's police power, G.S. 160A-174, **Article 4 of G.S. 160D**,160A-186**.**

Sec. 12-6. - Establishment of primary fire limits.

Pursuant to G.S. ~~160A-435~~ **160D-1128**, the primary fire limits of the town shall be and are defined as the exact boundaries of the downtown retail overlay district as illustrated in the map in section 38-204.

Sec. 18-213. - Enforcement.

(a) Violation of this article shall be a misdemeanor as provided under G.S. 160A-175, **G.S. 160D-404** and G.S. 14-4. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175.

(b) The town may also secure effective and other appropriate equitable remedies to ensure compliance with this article, as provided by G.S. 160A-175 **and G.S. 160D-404**.

(c) Enforcement actions may be initiated by the county fire marshal, the county emergency management director, chief of the fire department or town's code compliance officer.

~~Sec. 26-3. - Annexation required when service requested.~~

~~No water service shall be provided to any property outside of the municipal limits of the town except upon compliance with one of the following:~~

~~(1) If the property is contiguous to not within the municipal limits of the town, the property owners shall immediately petition for and obtain annexation of the property into the municipal limits of the town.~~

~~(2) If the property is not then contiguous to the municipal limits of the town, the property owners shall enter into a written agreement with the town for the annexation thereof at such future date as the property shall be contiguous to the municipal limits of the town, or it is determined by the board of commissioners that it is in the best interest of the town to satellite annex the property.~~

~~(3) Owners of property that is statutorily annexed by and into the town may request connection to the town's water and/or sewer service one year after the effective date of the annexation. The town shall be required to provide water and/or sewer service in accordance with G.S. 160A-35(3)(b). However, the owners of property statutorily annexed under this subsection shall not be required to connect to the town's water and/or sewer system until such time as the private well serving their property is deemed unsafe, inadequate or inoperable, and cannot be brought into compliance, at which time it shall be abandoned and the property shall be connected to the town's water system upon payment of applicable fees and charges. Likewise, if the private septic system serving their property is deemed to be unsafe, inadequate or inoperable, and cannot be brought into compliance, it shall be abandoned and connected to the town's sewer system upon the payment of applicable fees and charges.~~

~~(4) Owners of undeveloped property within the town limits who later develop that property shall be required to connect to the town's water and sewer system and must pay all applicable fees and charges prior to the connection unless other financial arrangements are approved by the town.~~

~~(Code 1986, §§ 51.06, 52.10(C), (D); Ord. of 3-12-1984; Ord. No. 0-44-93, 7-1-1993; Ord. of 4-12-2004)~~

ARTICLE II. - TREES[1]

State Law reference— Restriction of forestry activities prohibited, G.S. ~~160A-458.5~~ **160D-921**.

Sec. 30-20. - Building permits application; certification.

State Law reference— Permit requirements, G.S. ~~160A-417~~ **160D-1110**.

ARTICLE II. - MINIMUM HOUSING CODE

Sec. 34-19. - Purpose.

(a) Pursuant to G.S. ~~160A-441~~ **160D-1201**, it is found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(b) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. ~~160A-360~~ **160D-202** et seq., it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. ~~160A-441~~ **160D-1201**.

Sec. 34-89. - Failure to comply with order.

(a) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the minimum housing inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the inspector shall submit to the board of commissioners at its next regular meeting a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by G.S. ~~160A-443(5)~~ **160D-1203(5)**.

(b) *Order to repair, posting, etc.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (a) of this section, the inspector shall submit to the board of commissioners an ordinance ordering the inspector to cause the dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition, to placard the dwelling as provided by G.S. ~~160A-443(4)~~ **160D-1203(4)**.

Sec. 34-90. - Appeals.

(b) Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board all the papers constituting the record on which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the inspector certifies to the board, after the notice of appeal is filed with

him, that by reason of the facts stated in the certificate (a copy of which shall be furnished by the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown on not less than one day's written notice to the inspector, by the board, or by a court of record upon petition made pursuant to G.S. ~~160A-446(F)~~ **160D-1208(d)** and section 34-89.

Sec. 34-91. - Petition to superior court.

Any person aggrieved by an order issued by the minimum housing inspector or a decision rendered by the board of commissioners shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. ~~160A-446(F)~~ **160D-1208(d).**

Sec. 34-93. - In rem action by inspector; placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the board of commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. ~~160A-443(5)~~ **160D-1203(5).** and section 34-89, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the board of commissioners. He shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words:

This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.

(b) Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the granter index, as provided by G.S. ~~160A-443(5)~~ **160D-1203(5).**

Sec. 34-94. - Costs as lien on premises.

(a) As provided by G.S. ~~160A-443(6)~~ **160D-1203(7),** the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the minimum housing inspector pursuant to section 34-89 shall be a lien against the real property upon which the cost was incurred.

(b) Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. ~~160A-441~~ **160D-1201** et seq.

TOWN OF WENDELL UNIFIED DEVELOPMENT ORDINANCE

1.3 - Authority

The zoning provisions in this UDO are enacted herein are under the authority of North Carolina General Statute § ~~160A Article 19~~ **160D**, which extends to cities the authority to enact regulations which promote the health, safety, and the general welfare of the community. It further authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each use class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

The subdivision provisions in this UDO are enacted herein are under the authority of G.S. § ~~160A Article 19, Part 2~~ **160D, Article 8** which provides for the coordination of streets within proposed subdivisions with existing or planned streets and with other public facilities; the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to provide recreation opportunities serving residents of more than one neighborhood; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

1.4 - Jurisdiction

The provisions of the UDO shall apply within the corporate limits of the Town and within the extraterritorial jurisdiction established by ordinance, as provided under GS §~~160A-360~~ **160D-202**, the jurisdiction being delineated on a map and approved by the Wake County Board of Commissioners. These regulations apply to the development and use of all land and structures within the corporate limits of the Town of Wendell, North Carolina, and within the extraterritorial jurisdiction exercised by ordinance and denoted on the Zoning Map as is on file at the Wendell Planning Department. This map and its boundaries shall be incorporated and made part of this Ordinance.

1.5 - Compliance or Required Conformance to UDO Provisions

B. Exemptions for Bona Fide Farms.

1. As established by House Bill 168 (Session Law 2011-363) and described in G.S. ~~160A-360, Section 4, subsection (k)~~ **160D-903**, property that is used for bona fide farm purposes within Wendell's Extra Territorial Jurisdiction (ETJ) shall be exempt from the provisions of this ordinance. For the purpose of applying exemptions to bona fide farms, "property" means a single tract of property or an identifiable portion of a single tract. In order to determine whether a property is being used for bona fide farm purposes, refer to G.S. ~~160A-360, Section 4, subsection (k)~~ **160D-903**, or see the definition for "Bona Fide Farm" contained in Chapter 19.
2. As permitted under Senate Bill 263 (Session 2011), an accessory building of a "bona fide farm" as defined by G.S. ~~153A-340(b)~~ **160D-102(3)** within the Town of Wendell's zoning jurisdiction has the same exemption from the building code as it would have under county zoning as provided by ~~Part 3 of Article 18 of Chapter 153A~~ **160D-903** of the General Statutes.

2.1 - General Intent

A. Establishment of Base Districts. In accordance with North Carolina General Statute ~~160A-382~~ **160D-703** that sets forth the establishment of zoning regulation by district, the Town of Wendell is hereby divided into various zoning districts that set forth uniform regulations for the development of land within each district.

C. Overlay Districts. In accordance with North Carolina General Statute ~~160A-382~~ **160D-703**, the following overlay districts are established. These overlay districts impose additional requirements on properties within one or more underlying base or conditional districts.

3.3 - Additional Standards by Use

A. **Adult Establishment (M&I).** The purpose of this ~~special exception~~ **ordinance** shall be to permit the location of adult establishments within the industrial district of the town provided the proposed business adheres to the guidelines established herein.

6.5 - Stormwater Runoff Provisions: Post-Construction Stormwater Ordinance

B. Authority: The Town of Wendell is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; the municipal Charter of the Town of Wendell; G.S. 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185, **Chapter 160D-925, Stormwater Control** [as well as Chapter 113A, Article 4 (Sedimentation Pollution Control)]; [Article 21, Part 6 (Floodway Regulation)]; [Chapter ~~160A, Article 19 (Planning and Regulation of Development);~~ **160D** ~~Chapter 153A, Article 18~~]; as well as Chapter ~~153A, Article 18~~ **160D** related to statutory authority for planning and regulation of development ~~(Parts 1, 2, and 3)~~, including particularly but not limited to G.S. ~~153A-324~~ **160D-404** (enforcement), G.S. ~~153A-330 and 331~~ **160D Article 8** (subdivision), G.S. ~~153A-340~~ **160D Article 7** (zoning). 6.7 - Flood Damage Protection Ordinance

A. Statutory Authorization. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; ~~Parts 3, 5, and 8 of Article 19 of Chapter 160A~~ **160D-923**; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Wendell, North Carolina, does ordain as follows:

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

F. General Provisions.

8. Penalties for Violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance ~~or special exceptions~~, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Wendell from taking such other lawful action as is necessary to prevent or remedy any violation.

12.2 - Applicability

D. Per G.S. ~~160A-381~~ **160D-908**, Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

13.10 - Nonconforming Plans

A. Any site specific plan (including but not limited to master plans, preliminary plats, final plats, conditional district plans~~, conditional use permit plans~~) for the development of property and/or construction of a building which has received final approval by the Town of Wendell for development and/or construction, but does not conform to this Ordinance, may be developed and/or constructed in accordance with the Ordinance, rules, and regulations, including any conditions imposed upon approval. Any plan approved prior to the adoption of this Ordinance, but which conforms to its provisions, shall be administered, interpreted, amended and implemented in accordance with the provisions of this Ordinance. For additional information, please refer to Chapter 15, Administration.

14.2 - Planning Board

The authority to establish a Planning Board for the Town of Wendell is granted under the authority of G.S. ~~160A-361 & 387~~ **160D-301 & 604**.

B. Membership and Terms of Office

1. The Planning Board shall consist of a total of nine members. In accordance with G.S. ~~160A-360~~ **160D-307**, the total membership of the Planning Board shall be proportional to the population of residents of the Town of Wendell and residents in the ETJ area. Population shall be determined by best available U.S. Census/GIS Data.

14.3 - Board of Adjustment

The authority to establish a Zoning Board of Adjustment for the Town of Wendell is granted under the authority of G.S. ~~160A-388~~ **160D-302**.

14.4 - Technical Review Committee

The authority to establish the Technical Review Committee for the Town of Wendell is granted under the authority of G.S. ~~160A-361 & 373~~ **160D-301 & 803**.

15.3 - Administrator

The authority to establish an Administrator for the Town of Wendell is granted under the authority of G.S. ~~160A-361 & 373~~ **160D-402**.

15.14 - Vested Rights

A. General Procedures/Establishment of Vesting:

1. Pursuant to G.S. ~~160A-385.1~~ **160D-108** and not withstanding any other provision or amendment, a landowner may apply for approval of a site-specific development plan as

defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.

B. Approval procedures and approval authority

2. Notwithstanding the provisions of 15.14.B.1 above, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee, or administrative official other than the Board of Commissioners in order to obtain a zoning vested right, the applicant must request in writing at the time of the application that the application be considered and acted on by the Board of Commissioners following notice and a public hearing as provided in North Carolina General Statute § ~~160A-364~~ **160D-601**.

5. Each map, plat, site plan, or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under North Carolina General Statute § ~~160A-385.1~~ **160D-108**. Unless terminated at an earlier date, the zoning vested right shall be valid until _____."

C. Duration

3. Upon issuance of a building permit, the expiration provisions of North Carolina General Statute § ~~160A-418~~ **160D-1111** and the revocation provisions of North Carolina General Statute § ~~160A-422~~ **160D-1115** shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

E. Voluntary Annexation

1. A petition for annexation filed with the Town under North Carolina General Statute § 160A-31 or North Carolina General Statute § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to petition has been established under North Carolina General Statute § ~~160A-385.1~~ **160D-108** or North Carolina General Statute § 160A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be determined.

F. Limitations

1. Nothing in this subchapter is intended or shall be deemed to create any vested right other than those established pursuant to North Carolina General Statute § ~~160A-385.1~~ **160D-108**.

G. Repealer

1. In the event that North Carolina General Statute § ~~160A-385.1~~ **160D-108** is repealed, this subchapter shall be deemed repealed and the provisions hereof no longer effective.

15.16 - Administrative Appeals

E. Appeals

1. Appeals from the enforcement and interpretation of this Ordinance, and requests for ~~conditional uses or~~ variances shall be filed with the Administrator, who shall transmit all such records to the Board of Adjustment and/or the Board of Commissioners.

Chapter 19 - DEFINITIONS

19.3 - Definitions

Dwelling means ~~a building designed, arranged, or used for permanent living quarters for one or more persons~~. **any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of Chapter 160D of the General Statutes, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.**

Existing Development means those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

(a) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

(b) Having an outstanding valid building permit as authorized by the General Statutes (G.S. ~~160A-385.1~~ **160D-108**), or

(c) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the General Statutes (G.S. ~~160A-385.1~~ **160D-108**).

Extraterritorial Jurisdiction (ETJ) means that land lying beyond the municipal limits of the Town of Wendell and within the extraterritorial jurisdiction boundary as delineated on the official zoning map of the Town of Wendell in accordance with G.S. ~~160A-360~~ **160D-202**. The authority is granted to a locality to exercise zoning powers for a specified distance outside its boundaries. It is intended to protect activities on the edge of communities from being encroached on by incompatible adjacent activities.

WENDELL
Planning Department

Wendell Planning Board Recommendation to the Wendell Board of Commissioners

ZTA21-01:
Text Amendments to the Town of Wendell Code of Ordinances and Unified Development Ordinance (UDO) to come into compliance with Chapter 160D of the North Carolina General Statutes.

Case Description:

- The new Chapter 160D of the North Carolina General Statutes consolidates current city- and county-enabling statutes for development regulations (now in Chapters 153A and 160A) into a single, unified chapter. Chapter 160D places these statutes into a more logical, coherent organization. While the new law does not make major policy changes or shifts in the scope of authority granted to local governments, it does provide many clarifying amendments and consensus reforms that are required to be incorporated into the Town's UDO.

- Chapter 160D is effective now, but local governments have until July 1, 2021 for the development, consideration, and adoption of necessary amendments to conform local ordinances to this new law. All city and county zoning, subdivision, and other development regulations, including unified-development ordinances, will need to be updated by that date to conform to the new law.

- The first of the proposed text amendments are dealing with terminology and citations. We are required to update any references to provisions in G.S. Chapter 160A or 153A to indicate relevant provisions in Chapter 160D. We also must align ordinance terminology with Chapter 160D terminology for conditional zoning and special use permits; must delete use of the terms conditional use permit, special exception, conditional use district zoning, and special use district zoning. Lastly, we must ensure that ordinance definitions

for the following terms are not inconsistent with definitions provided in state law and regulation: building, dwelling, dwelling unit, bedroom, and sleeping unit.

Proposed Amendments:

In order to comply with Chapter 160D of the North Carolina General Statutes, the following sections of the Town of Wendell Code of Ordinances and Unified Development Ordinance are proposed to read as follows (Changes have been highlighted. Deletions are shown with strike-throughs. Additions are **bolded and underlined**).

TOWN OF WENDELL CODE OF ORDINANCES

PART I CHARTER AND LOCAL LAWS

Subpart A - CHARTER

State Law reference— General laws supplementary to the charter, G.S. ~~160A-3~~ **160D-111.**

ARTICLE II. - CORPORATE BOUNDARIES

Sec. 2.2. - Extension of corporate boundaries.

All extensions of the corporate boundaries shall be governed by the General Statutes.

State Law reference— Corporate limits, ~~G.S. 160A-21 et seq.~~ **Article 2 of Chapter 160D of the General Statutes**

~~ARTICLE VI. - PLANNING AND REGULATION OF DEVELOPMENT~~

~~Sec. 6.1. - Conditional use zoning districts.~~

~~In addition to the powers granted to the town in G.S. 160A-381 et seq. 160D-702 et seq., the town may provide for the creation of conditional use zoning districts.~~

~~It is the purpose and intent of this section to permit the town to create, through the legislative process, both general use districts, in which a variety of uses are permitted, and conditional use districts, in which limited uses are permitted only upon approval by the town.~~

~~A person petitioning for rezoning of a tract of land where conditional use districts are authorized by ordinance may elect to request a general use district or a conditional use district for the tract. If the petitioner elects to petition for the general use zoning, and if the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district. If the petitioner elects to petition for conditional use district zoning, the petition must specify the actual use or uses which are intended for the property specified in the petition. If the petition is for conditional use district zoning, the town is to approve or disapprove the petition on the basis of the specific use or uses requested.~~

Sec. 1-2. - Definitions and rules of construction.

State Law reference— Similar state law definitions, G.S. 1-593, 12-3, 160A-1, **160D-102.**

Sec. 1-17. - Corporate limits.

State Law reference— Boundaries to be as specified by Charter and altered as permitted by law or by local act of the General Assembly, G.S. 160A-21; map of corporate limits to be kept in office of town clerk, G.S. ~~160A-22~~ **160D-105**.

Sec. 1-18. - General penalty.

State Law reference— Authority of town to impose penalty, G.S. 160A-175, **G.S. 160D-404**; violation of town ordinances, G.S. 14-4.

DIVISION 2. - PLANNING BOARD

State Law reference— Planning board, G.S. ~~160A-361~~, **160D-301**

DIVISION 3. - BOARD OF ADJUSTMENT

State Law reference— Board of adjustment, G.S. ~~160A-388~~ **160D-302**.

Sec. 2-335. - Ordinance-making procedure.

State Law reference— Town's general ordinance-making power, G.S. 160A-174; **Article 4 of G.S. 160D**.

Chapter 4 - ANIMALS

State Law reference— Protection of animals, G.S. ch. 19A; dogs, G.S. ch. 67; regulation of domestic animals pursuant to town's police power, G.S. 160A-174, **Article 4 of G.S. 160D,**160A-186**.**

Sec. 12-6. - Establishment of primary fire limits.

Pursuant to G.S. ~~160A-435~~ **160D-1128**, the primary fire limits of the town shall be and are defined as the exact boundaries of the downtown retail overlay district as illustrated in the map in section 38-204.

Sec. 18-213. - Enforcement.

(a) Violation of this article shall be a misdemeanor as provided under G.S. 160A-175, **G.S. 160D-404** and G.S. 14-4. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175.

(b) The town may also secure effective and other appropriate equitable remedies to ensure compliance with this article, as provided by G.S. 160A-175 **and G.S. 160D-404**.

~~Sec. 26-3. - Annexation required when service requested.~~

~~No water service shall be provided to any property outside of the municipal limits of the town except upon compliance with one of the following:~~

~~(1) If the property is contiguous to not within the municipal limits of the town, the property owners shall immediately petition for and obtain annexation of the property into the municipal limits of the town.~~

~~(2) If the property is not then contiguous to the municipal limits of the town, the property owners shall enter into a written agreement with the town for the annexation thereof at such future date as the property shall be contiguous to the municipal limits of the town, or it is determined by the board of commissioners that it is in the best interest of the town to satellite annex the property.~~

~~(3) Owners of property that is statutorily annexed by and into the town may request connection to the town's water and/or sewer service one year after the effective date of the annexation. The town shall be required to provide water and/or sewer service in accordance with G.S. 160A-35(3)(b). However, the owners of property statutorily annexed under this subsection shall not be required to connect to the town's water and/or sewer system until such time as the private well serving their property is deemed unsafe, inadequate or inoperable, and cannot be brought into compliance, at which time it shall be abandoned and the property shall be connected to the town's water system upon payment of applicable fees and charges. Likewise, if the private septic system serving their property is deemed to be unsafe, inadequate or inoperable, and cannot be brought into compliance, it shall be abandoned and connected to the town's sewer system upon the payment of applicable fees and charges.~~

~~(4) Owners of undeveloped property within the town limits who later develop that property shall be required to connect to the town's water and sewer system and must pay all applicable fees and charges prior to the connection unless other financial arrangements are approved by the town.~~

~~(Code 1986, §§ 51.06, 52.10(C), (D); Ord. of 3-12-1984; Ord. No. 0-44-93, 7-1-1993; Ord. of 4-12-2004)~~

ARTICLE II. - TREES

State Law reference— Restriction of forestry activities prohibited, G.S. ~~160A-458.5~~ **160D-921**.

Sec. 30-20. - Building permits application; certification.

State Law reference— Permit requirements, G.S. ~~160A-417~~ **160D-1110**.

ARTICLE II. - MINIMUM HOUSING CODE

DIVISION 1. - GENERALLY

Sec. 34-19. - Purpose.

(a) Pursuant to G.S. ~~160A-441~~ **160D-1201**, it is found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(b) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. ~~160A-360~~ **160D-202** et seq., it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. ~~160A-441~~ **160D-1201**.

Sec. 34-89. - Failure to comply with order.

(a) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the minimum housing inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the inspector shall submit to the board of commissioners at its next regular meeting a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by G.S. ~~160A-443(5)~~ **160D-1203(5)**.

(b) *Order to repair, posting, etc.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (a) of this section, the inspector shall submit to the board of commissioners an ordinance ordering the inspector to cause the dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition, to placard the dwelling as provided by G.S. ~~160A-443(4)~~ **160D-1203(4)**.

Sec. 34-90. - Appeals.

(b) Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board all the papers constituting the record on which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the inspector certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished by the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown on not less than one day's written notice to the inspector, by the board, or by a court of record upon petition made pursuant to G.S. ~~160A-446(F)~~ **160D-1208(d)** and section 34-89.

Sec. 34-91. - Petition to superior court.

Any person aggrieved by an order issued by the minimum housing inspector or a decision rendered by the board of commissioners shall have the right, within 30 days after issuance of the order or

rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. ~~160A-446(F)~~ **160D-1208(d).**

Sec. 34-93. - In rem action by inspector; placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the board of commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. ~~160A-443(5)~~ **160D-1203(5).** and section 34-89, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the board of commissioners. He shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words:

This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.

(b) Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the granter index, as provided by G.S. ~~160A-443(5)~~ **160D-1203(5).**

Sec. 34-94. - Costs as lien on premises.

(a) As provided by G.S. ~~160A-443(6)~~ **160D-1203(7),** the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the minimum housing inspector pursuant to section 34-89 shall be a lien against the real property upon which the cost was incurred.

(b) Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. ~~160A-441~~ **160D-1201** et seq.

TOWN OF WENDELL UNIFIED DEVELOPMENT ORDINANCE

1.3 - Authority

The zoning provisions in this UDO are enacted herein are under the authority of North Carolina General Statute § ~~160A Article 19~~ **160D**, which extends to cities the authority to enact regulations which promote the health, safety, and the general welfare of the community. It further authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each use class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

The subdivision provisions in this UDO are enacted herein are under the authority of G.S. § ~~160A Article 19, Part 2~~ **160D, Article 8** which provides for the coordination of streets within proposed subdivisions with existing or planned streets and with other public facilities; the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the

subdivision, or alternatively, for the provision of funds to be used to provide recreation opportunities serving residents of more than one neighborhood; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

1.4 - Jurisdiction

The provisions of the UDO shall apply within the corporate limits of the Town and within the extraterritorial jurisdiction established by ordinance, as provided under GS §~~160A-360~~ **160D-202**, the jurisdiction being delineated on a map and approved by the Wake County Board of Commissioners. These regulations apply to the development and use of all land and structures within the corporate limits of the Town of Wendell, North Carolina, and within the extraterritorial jurisdiction exercised by ordinance and denoted on the Zoning Map as is on file at the Wendell Planning Department. This map and its boundaries shall be incorporated and made part of this Ordinance.

1.5 - Compliance or Required Conformance to UDO Provisions

B. Exemptions for Bona Fide Farms.

1. As established by House Bill 168 (Session Law 2011-363) and described in G.S. ~~160A-360, Section 4, subsection (k)~~ **160D-903**, property that is used for bona fide farm purposes within Wendell's Extra Territorial Jurisdiction (ETJ) shall be exempt from the provisions of this ordinance. For the purpose of applying exemptions to bona fide farms, "property" means a single tract of property or an identifiable portion of a single tract. In order to determine whether a property is being used for bona fide farm purposes, refer to G.S. ~~160A-360, Section 4, subsection (k)~~ **160D-903**, or see the definition for "Bona Fide Farm" contained in Chapter 19.
2. As permitted under Senate Bill 263 (Session 2011), an accessory building of a "bona fide farm" as defined by G.S. ~~153A-340(b)~~ **160D-102(3)** within the Town of Wendell's zoning jurisdiction has the same exemption from the building code as it would have under county zoning as provided by ~~Part 3 of Article 18 of Chapter 153A~~ **160D-903** of the General Statutes.

2.1 - General Intent

A. Establishment of Base Districts. In accordance with North Carolina General Statute ~~160A-382~~ **160D-703** that sets forth the establishment of zoning regulation by district, the Town of Wendell is hereby divided into various zoning districts that set forth uniform regulations for the development of land within each district.

C. Overlay Districts. In accordance with North Carolina General Statute ~~160A-382~~ **160D-703**, the following overlay districts are established. These overlay districts impose additional requirements on properties within one or more underlying base or conditional districts.

3.3 - Additional Standards by Use

A. **Adult Establishment (M&I).** The purpose of this ~~special exception~~ **ordinance** shall be to permit the location of adult establishments within the industrial district of the town provided the proposed business adheres to the guidelines established herein.

6.5 - Stormwater Runoff Provisions: Post-Construction Stormwater Ordinance

B. Authority: The Town of Wendell is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; the municipal Charter of the Town of Wendell; G.S. 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185, **Chapter 160D-925, Stormwater Control** [as well as Chapter 113A, Article 4 (Sedimentation Pollution Control)]; [Article 21, Part 6 (Floodway Regulation)]; [Chapter ~~160A, Article 19 (Planning and Regulation of Development); 160D Chapter 153A, Article 18~~]; as well as Chapter ~~153A, Article 18~~ **160D** related to statutory authority for planning and regulation of development ~~(Parts 1, 2, and 3)~~, including particularly but not limited to G.S. ~~153A-324~~ **160D-404** (enforcement), G.S. ~~153A-330 and 331~~ **160D Article 8** (subdivision), G.S. ~~153A-340~~ **160D Article 7** (zoning).

6.7 - Flood Damage Protection Ordinance

A. Statutory Authorization. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; ~~Parts 3, 5, and 8 of Article 19 of Chapter 160A~~ **160D-923**; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Wendell, North Carolina, does ordain as follows:

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

F. General Provisions.

8. Penalties for Violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance ~~or special exceptions~~, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Wendell from taking such other lawful action as is necessary to prevent or remedy any violation.

12.2 - Applicability

D. Per G.S. ~~160A-381~~ **160D-908**, Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

13.10 - Nonconforming Plans

A. Any site specific plan (including but not limited to master plans, preliminary plats, final plats, conditional district plans~~, conditional use permit plans~~) for the development of property and/or construction of a building which has received final approval by the Town of Wendell for development and/or construction, but does not conform to this Ordinance, may be developed and/or constructed in accordance with the Ordinance, rules, and regulations, including any conditions imposed upon approval. Any plan approved prior to the adoption of this Ordinance, but which conforms to its provisions, shall be administered, interpreted, amended and implemented in accordance with the provisions of this Ordinance. For additional information, please refer to Chapter 15, Administration.

14.2 - Planning Board

The authority to establish a Planning Board for the Town of Wendell is granted under the authority of G.S. ~~160A-361 & 387~~ **160D-301 & 604**.

B. Membership and Terms of Office

1. The Planning Board shall consist of a total of nine members. In accordance with G.S. ~~160A-360~~ **160D-307**, the total membership of the Planning Board shall be proportional to the population of residents of the Town of Wendell and residents in the ETJ area. Population shall be determined by best available U.S. Census/GIS Data.

14.3 - Board of Adjustment

The authority to establish a Zoning Board of Adjustment for the Town of Wendell is granted under the authority of G.S. ~~160A-388~~ **160D-302**.

14.4 - Technical Review Committee

The authority to establish the Technical Review Committee for the Town of Wendell is granted under the authority of G.S. ~~160A-361 & 373~~ **160D-301 & 803**.

15.3 - Administrator

The authority to establish an Administrator for the Town of Wendell is granted under the authority of G.S. ~~160A-361 & 373~~ **160D-402**.

15.14 - Vested Rights

A. General Procedures/Establishment of Vesting:

1. Pursuant to G.S. ~~160A-385.1~~ **160D-108** and not withstanding any other provision or amendment, a landowner may apply for approval of a site-specific development plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.

B. Approval procedures and approval authority

2. Notwithstanding the provisions of 15.14.B.1 above, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee, or administrative official other than the Board of Commissioners in order to obtain a zoning vested right, the applicant must request in writing at the time of the application that the application be considered and acted on by the Board of Commissioners following notice and a public hearing as provided in North Carolina General Statute § ~~160A-364~~ **160D-601**.

5. Each map, plat, site plan, or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under North Carolina General Statute § ~~160A-385.1~~ **160D-108**. Unless terminated at an earlier date, the zoning vested right shall be valid until _____."

C. Duration

3. Upon issuance of a building permit, the expiration provisions of North Carolina General Statute § ~~160A-418~~ **160D-1111** and the revocation provisions of North Carolina General Statute § ~~160A-422~~ **160D-1115** shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

E. Voluntary Annexation

1. A petition for annexation filed with the Town under North Carolina General Statute § 160A-31 or North Carolina General Statute § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to petition has been established under North Carolina General Statute § ~~160A-385.1~~ **160D-108** or North Carolina General Statute § 160A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be determined.

F. Limitations

1. Nothing in this subchapter is intended or shall be deemed to create any vested right other than those established pursuant to North Carolina General Statute § ~~160A-385.1~~ **160D-108**.

G. Repealer

1. In the event that North Carolina General Statute § ~~160A-385.1~~ **160D-108** is repealed, this subchapter shall be deemed repealed and the provisions hereof no longer effective.

15.16 - Administrative Appeals

E. Appeals

1. Appeals from the enforcement and interpretation of this Ordinance, and requests for ~~conditional uses or~~ variances shall be filed with the Administrator, who shall transmit all such records to the Board of Adjustment and/or the Board of Commissioners.

Chapter 19 - DEFINITIONS

19.3 - Definitions

Dwelling means ~~a building designed, arranged, or used for permanent living quarters for one or more persons.~~ **any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For**

the purposes of Article 12 of Chapter 160D of the General Statutes, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Existing Development means those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

(a) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

(b) Having an outstanding valid building permit as authorized by the General Statutes (G.S. ~~160A-385.1~~ **160D-108**), or

(c) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the General Statutes (G.S. ~~160A-385.1~~ **160D-108**).

Extraterritorial Jurisdiction (ETJ) means that land lying beyond the municipal limits of the Town of Wendell and within the extraterritorial jurisdiction boundary as delineated on the official zoning map of the Town of Wendell in accordance with G.S. ~~160A-360~~ **160D-202**. The authority is granted to a locality to exercise zoning powers for a specified distance outside its boundaries. It is intended to protect activities on the edge of communities from being encroached on by incompatible adjacent activities.

Planning Board Action:

At their January 19, 2021 meeting, the Planning Board voted unanimously to approve the requested zoning text amendments.

Voting in Favor: Cande Killian Wood, Deans Eatman, Levin Jones, Allen Swaim, Ryan Zakany and Jonathan Olson

Voting Against: None

Absent: Michael Firstbrook and Jimmena Huffman-Hall

Statement of Plan Consistency:

The requested zoning text amendment is consistent with the Wendell comprehensive plan and is reasonable in nature since it is required by the North Carolina General Statutes.

Approved by Planning Board Chairperson

Planning Board Chairperson

28 Jan 2021

Date

Date: February 8, 2021 **Item # 6a**

Item Title:

Decision on rezoning approximately 16.18 acres located at 2891 Wendell Boulevard and 969 Marshburn Road [PIN 1784-45-6183 and 1784-54-2734] from Rural Agricultural (RA) to Corridor Mixed- Use (CMX).

Report to the Board of Commissioners:

February 8, 2021 Decision
January 25, 2021 Public Hearing

Specific Action Requested:

Make a motion on the proposed rezoning request.

Item Summary:

The applicant is requesting to rezone one parcel and a portion of another, located within the Town's extraterritorial jurisdiction (ETJ) that are currently zoned RA. The applicant is requesting a rezoning that is not part of a conditional district. The intent of the rezoning is to develop multi-family housing. Multi-family housing requires a special use permit and would require approval from the Board of Commissioners.

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

Property Information Summary	
Location	East of Food Lion and West of Marshburn Rd. **Addresses:** 2891 Wendell Blvd. (Partial), 969 Marshburn Road **PINs:** 1784-45-6183, 1784-54-2734
Current Zoning	RA
Requested Zoning	CMX
Area of Request	16.18 acres
Corporate Limits	ETJ
Property Owner	G3 Properties LLC
Applicant	John Oglesby of CSD Engineering

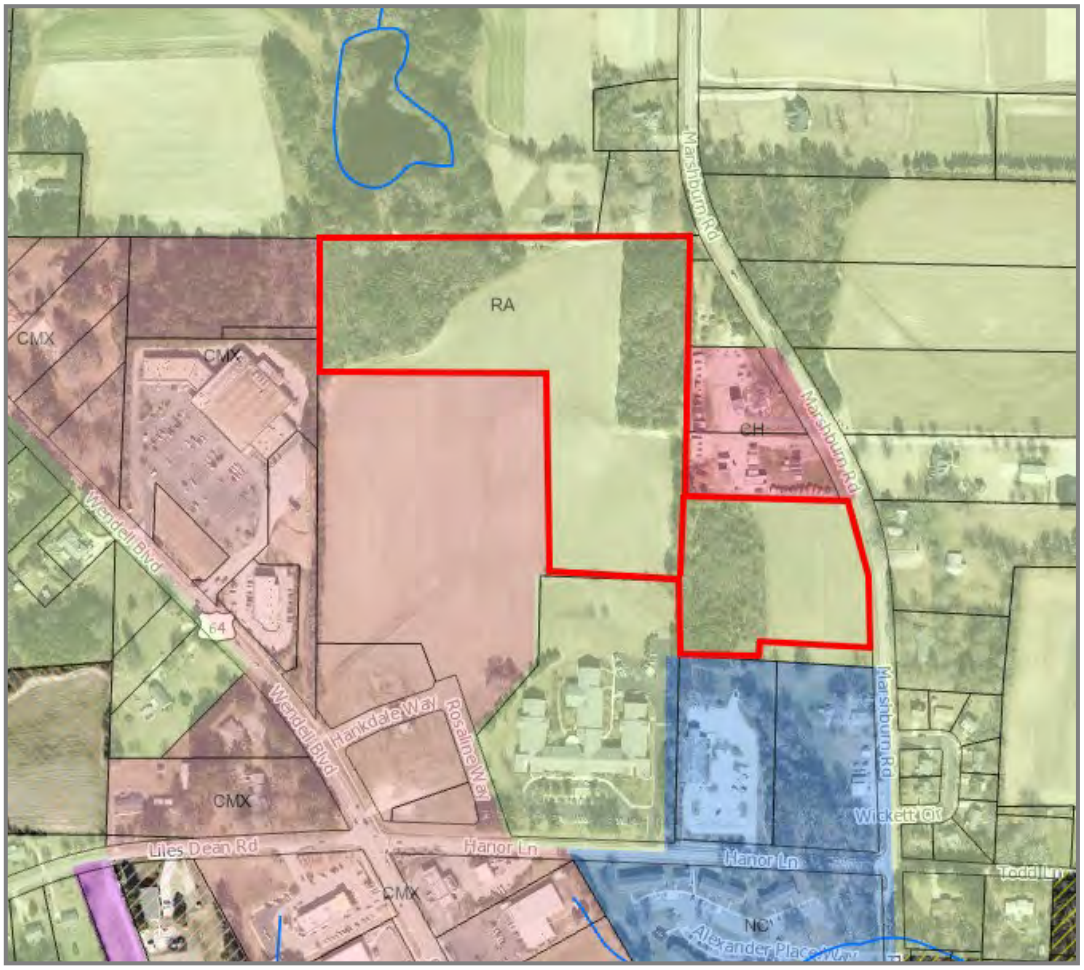
Project Setting – Surrounding Districts and Land uses:

DIRECTION	LANDUSE	ZONING
North	Residential/Agricultural	RA
South	Residential/Commercial	RA/CMX
East	Residential/Agricultural/Commercial	RA/CH
West	Commercial	CMX

Zoning District:

The subject properties are currently located in the RA zoning district. The surrounding properties are zoned RA, CH and CMX.

Current Zoning Map (requested properties outlined in red):



Comprehensive Plan:

The Wendell Comprehensive Plan defines this section as S-4 Controlled Growth Area, Neighborhood Center and partly in the Wendell Blvd Gateway Corridor.

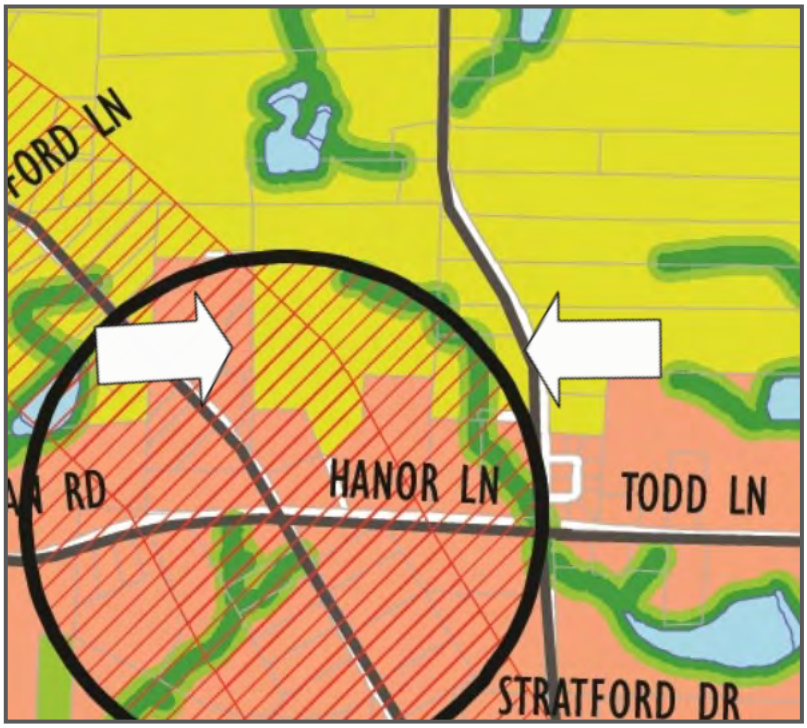
S-4 lands are typically close to thoroughfares and at key cross-road locations. This sector is where moderate intensity new development is appropriate and where the majority of the community's new growth should occur. The typically envisioned community type for S-4 is a traditional neighborhood development (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
- industrial uses

Neighborhood Centers are shown on the framework plan in the smaller circles, are based on a ¼-mile radius (a typical 5-minute walk) from a major intersection. They are intended to be mixed-use activity centers serving surrounding neighborhoods with retail, services, civic uses, and higher density housing. A neighborhood center should not contain more than 80,000 to 120,000 square feet of retail uses. A grocery-anchored mixed-use development is a typical use for a neighborhood center.

The Wendell Boulevard Gateway Zone a special zone along Wendell Boulevard between downtown and the US 64 interchange. This area is experiencing immediate development pressure and much of the area is already zoned for non-residential uses. This Plan recommends that it be an area for professional office and service uses and some higher density residential uses. Additional design guidelines for building and site design to protect the visual character (including the mature trees and forested areas that define parts of the corridor) should be added to the Town's regulating ordinances. Retail uses along this corridor should be limited to the identified centers or nodes in the Framework Plan.



Planning Board Recommendation:

At their December 21, 2021 meeting, the Planning Board voted unanimously to recommend approval of the requested zoning map amendment (Attachment D).

> **Voting in Favor:** Jonathan Olson, Levin Jones, Deans Eatman, Cande Killian Wood, Ryan Zakany, Jimmena Huffman-Hall & Allen Swaim.
>
> **Voting Against:** None
>
> **Absent:** Michael Firstbrook

Statement of Plan Consistency Reasonableness:

The requested zoning map amendment is consistent with the recommended uses outlined in the Wendell Comprehensive Land Use Plan for the S-4 Sector, Neighborhood Center and Wendell Blvd Gateway Zone and is reasonable as it is consistent with adjacent uses and zoning districts.

Applicant Justification:

The applicant's justification statement is included as Attachment C.

Attachments:

A. Zoning Map Amendment Application
B. CMX Zoning District Land Use Chart
C. Applicant's Justification Statement

D. Planning Board Recommendation
E. Ordinance

2020 TOWN OF WENDELL
ZONING MAP
AMENDMENT PACKET

Town of Wendell Planning Department
15 E. Fourth St.
Wendell, NC 27591

Phone: 919.365.4448
Fax: 919.366.1462
www.townofwendell.com

ACKNOWLEDGEMENT OF ZONING MAP AMENDMENT INFORMATION

I, John Oglesby, acknowledge the receipt of the following items pertaining to the rezoning of the property located at 2891 Wendell Blvd. and 969 Marshburn Rd.

- ✓ Application for Traditional Zoning Map Amendment
- ✓ Submittal Schedule
- ✓ Future Land Use Map
- ✓ District Use Regulations Table
- ✓ Amendment Procedures

Submittal Deadline Date: October 16, 2020

Applicant John F. Oglesby — Date 10/16/2020

CSD Engineering

PETITION TO AMEND THE ZONING MAP

To be reviewed by both the Planning Board and the Town Board of Commissioners Form last updated on 12/06

Item 6a

Date: 10/16/2020	PETITION # ZM-	
Applicant's Name: CSD Engineering Consultant	Phone: 9196240997	Fax: 9107911501
Mailing Address: PO Box 1250		
Owner's Name: G3 Properties, LLC	Phone: 919 365. 7488	Fax: 919 365. 9581
Mailing Address: 1449 S. Hollybrook Rd.		

NOTE: If several properties are involved in this request, please attach a sheet listing each property, property owner, mailing address, telephone, and fax number.

1. Relationship of Applicant to Property: ☐Owner ☐Lessee ☐Optionee ☑Other Consultant
2. Location of Property: 2891 Wendell Blvd. PIN #: 1784456183
3. Current Zoning: CMX/RA
4. Requested Zoning: CMX
5. Legal Description of Property: *(Please Label As ATTACHMENT A)* Include on a sheet of paper the property survey, Wake County Tax Map PIN Number, block or lot numbers with metes and bounds description of the area, or any other legal information available.
6. Adjacent Property Owners: *(Please Label As ATTACHMENT B)* Include on a sheet of paper the names and addresses of the owners whose property abuts and is adjacent to the property in question.
7. Why Property Should Be Rezoned: *(Please Label As ATTACHMENT C)* Include on a sheet of a paper an explanation in detail of why you feel the property should be rezoned. The explanation should include if the rezoning coincides with the Comprehensive Land Use Plan and if the impact of the proposed rezoning effects adjacent or surrounding properties. Also within this attachment should be the impact on governmental services (utilities, schools, police protection, streets, etc.), that the uses permitted within the requested district would create.

After completing the attachments listed above, I certify that I am the owner or have the consent of the owner and act on his or her behalf in making this petition for an amendment to the zoning map.

Applicant's Signature John F. Chesley Date 10/16/2020

OFFICE USE ONLY Fee Paid: _____ Date Paid: _____

PLANNING BOARD Date Petition Was Reviewed: _____ Recommendation: ☐Approval ☐Denial

The decision of the Planning Board was based on the following considerations: _____

The decision was consistent with the Comprehensive Plan: ☐ Yes ☐ No

Conditions of Approval: _____

TOWN BOARD OF COMMISSIONERS Date Public Hearing Scheduled: _____ Date Sign Erected: _____

Dates Public Hearing Advertised: (#1): _____ in _____ *AND* (#2): _____ in _____

Town Board Recommendation: ☐ Approval ☐ Denial

Conditions of Approval: _____

Town Clerk's Signature Date

Mayor's Signature Date

Item 6a

Land Planning Data

Petitions:

Applicant: CSD Engineering (Consultant)
P.O. Box 1250
Wendell, NC 27591
(919) 624-0997
(910) 791-1501 (fax)

Owner: G3 Properties, LLC
1449 S. Hollybrook Road
Wendell, NC 27591
(919) 365-7488
(919) 365-9581 (fax)

Location:

Site Address(s): Parcel 1: 2863 Wendell Boulevard
Parcel 2: 2891 Wendell Boulevard
Parcel 3: 969 Marshburn Road

Zip Code: 27591

USGS 7.5-Minute Series Quadrangle: "Knightdale" (Quad Map Exhibit from Phase 1; 10/11/2018)

Township: Marks Creek Fire District: Wendell

DFIRM(s): 3720178400 (Panel 1784)

Property:

PINs (Size):	Parcel 1:	1784441446	(1.15 acres)
	Parcel 2:	1784456183	(23.9 acres)
	Parcel 3:	1784542734	(4.38 acres)
Deed(s):	Parcel 2:	DB-12746 PG-336	
	Parcel 3:	DB-11077 PG-210	
Plat(s):	Parcel 3:	BM-2000 PG-496	
Owner(s):	G3 Properties, LLC		

Land Planning:

Existing Zoning:	Parcel 1:	CMX
	Parcel 2:	CMX and RA
	Parcel 3:	RA

Item 6a

Existing Use: Vacant; fallow land

Proposed Zoning: Commercial Mixed Use (CMX)

Proposed Use: Commercial retail, office, services, flex

NOTE: Parcel 1 does not need to be included in petitions for map amendment and annexation (already zoned CMX and is within existing Town Limits.

Utilities:

Water:

- Water main along recently constructed streets of Wendell Phase 1; extended in to property that is being petitioned for annexation and rezoning
- Water main along Marshburn Road

Sewer:

- Sewer main along recently constructed streets of Wendell Phase 1; extends onto property that is being petitioned for annexation and rezoning
- Existing sewer main along Marshburn stops just short (south) of property that fronts road

Roads/Streets:

Access will be from streets constructed within Phase 1; Town and NCDOT will likely require connection to Marshburn Road; may be opportunity to connect public street to Wendell Boulevard through Food Lion shopping center (see preliminary Master Plan layout of streets and parcels only).

Wendell Village – Wendell, NC

Parcel 2: 2891 Wendell Boulevard
Parcel 3: 969 Marshburn Road

Written Property Description

Parcel 2:

A 22.8 acre tract of land located in Marks Creek Township, Wake County, North Carolina; part of the 35 acre tract of land as described in Deed Book 437, Page 237, recorded in the Wake County Registry on May 10, 1924; bound by the pubic Right-of-Way for Rosaline Way as shown on survey by John F. Downing, PLS in Book of Maps 2020 Page 1304; bound by property line of 1.2 acre tract owned by G3 Properties, LLC, established for property annexation to Town of Wendell, recorded in Book of Maps 1993 Page 610 (herein called Parcel 1); Starting at point in at the northwest corner of Parcel 1, head north 0° 16' 21" east for 506.5 feet; thence, north 0° 18' 32" east for 23.6 feet; thence, north 0° 18' 32" east for 265.0 feet; thence, north 0° 17' 40" east for 263.6 feet; thence, north 89° 32' 57" east for 967.4 feet; thence south 1° 21' 17" west for 290.6 feet; thence, south 1° 18' 58" west for 224.6; thence, south 1° 3' 13" west for 165.4 feet to existing concrete monument located at the northwest corner of Parcel 3; thence, south 1° 22' 15" west for 223.2 feet; thence, north 87° 46' 36" west for 368.1 feet; thence, south 1° 12' 31" west for 232.1; thence, south 41° 5' 7" west for 245.1 feet to a point on right-of-way of Rosaline Way; thence, north 18° 59' 11" west along right-of-way line for 167.3 feet; thence, south 71° 0' 49" for 55.3 feet to point on southeast corner of G3 Properties, LLC property; thence, north 89° 45' 59" for 273.84 feet to point of beginning.

Parcel 3:

A 4.38 acre tract of land located in Marks Creek Township, Wake County, North Carolina; as shown as Lot 3 on survey by William-Pearce & Associates, PA, recorded in Book of Maps 2000 Page 496 in the Wake County Registry; from existing concrete monument at the northwest corner of Parcel 3, head south 88° 36' 18" east for 410.7 feet to point located on right-of-way of Marshburn Road; thence, 272.78 feet along a curve with 859.5 feet radius, with chord bearing and distance of south 11° 58' 28" east for 271.64 feet, to point in right-of-way; thence, south 3° 0' 28" for 124.1 feet to point on right-of-way; thence, north 86° 14' 33" west for 302.3 feet; thence, south 2° 42' 45" east for 50.2 feet; thence, south 85° 59' 4" east for 205.6 feet; thence, north 1° 26' 45"east for 192.99 feet; thence, north 1° 22' 15" east for 223.2 feet to point of beginning.

Att: B

Project: Wendell Village Future Land Planning
Subject: Adjacent Property Owners

Owner: G3 Properties, LLC
Consuttant: CSD Engineering

Parcel No.	PIN	Property Owner Name	Property Owner Mailing Address	Physical Property Address	Property Size	Zoning
1	1784442254	G3 PROPERTIES LLC	1449 S. Hollybrook Road Wendell, NC 27591	2877 Wendell Blvd Wendell, NC	1.23	CMX
2	1784443142	G3 PROPERTIES LLC	1449 S. Hollybrook Road Wendell, NC 27591	96 Hanor Lane Wendell, NC	0.37	CMX
3	1784433992	OLESON ENTERPRISES INC	931 Cambridge Hall Loop Apex, NC 27539-7113	2901 Wendell Blvd Wendell, NC	1.19	CMX
4	1784435851	1201 NW 54th ST L.C.	11010 Lake Grove Blvd.Suite 100-313 Morrisville, NC 27560-7391	2921 Wendell Blvd Wendell, NC	1.61	CMX
5	1784437629	TRADE LAND COMPANY, LLC	Property Tax Dept. 539 S Main St. Findlay, OH 45840-3229	2941 (?) Wendell Blvd Wendell, NC	2.31	CMX
6	1784438457	FOUR M PROPERTIES, LLC	PO Box 1417 Wendell, NC 27591-1417	2961 Wendell Blvd. Wendell, NC	2.8	CMX
7	1784432442	BIG B ENTERPRISES, LLC	PO BOX 1989 Wendell, NC 27591	2940 Wendell Blvd Wendell, NC	1.38	CMX
8	1784431566	EASTERN PRIDE, INC	2405 Nash St, Ste F Wilson, NC 27896-1634	2930 Wendell Blvd Wendell, NC	1.31	CMX
9	1784430699	EASTERN PRIDE, INC	2405 Nash St, Ste F Wilson, NC 27896-1634	2920 Wendell Blvd Wendell, NC	1.31	CMX
10	1784339857	GOLDEN ARCH Limited Partnership	McDonalds Corporation (032-0547) PO Box 182571	2900 Wendell Blvd Wendell, NC	2.65	CMX
11	1784338406	DIXON, THOMAS E DIXON, LORRAINE H	1200 Pulley-Gordon Road Zebulon, NC 27597-8895	55 Liles Dean Road Wendell, NC	7.53	CMX-CU
12	1784346178	STEPHENS, GLENDA S./ JANE F	80 Liles Dean Road Wendell, NC 27591-7243	60 Liles Dean Road Wendell, NC	2.59	CMX
13	1784348312	STAPLES,ALTON B/ Trustee STAPLES, MAUDE S/ Trustee	PO Box 1717 Wendell, NC 27591-1717	2850 Wendell Blvd Wendell, NC	1.19	CMX
14	1784346442	EARP, FLOYD O Jr	PO BOX 1463 Wendell, NC 27591-1463	2830 Wendell Blvd Wendell, NC	1.43	RA
15	1784345584	EARP, FLOYD O Jr	PO BOX 1463 Wendell, NC 27591-1463	2820 Wendell Blvd Wendell, NC	0.64	RA
16	1784345647	EARP, FLOYD O Jr	PO BOX 1463 Wendell, NC 27591-1463	2810 Wendell Blvd Wendell, NC	0.54	RA
17	1784348695	GREWAL PROPERTY, LLC	3630 Glennmoor Drive Pfafftown, NC 27040-8734	2851 Wendell Blvd Wendell, NC	0.89	CMX
18	1784349943	MNP OUTPARCELS, LLC	PO BOX 32068 (Norcom Dev) Charlotte, NC 28232-2068	2841 Wendell Blvd Wendell, NC	1.43	CMX
19	1784346852	DAVINDER, SINGH, PARAMJIT GREWAL	3630 Glennmoor Drive Pfafftown, NC 27040-8734	2811 Wendell Blvd Wendell, NC	0.57	CMX
20	1784356143	RICAM CORPORATION	PO BOX 53729 FAYETTEVILLE, NC 28305-3729	2837 Wendell Blvd Wendell, NC	5.32	CMX
21	1784354049	SISTA, RAMAKRISHNA, MANTHA, LAKSHMI	1352 Magnolia Bend Loop Cary, NC 27519-0120	2751 Wendell Blvd Wendell, NC	0.87	CMX
22	1784358409	SISTA, RAMAKRISHNA, MANTHA, LAKSHMI	1352 Magnolia Bend Loop Cary, NC 27519-0120	2781 Wendell Blvd Wendell, NC	2.83	CMX
23	1784358375	RICAM CORPORATION	PO BOX 53729 FAYETTEVILLE, NC 28305-3729	2837 Wendell Blvd Wendell, NC	0.17	CMX
24	1784460072	PAINTER, SCOTT / AMY Ledford Heirs	6836 NC 50 NORTH BENSON, NC 27504	1111 Marshburn Road Wendell, NC	28.03	RA
25	1784460072	PAINTER, SCOTT / AMY Ledford Heirs	6836 NC 50 NORTH BENSON, NC 27504	1111 Marshburn Road Wendell, NC	0.01	RA
26	1784458950	SWAIM, T. ALLEN Jr SWAIM, AMY F	1133 Marshburn Road Wendell, NC 27591	1133 Marshburn Road Wendell, NC	0.87	RA
27	1784458780	PAINTER, SCOTT / AMY Ledford Heirs	6836 NC 50 NORTH BENSON, NC 27504	1125 Marshburn Road Wendell, NC	1.24	RA
28	1784650451	NICHOLS, THOMAS E Jr	6208 Battleford Drive Raleigh, NC 27612-6604	1061 Marshburn Road Wendell, NC	9.95	RA
29	1784551118	PRIVETTE, MATTHEW R PRIVETTE, MELANIE	1020 Marshburn Road Wendell, NC 27591	1027 Marshburn Road Wendell, NC	1.31	CH
30	1784551064	PRIVETTE, MATTHEW R PRIVETTE, MELANIE S	1020 Marshburn Road Wendell, NC 27591	1011 Marshburn Road Wendell, NC	1.42	CH
31	1784543522	Charlotte Elliott, Heirs of Marshburn, Berry	2546 Scenic Vista Drive Nebo, NC 28761-5525	959 Marshburn Road Wendell, NC	0.38	RA
32	1784543218	Iglesia Evangelica Internaional Soldados DE LA CR	939 Marshburn Road Wendell, NC 27591	939 Marshburn Road Wendell, NC	3.26	NC
33	1784540340	Maddox Investments, LLC	111 N. Main Street Clarkton, MO 63837-9241	40 Hanor Lane Wendell, NC	2.82	NC
34	1784447335	Wendell Congrgate LMTD Partnership C/O Gem Mangement	2021 Cross Beam Drive Charlotte, NC 28217-2856	84 Hanor Lane Wendell, NC	6.57	RA
35	17484532841	ALEXANDER PLACE Ltd Partnership	PO Box 17022 Raleigh, NC 27619-7022	105 Alexander Place Way Wendell, NC	5.51	NC
36	1784545084	Roque, Juan C & Yolanda E	4406 Old Wake Forest Rd, Suite E Raleigh, NC 27609-6284	900 Wickett Circle Wendell, NC	0.17	RA
37	1784546083	Spence, Gamel & Sheila Newsome	908 Wickett Circle Wendell, NC 27591-9389	908 Wickett Circle Wendell, NC	0.26	RA
38	1784547049	RUIZ, EUCADIO RUIZ, BERNAL MENDO, MARIA REYNA	912 Wickett Circle Wendell, NC 27591-9389	912 Wickett Circle Wendell, NC	0.27	RA
39	1784547158	CHAPMAN, ISSAC	918 Wickett Circle Wendell, NC 27591-9389	918 Wickett Circle Wendell, NC	0.16	RA
40	1784547256	McLEOD, JAMES C McLEOD, JESSICA L	3209 NEUSE BANKS COURT WAKE FOREST, NC 27587-6782	924 Wickett Court Wendell, NC	0.19	RA
41	1784547345	HUMPHREYS, JAMES D HUMPHREYS, LEE ANN	930 Wickett Circle Wendell, NC 27591-9389	930 Wickett Circle Wendell, NC	0.31	RA
42	1784546358	LOPEZ, MIGUEL RODRIGUEZ LOPEZ, GONZALEZ, CECILIA	936 Wickett Circle Wendell, NC 27591-9389	936 Wickett Circle Wendell, NC	0.19	RA
43	1784545378	Fletcher, Gene D Fletcher, Marlene D	942 Wickett Circle Wendell, NC 27591-9389	942 Wickett Circle Wendell, NC	0.2	RA

Project: Wendell Village Future Land Planning — **Owner:** G3 Properties, LLC
Subject: Adjacent Property Owners — **Consultant:** CSD Engineering

44	1784545294	SKINNER, LINDE PAIGE	921 Wickett Circle Wendell, NC 27591-9389	921 Wickett Circle Wendell, NC	0.18	RA
45	1784545197	REED, STEVEN V & CAROLYN R	915 Wickett Circle Wendell, NC 27591-9389	915 Wickett Circle Wendell, NC	0.17	RA
46	1784644326	TODD, EDWARD McCOY Jr	152 Todd Lane Wendell, NC 27591-8387	152 Todd Lane Wendell, NC	18.78	RA
47	1784546573	HARRIS, MELODY	177 Huford Harris Rd Spring Hope, NC 27882-7810	962 Marshburn Road Wendell, NC	1.36	RA
48	1784546880	BUTCHER, WILLIAM R BUTCHER, ASHLEY C	974 Marshburn Road Wendell, NC 27591-9327	974 Marshburn Road Wendell, NC	3.17	RA
49	1784643910	PRIVETTE, MATTHEW R PRIVETTE, MELANIE S	1020 Marshburn Road Wendell, NC 27591-9328	1020 Marshburn Road Wendell, NC	8.77	RA
50	1784651178	PRIVETTE, MATTHEW R PRIVETTE, MELANIE S	1020 Marshburn Road Wendell, NC 27591-9328	1040 Marshburn Road Wendell, NC	8.04	RA
51	1784650451	NICHOLS, THOMAS E Jr	6208 Battleford Drive Raleigh, NC 27612-6604	1061 Marshburn Road Wendell, NC	9.95	RA
52	1784553827	ANDREWS, JARED C ANDREWS, STEPHANIE A	PO Box 887 Wendell, NC 27591-0887	1118 Marshburn Road Wendell, NC	4	RA
53	1784752944	ALPHIN, DURWOOD D	1126 Marshburn Road Wendell, NC 27591-9328	1120 Marshburn Road Wendell, NC	44.44	RA

Wendell Village – Wendell, NC

Parcel 2: 2891 Wendell Boulevard
Parcel 3: 969 Marshburn Road

Existing zoning: RA
Proposed zoning: CMX

Narrative

The property (herein referred to as Parcel 1, Parcel 2 and Parcel 3) is located in an area that has been designated a commercial area on the future land use plan map. Many of the adjacent properties are already zoned commercial (CMX or CH) and the adjacent properties that are not zoned commercial are shown in the designated commercial area on the future land use plan. Currently, commercial zoning exists on Marshburn Road along the eastern boundary of Parcel 2 and the northern boundary of Parcel 3; and commercial zoned parcels are along the complete western boundary of Parcel 2. All of Parcel 1 and a portion of Parcel 2 is already zoned CMX.

There are not residential dwellings within approximately 200 feet of the property; however, there are several houses and a small subdivision located with 500 feet of the property. The potential effects on adjacent properties includes traffic; however, as road improvements are made in this area, the impact of additional traffic can be mitigated.

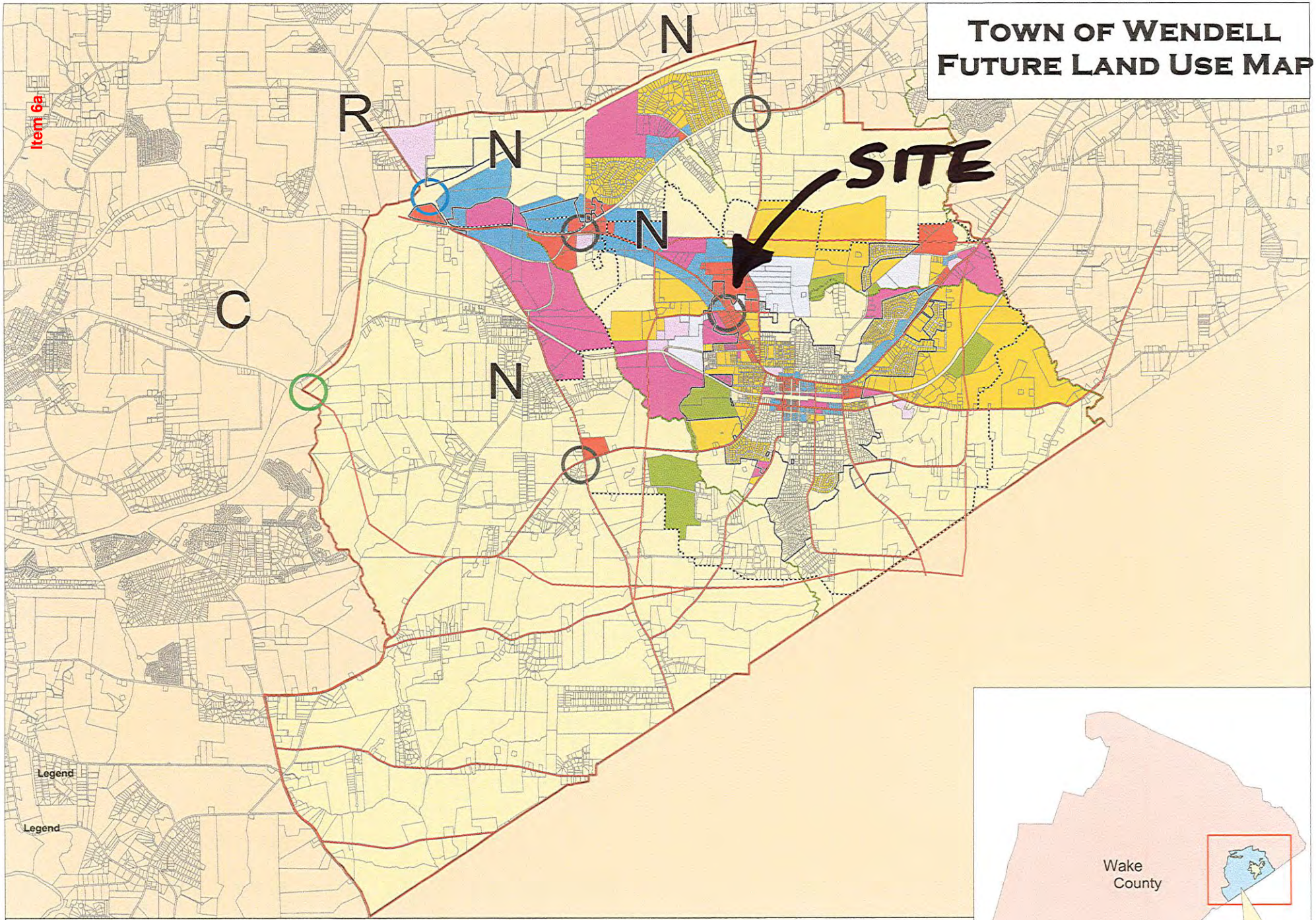
With the growth in population of residents, the need for commercial retail and amenities is in high demand. The zoning of CMX for this property would provide some flexibility in the uses allowed: retail, office, flex, etc. There is also some potential for adding a residential area within this zoning to provide a village-type development with amenities within walking distance to residences. This has the potential to reduce vehicular traffic.

The recent construction of Rosaline Way and Hankdale Drive provides great access options to Parcel 2. A curb and gutter street extends beyond the public right-of-way onto Parcel 2 and public right-of-way will be dedicated for this street and future streets constructed on the property. Parcel 3 provides an access option to another street giving fire, police and EMS better circulation and access. There is already sewer and water located on Parcel 2 and water and sewer is accessible to Parcel 3 from Marshburn Road.

Parcel 1 is within the town limits. A petition to annex Parcel 2 and Parcel 3 is forthcoming.

Item 6a

Town of Wendell
Future Land Use Map



This map was created by the Wendell Planning Department and is for reference only. The Town of Wendell assumes no responsibility for errors or misuse of this map.

July 1, 2005

Town of Wendell, NC
Corridor Mixed Use (CMX) Zoning District Land Use Chart

PERMITTED USES	PERMITTED WITH ADDITIONAL STANDARDS	SPECIAL USES (Requires Board Approval)
ATM	Alcoholic Beverage Sales Store	Bar/Tavern/Night Club
Auto Parts Sales	Amusements, Indoor	Billiard/Pool Hall
Banks, Credit Unions, Financial Services	Amusements, Outdoor	Colleges/Universities
Bed and Breakfast Inns	Animal Services	Dwelling - Multifamily
Business Support Services	Car Wash - Stand Alone, Self Service	Event Venue, Outdoor
Community Service Organization	Cemetery	Hospital
Cultural or Community Facility	Child/Adult Day Care Center (more than 8 persons)	Religious Institutions
Dwelling-Single Family	Child/Adult Day Care Home (8 or less persons)	Research and Development
Equipment Rental	Drive Thru Service	Residential Treatment Facility
Funeral Homes	Drive-Thru Retail/Restaurant	Shooting Range, Indoor
General Retail - 10,000 sf or less	Dwelling-Secondary	Theater, Live Performance, Outdoor
General Retail - 10,001 - 50,000 sf	Family Care Home (6 or fewer residents)	Wireless Telecommunication Facility - Stealth
Government Services	Gas Station	Wireless Telecommunication Facility - Tower
Home Occupation	General Retail - Greater than 50,000	
Hotels/Motels/Inns	Group Care Facility (More than 6 residents)	
Housing Services for the Elderly	Live-Work Units	
Laundry Services	Manufacturing, Light	
Media Production	Manufacturing, Neighborhood	
Medical Services - Clinic, Urgent Care Center	Micro-Distillery/Micro-Brewery/ Micro-Winery	
Medical Services - Doctor Office	Mini-Warehouses	
Meeting Facility/Indoor Event Venue	Parking Structure - Primary Use	
Metal products fabrication, machine or welding shop	Rooming or Boarding House	
Personal Services	Storage - Warehouse, Indoor Storage	
Post Office	Transit Station - Passenger	
Professional Services	Utilities - Class 1	
Public Safety Station	Utilities - Class 2	
Recreation Facilities, Indoor	Vehicle Sales	
Recreation Facilities, Outdoor	Vehicle Services - Major Repair/Body Work	
Restaurant	Vehicle Services - Minor Maintenance/Repair	
Schools - Elementary & Secondary		
Schools - Vocational/Technical		
Shopping Center - Community Center		
Shopping Center - Neighborhood Center		
Studio - Art, Music		
Studio - Dance, Martial Arts		
Theater, Live Performance, Indoor		
Theater, Movie		

Wendell Village – Wendell, NC

Parcel 2: 2891 Wendell Boulevard
Parcel 3: 969 Marshburn Road

Existing zoning: RA
Proposed zoning: CMX

Narrative

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WENDELL
Planning Department

Wendell Planning Board Recommendation to the Wendell Board of Commissioners

ZM20-06:
Zoning Map Amendment request to rezone approximately 16.18 acres from Rural Agricultural (RA) to Corridor Mixed- Use (CMX).

Case Description:

- The applicant is requesting to rezone 1 parcel and a portion of another, located within the Town's extraterritorial jurisdiction (ETJ) that are currently zoned RA. The applicant is requesting a rezoning that is not part of a conditional district. The intent of the rezoning is to develop apartments. This type of rezoning allows for all permitted uses within the CMX zoning district

Property Information Summary	
Location	East of Food Lion and West of Marshburn Rd. **Addresses:** 2891 Wendell Blvd. (Partial), 969 Marshburn Road **PINs:** 1784-45-6183, 1784-54-2734
Current Zoning	RA
Requested Zoning	CMX
Area of Request	16.18 acres
Corporate Limits	ETJ
Property Owner	G3 Properties LLC
Applicant	John Oglesby of CSD Engineering

Planning Board Action:

At their December 21, 2020 meeting, the Planning Board voted unanimously to recommend approval of the requested zoning map amendment.

Voting in Favor: Jonathan Olson, Levin Jones, Deans Eatman, Cande Killian Wood, Ryan Zakany, Jimmena Huffman-Hall and Allen Swaim

Voting Against: None

Absent: Michael Firstbrook and Brett Hennington

Statement of Plan Consistency and Reasonableness:

The requested zoning map amendment is consistent with the recommended uses outlined in the Wendell Comprehensive Land Use Plan for the S-4 Sector, Neighborhood Center and Wendell Blvd Gateway Zone and is reasonable as it is consistent with adjacent uses and zoning districts.

Approved by the Planning Board Chairperson

Planning Board Chairperson

19 Jan 2021
Date

O-04-2020

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 Corridor Mixed-Use (CMX) zoning district the property described below, said properties formerly being zoned Rural Agricultural (RA); and

WHEREAS said properties are owned by G3 Properties 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 January 25, 2021 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 **Corridor Mixed-Use (CMX)** zoning district 16.18 acres of land located at 2891Wendell Blvd. and 969 Marshburn Rd. (PINs 1784-45-6183, 1784-54-2734).

SECTION 2. The requested zoning map amendment for the parcels within the rezoning area identified as ZM20-06 from Rural Agricultural (RA) to **CMX** is found to be reasonable in order to be consistent with adjoining zoning districts and the recommended uses and development types outlined

in the Wendell Comprehensive Land Use Plan for the S4 Sector, Neighborhood Center and Wendell Blvd Gateway Zone.

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 8th Day of February 2021

(Town Seal)

_____
Virginia R. Gray, Mayor

ATTEST:

_____
Megan Howard, Town Clerk

APPROVED AS TO FORM:

_____
James P. Cauley III, Town Attorney

Date: February 8, 2021 **Item # 6b**

Item Title:

Decision on a Contiguous Annexation for two Parcels totaling 28.28 acres [23.9 acres for PIN 1784-45-6183 and 4.38 acres for PIN 1784-54-2734] located at 2891 Wendell Blvd & 969 Marshburn Road.

Report to the Board of Commissioners:

February 8, 2021- Decision
January 25, 2021- Public Hearing
December 14, 2020- Receive Certificate of Sufficiency and set Public Hearing
November 23, 2020- Direct Clerk to Certify the Sufficiency of the Annexation Petition

Specific Action Requested:

Make a motion on the proposed annexation petition and consider adopting the attached ordinance.

Item Summary:

John Oglesby on behalf of G3 Properties LLC has submitted an annexation request for two parcels totaling 28.28 acres [23.9 acres for PIN 1784-45-6183 and 4.38 acres for PIN 1784-54-2734] located at 2891 Wendell Blvd & 969 Marshburn Road.

The two requested parcels are part of the Wendell Village development that is under development by G3 Properties LLC. The applicant has submitted a rezoning petition for the portions zoned Residential-Agriculture (RA).

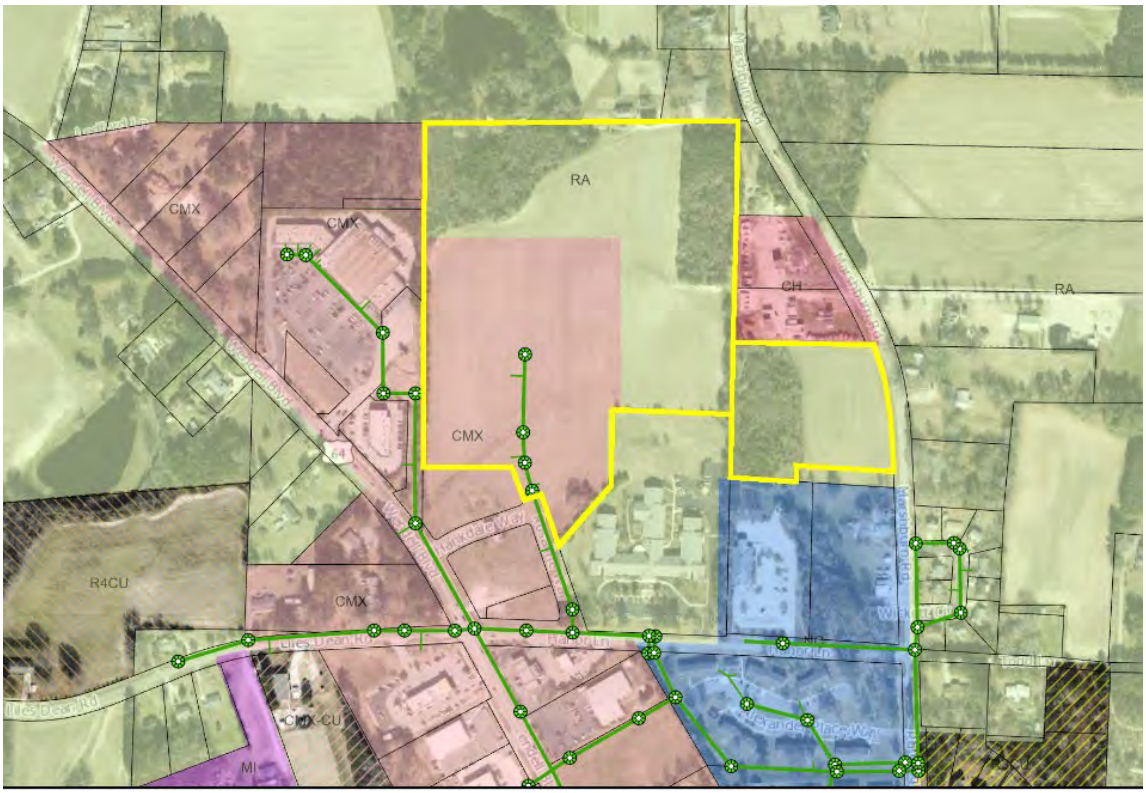
Zoning District:

The parcels are located in the Town of Wendell extra-territorial jurisdiction (ETJ) and are currently in the Residential-Agriculture (RA) and Corridor Mixed Use (CMX) zoning districts.

Impacts to Town Services:

The proposed annexation area would require services from the Town's Police, Public Works, and Parks and Recreation Departments if annexed and developed. Secondary service impacts will be incurred by other Town departments that support the operational departments. The property is already served by the Wendell-Holmes Fire District. Water and sewer are readily available to the property and provided by the Wendell Service Area by the City of Raleigh Utilities Department. Specific impacts are dependent on the use, density, and design of development and subject to approvals for utility allocations and land use.

Location Map:



Attachments:

A. Ordinance for Adoption

Return Address: Niki Jones, Planning Director
Town of Wendell
15 E. Fourth Street
Wendell, NC 27591

A20-11

ORDINANCE NO. 0-03-2021
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 25th day of January 2021, after due notice by publication on the 14th day of January 2021.

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 PINs 1774-45-6183 and 1784-54-2734 located at 2891 Wendell Boulevard and 969 Marshburn Road, 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 February 8, 2021. 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 8th day of February 2021.

(Town Seal)

_____
Virginia R. Gray, Mayor

ATTEST:

_____
Megan Howard, Town Clerk

APPROVED AS TO FORM:

_____
James P. Cauley III, Town Attorney

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 **#0-03-2020**, as adopted by the Wendell Board of Commissioners on the 8th day of February, 2021 for the properties owned by **G3 Properties 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 8th day of February, 2021.

[TOWN SEAL]

_____
Megan Howard, Town Clerk

Date: February 8, 2021 **Item # 6c**

Item Title:

Sub-recipient Agreement between the Town of Wendell and Wake County for Community Development Block Grant (CDBG) Funding.

Town Board Meetings:

Monday, February 8, 2021

Specific Action Requested:

Authorize the Town Manager to execute the sub-recipient agreement with Wake County for the Neighborhood Improvement Program (Zone 1) infrastructure project.

Item Summary:

The U.S. Department of Housing and Urban Development (HUD) provides funding to states and local governments to assist with housing, infrastructure, non-profit support, and creating economic opportunities. Wake County is an entitlement community and receives direct funding from HUD. They make their HUD funds available towns throughout the county to assist low-to-moderate income households and neighborhoods via a Request for Proposals (RFP) process. Community Development Block Grant (CDBG) funds are one of those funding sources.

After responding to a Wake County RFP, the Town was awarded CDBG funds in 2020 to assist with a neighborhood improvement project. This funding will be coupled with Town funds to provide infrastructure upgrades along several streets in the neighborhood just west of Downtown. These upgrades will include new sidewalks where they do not exist, new curb and gutter and resurfacing along parts of West Academy Street and upgrading ADA accessibility at some intersections (Attachment A).

The sub-recipient agreement will formalize the relationship between the Town and Wake County (Attachment B). The agreement details the scope of work, the Town's responsibilities, the County's responsibilities, and dollar amount awarded to the Town. The Town was awarded $255,000 of CDBG funds to implement the improvements in Zone 1 of the Neighborhood Improvement Program.

Fiscal Impact:

Preliminary cost estimates for the implementation of the Neighborhood Improvement Program (Zone 1) are $1,143,540. The Town will be responsible for approximately $888,540 and the Wake County CDBG funds will cover the remaining $255,000.

Attachments:

A. Project Area Map
B. Sub-recipient Agreement

Town of Wendell
02190728.11
Item 6c
Marshburn Rd
Baron Dr
2329
Anderson St
W Academy St
proposed 6' back of curb sidewalk on south side; curb and gutter along both sides.
Wendell Blvd
proposed sidewalk on west side with 3' grass strip.
Wall St
BUS
64
show sidewalk along south side.
Todd St
Short St
N Buffalo St
N Magnolia St
5th St
Cook St
1007
Martin St
show propose walk here along south side with 3' grass strip.
Wendell Falls Pkwy
N 4th
Google Earth
© 2020 Google
800 ft
N

DocuSign Envelope ID: FCEEBA53-A334-4FE2-A3EA-5BFC5BCCFB6B

SUBRECIPIENT AGREEMENT

WAKE COUNTY, NORTH CAROLINA

This sub-recipient agreement is entered into this 1st day of February, 2021, by and between the Town of Wendell, a body corporate and politic located in the State of North Carolina, hereinafter referred to as the "Sub-recipient", and the County of Wake, a body corporate and politic located in the State of North Carolina, hereinafter referred to as the "County." This agreement will not become effective until all conditions placed upon the County's funding are satisfied.

WHEREAS, the County has received a Community Development Block Grant (CDBG) from the U.S. Department of Housing and Urban Development (HUD) to be used principally to benefit low- and moderate-income persons by financing concentrated community revitalization and public facility projects, scattered housing rehabilitation projects, affordable housing development incentives, and community economic development incentives; and,

WHEREAS, the County had set aside up to $255,000 (Two Hundred and Fifty-Five Thousand) of CDBG funds based on the estimated budget submitted by the Town of Wendell (See Exhibit A). These funds are to assist the Town of Wendell with street infrastructure construction with the condition that the Town demonstrates a substantive effort to identify and direct households within the Town to the County's Housing Rehabilitation Program, resulting in the submission and qualification of a household(s) for rehabilitation services by the County.

WHEREAS, the Wake County Board of Commissioners approved the use of CDBG funding through the County Department of Housing Affordability and Community Revitalization's Affordable Housing Action Plan on May 4, 2020.

NOW, THEREFORE, the purpose of this sub-recipient agreement is to memorialize the terms and conditions of acceptance of assistance given by the County to the Sub-recipient.

ARTICLE ONE - RESPONSIBILITIES OF THE SUBRECIPIENT

I. STATEMENT OF WORK

The Sub-recipient shall supervise all aspects of street infrastructure construction and cooperate with any coordination tasks related to rehabilitation project(s) associated with the Town project proposal. The supervision shall include but is not limited to all construction activities for the project that conform to specifications.

The Sub-recipient shall endeavor to pursue completion of the project by June 30, 2022. Sub-recipient shall notify the County of any changes in the construction schedule. The total cost for the project is estimated at $1,163,540 (Exhibit A). The Sub-recipient will need to contribute all amounts over $255,000 toward the total project costs. All costs that exceed the original budget amount shall be paid for 100% by the Sub-recipient. Sub-recipient assumes responsibility for all ongoing maintenance costs associated with project. The Sub-recipient shall:

1. Acquire all necessary approvals and permits from the local jurisdictions, such as site plan approval, zoning, environmental permits and construction permits;
2. Coordinate the marketing and initial assessment for potential users of the Rehabilitation Program resulting in a minimum of 1 (one) affordable housing rehabilitation project with a completion date of June 30, 2022.

DocuSign Envelope ID: FCEEBA53-A334-4FE2-A3EA-5BFC5BCCFB6B

3. Monitor and manage street infrastructure construction with a completion date of one year from the signing of this contract.
4. Notify the County as stated above in the event that the project completion date cannot be met;
5. Process payment requests from contractors;
6. Maintain the project management process and timeliness;
7. Invoice the County timely for project cost reimbursements for its contribution not to exceed $255,000 according to a timeline agreed upon by the County and Town.

II. TERMS

The Sub-recipient agrees to commence work promptly after receipt of a fully executed original copy of this Agreement. The funds provided by Wake County shall be drawn down by June 30, 2022. This agreement shall be in effect to the date of completion estimated to be June 30, 2022. Time is of the essence with respect to all dates specified in the Contract Documents as Completion Dates.

It is expressly understood that the Sub-recipient will employ other contractors to perform work as a part of the project whose work will be performed simultaneously and sequentially with the performance of the work by the Sub-recipient. It shall be necessary for the Sub-recipient to coordinate its activities with such other contractors, particularly with respect to access to work areas, storage of materials and other common facilities.

III. RECORDS AND REPORTS

A. The Sub-recipient shall keep all records necessary for the County to meet its federal program and reporting requirements described in ARTICLE TWO below.

B. Uniform Administrative Requirements.
Sub- recipient shall follow the administrative requirements as described in 24 CFR 570.502 including 2 CFR Part 200 (a): the requirements and standards of Subpart E "Cost Principles for State, Local and Indian Tribal Governments", Subpart F "Audits of States, Local Governments and Non Profit Organizations, Subparts A-E "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".

C. Other Program Requirements and CDBG Compliance Requirements
Exhibit B and Exhibit C are incorporated as part of the contract by reference.

D. Sub-recipient will keep and maintain or will cause to be maintained at the Sub-recipient's expense and in accordance with generally accepted accounting principles, proper and accurate books, records and accounts in connection with any services, materials, provided in connection with the Project. Sub-recipient will provide in a timely fashion and upon reasonable advance notice, such financial information in such form as the County may reasonably request to demonstrate compliance by the Sub-recipient with any low-income housing restrictions or to facilitate any periodic reporting that the County may be required to make as a part of the program of which these funds are involved.

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The Sub-recipient shall allow the County to inspect all records pertaining to the Project at reasonable times during regular business hours. The Sub-recipient also agrees that it will supply such financial records, information and verifications that may be requested by the County.

E. Sub-recipient shall also provide the following documentation:
   1. Digital photographs of the area before and after project implementation.
   2. Copies of all permits and final inspection certificates issued pursuant to the requirements of the NC State Building Code.
   3. Weekly Davis Bacon Certified Payrolls from construction contractors provided to the County monthly.
   4. Monthly progress report during construction to be submitted with monthly pay requests. If payment is only requested at the completion of the project, a simple monthly progress report can be submitted via email.
   5. A final accounting of all expenditures on the Project within 30 days of the final completion of the work.

IV. INSURANCE REQUIREMENTS

The Sub-recipient shall obtain, at its sole expense, all insurance required in the following paragraphs and shall not commence work until such insurance is in effect and certification thereof has been received by Wake County's Finance Office. If any required insurance policy expires during the term of this agreement, Sub-recipient must provide a certificate of insurance to the Wake County Finance office as evidence of policy renewal prior to such policy expiration.

Sub-recipient's signature on this agreement indicates that Sub-recipient agrees to the terms of this insurance section and understands that failure to comply may result in cancellation of this agreement at County's option.

Professional Liability Insurance – applicable to all services provided under this Contract with limits of no less than $1,000,000 each occurrence and $2,000,000 aggregate.

Workers' Compensation Insurance - with limits for Coverage A Statutory-State of North Carolina and Coverage B Employers Liability $500,000 each accident, disease policy limit and disease Each Employee.

Commercial General Liability - Combined single limits of no less than $1,000,000 each occurrence and $2,000,000 aggregate. This insurance shall include Comprehensive Broad Form Coverage including contractual liability.

Commercial Automobile Liability - with limits no less than $1,000,000 per occurrence for bodily injury and property damage for any vehicle used during performance of contract services, including coverage for owned, hired, and non-owned vehicles. Evidence of commercial automobile coverage is only necessary if vehicles are used in the provision of services under this Agreement.

If any coverage is on a claims-made basis, Sub-recipient agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement and to purchase and maintain Supplemental Extended Reporting Period or 'tail coverage' with a minimum reporting period of not less than three (3) years if the policy expires or is cancelled or non-renewed. If coverage is replaced, the new policy must include full prior acts coverage or a retroactive date to cover the effective dates of this Agreement. Sub-recipient shall provide a Certificate of Insurance annually to County indicating any claims made coverage and respective retroactive date. The duty to provide extended coverage as set forth herein survives the effective dates of this Agreement.

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All insurance companies must be licensed or authorized in North Carolina and carry a rating of "A-VII" or better in the current A.M. Best Key Rating Guide; or have reasonable equivalent financial strength to the satisfaction of the County's Finance Office.

Insurance with limits no less than those specified above and proof of rating if requested shall be evidenced by a Certificate of Insurance issued by a duly authorized representative of the Issuer and dated no more than thirty (30) days prior to the start date of the agreement. In the case of self-insurance, a letter of explanation must be provided to and approved by Wake County Risk Management.

The Sub-recipient shall be responsible for providing immediate notice of cancellation or non-renewal during the term of this Agreement to the Wake County Finance Office and for three years subsequent for any claims made coverage. Copies or originals of correspondence, certificates, endorsements or other items pertaining to insurance shall be sent to:

Wake County Finance Office
P. O. Box 550
Raleigh, NC 27602

If Sub-recipient does not meet the insurance requirements specified above, alternate insurance coverage satisfactory to County may be considered. Any requests for consideration of alternate coverage must be presented by Sub-recipient PRIOR TO provision of any services associated with this Agreement.

In the event that Sub-recipient uses subcontractors to perform any of the services under this Agreement, then and in that event, Sub-recipient shall contractually require such subcontractor(s) to meet all of the requirements of this section.

ARTICLE TWO - RESPONSIBILITIES OF THE COUNTY

I. The County shall monitor the Sub-recipient to ensure that it is completing the activities in a timely manner and in accordance with applicable Federal regulations.

II. The County shall provide timely information and technical assistance necessary to assist the Sub-recipient.

III. The County shall provide up to $255,000 in CDBG funds when the Sub-recipient presents appropriately documented requests for funds.

IV. The County shall document activities undertaken with the funds, the location of those activities, amount of CDBG funds budgeted and expended, and provisions under Subpart C under which it is eligible (24 CFR 570.204(a) and 570.207(b)(3)(iii)).

V. The County shall conduct periodic Davis Bacon interviews of contractors' employees.

VI. The County shall document how the activities undertaken with its CDBG funds benefit low- and moderate- income persons:

A. Show the total cost of the activity, including both CDBG and non-CDBG funds;
B. Comply with 24 CFR 570.505 regarding any change of use of real property acquired or improved with CDBG assistance.
C. Prepare fair housing and equal opportunity records containing:

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1. Documentation of actions undertaken to meet the requirements of 24 CFR 570.607(b) which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701U) relative to the hiring and training of low and moderate-income persons and the use of local businesses.
2. Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of $25,000 or more paid, with CDBG funds, data indicating which of those entities are minority or women's businesses, the amount of the contract, and documentation of the Sub-recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, services and construction.

VII. Demonstrate and monitor that activities at the facility meet National Objectives: low and moderate-income benefits (24 CFR 570.208(a) (1) or (4)) (24 CFR 570.506 (b)(5)).

ARTICLE THREE - PROGRAM INCOME

I. Program income is defined as the gross income received by the County or the Sub-recipient directly generated by the use of CDBG funds. It is not anticipated that this project will generate any program income. However, should any income be generated, it shall be recorded by the Sub-recipient and reported to the County (24 CFR 570.504 (a)). Any program income shall be disbursed before any additional CDBG funds are withdrawn from the U.S. Treasury for the same purposes that generated the program income to begin with (24 CFR 570.500 (a)(1)(v) 04(c)).

II Any program income generated shall be returned to the County and be used to support CDBG-eligible activities.

ARTICLE FOUR - AUDIT

I. Each party agrees that any duly authorized representative of the County, the U.S. Department of HUD, the Comptroller General of the United States, and the County shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all of the books, records, and other documents relating to the grant and the fulfillment of this agreement for a period of three years following the completion of all closeout procedures respecting the CDBG funds, and the final settlement and conclusion of all issues arising out of this project.

Notwithstanding anything herein to the contrary, the parties hereto acknowledge the due execution of this Agreement between the Sub-recipient and the County and agree that any conflict between the provisions, requirements, duties or obligations shall be in favor of this agreement.

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ARTICLE FIVE – RELATIONSHIP OF PARTIES

I. INDEMNIFICATION

To the extent permitted by law, the Sub-recipient shall indemnify and hold harmless the County and its employees from and against any and all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance or nonperformance of the work, provided that any such claim, damages, loss or expense (A) is attributable to bodily injury, sickness, disease or death or injury to, or destruction of, property, including the loss of use resulting therefrom; and (B) is caused in whole or in part by any breach of any provision of the Agreement or by any negligent or wrongful act or omission of the Sub-recipient, any Subcontractor, or supplier of the Sub-recipient, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The indemnification obligation under this paragraph shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Sub-recipient or any subcontractor under workers' compensation acts, disability benefits acts or other employee benefit acts.

The Sub-recipient shall operate as an independent contractor, and the County shall not be responsible for any of the Sub-recipient's acts or omissions. The Sub-recipient shall not be treated as an employee with respect to the services performed hereunder for federal or state tax, unemployment or workers' compensation purposes. The Sub-recipient agrees that neither federal, nor state or payroll tax of any kind shall be withheld or paid by the County on behalf of the Sub-recipient or the employees of the Sub-recipient. The Sub-recipient further agrees that the Sub-recipient is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The Sub-recipient shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participation in, any employee pension, health, or other fringe benefit plan of the County. The County shall not be liable to the Sub-recipient for any expenses paid or incurred by the Sub-recipient unless otherwise agreed in writing. The Sub-recipient shall supply, at his sole expense, all equipment, tools, materials, and supplies required to provide the contracted services unless otherwise agreed in writing. The Sub-recipient shall comply with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement. The Sub-recipient shall ensure that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized under state and local law to perform the services under this Agreement.

II. NO WAIVER OF SOVEREIGN IMMUNITY

Wake County and the Sub-recipient agree that nothing in this Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive either parties defense of sovereign or governmental immunity from any cause of action alleged or brought against that party for any reason if otherwise available as a matter of law.

III. NON-ASSIGNMENT

The Sub-recipient shall not assign any of its rights or obligations hereunder, including rights to payments, to any other party without the prior written consent of the County.

IV. ENTIRE AGREEMENT

The Sub-recipient and the County agree that this document constitutes the entire agreement between the two parties and may only be modified by a written mutual agreement signed by the parties.

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V. To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS 64-26(a)) relating to the E-Verify requirements.

VI. By signing this agreement, Sub-recipient certifies that as of the date of execution of this Agreement 1) it does not appear on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-6E and published on the State Treasurer's website at www.nctreasurer.com/Iran and 2) it will not utilize any subcontractor that appears on the Final Divestment List in the performance of duties under this Agreement.

ARTICLE SIX - TERMINATION

I. NON-APPROPRIATION
Sub-recipient recognizes that Wake County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are not available and not appropriated to purchase the services specified in this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the thirty (30) day notice requirement set forth in Section VI. In the event of a legal change in Wake County's statutory authority, mandate, and mandated functions which adversely affects Wake County's authority to continue its obligations under this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the thirty (30) day notice requirement set forth in Section.

II. The laws of the State of North Carolina shall apply to the interpretation and enforcement of this Agreement. Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or nonperformance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Wake County, North Carolina, or the United States District Court sitting in Wake County, North Carolina, and it is agreed by the parties that no other court shall have jurisdiction or venue with respect to such suits or actions.

III. This Agreement may be terminated with consent of both parties. If any provision of the Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

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ARTICLE SEVEN – PROJECT CONTACTS

Project contacts shall be as follows:

Sub-recipient

Niki Jones
Director of Planning
Town of Wendell
15 E. Fourth Street, Wendell, NC 27591
(919)-366-1464
njones@townofwendell.com

Wake County

Chris Whitenhill
Affordable Housing Planner
Dept. of Housing Affordability & Community Revitalization
P.O. Box 550, Suite 448 WCOB
Raleigh, NC 27602
(919)856-5265
Chris.Whitenhill@wakegov.com

with copy to:

Diana Youssef
Community Development Specialist
Dept. of Housing Affordability & Community Revitalization
P.O. Box 550, Suite 448 WCOB
Raleigh, NC 27602
(919)508-0781
Diana.Youssef@wakegov.com

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and date first above written in a number of counterparts, each of which shall, without proof or accounting for other counterparts, be deemed an original contract.

WAKE COUNTY	SUBRECIPIENT
_____	_____
Fac. Design & Constr. Director	**AUTHORIZING OFFICIAL**
_____	Town Manager
DATE	**TITLE**
	_____
_____	**Date**
Alicia Arnold, Housing Dept. Division Director	
_____	_____
DATE	
	_____
	ADDRESS
_____	_____
Lorena McDowell, Housing Department Director	**Subrecipient IRS Identification No.**
_____	
DATE	

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_____
WAKE COUNTY, COUNTY MANAGER

_____
DATE

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

_____	_____
WAKE COUNTY, FINANCE DIRECTOR	**TOWN OF WENDELL, FINANCE DIRECTOR**
_____	_____
DATE	**DATE**

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Exhibit A
TOWN OF WENDELL ZONE 1 PROJECT COST ESTIMATE

PROJECT	COST ESTIMATE		
	Wake County	Town of Wendell	Total
West Academy Street Project- 2,000 LF of resurfacing/road repair, 1,500 LF of curb and gutter, 900 LF of new sidewalks, and two ADA intersection improvements	-	$888,540	$888,540
Cook Street Project- 360 LF of new sidewalks, 225 LF of curb and gutter, and two ADA intersection improvements	$50,000	-	$50,000
Wall Street Project- 300 LF of new sidewalks and two ADA intersection improvements	$25,000	-	$25,000
Todd Street Project- 200 LF of new sidewalks and two ADA intersection improvements	$20,000	-	$20,000
Engineering and Design for the Street Infrastructure Projects	$110,000	-	$110,000
Contingency	$50,000	-	$50,000
Subrecipient Project Estimate	**$255,000**	**$888,540**	**$1,143,540**
County Rehabilitation of Eligible Wendell Home	$20,000		$20,000
Total Project Estimate	**$275,000**	**$888,540**	**$1,163,540**

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EXHIBIT B
OTHER PROGRAM REQUIREMENTS

The Contractor, Engineer or Sub-recipient must also follow the requirements list below in completing its activities.

1. Section 109 of the Act--24 CFR 570.602;

   This section requires that no person in the United States shall on the ground of race, color, national origin, age, or handicapped status be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds make available pursuant to the Act.

2. Labor Standards--24 CFR 570.603;

   Section 110 of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

3. Environmental Review--24 CFR 570.604;

   The Environmental Review for the project has been completed and is on file in the Wake County Department of Housing Affordability & Community Revitalization, 336 Fayetteville St., Suite 440, Raleigh, NC.

4. Employment and Contracting opportunities--24 CFR 570.607;

   The Contractor, Engineer or Sub-recipient shall comply with Executive Order 11246, as amend by Executive Order 12086, and regulations issued pursuant thereto which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. Contractors and subcontractors shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship. Section 3 of the Housing and Urban Development Act of 1968 requires, to the greatest extent feasible opportunities for training and employment by given to low and moderate income persons residing within Wake County. The Act also states that contracts for work in connection with federally-funded projects be awarded to eligible businesses which are located in, or owned in substantial part by persons residing in the County.

5. Uniform Administrative Requirements and Cost Principles--24 CFR 570.610;

   The Contractor, Engineer or Sub-recipient shall comply with the policies, guidelines and requirements of Supercircular 2 CFR Part 200including single audit requirements specified in 2 CFR 200.501. The Supercircular describes federal rules that must be followed when CDBG funded activities are carried out.

6. Conflict of Interest--24 CFR 570.611;

   No employee, officer, or agent of the grantee or sub-grantee shall participate in selection, or in award or administration of a contract supported by Federal funds if a conflict of interest, real or

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apparent, would be involved. Such a conflict would arise when an employee, officer, agent, member of his/her immediate family, partner, or organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for the award.

7. Executive Order 12372--Intergovernmental Review of Federal Programs--24 CFR 570.612.

The Executive Order 12372 applies only where the use of loan funds will involve the planning and construction of water or sewer facilities. If such facilities will be planned and constructed with County funds, the Sub-recipient must initiate the Executive Order review process.

8. Conditions for Religious Organizations.
Where applicable, the conditions prescribed by HUD for the use of CDBG funds by religious organizations shall be followed according to 24 CFR 570.200(j).

9. Clause for Suspension and Termination.

This agreement may be suspended or terminated if the Contractor, Engineer or Sub-recipient materially fails to comply with any term of the award (2 CFR Part 200 Subpart D). This agreement may also be terminated for convenience of either party (2 CFR Part 200 Subpart D).

10. Reversion of Assets.

Any expended CDBG funds shall be paid back to the County should the Contractor, Engineer or Sub-recipient default on the agreement. The funds shall be used for an eligible use as defined by Federal guidelines, regulations and statutes at that time.

11. Federal Provisions

Reporting Requirements:
In accordance with 2 CFR Part 200 Subpart D, the County and Contractor, Engineer or Sub-recipient will comply with all requirements and regulations pertaining to reporting, specifically those parts listed under 2 CFR 200.301 through 200.302 and 2 CFR 200.327 through 200.329.

In accordance with 2 CFR 200.321, the Contractor, Engineer or Sub-recipient will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

Patent Rights:
In accordance with 2 CFR 200.435, the County and Contractor, Engineer or Sub-recipient will comply with all requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is invented in the course of or under such contract.

Copyrights:
The United States Department of Housing and Urban Development reserves a royalty free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and, to authorize others to use, - for Federal Government purposes: (a) the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and (b) any rights of copyright to which a grantee, sub-grantee or a contractor purchases ownership with grant support.

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Record Retention and Access to Pertinent Information:
In accordance with 2 CFR 200.333, the County shall retain all pertinent books, documents, papers and records pertaining to this contract for a period of three years after the date of final payment and all other pending matter are closed. All accounts and records shall be maintained, including personal property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary to assure proper accounting for all project funds, both Federal and non-Federal shares.

In accordance with 2 CFR 200.333, the Contractor, Engineer or Sub-recipient, and his subcontractor, if any, shall retain all pertinent books, documents, papers and records involving transactions relating to this contract for three years from the date of final payment under this contract.

The Contractor shall make such records available to the County, the Comptroller General of the United States, the U.S. Department of Housing and Urban Development, or their duly authorized representatives, for the purpose of making audit, examination, excerpts and transcriptions.

The periods of access and examination described above, for records, which related to litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract as to which exception has been taken by the County, the Comptroller General of the United States, the U.S. Department of Housing and Urban Development, or their duly authorized representatives, shall continue until such litigation, claims, or exceptions have been disposed of.

Davis-Bacon Act Provision:
The Contractor shall comply with all provisions of the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor Regulations 29 CFR part 5. Under this Act, the Contractor shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of contract shall be conditioned upon acceptance of wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

(Contract Work Hours and Safety Standards Act: (Applicable to construction contracts awarded by grantees or sub-grantees in excess of $2,000, and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers.)

The Contractor, and any of his subcontractors, shall comply with Section 103 and 107 of the contract Work Hours and Safety Standard Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Parts 3, 5 and *5a).* Under Section 103 of the Act, the contractor and any of his sub-contractors shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any work week. Section 5 of the Federal Labor Standards Provisions, HIUD form 4010 and 4010.1

DocuSign Envelope ID: FCEEBA53-A334-4FE2-A3EA-5BFC5BCCFB6B

attached and incorporated herein, sets forth in detail the Section 103 requirements.

Section 107 of the Act provides that not laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market.

12 Relocation:
The Contractor, Engineer or Sub-recipient must comply with the Uniform Relocation Act (49 CFR Part 24).

13. Debarred and Suspended Parties:
The County and Contractor, Engineer or Sub-recipient must not make any award or permit any award (sub-grant or contract) at any time to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". By entering into this contract, the Contractor certifies that it is not currently debarred or suspended, or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspensions".

The GSA List of Parties Excluded from Federal Procurement or Non-Procurement Programs has been checked on _____ and the above Contractor, Engineer or Sub-recipient has been determined to be eligible to participate in a HOME assisted project.

_____
(Signature of Verifying Officer)

Assets & Contracts Manager
(Title)

IN WITNESS WHEREOF, the parties, by and through their authorized agents, have hereunder set their hands and seal, all as of the day and year first above written.

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EXHIBIT C
SUPPLEMENTARY GENERAL CONDITIONS
CDBG COMPLIANCE REQUIREMENTS

Contract Provisions

1. Conflict of Interest of Members, Officers, or Employees of the Local Governing Body, or other Public Officials Provision
2. Legal Remedies Provision
3. Termination Provision
4. Nondiscrimination Clause, Section 109
5. Age Discrimination Clause
6. Section 504- Disability Discrimination Clause
7. Executive Order 11246 Clause
8. Section 3 Clause
9. Copeland "Anti-Kickback" Act Provision
10. Davis-Bacon Act Provision
11. Contract Work Hours and Safety Standards Act Provision
12. Access to Records and Record Retainage Clause
13. Clean Water, Clean Air, E.O. 11738 and EPA Regulations Provision
14. Lead-Based Paint Clause
15. Lobbying Clause
16. Rights to Inventions Clause
17. Debarment and Suspension
18. Certification of Eligibility

Attachments

1. Equal Employment Opportunity Certification-Contractor
2. Equal Employment Opportunity Certification-Subcontractor
3. Section 3 Certification-Contractor
4. Section 3 Certification-Subcontractor
5. Section 3 Affirmative Action Plan
6. Federal Labor Standards Provisions-HUD Form 4010
7. Wage Decision(s)
8. Labor Standards Certification-Contractor
9. Labor Standards Certification-Subcontractor
10. Payroll Supervisor Certification
11. Anti-Lobbying Certification

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CDBG CONTRACT PROVISIONS

1. Conflict of Interest (2 CFR Part §200.318 General procurement standards): Interest of Members, Officers, or Employees of the Recipient, Members of Local Governing Body, or Other Public Officials

No member, officer, or employee of the recipient, or its agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds under this agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The recipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

2. Legal Remedies Provision

As stated in 2 CFR Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

All construction contracts shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate. The Contractor is referred to the General Conditions of these Contract Documents, which contain detailed provisions concerning breach of contract and remedies for breach of contract.

3. Termination Provision

As stated in 2 CFR Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

All construction contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor. The Contractor is referred to the General Conditions of these Contract Documents, which contain detailed provisions concerning termination of the contract.

4. Nondiscrimination Clause - Section 109, Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.

5. Age Discrimination Act of 1975, as amended - Nondiscrimination on the Basis of Age

No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

6. Section 504 of the Rehabilitation Act of 1973, as amended - Nondiscrimination on the Basis of Disability

No qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

7. Executive Order 11246 Clause

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935,

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3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advisor the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1964, and such other sanctions may be imposed and remedied involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, That in the event the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contractors and subcontractors are required to submit Equal Opportunity Certification Forms (See Attachments 1 and 2).

8. Section 3 Clause- Compliance in the Provision of Training, Employment, and Business Opportunities (24 CFR 135.38)

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

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A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Contractors and subcontractors are required to submit Section 3 Certification Forms (See Attachments 3 and 4) and Section 3 Plans with Tables A-D (See Attachment 5).

9. Copeland "Anti-Kickback" Act Provision

All construction contracts shall include a provision for compliance with the Copeland "Anti- Kickback" Act (18 U.S.C. 874; 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR, Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). This Act provides that each contractor and subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

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Specific contract requirements concerning this provision are included in the Federal Labor Standards Provisions-HUD Form 4010, included as Attachment 6 to this section of the Contract Documents, and which form a portion of these Contract Documents and the executed contract between the grantee and Contractor.

10. Davis-Bacon Act Provision, as amended, (40 U.S.C. 3141-3148)

When required by Federal program legislation, all construction contracts, in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors and subcontractors must be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors and subcontractors shall be required to pay wages not less often than once a week. A copy of the current prevailing wage determination issued by the Department of Labor must be placed in each solicitation. The grantee shall report all suspected or reported violations to the grantor agency.

Specific contract requirements concerning this provision are included in the Federal Labor Standards Provisions-HUD Form 4010, included as Attachment 6 to this section of the Contract Documents, and which form a portion of these Contract Documents and the executed contract between the grantee and Contractor. A copy of the current prevailing wage determination(s) issued by the Department of Labor is included as Attachment 7 to this section of the Contract Documents and the award of a contract or subcontract shall be conditioned upon acceptance of the wage determination(s). Contractors and subcontractors are required to submit Labor Standards Certification Forms (See Attachments 8 and 9).

11. Contract Work Hours and Safety Standards Act Provision (40 U.S.C. 3701-3708)

Contracts awarded in excess of $100,000 which involve the employment of mechanics or laborers shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor Regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

Under 40 U.S.C. 3702 of the Act, the Contractor and any of his subcontractors shall be required to compute the wages of every mechanic and laborer on the basis of standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Specific contract requirements concerning this provision are included in the Federal Labor Standards Provisions-HUD Form 4010, included as Attachment 6 to this section of the Contract Documents, and which form a portion of these Contract Documents and the executed contract between the grantee and Contractor.

12. Access to Records and Record Retainage Clause

In general, all official project records and documents must be maintained during the operation of this project and for a period of three years following close out in compliance with 24 CFR 570.490. The grantee, the North Carolina Department of the Treasurer, U. S. Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions in compliance with the above Rule.

13. Clean Water, Clean Air, E.O. 11738 and EPA Regulations Provision

Compliance with Air and Water Acts: Contracts and subcontracts of amounts in excess of

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$150,000 are subject to the requirements of the Clean Air Act, as amended, (42 U.S.C. 7401-7671q.), the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251-1387 and the regulations of the Environmental Protection Agency (EPA) with respect thereto, as amended. Violations must be reported to the Federal awarding agency and the Regional Office of the EPA.

The Contractor and any of its subcontractors for work funded under this Agreement which is in excess of $150,000, agree to the following requirements:

(1) A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the EPA.

(2) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 7401-7671q) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1254) relating to inspection, monitoring, entry, reports, and information, and all regulations and guidelines issued there under.

(3) A stipulation that as a condition for the award of the contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

(4) Agreement by the Contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the contractor will take such action as the Government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

14. Lead-Based Paint Clause

The Contractor is hereby specifically made aware of the lead-based paint regulations, (42 U.S.C. 4831; 24 CFR Part 570.608, and 24 CFR Part 35, as amended), which are applicable to the construction or rehabilitation of residential structures. To the extent that the subject matter of this contract involves residential structures, the Contractor will comply with the lead-based paint regulations.

15. Lobbying Clause

As required by 31 U.S.C. Section 1352, Byrd Anti-Lobbying Amendment, Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative, agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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This is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

16. Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or municipality wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or municipality must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

17. Debarment and Suspension (Executive Orders 12549 and 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

18. Certification of Eligibility

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue or Section 3(a) of the Davis-Bacon Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001 and 18 U.S.C. 1010.

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CERTIFICATION OF ELIGIBILITY

This form must be attached and made a part of all contracts obligated by grantees and paid with CDBG funds.

Grantee: _____

Grant Number:_____

Project Name: _____

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue or Section 3(a) of the Davis- Bacon Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis- Bacon Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18

U.S.C. 1001 and 18 U.S.C. 1010.

_____	_____
(Signature)	(Name of Contractor)
_____	_____
(Printed Name and Title)	(Street Address or P. O. Box)
_____	_____
(Date)	(City, State, Zip Code)

_____

DUNS, Tax Identification or Social Security Number

****

FOR GRANTEE USE ONLY

The Federal List of Parties Excluded from Federal Procurement or Non-procurement Programs and State of North Carolina Debarred Vendors List have been checked and the above contractor or subcontractor has been determined to be eligible to participate in a CDBG assisted project.

_____

(Signature of Verifying Officer)

_____

(Title)

_____

(Date)

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause: and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER (include ZIP Code)

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

_____ Yes _____No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

_____ Yes _____No

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.

_____ Yes _____No _____None Required

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

_____ Yes _____No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE DATE

Replaces Form HUD 4238.CD-1, which is Obsolete HUD 950.1 (11-78)

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY

NAME OF PRIME CONTRACTOR | PROJECT NUMBER

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause: and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.

CERTIFICATION BY SUBCONTRACTOR

NAME AND ADDRESS OF SUBCONTRACTOR (include ZIP Code)

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

_____ Yes _____No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

_____ Yes _____No

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.

_____ Yes _____No _____None Required

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

_____ Yes _____No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE | DATE

Replaces Form HUD 4238.CD-2, which is Obsolete | HUD 950.2 (11-78)

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CERTIFICATION OF BIDDER REGARDING SECTION 3 AND SEGREGATED FACILITIES

A. **Name of Prime Contractor** _____ **Project Name & Number** _____

The undersigned hereby certifies that

(a) Section 3 provisions are included in the Contract.

(b) A written Section 3 plan was prepared and submitted as part of the bid proceedings (if bid equals or exceeds $10,000).

(c) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

_____

Name & Title of Signer (Print or Type)

_____ _____

Signature Date

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CERTIFICATION OF PROPOSED SUBCONTRACTOR REGARDING SECTION 3 AND SEGREGATED FACILITIES

Name of Subcontractor

Project Name & Number

The undersigned hereby certifies that

(a) Section 3 provisions are included in the Contract.

(b) A written Section 3 plan was prepared and submitted as part of the bid proceedings (if bid equals or exceeds $10,000).

(c) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

Name & Title of Signer (Print or Type)

Signature

Date

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SECTION 3 AFFIRMATIVE ACTION PLAN

_____ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the project area.

A. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.

B. To attempt to recruit from within the project area the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.

C. To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.

D. To insert this Section 3 plan in all bid documents, and to require all bidders on subcontracts to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.

E. To insure that subcontracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.

F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.

G. To insure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.

H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.

I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.

J. To list on Table A information related to subcontracts to be awarded.

K. To list on Table B, all projected workforce needs for all phases of this project by occupation, trade, skill level and number of positions.

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L. If successful bidder, to submit prior to final payment, Tables C and D to grantee which includes all applicable hires and subcontractors utilized on this project.

As officers and representatives of _____
(Name of Contractor)

We the undersigned have read and fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

_____
Signature

_____ _____
Title Date

_____
Signature

_____ _____
Title Date

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TABLE A- BIDDER'S PROPOSED SUBCONTRACTS BREAKDOWN

FOR THE PERIOD COVERING_____, 20___through_____, 20___.
(Duration of the CDBG-Assisted Project)

Type of Contract (Business or Profession)	Total Number of Contracts	Total Approximate Dollar Amount	Estimated Number of Contracts To Section 3* Businesses	Estimated Dollar Amount To Section 3* Businesses

**A Section 3 Business Concern is a business that is 1) 51% or more owned by Section 3 Residents, or 2) a business whose permanent full-time workforce is at least 30% Section 3 residents, or 3) a business which contracts a dollar amount of all subcontracts with businesses as defined in numbers 1 and 2.*

_____
Company

_____ _____
Project Name Project Number

_____ _____
EEO Officer (Signature) Date

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TABLE B- BIDDER'S ESTIMATED PROJECT WORKFORCE BREAKDOWN

Job Category	Total Estimate Positions Needed for Project	# Positions Currently Occupied By Permanent Employees	# Positions Not Currently Occupied	# Positions To Be Filled By Section 3* Residents
OFFICERS/ SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES/ RENTAL/MANAGEMENT				
OFFICE CLERICAL				
OTHERS				
TRADE:				
JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				
TRADE:				
JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				
TRADE:				
JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				
TOTAL				

**A Section 3 Resident is an individual in a public housing project or within a non-metropolitan county in which the project is located and whose income does not exceed 80% of the higher of the median income adjusted by family size, for the county of residence for the non-metropolitan area of the state.*

Company

Project Name

Project Number

EEO Officer (Signature)

Date

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TABLE C- CONTRACTOR'S SECTION 3 NEW HIRES REPORT

Job Category	Total Estimate Positions Needed for Project	# Positions Currently Occupied By Permanent Employees	# Positions Not Currently Occupied	# Positions Filled By Section 3* Residents
OFFICERS/ SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES/ RENTAL/MANAGEMENT				
OFFICE CLERICAL				
OTHERS				
TRADE:				
JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				
TRADE:				
JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				
TRADE:				
JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				
TOTAL				

**A Section 3 Resident is an individual in a public housing project or within a non-metropolitan county in which the project is located and whose income does not exceed 80% of the higher of the median income adjusted by family size, for the county of residence for the non-metropolitan area of the state.*

Company

Project Name

Project Number

EEO Officer (Signature)

Date

8/2016

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TABLE D- CONTRACTOR'S SECTION 3 BUSINESS UTILIZATION REPORT

Project Number:		Total Dollar Amount of Contract	$_____

Name of Prime Contractor:		Address:		Federal Identification No:	

Name of Subcontractor	Sect. 3 Bsns. *	Address and Phone #	Trade/ Service or Supply	Contract Amount	Award Date	Competitive or Negotiated Bid	Federal Identification No.

** Check if a Section 3 Business Concern.*

TOTAL DOLLAR AMOUNT AWARDED TO SECTION 3 BUSINESSES:	$_____

Section 3 Business Concern

1. A business that is 51% or more owned by section 3 residents, or
2. A business whose permanent full time work force is at least 30% section 3 residents or,
3. A business which contracts a dollar amount of all subcontracts with businesses as defined in numbers 1 and 2 above.

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Federal Labor Standards Provisions

U. S. Department of Housing and Urban Development
Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i). Minimum Wages. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or pogroms, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii). (a). Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1). The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2). The classification is utilized in the area by the construction industry; and

(3). The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b). If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215- 0140.)

(c). In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d). The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii). Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv). If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

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3. (i). Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonable anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices and trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii). (a). The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029- 005-00014-1), U.S. Government Printing Office, Washington, DC. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b). Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1). That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(i) and that such information is correct and complete;

(2). That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3). That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c). The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b) of this section.

(d). The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii). The contractor or subcontractor shall make the records required under paragraph A.3.(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

4. Apprentices and Trainees.

(i). Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration , Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii). Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

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The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level or progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeymen wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii). Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by referenced in this contract.

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputed concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i). Certification of Eligibility. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act of 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii). No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than $5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract work Hours and Safety Standards Act. The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds $100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

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(4) **Subcontracts.** The contractor or subcontractor shall insert any subcontracts the clauses set forth in subparagraph
(1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds $100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act 40 USC 3701 et seq.

(3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

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2020 WAGE DECISION(S)

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General Decision Number: NC20200090 01/03/2020

Superseded General Decision Number: NC20190090

State: North Carolina

Construction Type: Highway

Counties: Brunswick, Cumberland, Currituck, Edgecombe, Franklin, Greene, Hoke, Johnston, Nash, New Hanover, Onslow, Pender, Pitt, Wake and Wayne Counties in North Carolina.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date

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0 01/03/2020

* SUNC2014-005 11/17/2014

	Rates	Fringes
BLASTER	$ 21.04	
CARPENTER	$ 13.72	
CEMENT MASON/CONCRETE FINISHER	$ 14.48	
ELECTRICIAN		
Electrician	$ 17.97	
Telecommunications Technician	$ 16.79	.63
IRONWORKER	$ 16.02	
LABORER		
Asphalt Raker and Spreader	$ 12.46	
Asphalt Screed/Jackman	$ 14.33	
Carpenter Tender	$ 12.88	
Cement Mason/Concrete Finisher Tender	$ 12.54	
Common or General	$ 10.20	
Guardrail/Fence Installer	$ 12.87	
Pipelayer	$ 12.17	
Traffic Signal/Lighting Installer	$ 14.89	
PAINTER		
Bridge	$ 24.57	
POWER EQUIPMENT OPERATOR		
Asphalt Broom Tractor	$ 11.85	
Bulldozer Fine	$ 17.04	
Bulldozer Rough	$ 14.34	
Concrete Grinder/Groover	$ 20.34	2.30
Crane Boom Trucks	$ 20.54	
Crane Other	$ 20.08	
Crane Rough/All Terrain	$ 20.67	
Drill Operator Rock	$ 14.38	
Drill Operator Structure	$ 21.14	
Excavator Fine	$ 16.60	
Excavator Rough	$ 14.00	
Grader/Blade Fine	$ 18.47	
Grader/Blade Rough	$ 14.62	
Loader 2 Cubic Yards or Less	$ 13.76	
Loader Greater Than 2		

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Cubic Yards.....$ 14.14
Material Transfer Vehicle
(Shuttle Buggy).....$ 15.18
Mechanic.....$ 17.55
Milling Machine.....$ 15.36
Off-Road Hauler/Water
Tanker.....$ 11.36
Oiler/Greaser.....$ 13.55
Pavement Marking Equipment..$ 12.11
Paver Asphalt.....$ 15.59
Paver Concrete.....$ 18.20
Roller Asphalt Breakdown....$ 12.45
Roller Asphalt Finish.....$ 13.85
Roller Other.....$ 11.36
Scraper Finish.....$ 12.71
Scraper Rough.....$ 11.35
Slip Form Machine.....$ 16.50
Tack Truck/Distributor
Operator.....$ 14.52

TRUCK DRIVER
GVWR of 26,000 or Less.....$ 11.12
GVWR of 26,001 Lbs or
Greater.....$ 12.37

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after

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award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion

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date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division

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U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

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COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CONTRACTOR'S CERTIFICATION CONCERNING LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS

TO (Appropriate Recipient):	Date:
C/O:	Project Number (if any):
	Project Name:

1. The undersigned, having executed a contract with _____ for the construction of the above-identified project, acknowledges that:

   (a) The Labor Standards provisions are included in the aforesaid contract:
   (b) Correction of any infractions of the aforesaid conditions, including infractions by any of his subcontractors and any lower tier subcontractors, is his responsibility.

2. He certifies that:

   (a) Neither he nor any firm, partnership or association in which he has substantial interest is designated as an ineligible contractor by the Comptroller General of the United State pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR, Part 5) or pursuant to the Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
   (b) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to any of aforementioned regulatory or statutory provisions.

3. He agrees to obtain and forward to the aforementioned recipient within ten days after the execution of any subcontract, including those executed by his subcontractors and any lower tier subcontractors, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements executed by the subcontractors.

4. He certifies that:

   (a) The legal name and the business address of the undersigned are:

   (b) The undersigned is:

(1) A Single Proprietorship	(3) A Corporation Organized in the State of
(2) A Partnership	(4) Other Organization (Describe)

   (c) The name, title and address of the owner, partners or officers of the undersigned area:

Name	Title	Address

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(d) The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest are (if none, so state):

Name	Address	Nature of Interest

(e) The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are (if none, so state):

Name	Address	Trade Classification

B. **Contractor** **Typed Name and Title**

Date Signature

WARNING

U.S. Criminal Code Section 1010, Title 18, U.S.C., provides in part: "Whoever . . . makes, passes, utters, or publishes any statement, knowing the same to be false . . . shall be fined not more than $5,000 or imprisoned not more than two years, or both."

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COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
SUBCONTRACTOR'S CERTIFICATION
CONCERNING LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS

TO (Appropriate Recipient):	Date:
C/O:	Project Number (if any):
	Project Name:

1. The undersigned, having executed a contract with (Contractor or Subcontractor) _____ for (Nature of Work) _____ _____ in the amount of _____ $_____ for the construction of the above-identified project, certifies that:

   (a) The Labor Standards Provisions of the Contract for Construction are included in the aforesaid contract:
   (b) Neither he nor any firm, partnership or association in which he has substantial interest is designated as an ineligible contractor by the Comptroller General of the United State pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR, Part 5) or pursuant to the Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
   (c) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to the aforesaid regulatory or statutory provisions.

2. He agrees to obtain and forward to the contractor, for transmittal to the recipient, within ten days after the execution of any subcontract, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements, executed by the lower tier subcontractor, in duplicate.

   (a) The workmen will report for duty on or about (Date)_____.

3. He certifies that:

   (a) The legal name and the business address of the undersigned are:

   (b) The undersigned is:

(1) A Single Proprietorship	(3) A Corporation Organized in the State of
(2) A Partnership	(4) Other Organization (Describe)

   (c) The name, title and address of the owner, partners or officers of the undersigned area:

Name	Title	Address

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(d) The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest are (if none, so state):

Name	Address	Nature of Interest

(e) The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are (if none, so state):

Name	Address	Trade Classification

Subcontractor

Typed Name and Title

Date

Signature

WARNING

U.S. Criminal Code Section 1010, Title 18, U.S.C., provides in part: "Whoever . . . makes, passes, utters, or publishes any statement, knowing the same to be false . . . shall be fined not more than $5,000 or imprisoned not more than two years, or both."

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CERTIFICATE FROM CONTRACTOR APPOINTING OFFICER OR EMPLOYEE TO SUPERVISE PAYMENT OF EMPLOYEES

Local Agency_____ **CDBG Grant No.** _____

Project Name_____ **Date** _____

Location_____ **Project No.** _____

(I) (We) hereby certify that (I am) (we are) (the prime contractor) (a subcontractor) for (Specify "General Construction," "Plumbing, "Roofing," etc.) _____ _____ in connection with construction of the above-mentioned Project, and that (I) (we) have appointed_____whose signature appears below, to supervise the payment of (my) (our) employees beginning _____, 20 : That (he) (she) is in a position to have full knowledge of the facts set forth in the payroll documents and in the statement of compliance required by the so-called Kick-Back Statute which (he) (she) is to execute with (my) (our) full authority and approval until such time as (I) (we) submit to the (Name of Local Agency) _____ a new certificate appointing some other person for the purposes herein above stated.

_____
Identifying Signature of Appointee

Attest (if required):

_____
(Name of Firm or Corporation)

_____
(Signature)

By: _____
(Signature)

(Title) _____

(Title) _____

Note: This certificate must be executed by an authorized officer of a corporation or by a member of a partnership, and shall be executed prior to and be submitted with the first payroll. Should the appointee be changed, a new certificate must accompany the first payroll for which the new appointee executes a statement of compliance required by the Kick-Back Statute.

CDBG # 115 (10-83)

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CERTIFICATION REGARDING GOVERNMENT-WIDE RESTRICTION ON LOBBYING

(For contracts, grants, cooperative agreements, and loans over $100,000) The undersigned certifies, to the best of his knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards (at all tiers, including contracts under grants, loans, and cooperative agreements, subcontracts, and sub-grants) over $100,000, and that all municipalities shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction impost by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Name of Entity (city, county, contractor, etc.)

_____

Name of Certifying Official (Mayor, Presiding Commissioner, President, etc.)

_____

Signature of Certifying Official

Date: February 8, 2021 **Item # 6d**

Item Title:

Interlocal Agreement between the Town of Wendell and Wake County for Building Inspections and Building Plan Review.

Town Board Meetings:

Monday, February 8, 2021

Specific Action Requested:

Authorize the Town Manager or his designee to execute an interlocal agreement with Wake County for services related to building inspections and building plan review.

Item Summary:

The Town has utilized Wake County for building inspections and building plan review for several decades. The last interlocal agreement was executed in 1982. Since this time, there have been many changes such as: technology, new legislation, and a substantial increase in development activity. Therefore, a new agreement was necessary to ensure both the Town and the County have updated terms for the partnership. The proposed interlocal agreement is comparable to the current agreement. The roles and responsibilities are identified as follows:

The County shall:

1. Provide uniform enforcement of the North Carolina State Building Code within the Town's regulatory jurisdiction.
2. Provide qualified personnel and resources to perform all necessary work under this Agreement.
3. Perform Building Plan Review and Building Inspections, in accordance with the North Carolina State Building Code.
4. Perform code enforcement inspections and other actions, pursuant to the North Carolina State Building Code, in response to complaints and inquiries related to unsafe conditions or unpermitted structures.
5. Provide support for the Town's minimum housing code pursuant to the North Carolina State Building Code.
6. Collect payments for Building Permits, Building Plan Review, and Building Inspections

The Town shall:

1. Be responsible for enforcing ordinances and regulations adopted by their governing bodies related to the minimum housing code, zoning, storm water, transportation, landscaping, buffers, utilities, and other aspects of site development that are not governed by the North Carolina State Building Code.
2. Provide notification to the County that zoning and other local development regulations are satisfied prior to the County commencing the services authorized herein. Notification may be issued by the Town through the County's online permitting software system or by other mutually agreed method.
3. Issue Building Permits authorizing construction in accordance with permitted and approved construction plans, municipal development ordinances and the North Carolina State Building Code.
4. Issue Certificates of Occupancy in accordance with permitted and approved construction plans, municipal development ordinances and North Carolina State Building Code.
5. Issue violation notices and pursue other legal actions to compel compliance with all provisions and ordinances adopted by its governing body not subject to the North Carolina State Building Code.

Attachments:

A. Interlocal Agreement

INTERLOCAL AGREEMENT BETWEEN THE TOWN OF WENDELL AND WAKE COUNTY FOR INSPECTIONS PURSUANT TO THE NORTH CAROLINA STATE BUILDING CODE

This Interlocal Agreement is dated as of _____, 2021, between **WENDELL, NORTH CAROLINA** (the "Town"), a municipal corporation and public body politic of the State of North Carolina, and **WAKE COUNTY, NORTH CAROLINA** (the "County"), a public body politic and corporate of the State of North Carolina (individually a "Party" and collectively "Parties").

RECITALS:

WHEREAS, the County performs, Building Plan Review and Building Inspections pursuant to Article 11 of § N.C.G.S. Chapter 160D; and

WHEREAS, the Town may arrange for the County to perform, Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction pursuant to Article 11 of N.C.G.S. § 160D; and

WHEREAS, Town and County entered into the Original Agreement authorizing the County to perform Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction; and

WHEREAS, the County is committed to continuing the provision of these services within the Town's territorial jurisdiction by providing the necessary resources and expertise in accordance with North Carolina law; and

WHEREAS, the Parties desire to continue this arrangement by updating the Original Agreement with this Agreement pursuant to the statutory authority authorizing interlocal agreements, N.C.G.S §§160A-460 to 160A-464, in order to pursue the goals stated herein.

NOW THEREFORE, for and in consideration of the promises and covenants contained in the Agreement, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I
Definitions

1.01. Definitions: For all purposes of this Agreement, unless the context requires otherwise, the following terms shall have the following meanings:

"Agreement" means this Interlocal Agreement.

"Building Inspection" means review of actual building construction in the field to determine compliance with the North Carolina State Building Code and permitted and approved construction plans.

"Building Permit" means the authorization to construct a building or structure in accordance with approved construction plans and North Carolina State Building Code.

"Building Plan Review" means the review of building construction plans to determine compliance with the North Carolina State Building Code.

"Certificate of Occupancy" means certification that the construction project has met all requirements of the approved construction plans, applicable municipal ordinances, and North Carolina State Building Code; and authorizing a building to be occupied for its intended use.

"North Carolina State Building Code" means the building codes adopted by the State of North Carolina Building Code Council and collectively referred to as the "technical codes" including the technical codes denominated Building, Electrical, Energy, Existing Buildings, Fire Prevention, Fuel Gas, Mechanical, Plumbing, and Residential.

"Original Agreement" means that certain Agreement Between the Town and County for Inspections within Municipal Limits Pursuant to the North Carolina State Building Code dated as of September 13, 1982, by and between the Parties.

ARTICLE II
Purpose & Structure

2.01. Recitals; Purpose: The Recitals are incorporated herein. The Town hereby authorizes the County to perform Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction, as set forth herein.

2.02. Roles and Responsibilities of the Parties:

(A) The County shall:

1. Provide uniform enforcement of the North Carolina State Building Code within the Town's regulatory jurisdiction pursuant to Article 11 of § N.C.G.S. Chapter 160D.
2. Provide qualified personnel and resources to perform all necessary work under this Agreement.
3. Perform Building Plan Review and Building Inspections, in accordance with the North Carolina State Building Code.
4. Perform code enforcement inspections and other actions, pursuant to the North Carolina State Building Code, in response to complaints and inquiries related to unsafe conditions or unpermitted structures.
5. Provide support for the Town's minimum housing code pursuant to the North Carolina State Building Code.
6. Collect payments for Building Permits, Building Plan Review, and Building Inspections pursuant to Section 3.01 and collect other Town development fees as described in Section 3.02.

(B) The Town shall:

1. Be responsible for enforcing ordinances and regulations adopted by their governing bodies related to the minimum housing code, zoning, storm water, transportation, landscaping,

buffers, utilities, and other aspects of site development that are not governed by the North Carolina State Building Code.

2. Provide notification to the County that zoning and other local development regulations are satisfied prior to the County commencing the services authorized herein. Notification may be issued by the Town through the County's online permitting software system or by other mutually agreed method.
3. Issue Building Permits authorizing construction in accordance with permitted and approved construction plans, municipal development ordinances and the North Carolina State Building Code.
4. Issue Certificates of Occupancy in accordance with permitted and approved construction plans, municipal development ordinances and North Carolina State Building Code.
5. Issue violation notices and pursue other legal actions to compel compliance with all provisions and ordinances adopted by its governing body not subject to the North Carolina State Building Code.
6. Collect payments for Building Permits, Building Plan Review, and Building Inspections in accordance with the cash handling procedures outlined in Appendix A, attached hereto.

ARTICLE III
Fees, Costs, & Personnel

3.01. Collection of County Permit Fees: The County shall assess, collect, and retain all County fees associated with Building Permits, Building Plan Review and Building Inspections within the regulatory jurisdiction of the Town in accordance with the fee schedules approved by the Wake County Board of Commissioners. Pursuant to N.C.G.S. § 160D-402, all fees collected by the County may only be used to support the administration and activities of the inspections division.

3.02. Collection of Town Permit Fees: The County, at the request of the Town, shall collect other permit fees assessed by the Town with respect to zoning, transportation, landscaping, buffers, utilities, and other aspects of site development that are not governed by the North Carolina State Building Code. The County shall provide the total sum of the Town permit fees collected on a monthly basis for reimbursement to the Town.

ARTICLE IV
Effective Date, Term & Termination

4.01. Effective Date: This Agreement shall become effective on July 1, 2021, subject to approval by the governing boards of each Party on or before this date.

4.02. Term: The term of this Agreement shall commence on July 1, 2021 and run for a period of ten (10) years, ending June 30, 2031. The term shall be automatically

extended for successive ten (10) year terms unless terminated in accordance with Section 4.03.

4.03. Termination: Any Party shall have the right to withdraw or terminate participation in this Agreement with or without cause upon 180-day's advance written notice to the other Party. The withdrawing party must give a concurrent electronic notice to the other party at the then current email address for that party/position.

4.04. Duties upon Termination. All duties under this Agreement shall continue in effect from the date of notice through the Effective Date of Termination (which shall be 180 days from notice of termination unless otherwise agreed by the parties in an amendment to this Agreement approved by the governing boards of each party). Upon the Effective Date of Termination, all responsibility for Building Permits, Building Plan Review and Building Inspections in progress shall transfer to the other Party. The parties shall cooperate to ensure a smooth transition of operations, with each party responsible for their own costs and personnel.

ARTICLE V
Notice

5.01. Notice: Any written or electronic notice required by this Agreement shall be delivered to the Parties at the following addresses:

For the County:
Planning Development & Inspections Director
Wake County Office Building
337 S. Salisbury St.
Raleigh, NC 27601

For the Town:
Town Manager
Town of Wendell
15 E. Fourth St.
Wendell, NC 27591

ARTICLE VI
Miscellaneous

6.01. Governing Law and Venue: The Parties agree that North Carolina law shall govern this Agreement. Venue for any disputes arising under this Agreement shall be in the courts of Wake County, North Carolina.

6.02. Severability: If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

6.03. Entire Agreement, Amendments: This Agreement supersedes and replaces the Original Agreement and constitutes the entire Agreement between the Parties. This Agreement shall not be modified or amended except in writing signed by both Parties.

6.04. Liability of Officers and Agents: No officer, agent or employee of any Party shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This Section 6.04 shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

6.05. Counterparts: This Agreement may be executed in several counterparts, each of which shall be an original. Alternatively, each Party may execute an original of this Agreement and all individually executed originals shall constitute a single Agreement.

6.06. Assignment: No Party shall sell or assign or subcontract any interest in or obligation under this Agreement without the prior written consent of both Parties.

6.07. No Waiver Of Sovereign Immunity: Nothing in this Agreement shall be construed to mandate purchase of insurance by the County pursuant to N.C.G.S. § 153A-435 or by the Town pursuant to N.C.G.S. § 160A-485; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive any Party's defense of sovereign or governmental immunity from any cause of action alleged or brought against a Party for any reason if otherwise available as a matter of law.

6.08. Real Property: This Agreement does not involve the acquisition or ownership of real property.

6.09. Electronic Version of Agreement: To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (N.C.G.S. § 64-26(a)) relating to the E-Verify requirements.

6.10. Breach and Default: In the event of breach of this Agreement, the Parties shall be entitled to such legal or equitable remedy as may be available, including specific performance.

6.11. Representations and Warranties: The Parties each represent, covenant and warrant for the other's benefit as follows:

(a) Each Party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been authorized by resolution spread upon the minutes of each Party's governing body. This Agreement is a valid and binding obligation of each Party.

(b) To the knowledge of each Party, neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party

is now a Party or by which either is bound, or constitutes a default under any of the foregoing.

(c) To the knowledge of each Party, there is no litigation or other court or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such Party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties, pursuant to resolutions of their respective governing boards spread upon their minutes, have caused this Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

COUNTY OF WAKE, NORTH CAROLINA

_____
David Ellis
Wake County Manager

_____
Frank Cope
Community Services Director

ATTEST:

By:_____
Matthew M. Calabria
Chair, Board of Commissioners

_____
Clerk
County of Wake, North Carolina

This instrument is pre-audited in the manor required by the Local Government Budget and Fiscal Control Act

_____
Finance Director, Wake County

TOWN OF WENDELL, NORTH CAROLINA

ATTEST:

By:_____
Virginia Gray
Mayor

_____
Megan Howard, Clerk
Town of Wendell, North Carolina

This instrument is pre-audited in the manor required by the Local Government Budget and Fiscal Control Act

_____
Finance Director, Town of Wendell

Appendix A

Wake County Cash Handling Procedures

Resources Needed

- Access to electronic permitting system
- Wake County deposit tickets, check endorsement stamp, deposit bags
- At least 2 staff members
    - Cashier – Accepts payments & provides receipts to customers. May also prepare deposit.
    - Supervisor (or other designated Cash Handler) – Verifies cashier collections. May prepare deposit **or** verify deposit, but not both.

Collecting Funds and Receipting Revenues

- Each cashier should have their own cash drawer or cash pouch. Funds collected by different cashiers should not be comingled.
- Checks must be made payable to Wake County and stamped "For Deposit Only" with a Wake County check endorsement stamp at the time of receipt.
- Payments must be entered in electronic permitting system at the time of receipt.
- A receipt must be given to the customer at the time of the transaction.

Daily Close Out & Balancing

- Cashier must close electronic permitting till session at the end of each day.
- A reconciliation to compare receipts to cash/check collections must be performed daily.
    - Run the electronic permitting **Daily Cashier Reconciliation Report** to include all users for your office.
    - Count cash & check totals and write at bottom of report.
    - Differences in the report total and the actual cash/check totals should be indicated in the Over/Short field.
- Cashier must sign the Daily Cashier Reconciliation report.
- Verifier must the sign Daily Cashier Reconciliation report.

Deposits

- Deposits must be prepared daily using Wake County issued deposit tickets.
- Prepared deposits must be delivered to the bank daily.
- The deposit ticket and the Daily Cash Reconciliation Report must be scanned and emailed to cs.deposits@wakegov.com daily.

Date: February 8, 2021 **Item # 7a**

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

Date: February 8, 2021 **Item # 8**

Item Title:

Commissioners' Reports.

Specific Action Requested:

None

Attachments:

None

Date: February 8, 2021 **Item # 9**

Item Title:

Mayor's Report.

Specific Action Requested:

None

Attachments:

None

Date: February 8, 2021 **Item # 10**

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