Planning Board Meeting –
October 17, 2016
Minutes

Members Present: Harold Broadwell, Errol Briggerman, Victoria Curtis, Gilda Wall, Ruth Van der Grinten, Lloyd Lancaster, Kathe Schaecher, Allen Swaim

Members Absent: Ashley Anderson

Staff Present: Planner Allison Rice

Guests Present: Bruce Lynch

1. Meeting Called to Order
Mr. Broadwell called the meeting to order.

2. Welcome and Recognition of Guests
Mr. Broadwell welcomed the public, including Mr. Curt Phipps.

3. Chairman and Board Members' Comments
None

4. Adjustment and Approval of Agenda.
Gilda Wall made a motion to accept the agenda. Ruth Van der Grinten seconded the motion. The motion passed.

5. Public Comments
No citizens had signed in to make a comment at that time.

6. Approval of Minutes
Mr. Broadwell indicated a need to change "H" on page 5 of the minutes to "He". A motion was made by Victoria Curtis to approve the September 19, 2016 minutes with the amendment. Mr. Briggerman seconded the motion. The motion passed.

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

Item 7A – Discussion and Action on a request to rezone 2.013 acres along Rolesville Road from CU-HC (Wake County) to Commercial Highway (CH).

Ms. Rice said Wake County ABC had submitted a request for a change in zoning classification for a 2.013 acre portion of that parcel located at 5329 Rolesville road, identified by PIN # 1774297076. The applicant was seeking to rezone the property from Wake County's Conditional Use – Highway Commercial designation to Wendell's Highway Commercial (CH) zoning designation.

Ms. Rice said this property was located directly north of the State Employees Credit Union, and the applicant had expressed an interest in the property for the purpose of establishing an ABC store. This area was currently zoned Highway Commercial (Conditional Use) under Wake County's zoning

jurisdiction. The applicant had also submitted an annexation petition for review by the Town Board. If the property was annexed into Wendell's corporate limits, this map amendment request could subsequently be acted upon to give this property a Wendell zoning district designation.

Ms. Rice said the applicants provided the following justification as part of their request:

"The site is currently located in and under the jurisdiction of Wake County and zoned CU-HC (Wake County Commercial Zoning Designation). We are petitioning the Town of Wendell to be annexed into the town and to rezone this site to Wendell's Highway Commercial Designation.

The rezoning being requested is consistent with your comprehensive plan. This request is consistent with adjacent property that at some time will be developed for commercial purposes and be annexed into the Town of Wendell as well. The development of this site will extend the services of the Town of Wendell to include the need for Utilities, Public Safety and Streets. It is reasonable to expect commercial growth to bring jobs and also increase the needs for additional schools. The annexation request will allow the Town of Wendell to control and influence its future growth. This request will have a positive effect on the economy and quality of life for the residents in the Town of Wendell."

Ms. Rice said the property was currently zoned Highway Commercial (Conditional Use) under Wake County's zoning jurisdiction. If the property was annexed into Wendell's corporate limits, it would need to be given a Wendell zoning designation. The requested zoning designation (Highway Commercial) was comparable to the current county designation and was consistent with the zoning of all adjacent Wendell properties to the east, west, and south.

Ms. Rice said the majority of this property also fell within the Gateway Overlay (GO) zoning district. The Gateway Overlay district implements additional development standards related to parking, building setbacks, and buffering, but does not impact permitted uses. She said the Wendell Comprehensive Plan defined this area as falling within the S5 "Intended Growth Area".

Ms. Rice said the Comprehensive Plan stated the S5 sector was generally within ½ miles of high-capacity regional thoroughfares. Appropriate development types were higher density mixed-use centers of employment, commerce, and residential uses. The Comprehensive Plan highlighted the following land uses as compatible for this sector: traditional neighborhood developments, neighborhood centers, village/town centers, single-family and multi-family residential, neighborhood-serving commercial uses (retail and office), civic uses, and industrial uses.

Ms. Rice said this property also fell within a Village/Town Center, which was prioritized for more intense development patterns. She said any recommended change to the zoning map should be accompanied by a statement explaining how the change was consistent with the comprehensive plan, and was reasonable in nature. She said in staff's opinion, the requested zoning map amendment was consistent with the recommended uses and development types outlined in the Wendell Comprehensive Land Use Plan for the S5 sectors and was reasonable due to the its location along two thoroughfares, and the adjacency of existing CH zoning districts. She said staff recommended approval of this rezoning request.

Ms. Wall expressed concerns that an ABC store was being built so close to the High School. Ms. Curtis said she had been concerned about the same thing, but that Sheetz was already there and that students had easier access to alcohol at Sheetz than at a county-operated ABC store. Ms. Wall said her concerns were more about drunk drivers going past the High School.

Mr. Lancaster made a motion to recommend that the Board of Commissioners rezone the concerned property from CU-HC to CH. Mr. Briggerman seconded the motion. The motion passed unanimously.

Item 7B – Discussion and Action on proposed minor adjustments to Chapter 6 of the UDO as it relates to stormwater requirements.

Ms. Rice said in 2006, representatives from Wake County and each municipality in the county formed a task force to address stormwater issues. The task force met seventeen times over twenty months and produced a report that included nine major recommendations and a five-year implementation plan. She said part of these recommendations included the creation of a collaborative stormwater ordinance for interested towns.

Ms. Rice said the stormwater task force asked that the draft stormwater ordinance include: 1) water quality requirements that at least meet the minimum requirements for the municipal NPDES Phase II requirements; 2) water quality requirements that include control of the 10-year, 24 hour storm; and 3) encouragement of Low Impact Design (LID) standards.

Ms. Rice said members of the Stormwater Implementation Team included: Wendell Commissioner Sid Baynes, Zebulon Mayor Bob Matheny, Zebulon Planner Mark Hetrick, Rolesville Planner Bryan Hicks and Wendell Planning Director Teresa Piner. She said members of the team who served as resources were: Knightdale Engineer Keith Gifford, Wendell resident Betsy Rountree, NCDENR-DWQ representative Bill Diuguid, Wake County Environmental Services Director Tommy Esqueda, Knightdale Planner Stephen Morgan, Home Builder Association representative Suzanne Harris, AMEC Earth and Environmental Engineer Keith Readling, Wake Forest Engineer Scott Mills, Neuse River Keeper Dean Naujoks, AMEC Earth and Environmental Engineer Henrietta Locklear, Danny Bowden with the City of Raleigh, Wake County Planning Board Member Mike Golder, Wake County Environmental Service Representative Britt Stoddard, CORPUD representative Robert Massengill, and Wake County representative Hunter Freeman.

Ms. Rice said the stormwater implementation team's discussion of the draft stormwater ordinance was completed in November of 2008, and these recommendations were incorporated into Wendell's Unified Development Ordinance in 2009.

Ms. Rice said as part of the Town's stormwater regulations, no development or redevelopment could contribute a nitrogen export load exceeding 3.6 pounds per acre per year unless they achieved classification as a Low Impact Development (LID), as described in Section 6.N.2.5 of the UDO. Under the original language created as part of the stormwater ordinance, developments had the option to buy down their nitrogen export load by paying monies to the North Carolina Riparian Buffer Restoration Fund. However, when the first developments were submitted which would be subject to these regulations, the Town learned that this fund could not legally accept monies from the Town. As a result, this buy down option had to be removed from the UDO. However, the LID requirement remained for those developments which did not meet the 3.6 pounds per acre limit.

Ms. Rice said since its original adoption, staff had ongoing discussions with the Town's Stormwater Administrator (Wake County) and other industry professionals and had come to the conclusion that minor adjustments to Chapter 6 may be warranted. Staff had the opportunity to see how stormwater regulations had been implemented in a variety of residential and commercial projects and had determined that the Town and the development community would benefit from two modifications to Chapter 6.

Ms. Rice said the first modification staff proposed related to small residential infill projects. As the Town continued to grow, the Town would likely see increasing numbers of small undeveloped properties formed between proposed subdivisions. She said these smaller parcels represented areas that were ideal for service and development from a municipal standpoint, but which would have greater difficultly

absorbing the cost and land requirements needed to satisfy the Town's current stormwater regulations, especially as it related to Low Impact Development (LID) standards. As a result, staff proposed that Chapter 6 be modified to include an exception to the nitrogen export requirement for smaller residential infill development which meet specific criteria. She said incorporating such language would be in line with a similar exemption included in the recently adopted water allocation policy.

Amendment 1:

Residential infill developments which meet the following criteria shall not be subject to the requirement to limit nitrogen export load to 3.6 pounds per acre per year:

1. Are located within the primary corporate limits or adjacent to the primary corporate limits.
2. Are less than 20 acres in size.
3. Have no vacant or underdeveloped land of 10 acres or more in size adjacent to the project which could be feasibly added to the development to create a larger subdivision.

Ms. Rice said the second modification staff proposed related to the criteria for qualifying as a Low Impact Development (LID). Sections 6.5N5c through 6.5N5e listed the current techniques which must be used to achieve LID classification. She said in the course of staff's review, staff noticed consistent difficulty in development projects meeting section 6.5N5e below, which required two additional LID techniques to be incorporated into the project. Some of the options listed in this section were not feasible for a typical residential or commercial project. For example, most commercial property would not be able to retain 50 percent of the project area as vegetated space. Similarly, many commercial projects did not have any stream buffers on their property to expand. Finally, while staff supported the use of vegetated roofs and reclaimed water systems, these techniques were expensive and are rarely applied, even in larger municipalities. The most common technique which had been chosen by developers had been the installation of rain cisterns.

Current language of Section 6.5N5c through 6.5N5e

c. The following techniques must be used to achieve LID classification:

- **i.** natural site design in consultation with the Town;
- **ii.** site buildings, roads, and other disturbance in the least environmentally sensitive areas, pursuing steep slopes, naturally well draining soils, and other hydrologically valuable features undisturbed.

d. In addition, one of the following two techniques must be used to achieve LID classifications:

- **i.** bio-retention systems;
- **ii.** on-site infiltration;

e. In additions, at least two of the following techniques must be used to achieve LID

i. retention of 50 percent of vegetated area, including open space, landscaping, or forests:

ii. use of Permeable pavement for all private driveways, private roads, sidewalks, and parking areas in accordance with the North Carolina Stormwater Best Management Practices Design Manual;

iii. installation of one rain cistern per lot or three rain barrels per lot;

iv. installation of vegetated roofs;

v. increasing all buffers in the Riparian Buffer Zone of the Flood Protection Zone, whichever is greater, by 50 feet, in accordance with Section M.1 for Low-Density Development and Ultra Low Density projects and Section M.4 for High-Density Projects

vi. use of reclaimed water for all buildings in accordance with State and local laws.

vii. use of innovative LID techniques subject to the approval of the Town.

Ms. Rice said staff proposed that Section 6.5N5e be amended to only require 'one' additional LID technique and to reduce the number of rain barrels required per lot to two rain barrels, which must remain in place for at least 2 years. This would require builders to install rain barrels and would give homeowners the opportunity to explore the benefits of rain barrel use. Water from rain barrels should not be used for drinking, but it was ideal for watering garden or lawns, washing cars or pets, and could even be used for flushing toilets. If the homeowner found no use for them, the rain barrels could be removed after two years, eliminating long term enforcement requirements by the town or the stormwater administrator.

Amendment 2:

Amend Section 6.5.N.5.e. to read as follows:

e. In additions, at least **one** of the following techniques must be used to achieve LID

i. retention of 50 percent of vegetated area, including open space, landscaping, or forests:

ii. use of Permeable pavement for all private driveways, private roads, sidewalks, and parking areas in accordance with the North Carolina Stormwater Best Management Practices Design Manual;

iii. installation of one rain cistern per lot or two rain barrels per lot (rain barrels may only be used for residential projects and must be retained on site for a minimum of 2 years);

iv. installation of vegetated roofs;

v. increasing all buffers in the Riparian Buffer Zone of the Flood Protection Zone, whichever is greater, by 50 feet, in accordance with Section M.1 for Low-Density Development and Ultra Low Density projects and Section M.4 for High-Density Projects

vi. use of reclaimed water for all buildings in accordance with State and local laws.

vii. use of innovative LID techniques subject to the approval of the Town.

Ms. Rice said staff recommended approval of the proposed text amendments. She said any recommended change, if deemed necessary, should be accompanied by a statement explaining how the change was consistent with the comprehensive plan, and was reasonable in nature. Such statements could refer to the general principles of the Comprehensive Plan, including but not limited to 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."

Mr. Broadwell said that as he saw it, they were changing 2 words in Amendment 2. Mr. Lancaster asked who would be checking on the presence of rain barrels. Ms. Rice said that it would likely be both Wake County and the Town of Wendell. She said Town staff would likely check on the presence of the rain barrels during final inspection. Otherwise, staff would only check on the presence of rain barrels if it is brought to their attention. Mr. Lancaster asked if the same penalty would apply as if the homeowner doesn't mow their grass. Ms. Rice said she would think so. Mr. Lancaster asked if they were presenting to the public that homeowners had to keep 2 rain barrels on their properties or penalties would apply. Ms. Rice said it was, just as the Town requires the maintenance of drainage easements on individuals' properties. Ms. Schaecher said that staff was asking to lower the rain barrel requirement. Ms. Rice said that was correct.

Ms. Curtis asked, if the rain barrels were so important for stormwater drainage that the Town required their use, why were we proposing to only enforce the requirement for 2 years. Ms. Rice said that the Town was trying to be flexible and work with homeowners and developers to find something that works. She said that homeowners weren't required to use the rain barrels, only to have them on their properties. Mr. Lancaster indicated that the report said that most developers would use rain barrels since the other options were cost prohibitive. Ms. Rice said that some options were cost prohibitive but some were not. She said there were other stormwater requirements that would apply. Mr. Lancaster said he was ok with many of the requirements, such as impervious surface requirements and drainage easements, but he was not ok with the government requiring that a homeowner keep a water barrel on their property for two years. Ms. Rice said this would only apply under very specific circumstances, for residential and commercial developments must attain LID classification. She said it had to do with nitrogen loads in water, not about stormwater runoff.

Mr. Lancaster asked what was the purpose of point number 3 in Amendment 1. Ms. Rice said that there were often developments that are only built out one phase at a time, either by the same developer or by another developer. There are also developments that were built to attach to existing developments. She said the purpose of that point was to ensure that developments didn't bypass nitrogen load requirements by expanding at a later date. Mr. Lancaster said the way he understood this point, the Town was requiring developers to absorb additional acreage surrounding the development in order to meet the criteria. He said this was creating another hurdle. Ms. Rice said that the language was saying that if a developer had a project that did not meet the criteria in Amendment 1 but went over the nitrogen threshold, the developer would need to choose two of the techniques to achieve LID classification addressed in Amendment 2. Mr.

Lancaster suggested that the 3rd point be re-written to say that if a development expanded above a threshold at a later date then LID classification would be required, instead of stopping development at the front door.

Mr. Lancaster made a motion to re-evaluate point 3 prior to voting to approve or deny Amendment 1.

Ms. Curtis made a motion to take action on Amendment 1 separate from Amendment 2. Mr. Lancaster withdrew his original motion and seconded Ms. Curtis' motion. The motion passed unanimously.

Mr. Lancaster made a motion to send Amendment 1 back to staff, to address his concerns over the third point. Ms. Curtis seconded the motion. Ms. Van der Grinten said she was confused about Mr. Lancaster's concerns, but she was willing to postpone the vote. Mr. Lancaster said that point # 3 seemed to be a barrier to development. He said that there could be a 20 acre lot that someone wanted to develop, but if there were 10 adjacent buildable acres the developer would be required absorb the 10 acres to make 30 total acres. Mr. Broadwell said that wasn't what the language said. He said the policy was whether the development met the nitrogen load requirement, not whether the developer can build at all. Mr. Lancaster said that was why he wanted the language to be reworded.

The motion passed unanimously.

Mr. Lancaster made a motion to change 6.5.N.5.3.e.iii in Amendment 2 so that it read "installation of one rain cistern per lot or two rain barrels per lot;". Ms. Rice said this motion would require homeowners to keep rain barrels on their lots forever. Mr. Lancaster then suggested that parenthesis be added at the end that said homeowners could remove rain barrels at any time. Ms. Rice said that would then negate the entire policy regarding rain barrels. She said it would essentially require someone to do something if they want to.

Mr. Lancaster made a motion to change 6.5.N.5.3.e.iii in Amendment 2 so that it read "installation of one rain cistern per lot;". Ms. Curtis seconded the motion. Mr. Lancaster, Ms. Curtis, and Ms. Schaecher voted in favor; Mr. Broadwell, Ms. Van der Grinten, Ms. Wall, and Mr. Briggerman voted against. The motion failed.

Mr. Lancaster made a motion to table this until the next Planning Board meeting. Ms. Curtis seconded the motion. Ms. Van der Grinten asked for clarification as to what the intent of this section of the UDO. Ms. Rice explained the difference between stormwater runoff and nitrogen loads.

Ms. Schaecher said she wanted to know what requirements other towns had in terms of LID certification. Mr. Broadwell said at the time, the State required that towns of a certain size have a stormwater policy. He said at the time, Wendell didn't meet the size requirement but elected officials felt it was important for Wendell to participate, since they were in an urban county. He said he saw staff trying to loosen the requirements to make the requirements less burdensome on developers. Ms. Rice said that was correct. She said staff had found that developers weren't able to meet some of the options, so staff was trying to loosen some of the requirements so that developers could have more choices in how they meet the requirements.
Ms. Curtis said she saw the value of giving developers choices so that costs don't increase. She said she was a biologist and she saw the value of stormwater regulations. She didn't like that the rain barrels weren't enforceable and could be taken away after 2 years. She said she wanted cheap options that were permanent that was put into place by the builders or developers.

The motion passed.

Item 7C – Discussion and Action on a Zoning Text Amendment to modify Chapters 2, 3, and 19 of the UDO for the purpose of re-establishing a downtown retail overlay district.

Mr. Broadwell said that Mr. Bruce Lynch had come in too late to speak at the beginning of the meeting during public comment, but he had signed up to speak. Mr. Broadwell asked if any member of the board had an opposition to allowing Mr. Lynch to speak before the board on Item 7C before the topic was introduced my staff. The Board had no opposition.

Mr. Bruce Lynch, 114 South Cypress Street, said he had heard that the board was considering zoning changes to Downtown to only allow retail uses. He said he was against the changes. He said he bought his building on Main Street in 2005 with the understanding that he would be able to use it as an office for his real estate and car wash businesses. He said the reality was that the market needed all kinds of uses. He said in Downtown Raleigh they had a lot of different uses, included offices. He said he had heard that with the new rules he would only be able to have one use for his building. He said when the market was bad he needed to have the flexibility to be able to use his building in lots of different ways. He said these rules would decrease the value of his building.

Ms. Van der Grinten asked what Mr. Lynch thought of the provision that offices could be established on the second floors. Mr. Lynch said he had looked at renovating his upstairs when he bought the building in 2005, and that it would be an estimated $100,000. He said he needed his office on the first floor since his car wash generated a lot of quarters that were too heavy to carry to a second floor.

Mr. Broadwell called a recess to allow Mr. Swaim to join the Board.

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

Ms. Rice said when the UDO was adopted, this overlay district was not carried over into the new zoning code. While the Town was in the middle of the recession, this omission was not a great concern. She said however, now that economic conditions were improving, the absence of this type of overlay district made Wendell vulnerable to having undesired uses locating within the core of our downtown. In order for retail businesses to thrive, they needed to be surrounded by other businesses which generated foot-traffic and created the opportunity for mutual customers. She said there was an emerging consensus that the Town should limit the concentration of less active service and professional office uses in the downtown district. Stores with limited hours created dead zones along the sidewalk at certain times of the week. She said likewise, the location of certain businesses, such as indoor storage uses, provided little or no benefit to adjacent businesses and should be discouraged from locating within the prescribed area.

Ms. Rice said the Downtown Mixed Use zoning district encouraged a mix of business uses that were needed to support a healthy downtown. However, there were several uses permitted in the DMX that would not support the bustling retail district envisioned along Wendell's Main Street. She said the area covered by the proposed Downtown Retail Overlay further encouraged retail uses by prohibiting non-traffic generating uses like storage, and reserving street level storefronts for customer-oriented enterprises. A map of the proposed Downtown Retail Overlay was shown on Attachment A. She said the only change to the boundary from the former version was the inclusion of 100 and 104 West Third Street.

She said staff focused the boundaries of the Overlay so that it only encapsulated the storefronts along Main Street and Third Street.

Ms. Rice said that the September 19th meeting, planning board members brought up concerns regarding the overlay district as it related to bars which were classified as private clubs, the treatment of industrial uses, and more general concerns over regulatory practices. In order to provide an alternative to the DRO for consideration, staff created an option where the Downtown Mixed Use district standards would be amended towards a similar goal, rather than creating a new overlay district. These two alternatives are represented as 'Option 1' and 'Option 2'. She said details of each option were provided as attachments to the report. She said an additional feature which the Planning Board could consider changing was the DRO boundaries, to further refine the perceived retail area.

Ms. Rice said a copy of Option 1, which included the proposed Overlay District standards and associated amendments to Wendell's UDO, were included as Attachment B. She said the following uses had been added to the list of uses that were prohibited outright: General Retail – Greater than 50,000 sf, Family Care Home, Group Care Facility, Drive Thru Service, Dwelling – Secondary. She said the following uses had been added to the list of uses that are prohibited on the ground floor: Media Production, Schools – Vocational/Technical, Cultural or Community Facility, Medical Services – Doctor Office . She said the Neighborhood Manufacturing use was changed in the following ways:

a. This use was no longer listed as prohibited in the DRO.
b. The special use permit requirement for Neighborhood Manufacturing had been lifted. This use was then permitted with additional standards within the DMX. An additional standard had been added to Neighborhood Manufacturing, requiring that on the ground floor in the DRO, this use must include a minimum of 400 square feet of gallery and/or retail space that was accessible and open to the public.

Ms. Rice said some members of the Planning Board had expressed reservations about establishing a Downtown Retail Overlay district. In response, staff submitted Option 2, changes to the DMX district that would address some of the concerns that staff was trying to alleviate with the introduction of the Downtown Retail Overlay district. Details for this option were included as Attachment C. She said the following were the key differences between Option #1 and Option #2:

1. Due to the difference in coverage between the DMX and the Overlay District, several uses that were prohibited outright or prohibited on the ground floor in the Overlay District are permitted in the DMX. Use charts are included in Attachments B and C that can be used for comparison.
2. In option 2, the new Office Administrative Services use is listed as Permitted with Additional Standards in the DMX, while it is permitted by right in the DMX in Option 1 due to standards put in place by the overlay district.
3. In option 2, a supplemental use standard for Indoor Storage in the DMX has been deleted since it would be outright prohibited. This standard would remain for the DMX in Option 1, but the Indoor Storage use would be prohibited within the actual overlay district.
4. In option 2, additional standards would be added to Chapter 3 for the following uses: Cultural or Community Facility, Meeting Facilities, Research and Development, Community Service Organizations, Business Support Services, Office Administrative Services, and Media Production.

Ms. Rice said as part of both Option 1 and Option 2, staff proposed that language be included within the UDO that will require Bars/Taverns/Night Club uses to be open to the public, rather than be classified as a private club. The ABC Board defined any bar that generated less than 30% of sales from food as a private club. She said these types of venues often had limited hours and were closed during the day. While alcohol based establishments were a key part of entertainment in a vibrant downtown, staff did not

believe that private club establishments were conducive to a vibrant, inclusive atmosphere within the downtown at this time.

Ms. Rice said members of the Planning Board had expressed concerns regarding this proposed amendment requiring that Bar/Tavern/Night Clubs not be classified as a private club. She said the Planning Board may remove this language from their recommendation to the Town Board if that was their desire.

Ms. Rice said staff recommended approval of Option #1 proposing a text amendment to establish a Downtown Retail Overlay District. She said any recommended change to the UDO, if deemed necessary, should be accompanied by a statement explaining how the change was consistent with the comprehensive plan and was reasonable in nature. She said staff suggested that the recommended change adhered to the following principles highlighted in the comprehensive plan:

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

Ms. Van der Grinten asked if the prohibition on secondary dwellings in Option One meant that second floor apartments were prohibited. Ms. Rice said no. She said that secondary dwelling uses applied to second apartments attached to single family homes. Apartments above commercial units were classified as live work units.

Mr. Lancaster said he understood staff’s objection to private clubs in the downtown. He said he maintained his support for private clubs because sometimes businesses couldn’t make it by selling food. Ms. Rice said private clubs would be permitted throughout Wendell, and that they would only be prohibited within the 2 blocks within the Overlay. Mr. Lancaster said that Wine and Beer 101 and the Tap Room were already downtown, which proved that there was already a market for a bar downtown. He said staff was proposing to prohibit a use that there was a proven market for because staff wanted to generate foot traffic. He said bars may not generate foot traffic during business hours, but they do bring people downtown.

Ms. Rice said that was only one reason why staff proposed the overlay. She said that there were a limited number of downtown storefronts. When one of these storefronts was used for something like storage, it not only created a gap for pedestrians, it also took away a potential better use that could increase the commercial vibrancy. Mr. Lancaster said he agreed that storage shouldn’t be permitted downtown. He said staff should have provided a list of uses they didn’t want to allow downtown instead of adding additional layers. He said it was confusing for anyone that might want to bring a business downtown. Ms. Rice said that was why staff had provided Option 2, which changed the uses allowed in the DMX without establishing the overlay. She said that personally she thought it was simpler to navigate the overlay. She said that businesses should talk to any planning department before opening as a normal part of their due diligence.

Mr. Lancaster said he thought it would be simpler to apply changes to the DMX without an overlay. He said he was against the prohibition on private clubs, offices on the ground floor, and meeting spaces on the ground floor.

Mr. Swaim said that he was aware of two businesses that had storage without a showroom. He gave Bridger’s Coal Supply as an example. Ms. Rice said the show room requirement only applied to neighborhood manufacturing. She said that Bridger’s Coal Supply’s primary use was retail, so he

wouldn't be prohibited from having storage on his property if it related to his primary use. She said that the provision would apply to any location within the overlay or DMX whose use wasn't grandfathered in.

Mr. Swaim said he agreed with Mr. Lancaster that they shouldn't prohibit private clubs in the downtown. He said he believed Option 1 went a little too far. He said the boundaries of the overlay should be made smaller so that it would be more efficient. Ms. Rice said staff had put together an alternate map of the proposed overlay. She said she didn't want to give it to the board in the report because she didn't want to confuse them more than necessary. She presented the alternate map to the board. Mr. Swaim said his last concern was that Ms. Henry had a storage unit. Mr. Briggerman said that had been sold.

Mr. Lancaster asked where Office Administrative Services use was applied in Option 1. He said he didn't see it mentioned. Ms. Rice said it was included within the chart on page 1.

Ms. Schaecher said Option 2 seemed more feasible to her. She said that she had a problem with moving Office Administrative Services and Meeting Facilities to permitted with additional standards. She said she wasn't sure if they should be required to have gallery or retail space. She said that Redemption Roofing had what she considered a gallery space in the front of their store. Ms. Rice said that the gallery and retail requirement only applied to the Neighborhood Manufacturing use. The Neighborhood Manufacturing use applied to leatherwork, woodwork, or any small-scale artisan or crafts. She said staff proposed this use be permitted within the DMX as long as there is a retail or gallery space open to the public. She said this was the only use that had the retail or gallery requirement. Ms. Schaecher said if that requirement was applied to the Office Administrative Services and Meeting Space uses, then that would be a way to allow those uses downtown.

Ms. Rice said this was something that staff had presented the previous month, but the Office Administrative Services use did not currently exist in the Use Table. She said that Professional Services, Business Support Services, Community Service Organization, Government Services, etc. were all business-related uses that currently existed and were permitted in the DMX. She said staff had proposed this additional use to account for office uses that didn't receive any clients and didn't generate any foot traffic. She said that in the past, several churches and nonprofits had spoken to staff about locating a satellite office in one of the downtown storefronts for accounting, etc. She said staff wanted to address that gap.

Ms. Schaecher said she understood the concern, put that she felt like the list of uses allowed was very limited. She said her other concern was with Meeting Facilities. She said she thought Meeting Facilities should be allowed on the ground floor. She said she could see a meeting facility at Kannon's for example where people could have a wedding and the go to Wine and Beer 101 afterward. Ms. Rice said a lot of these concerns come down to what the definitions of the uses are. She said that Wine and Beer 101 has become a meeting facility but that its primary use was retail.

Ms. Rice said that galleries and museums were currently included in the Cultural or Community Facilities use along with fraternal clubs. She said that was something that she wanted to change at a later date. Mr. Lancaster said staff should take the time to work on that before rushing into making changes. Ms. Rice said that would take more time to research and that staff didn't want that to hold up the overall changes to the overlay or DMX. She said these were two separate issues and didn't need to be addressed at the same time. She said the other issue was that after an item had been presented to the Planning Board, if it still wasn't voted on after 45 days, then the Town Board could take up the issue as if the Planning Board had voted in favor. She said that since this was the second time the Planning Board had looked at this item, the Town Board had the option to take it up.

Ms. Schaecher said she didn't like Meeting Facilities, Office Administrative Services, and private clubs in there. Mr. Swaim said he believed in following the rules that were being enforced. He said that Meeting Facilities and Office Administrative Services weren't allowed in the downtown, but that Town Hall was included in both the DMX and the Overlay. Ms. Rice said that was correct. She said, however, that Town Hall as classified as Government Services. She said even if it wasn't classified Government Services, Town Hall received clients and customers everyday so it would more closely identify with the Professional Services use, which was permitted in the proposed changes. Mr. Swaim said that he believed they were meeting there that night and that they were on the first floor. Ms. Rice said that Town Hall includes a meeting facility but that it wasn't its primary use. Mr. Swaim said that it sounds like staff was justifying. He said whenever we have to justify what we do, it didn't seem to be straightforward anymore. Mr. Swaim said he felt like the whole thing needed to be chopped down, starting with bringing the overlay boundaries down to Fourth Street.

Mr. Lancaster said he agreed with Ms. Schaecher that some of the uses included in the Permitted with Additional Standards should be removed. He said Meeting Facilities, Office Administrative Services, and the private club provision needed to go. He said the boundary should be made smaller so that Town Hall wasn't included. He said even though Ms. Rice had said it wasn't its primary use, he wouldn't want anyone to come back and say you voted for this but you're not following the rule.

Ms. Rice said there might be some confusion between Office Administrative Services and Professional Services. She said the definition of Office Administrative Services read " Location of business operations generally without daily face to face contact with customers or clients, including back office functions, telephone or internet based customer service or sales, or other business functions engaged in intellectual research or consulting, and call centers or data centers not located with distribution operations." She said there were several other office uses in the Use Table, including Professional Services that would be permitted on the ground floor of the Overlay. She said Professional Services included engineers, accountants, architects, real estate offices, and other office-based jobs that received clients. She said there were very few departments in Town Hall that was not open to the public on a daily basis. She said that if the definitions were being nit-picky, she said it was being nit-picky in the sense that the language does have to be very clear so that people can distinguish between different uses. Ms. Rice said she would be happy to read the definitions of the other office uses if it would help the Board. Mr. Lancaster said he didn't think it would be necessary. He said that it was a perception problem.

Ms. Van der Grinten asked if one of the Board's options was to vote to not accept any of the options and to leave the UDO as it is. She said that she was in the middle. She said she understood Mr. Lynch's concerns but that there was a problem with foot traffic Downtown. Ms. Wall said that another option was to say that a percentage of the businesses Downtown had to have retail. Mr. Lancaster asked if Meeting Facilities and private clubs were currently prohibited in the DMX. Ms. Rice said Meeting Facilities were permitted in the DMX with a Special Use Permit.

Ms. Van der Grinten made a motion to not adopt either option. Ms. Schaecher seconded the motion. The motion passed unanimously.

8. Adjourn to Next Regularly Scheduled Meeting

Ms. Curtis made a motion to adjourn the meeting. Ms. Schaecher seconded the motion. The motion passed unanimously.