

**Planning Board Meeting  
March 18, 2019  
Minutes**

**Members Present:**, Errol Briggerman, Michael Clark, Joe DeLoach, Lloyd Lancaster, Jonathan Olson, and Ryan Zakany

Terry “Allen” Swaim- (only present for Item 7c)

**Members Absent:** Victoria Curtis

**Staff Present:** Planning Director David Bergmark, Mackenzie Day, Jeannine Ngwira and Linda Barbour

**Guests Present:** Ashley Anderson, William Guillett, Paul White, and Richard Hibbits

**1. Meeting Called to Order**

In Chairman Terry “Allen” Swaim absence, the meeting was call to order by Michael Clark acting as Vice Chair (since Victoria Curtis was not present) at 7:05 pm and recognized that a quorum (minimum of 5 members) was present.

**2. Welcome and Recognition of Guests**

Acting Chairman Michael Clark welcomed everyone in attendance.

**3. Chairman and Board Members’ Comments**

Acting Chairman Clark said that this would be his last meeting as he is resigning from the planning board due to a new position he has accepted that would pose a conflict of interest with his current position as a Town of Wendell planning board member.

**4. Adjustment and Approval of Agenda**

Acting Chairman Clark asked if there were any adjustments to the agenda; as there were none, he then asked for a motion to approve. Jonathan Olson made a motion to approve the agenda; Joe DeLoach seconded the motion, which was unanimously approved.

**5. Public Comments**

None at this time.

**6. Approval of Minutes**

Acting Chairman Clark referred the members of the Planning Board to the minutes that the staff had prepared and asked if there were any needed revisions. There being none, he asked for a motion to approve the minutes. Lloyd Lancaster made a motion to approve the minutes of the previous (February 18, 2019) meeting as submitted by staff. Errol Briggerman seconded the motion. The motion passed unanimously.

**7. Discussion, Consideration, and Action on the Following Items:**

**A. Zoning Map Amendment request to rezone 17 acres of property located at 0 Wendell Blvd, behind Industrial Drive, from Manufacturing & Industrial (M&I) to Corridor Mixed-Use (CMX)**

Mr. Bergmark, Planning Director, presented the following staff report and background information shown in *italics* below.

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*Property Address: 0 Wendell Blvd.*

*Property Size: 17 acres*

*Current Zone: Manufacturing & Industrial (M&I)*

*Requested Zone: Corridor Mixed-Use (CMX)*

**Specific Action Requested:**

*It is requested the Planning Board consider the proposed Zoning Map Amendment request and make a recommendation to the Board of Commissioners, to include a statement of comprehensive plan consistency and reasonableness.*

*Applicant: James A. Harrell, III, on behalf of the owner Wendell/Larue, LLC*

*Petition: The applicant has requested a change in zoning classification for 17 acres of property located at 0 Wendell Blvd. The parcel in question is currently located within the extraterritorial jurisdiction (ETJ) of the Town of Wendell and is zoned M&I (Manufacturing & Industrial). The applicant has submitted an annexation and map amendment petition to request that this property be given the zoning designation of CMX (Corridor Mixed-Use) in order to allow for the development of a two-story, 88-unit apartment complex.*

***Location & History:***

*The property identified by PIN #1784326835 is currently vacant. This property is not located within the corporate limits of the Town of Wendell, but annexation proceedings have begun. The property has 1 current road connection which is at the north end of Church Street, off Industrial Drive.*

***Justification:***

*The applicant has initiated the rezoning petition to gain entitlements needed for their planned tax credit project submission. Standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site.*

***Zoning District:***

*The property included within this request is currently zoned M&I (Manufacturing & Industrial). The applicant has indicated a desire to rezone the property to CMX (Corridor Mixed-Use) in order to allow for the development of a two-story,*

*88-unit apartment complex. The CMX District was designed to provide pedestrian-scaled higher density residential and neighborhood-serving commercial activities along existing mixed-use corridors.*

*If rezoned, the developer would have the right to pursue any of the uses allowed in the CMX zoning district (beyond multi-family). Many of the adjacent properties along Wendell Boulevard are currently zoned CMX. This property is also adjacent to existing residential properties along Industrial Drive.*

*For reference, the CMX district has the following dimensional requirements for Multi-Family Apartment Buildings:*

*Min. Front Setback: 0 ft/10 ft along designated thoroughfares*

*Front Yard Encroachment: 8 ft*

*Min. Side Setback: 10 ft between buildings*

*Rear Setback: 0 ft*

*Accessory Structure Side/Rear Setback: 5ft.*

*Max Height: 5 Stories*

***Off-Street Parking:***

*At the time of development, parking spaces shall be provided in the amount specified by Chapter 10 of the Unified Development Ordinance (UDO). The parking requirement for residential use is 1 space per bedroom, up to 2 per unit. Using this standard, the proposed 88-unit apartment complex would require a minimum of 154 parking spaces.*

***Lighting:***

*Lighting shall be in accordance with the lighting requirements in place at the time of permitting.*

**David referred to a map showing the location of the parcel of land and surrounding properties. (refer to staff report for image)**

***Comprehensive Plan:***

*The Wendell Comprehensive Plan defines this section as S6 “Infill/Redevelopment Area”.*

*The Comprehensive Plan describes the S-6 Infill/Redevelopment Sector in the following manner: Existing urban/suburban development with a fairly dense street grid are classified as S-6.*

*This includes most of the built-out areas of Wendell around the historic downtown core. These areas are already urbanized and well served with infrastructure (roads, utilities, etc.) and access to services and amenities.*

*Because these areas are already well provided for in terms of urban services, they are the most efficient and most attractive areas for redevelopment of underutilized sites or infill of vacant parcels.*

***Comprehensive Plan:***

*The Comprehensive Plan identifies the community types and land uses appropriate for this sector as:*

*Neighborhoods*

*Downtowns*

*Single family and Multi-family residential*

*Commercial uses (retail and office)*

*Civic uses (parks, schools, religious and government uses)*

*Light industrial use*

**David used a map to show the Framework Plan (refer to staff report for image)**

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

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

*In staff's opinion, the requested zoning map amendment is consistent with the recommended uses (multi-family development) outlined in the Wendell Comprehensive Land Use Plan for the S-6 Sector and is reasonable in order to provide greater protection to existing, adjacent single family uses from those uses allowed in the M&I zoning district.*

***Staff Recommendation:***

*Staff recommends approval of the rezoning request.*

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**Discussion following Mr. Bergmark's presentation:**

- Errol Briggerman asked if this proposal was for low-income units.
- The applicant explained that the units were priced to be affordable to tenants that made between approximately \$35,000 and \$50,000.
- Michael Clark asked if applicant would have to obtain a "Special Use" permit
- David Bergmark said yes, they would.
- Lloyd Lancaster asked for details about the desired product.

- David Bergmark cautioned that the applicant was in no way bound to any details he shared and could pursue any use allowed in the CMX zoning district. Billy Guillet explained that they were seeking to build 2-story apartment buildings with 84 units, as well as a playground, a small clubhouse with computers, and a covered outdoor seating area. Also, they will employ a full-time maintenance staff.
- Paul White spoke about property and said it had a rear entrance and would allow for other development along Wendell Boulevard. He said he would recommend this rezoning.
- Jonathan Olson made a motion to accept this rezoning with the provided statement of plan consistency & reasonableness. Joe DeLoach seconded this motion and it was unanimously approved.

**B. Zoning Text Amendment to Chapter 6.5 of the UDO as it relates to exemptions for private property owners from Stormwater Runoff Provisions**

**Mr. Bergmark, Planning Director, presented the information shown in italics below.**

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**Specific Action Requested:**

*That the Planning Board consider the proposed text amendment request and make a recommendation to the Board of Commissioners, to include a statement of comprehensive plan consistency and reasonableness.*

**Applicant:**

*Town of Wendell.*

**Petition:**

*Chapter 6.5 of the UDO contains the Town's general provisions for stormwater management. On December 27, 2018, Senate Bill 469 (Session Law 2018-145) was passed by veto override. This bill made impervious surface requirements in G.S. 143-214.7(b3) applicable to all local governments, effective December 27, 2018. We are required by state law to incorporate the following language into the Town's UDO.*

**Petition:**

***G.S. 143-214.7(b3):***

*"(b3) Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting*

*development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment.”*

**Proposed Amendment to Chapter 6.5, Section F, 2 (modified language)**

**2. Exemptions:**

*e. Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment.*

**Proposed Amendment:**

*The proposed text amendment provides an exemption for private property owners from installing or increasing stormwater controls as it pertains to preexisting development or redevelopment activities that do not remove or decrease existing stormwater controls. However, if during redevelopment, the amount of impervious surface area exceeds that of pre-development, then increased stormwater controls shall be required.*

*This text amendment is required by state law per G.S. 143-214.7(b3).*

**Statement of Plan Consistency and Reasonableness:**

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

*In staff’s opinion, the requested zoning text amendment is consistent with Principle # 9 of the Wendell comprehensive plan and is reasonable in order to ensure that stormwater controls occur while still considering the rights of private property owners.*

*Principle # 9: Protect and preserve Wendell’s natural resources and amenities including its streams, lakes, wetlands, and hardwood forests while balancing private property rights.*

**Staff Recommendation:**

*Staff recommends approval of the text amendment request.*  
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**Discussion following staff report:**

- No comments
- Lloyd Lancaster made a motion to approve this amendment and Ryan Zachany seconded the motion as written.

**C. Conditional District CD19-01**

**Mackenzie Day, Planner II presented the information and background shown in italics below.**

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**Specific Action Requested:**

***Feedback for the applicant only.***

<b><i>Applicant:</i></b>	<i>SDH Raleigh LLC</i>
<b><i>Property Location:</i></b>	<i>0 Eagle Rock Rd</i>
<b><i>Property Size:</i></b>	<i>50.63 acres</i>
<b><i>Jurisdiction</i></b>	<i>Wendell ETJ</i>
<b><i>Current Zoning District:</i></b>	<i>RR</i>
<b><i>Requested Zoning District:</i></b>	<i>R3-CD19-01</i>
<b><i>Current Land Use:</i></b>	<i>Agricultural/Vacant</i>
<b><i>Proposed Land Use:</i></b>	<i>Single Family</i>
<b><i>Requested Conditions:</i></b>	<i>1</i>

**Conditional District Information:**

*A CD may depart from the strict application of the requirements of the town’s general zoning districts.*

## *Purposes*

- 1. Provide an alternative means of land development and zoning procedure that may establish Conditional Districts where appropriate and in accordance with town objectives.*
- 2. Establish a more complete living and working environment through with enlightened and imaginative approaches to community planning and design.*

## **Conditional District Information:**

### **Requirements**

*Should maintain and protect*

*-Public health*

*-Safety*

*-Welfare of citizens*

### **Should provide**

*-Natural features and scenic areas,*

*-Efficient and economical land use,*

*-Improved amenities,*

*-Orderly and economical development*

*-Protection of existing and future adjacent development*

### **Adoption**

*-CD Master Plan shall replace conflicting development regulations of the UDO.*

*-The Planning Board may make conditions for the Board of Commissioners to attach to approval.*

### **Conditions and Site-Specific Standards**

*-Address conformance of the development and use to the UDO and officially adopted plans*

*-Address the impacts reasonably expected to be generated by the development and use*

### **Zoning:**

#### **Current: Rural Residential (RR)**

*-Very low-density residential development*

*-Minimum lot size: 25,000 square feet*



- Rural roads
- drainage ditches
- multiuse path along one side

**Proposed: R3 Residential (R3)**

- Medium density residential
- Minimum lot size: 10,000 square feet
- Neighborhood streets
- curb & gutter & sidewalk along one side

**Mackenzie showed a map illustrating surrounding areas and significant feature of them.  
(refer to staff report for image)**

**Proposed Conditional District Conditions:**

1. *(Requested Concession) Development be exempt from the minimum cul-de-sac length.*
  - UDO Maximum Length: 300 feet
  - Applicant Proposed Length: 1000 feet
2. *(Staff Recommended) Rear yard buffer required for the lots with rear yards that boarder the north property line of the development.*
  - Some of these lots may eventually backup to the extension of the access stub street. The remainder of these lots will likely backup to future rear yards.
  - Rear yard buffer: one tree and one shrub for every 15 feet of rear property line

**Technical Corrections:**

1. *The first block of the entrance road is proposed as 1,450 feet. The UDO max block length for the district is 1,200 feet.*
2. *The temporary turnaround provided by the parking lot at the volleyball court may not be wide enough.*
3. *An additional stub street is required to the north property based on the length of the developable property to the north.*
4. *As proposed, the cul-de-sac street forms a system of multiple branching cul-de-sacs from a single access point. This is not permitted and the branch that runs southeast should be eliminated and/or the area be redesigned.*

5. *Where cul-de-sacs are unavoidable, developments shall incorporate provisions for pedestrian and bicycle connections to adjacent properties. No such connections are currently proposed.*
6. *Sidewalks should be extended into cul-de-sacs.*
7. *The northeastern active open space lot should be rearranged for improvements to be outside of easements as much as possible. Currently portions of the paved path and the volleyball court are located within drainage and sewer easements.*
8. *Street trees and sidewalk should be added to the entrance road as well.*
9. *ADA parking should be provided at the mail kiosks and the playground area.*
10. *The UDO requires any greenways shown on the adopted Zebulon and Wendell Open Space and Greenway Master Plan to be incorporated. The applicant is not required to construct the greenway, but a 20-foot-wide easement is required.*
  - *The adopted plan shows the Lower Buffalo Creek Greenway following the western side of Buffalo Creek.*
  - *The applicant needs to provide a 20-foot greenway easement.*
  - *The easement could adjoin the existing sewer easement and be located within the 100-year floodplain. However, it should be in an area that is infeasible for construction (i.e. Not within wetlands).*
11. *Add a note to the open space at the development entrance for the area to be reserved for future ROW to satisfy the Arterial & Collector Street Plan.*

***Mackenzie stated that correction #3 was incorrect and has since been corrected.***

**Conditions & Corrections Summary:**

*CDs allow for creative trade-offs and the Board must decide if what the applicant is proposing results in a better overall outcome.*

***Applicant's Conditions:***

1. *Exempt maximum cul-de-sac length*

***Staff Conditions:***

1. *Rear yard buffers along northern rear yards.*

***Major Items to Address:***

1. *Accommodate Greenway Plan*
2. *Pedestrian connectivity*
3. *Entrance road design*
4. *Block length*

### **Off-Street Parking:**

- Mail kiosks require ADA loading area or parking area
- Play areas require ADA parking

### **Open Space:**

*Providing 326,685 sq. ft ~ 7.5 acres*

*Total open space requirements are met, but additional park space is required after correcting calculations to remove parking areas and easements.*

*Approximately 62,000 sq. ft of the area calculated in proposed open space does not meet the requirements for open space.*

*Applicant has confirmed that no dry detention areas are included in open space calculations.*

*Proposing sand volleyball court & play area.*

*Approximately 327,000 sq. ft of open space provided is undevelopable due to floodplain or riparian buffer.*

### **Public Utilities:**

#### **Allocation**

*The Water Allocation Policy gives the project 38 base points. The project must then obtain 12 bonus points to reach the required 50 points.*

*Proposed improvements for points*

*3 points: PEMA playground equipment*

*3 points: beach volleyball court*

*6 points: excess acres of open space outside of floodplain (1 point per acre)*

*After the open space total is corrected, the development may only have 5 excess acres of open space outside the floodplain. If this is the case, the application will need to list an alternate method to obtain the 1 missing point.*

#### **Extension**

*Water connecting to an existing main at Eagle Rock Rd intersection*

*Sewer connecting to an existing main behind sand volleyball court and lot 45*

*Most proposed sewer and waterlines are in rights-of-way*

*5-foot-wide dry public utilities easement is proposed on both sides of all rights-of-way.*

### **Streets:**

*The property is currently accessed by a 60-foot-wide private access easement.*

*A 2001 deed describes the easement as follows:*

*“If in the future, the Grantee or the Grantee’s heirs or assigns, might desire to have any road or street installed over the 60-foot-wide easement area dedicated to the public and taken over for maintenance by the appropriate governmental authority, that such action shall be permitted.”*

*Two more recent deed descriptions do not give the grantee explicit rights to dedicate the area to public right-of-way but do specify the allowance for a street and utilities.*

*Street dedication is required before final development plan approval.*

*The Arterial and Collector Street Plan (ACS) calls for Eagle Rock Rd to be widened and realigned for a 110-foot-wide major thoroughfare.*

*The applicant will need to add a note that reserves a portion of the open space at the entrance to the subdivision as potential right-of-way for future road widening and/or realignment.*

### **Mackenzie showed an image of proposed realignment of Eagle Rock Road.**

*Proposed entrance is at a forked intersection and will require a DOT driveway permit.*

*Staff is requiring that the entrance street be built as a Residential Main Street with a 64’ right-of-way but leave off the north sidewalk to fit in the 60’ area.*

*If the property to the north is developed, the north sidewalk and additional 4’ of right-of-way will be dedicated then.*

*No TIA is required by the town.*

### **Connectivity**

*Cul-de-sacs increase pavement to be maintained by the town and reduce connectivity.*

*The increased cul-de-sac length makes residents more likely to drive to amenities, neighbors’ houses, and surrounding areas rather than walk or bike.*

*Pedestrian paths are needed to alleviate some of the connectivity issues of cul-de-sacs.*

*Long blocks may create straightaways that often lead to speeding.*

*Corrections regarding sidewalk and block length are intended to improve pedestrian and bicycle safety.*

**Landscaping:**

*Staff is requesting a condition for rear yard buffers to be installed in lots 1-14 and 19-26.*

*Street trees are required along the entrance road within what will be dedicated as public right-of-way.*

*All landscaping will be confirmed to comply with the UDO at the time of the final development plan and building permits.*

**Phasing:**

*The applicant has not proposed any phasing.*

**Comprehensive Plan:**

*S-4 Controlled Growth Sector*

*Traditional neighborhood development: “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”*

*S-1 Preserved Open Space*

*Conservation areas, parks and greenways, agricultural and forestry uses, and limited civic uses such as schools.*

**Neighborhood Center**

*“Intended to be mixed-use activity centers serving surrounding neighborhoods with retail, services, civic uses, and higher density housing”*

*The area where the neighborhood servicing commercial and civic uses described for S-4 are to be located.*

**Mackenzie showed a map dissecting the property by land use classifications.**

**(refer to staff report for image)**

**Final Staff Comments:**

*-Staff included 1 recommended condition and 11 technical corrections within this report.*

*-Overall proposed streets and limited connectivity are the primary staff concerns.*

*-The eligibility requirements open space land may require the applicant to reevaluate their water allocation application.*

*-Staff recognizes the environmental concerns that make a long cul-de-sac appealing. However, the UDO stresses avoidance of cul-de-sacs and requires incorporation of additional pedestrian and bicycle connections where cul-de-sacs are necessary due to environmental conditions. The applicant is not currently showing these connections.*

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**Discussion following staff report:**

- Ashley Anderson, a resident of the area that has been proposed for rezoning, introduced her advisor Mr. Richard Hibbits, and said that the parties interested in developing the land had not approached her or made any contact with her or her family concerning the rezoning of the land and what they were proposing there.
- Chairman Swaim asked that the staff suggest the developers interact with the property owners in the surrounding area concerning the development of the land. David Bergmark said that this development was entirely dependent on the applicant's ability to get ROW dedicated within the property to the north, in order to access Eagle Rock road which is owned by the Andersons.
- Errol Briggerman questioned why the Town was against cul-de-sacs. David Bergmark explained that cul-de-sacs limit connectivity, which makes it harder for vehicles and more importantly, pedestrians from easily reaching their destination.
- Joe Deloach said he was concerned about speeding occurring due to the long cul-de-sac proposed.
- Ryan Zakany questioned how and when widening would occur along Eagle Rock Rd.
- Michael Clark expressed concerns regarding only have 1 point of ingress and egress so close to the railroad track and other intersections. He also expressed concern over the long cul-de-sac.
- Jonathan Olson asked if the Town could get a sense from DOT about what they would require ensuring safe traffic flow. He said he thought the cul-de-sac looked odd, but it made sense to him given the location of the railroad track and floodplain.
- Lloyd Lancaster said he despises cul-de-sacs. He said it seemed like the developer was attempting to put 5 lbs. in a 3 lb. bucket. Mr. Lancaster said he didn't understand why this wouldn't trigger a TIA. Mackenzie Day explained that the Town's TIA requirements were based solely on the number of trips being generated by the development and that this development didn't generate enough new trips to require one.

- Lloyd Lancaster said he was disturbed that the applicant was not communicating with the adjacent property owner, whose land they have to cross to access Eagle Rock Rd. He said he was also disturbed by having development in the floodplain. Mackenzie Day clarified that the parcel included floodplain, but that the actual development and lots were not occurring in the floodplain.
- Lloyd Lancaster said he was not in favor of this development.
- Allen Swaim said as deeds are transferred, you don't have to transfer all aspects of the easement to the next grantee. He said he also had site visibility concerns for this development, given where their access would be located.
- Michael Clark asked what action staff was seeking from the Planning Board. David Bergmark responded that staff was not seeking action at this meeting. Mr. Bergmark said the TRC had only just reviewed this plan, and the applicant had not had an opportunity to make any adjustments to their plan based on TRC comments yet.
- Lloyd Lancaster said his preference would be to go ahead and recommend denial. Joe Deloach said they could wait until next meeting, since staff had told the applicant that they weren't seeking action at this meeting.
- Allen Swaim expressed concern that the 45-day clock on when the Town Board could proceed without the Planning Board would still start from this meeting date.
- David Bergmark said even if that was the case, they would still have an opportunity to make their recommendation at the next meeting and asked that they not vote today as the applicant is not present to field any questions or concerns that the Board may have.
- Lloyd Lancaster made a motion to recommend denial of the conditional district request as submitted. Jonathan Olsen seconded the motion. The motion passed unanimously. Allen Swaim clarified that the applicant could come back to the Planning Board with a modified application if they wished.

## **8. Adjourn to Next Regularly Scheduled Meeting**

Chairman Swaim asked for a motion to adjourn. Michael Clark made a motion to adjourn the meeting, Ryan Zakany seconded the motion. The motion passed unanimously, and the meeting adjourned at approximately 8:20 PM.