

**Planning Board Meeting –
February 19, 2015
Minutes**

Members Present: Harold Broadwell, Ruth Van der Grinten, Errol Briggerman, Larry Vaughan , Judy Silver

Members Absent: Charles Kramer, Joseph Sparacia, Billy Bryant, Ashley Anderson

Others Present: Commissioner Grey, Regina Harmon, Matt Cunningham from Lee Law Firm, Michael Lee from Lee Law Firm, Brad Rhinehalt from Newland Communities, Jason Reiswig from DR Horton

Staff Present: Planning Director David Bergmark, Planner Patrick Reidy

1. Meeting Called to Order

Mr. Broadwell called the meeting to order.

2. Welcome and Recognition of Guests

Mr. Broadwell welcomed Commissioner Grey.

3. Chairman and Board Members' Comments

There were no comments by Mr. Broadwell or the Board.

4. Adjustment and Approval of Agenda.

Ms. Van der Grinten made a motion to approve the agenda. Mr. Vaughan seconded it. The motion passed unanimously.

5. Public Comments

There were no public comments.

6. Approval of Minutes

Mr. Briggerman made a motion to approve the minutes. Ms. Van der Grinten seconded the motion. It was passed unanimously.

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

Item 7A - Discussion and Action on a Zoning Map Amendment request by Matthew Cunningham to rezone approximately 147.9 acres of land within SF13, SF14, and SF15 of the Wendell Falls development from R3 to NC, and to rezone approximately 26.4 acres of land contained with SF4 of the Wendell Falls development from R3 to R7.

Mr. Bergmark said the applicant, Matthew Cunningham on behalf of Newland Communities, had requested a change in zoning classification for approximately 174.3 acres of property within that parcel identified by PIN # 1763 93 3781. The area consisted of four residential pods of Wendell Falls (SF13, SF14, SF15, and SF4), as shown in Attachment A. Mr. Bergmark said the applicant was requesting that approximately 147.9 consisting of SF13, SF14, and SF15 be rezoned from

R3 to Neighborhood Center (NC). He said the 147.9 acre figure included approximately 9 acres of road right-of-way for 'Big Falls Drive'.

Mr. Bergmark said additionally, the applicant was requesting that 26.4 acres of the parcel, identified as SF4 in Attachment A, be rezoned from R3 to R7.

Mr. Cunningham from Newland Communities gave a presentation regarding their application to the Board. He said that Wendell Falls was moving along on schedule. Mr. Broadwell thanked Mr. Cunningham for his presentation.

Mr. Bergmark said this property was located within the corporate limits of the Town of Wendell and was zoned R3. Currently the property was governed by a Planned Unit Development (PUD) document, which served as an alternative zoning ordinance for the Wendell Falls area. Mr. Bergmark said in addition to the rezoning request, the applicant submitted a zoning text amendment request and an amendment to the development agreement controlling this property. The intent of these submittals was to apply certain standards from the UDO to the area identified by SF13, SF14, SF15, and SF4 in Attachment A.

Mr. Bergmark said a similar request was approved by the Town Board for SF1, SF2, and SF3 on May 27, 2014. He said in the applicant's 'Explanation of Rezoning Request' (Attachment B), the applicant explained why Newland Communities desired to rezone this property and thereby apply UDO standards to SF13, SF14, SF15, and SF4.

Mr. Bergmark said the property was currently zoned R3, but was subject to the zoning and development standards outlined in the PUD document. He said the PUD document required a minimum lot size of 4500-5000 square feet, a minimum lot width of 45 feet, and a minimum front setback of 20 feet. He said these standards would prevent the applicant from providing any housing product on a smaller scale lot, as well as make the use of rear access alleys impractical.

Mr. Bergmark said a copy of those uses allowed in the Neighborhood Center (NC) zoning district and R7 zoning district was provided in Attachment D. As stated in section 2.8 of the UDO, the purpose and intent of the Neighborhood Center (NC) district was to "provide for areas for residential and mixed-use development in close proximity to existing and planned neighborhood centers. The intent is to create higher density residential areas that compliment commercial districts with physical proximity and pedestrian connectivity. Different housing types and lot styles are encouraged..."

Mr. Bergmark said the NC zoning district would grant additional flexibility for the developer to provide smaller lot size options with alternative streetscape designs. Within the NC zoning district, the minimum lot width was 24 feet and the minimum lot depth is 100 feet. He said the minimum front setback was only 10 feet, allowing the home to be pulled closer to the road. He said applying the NC zoning district standards would also allow the developer to apply reduced rear setbacks for those lots served by a rear alley (15 ft. from centerline).

Mr. Bergmark said the R7 zoning district was similar to the NC zoning district in terms of required setbacks and minimum lot width and depth requirements. However, the R7 zoning

district required a minimum lot size of 3500 square feet, resulting in a slightly larger lot size than the NC district. He said the R7 zoning district would preclude 26 foot wide lot products, but would still allow Newland's other proposed products, which began at 32 foot wide lots and up.

Mr. Bergmark said the Wendell Comprehensive Plan defined this section as S4 "Controlled Growth Area". Mr. Bergmark said the Comprehensive Plan stated the S4 sector typically consisted of areas "where moderate intensity new development is appropriate and where the majority of the community's new growth should occur. He said the typically envisioned community type for the S-4 was a traditional neighborhood development (TND), which included neighborhood serving commercial and civic uses surrounded by a mix of housing types..."

Mr. Bergmark said any recommended change to the zoning map should be accompanied by a statement explaining how the change is consistent with the comprehensive plan, and was reasonable in nature. He said in staff's opinion, the requested zoning map amendment for 147.9 acres of land (including ROW) contained within SF13, SF14, and SF15 of the Wendell Falls development to be rezoned from R3 to NC, and for 26.4 acres of land contained within SF4 to be rezoned from R3 to R7 was consistent with the recommended uses and development types outlined in the Wendell Comprehensive Land Use Plan for the S-4 sector.

Mr. Bergmark said staff recommended approval of this rezoning request based on the following factors:

- Staff found the proposal to be consistent with the comprehensive plan.
- Although the NC and R7 districts would allow smaller lots, the total number of units for the Wendell Falls development would remain capped at 4000 units. Thus, the proposed rezoning would not allow more housing units than was previously permitted for the development as a whole.

[NOTE – Action was delayed until after Item 7C]

Item 7B - Discussion and Action on a text amendment to alter the foundation covering requirement in section 5.4D3 of the UDO as it relates to master planned development in the R7 zoning district.

Mr. Bergmark said the applicant had submitted a text amendment to the foundation requirement for single family dwellings in the R7 zoning district and located within a master planned developments in excess of 1000 acres.

Mr. Bergmark said in May of 2014, the Planning Board received a similar request to only require foundation coverings on each side of a single family dwelling that faced a public street. At the time this request was submitted, it applied only to the NC zoning district within master planned communities. He said the justification for this request centered on the fact that the NC zoning district has a minimum side setback of only 3 feet, minimizing the visibility of the foundation on those sides not facing a street.

Mr. Bergmark said after discussions with staff, Newland decided to submit for a rezoning application that included the R7 district, as well as the NC zoning district. He said the R7 district was substantially similar to the NC zoning district. In the R7 zoning district, the minimum side setback was also 3 feet. He said in submitting this text amendment request, the applicant was

seeking to apply the same standard to the R7 zoning district which was previously applied to the NC zoning district.

Mr. Bergmark said the petition was to amend Section 5.4D3 to make the foundation standard apply to the R7 district in addition to the NC zoning district, and to more specifically read as follows:

Large Master Plan Development Design Standards for Houses. The following exceptions to the general provisions of Section 5.9 shall apply to houses within Master Plan developments in excess of 1,000 acres:

3. **Foundations (Visible).** As to the NC and R7 Zoning Districts only, notwithstanding Section 5.9.E.4., brick, stone, or stucco will be required on the slabs and crawlspace of buildings on each side that faces public street fronts.

Mr. Bergmark said staff recommended approval of the proposed text amendment. He said the same rationale for approving the prior amendment related to the NC district applied to the R7 zoning district. He said the applicant was requesting the R7 zoning designation as a result of discussions with Town staff.

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

[NOTE – Action delayed until after Item 7C]

Item 7C – Discussion and Action on an amendment to the Wendell Falls Development Agreement.

Mr. Bergmark said the applicant had submitted an amendment to the Development Agreement governing the Wendell Falls development. He said the draft Development Agreement amendment, included as Attachment A, would apply those same UDO standards to the property identified as SF-13, SF-14, SF-15, and SF-4. He said this change was necessary in order to have the UDO generally govern development standards for this area, rather than the Planned Unit Development (PUD) document.

Mr. Bergmark said the town attorney had reviewed the document. He said the attorney did note that this amendment did not include any mention of how many units would be allowed in SF-13, SF-14, SF-15, and SF-4. However, the zoning district standards and the overall limit on dwelling units for the entire development were in place.

Mr. Vaughan said that he wanted to bring it to the Board’s attention that his company is in the process of trying to sell some multi-family properties. He said this didn’t involve the areas in

question, but he wanted to give the Board the option of asking him to recuse himself. The Board agreed that there wasn't a problem.

Mr. Briggerman made a motion to approve item 7A as presented, including the statement of plan consistency. Ms. Van der Grinten seconded the motion. Mr. Vaughan said that the proposal was appropriate last year and since the number of units for the entire development is capped, the proposal was appropriate at that time as well. The motion passed 5 to 0.

Mr. Briggerman made a motion to approve item 7B as presented. Mr. Vaughan seconded it. The motion passed 5 to 0.

Ms. Silver made a motion to approve item 7C as presented. Ms. Van der Grinten seconded it. The motion passed 5 to 0.

Item 7D – Discussion and Action of the Edgemont Landings Final Development Plan.

Mr. Reidy said the applicant requested to create a Final Development Plan for 22 single family lots in the R4-CD14-01 conditional district zone for approximately 5.21 acres of property within the parcels identified by PIN # 1774 69 5502. He said this consisted of the phases 1C of Edgemont Landing, as shown on the Master Development Plan.

Mr. Reidy said the purpose of the Conditional District (CD) was 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. He said a CD may depart from the strict application of the requirements of the town's general zoning districts.

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

Mr. Reidy said this property was located within the corporate limits of the Town of Wendell and was zoned R4-CD14-01. He said in 2006, Triangle Construction Services requested a conditional use rezoning on the subject property which was approved with conditions as discussed in the Approved Zoning District Conditions section of the report. He said the first phase of Edgemont Landing was finished in 2009, except for Phase 1C. He said Phases 1C and 2 received preliminary plan approval at the same time as the first phase; however a final plat was not recorded for those phases prior to the expiration of the preliminary plan.

Mr. Reidy said on July 21, 2014, the Planning Board recommended approval for the Master Development Plan as part of the Conditional District. The Board of Commissioners granted

approval of the Master Development Plan on August 25, 2014. He said the approval of the master development plan allowed the developer to proceed, under the conditions proposed by the developer and the Town.

Mr. Reidy said following approval of the Conditional District rezoning and the Master Plan by the Board of Commissioners, the applicant had to submit a Final Development Plan to the Planning Board for approval. He said a final plan would consist of a detailed set of construction plans that fully demonstrate compliance with all applicable construction regulations and provisions of the Town of Wendell and with all applicable performance criteria, conditions, and other requirements of the enacting Conditional District zoning ordinance. He said following Final Development Plan approval, permits for the installation of infrastructure only (streets, utilities, etc.) would be issued for development of the site.

Mr. Reidy said the Final Development Plan submitted for Phase 1C did not include any substantial changes from the master development plan previously approved. He said per condition #21, a tot lot design was provided with the detailed site plan (see Attachment A). He said the fee in lieu of open space dedication (condition #19) would be collected by staff prior to staff's signature on the plats which must be recorded. He said all other conditions had been met, or would be verified at the time of building permit processing and construction.

Approved Conditional District Conditions (conditions #5-15 were existing conditions):

The approved Master Development Plan created 22 conditions, as follows:

1. An easement shall be dedicated to the Town of Wendell for the proposed greenway.
2. Walking/jogging trail along greenway and open space area.
3. Gazebo in open space area.
4. Park Benches, picnic tables to be provided in open space/greenway area.
5. Establishment of Homeowners Association.
6. Minimum 1500 square foot heated units (Type II).
7. No Modular Units.
8. Concrete driveways.
9. Sodded front and side yards, seeded rear yards.
10. Minimum of two Balled and Burlapped (1.5"-2") trees in front yard as specified by UDO.
11. Landscaped front yard of unit.
12. Two car garage on 80% of lots, one car garage on 15% of lots, and no garage on 5% of lots.
13. Mixture of different designs of homes to include layouts and elevations to present a pleasant curb appeal.
14. Vinyl siding may be utilized on homes provided there is a minimum setback of at least 10 feet from the side property lines.
15. Homes may be built on "slab on-grade" foundations requiring no raised entrances.
16. Exposed foundation slabs are allowed provided brick, stone, or stucco is provided (a minimum of 8 inches above grade) on any street facing side (including corner lots with street facing sides) of the home.
17. Attached garages with front-loading bays must be recessed at least 2' from the front façade of the house.

18. The width of an attached garage shall not exceed 50% of the total building façade of the house.
19. Phase 1C shall pay a fee in lieu of open space for the 0.88 acres required.
20. The proposed greenway trail shall be constructed of crushed stone.
21. Former lot 91 (located to the rear of lot 92) shall be utilized for an open space amenity. The open space area between lots 114 and 261 shall provide a tot lot and a connection to the greenway trail shall be provided. The design specifics on the use of the open space lot shall be determined prior to the approval of the Final Development Plan.
22. All dwellings shall have an upgraded soffit to provide more fire resistance (no vinyl allowed).

Mr. Reidy said as stated in Condition 21 of the Conditional District, a tot lot design was required at the time of the Final Development Plan. He said while that phase of development is not being proposed at this time, the applicant has provided a site specific plan for the tot lot. Once that area is submitted for development, the tot lot design, as approved by the Planning Board, will be implemented.

Mr. Reidy said staff recommended approval of the Final Development Plan as submitted.

Mr. Vaughan asked what was being proposed for the new greenway trail. He said the plans weren't shown online. Mr. Reidy said the greenway proposal would be submitted in another phase of the development. Mr. Vaughan made a suggestion to the developer that they use stone screenings instead of crushed rock, since it leaves a smoother surface to ride on.

Ms. Van der Grinten made a motion to approve item 7D. Mr. Vaughan seconded the motion. The motion passed 5 to 0.

Item 7E – Presentation by Staff on the Wake County Transit Plan.

Mr. Bergmark made a presentation to the Board, showing them the how the Wake County Transit Plan would be developed as they try to bring the County's transit up to par with other metropolitan areas. He said they are currently gathering public input.

Ms. Harmon asked if it was correct if Wake County wanted to implement a half cent sales tax to fund increased transit, and that Eastern Wake County wouldn't see any benefit. Mr. Bergmark said it was correct that Wake County was considering allowing a vote to implement the sales tax. He said Wendell would probably see a benefit, but it would arguably be less of a benefit than what residents would see in Raleigh. He said there would likely be opposition from the outlying communities since their benefits would be less direct. Ms. Harmon asked if there was any way for smaller towns to forgo the tax if they weren't going to see a benefit. Mr. Bergmark said there wasn't, other than how they vote when the referendum comes up.

8. Adjourn to Next Regularly Scheduled Meeting

Ms. Van der Grinten made a motion to adjourn. Judy Silver seconded it. The motion passed unanimously.