

**Planning Board Meeting
March 19, 2018
Minutes**

Members Present: Ashley Anderson, Errol Briggerman, Victoria Curtis, Gilda Wall, Lloyd Lancaster, Terry “Allen” Swaim, and Kathe Schaecher

Members Absent: Michael Clark, Jonathan A. Olson

Staff Present: Planning Director David Bergmark and Wyatt McGhee

Guests Present: Lucius Jones, Commissioner Joyner, Paul White, John Oglesby, David Perry & 2 other citizens

1. Meeting Called to Order

Chairwoman Ashley Anderson called the meeting to order at 7:00 pm and recognized that a quorum was present.

2. Welcome and Recognition of Guests

Chairwoman Anderson welcomed everyone present.

3. Chairman and Board Members’ Comments

There were no comments.

4. Adjustment and Approval of Agenda.

Chairwoman Anderson asked if there were any adjustments to the agenda; as there were none, she then asked for a motion to approve. Victoria Curtis made a motion to approve the agenda; Gilda Wall seconded the motion. The motion passed unanimously.

5. Public Comments

Chairwoman Anderson asked if anyone signed up for public comments; there were no public comments.

6. Approval of Minutes

Chairwoman Anderson asked if there were any adjustments to the minutes or a motion to approve the minutes. Lloyd Lancaster made a motion to approve the minutes of the previous (February 19, 2018) meeting as submitted by staff. Errol Briggerman seconded the motion. The motion passed unanimously.

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

- A. **ZTA18-01 – Discussion and Action on a Zoning Text Amendment to Chapters 9 and 13 of the UDO as they relate to Roadway Infrastructure Improvement Requirements.**

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

Item Title:

ZTA18-01 – Discussion and Action on a Zoning Text Amendment to Chapters 9 and 13 of the UDO as they relate to Roadway Infrastructure Improvement Requirements.

Report to the Planning Board:

- *Monday, March 19, 2018*

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 9 of the UDO contains the Town’s general provisions for street design, including street types, connectivity standards, and infrastructure improvement requirements.

Section 9.3 of the UDO (General Provisions for Street Design) states “new development or redevelopment with frontages on existing publicly-maintained streets shall be required to upgrade all street frontages to meet the standards of this Ordinance including sidewalks, street trees, curb and gutter, and right-of-way dedication. Payment in lieu of physical improvements may be permitted by the Board of Commissioners.”

Section 9.5 (B & F) further states that whenever a tract of land included within any proposed development plan embraces any part of the [thoroughfare or collector network] as designated on the Town’s Arterial and Collector Street Plan...the development shall be required to dedicate and plat the [road] right-of-way, and shall be responsible for the cost and the installation of the improvements in accordance with the Town’s and NCDOT’s standards for roadways.

Certain exceptions to roadway improvements for Family Subdivisions and the construction of a single dwelling on a vacant tract of 10 acres or more are included in Section 9.3 of the UDO.

However, as written, there is no differentiation provided for new development vs. expansions to existing development as it relates to roadway improvements. Such differentiation does exist in

Chapter 13 for other site improvements (sidewalks, landscaping, parking), but not for roadway improvements which may include adding bike lanes, curb and gutter, or even a travel lane.

In staff's opinion, the current language of Chapter 9 would be overly burdensome if applied as written, as even a 5% increase in building square footage could trigger expensive roadway improvements, where applicable. As such, staff proposes to include language within Chapter 13 (and references in Chapter 9) to establish a minimum threshold of building expansion which must take place before roadway improvements are triggered.

Currently Chapter 13 uses a 25% expansion threshold for other improvements such as sidewalks, landscaping, and parking. Staff recommends that the same standard be applied to roadway improvements. Staff also suggests that any expansion of 2500 square feet or less be exempt from roadway improvement requirements, regardless of what percentage increase this expansion represents. This provision would ensure that a very small business (such as a dentist office or attorney's office in a 2000 square foot building) could make reasonable expansions without triggering roadway improvements. Building expansions would be tracked cumulatively (i.e. A developer could not circumvent the UDO's requirements by expanding 20% year one, and an additional 20% year 3).

The proposed changes would allow small expansions to existing developments without creating an economic disincentive to improving one's site. At the same time, it would still ensure that significant expansions to existing development include the same roadway improvements that would be required of new development.

*The following section details the specific changes proposed for Section 9.3, 9.5B, 9.5F, 13.2, and 13.9 of the UDO, with the **amended text shown in red**. To view Chapter 9 and Chapter 13 in full, you may visit Wendell's Municode webpage at: https://library.municode.com/nc/wendell/codes/code_of_ordinances?nodeId=UNDEORUD.*

Proposed Amendments to Chapter 9 (modified language shown in red)

9.3 General Provisions for Street Design

New development or redevelopment with frontages on existing publicly-maintained streets shall be required to upgrade all street frontages to meet the standards of this Ordinance including sidewalks, street trees, curb and gutter, and right-of-way dedication. Payment in lieu of physical improvements may be permitted by the Board of Commissioners. See Chapter 13 for modifications to this requirement for expansions to existing development. The following specifications shall apply to street design:

[STAFF NOTE: NO CHANGES MADE TO THE REMAINDER OF SECTION 9.3]

Section 9.5B (Arterial and Collector Street Plan Conformity)

Whenever a tract of land included within any proposed development plan embraces any part of the thoroughfare network as designated on the Arterial and Collector Street Plan [see Appendix C], the Capital Area Metropolitan Planning Organization's [CAMPO] Thoroughfare Plan (also referred to as the Comprehensive Transportation Plan or Metropolitan Transportation Plan), or other adopted Transportation Plan, the development shall be required to dedicate and plat the thoroughfare right-of-way, and shall be responsible for the cost and the installation of the improvements in accordance with the Town's and NCDOT's standards for roadways. See Chapter 13 for modifications of this improvement requirement for expansions to existing development.

Section 9.5F (Arterial and Collector Street Plan Conformity)

The street layout in any development shall conform to the arrangement, width and location of collector streets indicated in the adopted ACS Plan. (See Arterial and Collector Street Plan Map, Appendix C). Whenever a tract of land included within any proposed development plan includes any part of the collector street system as designated on the ACS Plan, the development shall be required to dedicate and plat a collector right-of-way, and shall be responsible for the cost and the installation of the improvements in accordance with the Town's standards for roadways. See Chapter 13 for modifications of this improvement requirement for expansions to existing development.

Proposed Amendments to Chapter 13 (modified language shown in red)

Chapter 13. NONCONFORMITIES

13.1 Purpose and Applicability

The purpose of this section is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance (or any subsequent amendment) that do not conform to this Ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall also be regulated by the provisions of this section. The provisions of this section are intended to bring about eventual elimination and/or lessen their impact upon surrounding conforming uses to preserve the integrity of the area. Any expansion or further development of a nonconformity shall comply with the requirements of this Ordinance.

13.2 Summary Applicability Matrix

The following table summarizes the primary requirements that shall be met when there are changes to existing development and/or to nonconforming structures or uses. A ✓ indicates that compliance with all applicable standards is required. *Site changes which would initiate improvements shall be counted cumulatively from the effective date of this ordinance.*

	Ch. 5	Ch. 5	Ch. 8	Ch. 8	Ch. 9	Ch. 9	Ch. 10	Ch. 11	Ch. 12
	Dimensional Standards	Building Design	Landscaping & Planting	Parking Area Landscaping	Sidewalks	Road Improvement	Parking	Outdoor Lighting	Signs
Parking Area Expansion									
12 or more spaces (Sec. 13.8.A)			✓	✓(a)					
Expansion of ≥ 40% of paved area (Sec. 13.9)					✓(c)				
Existing Development									
Expansion of nonconforming residential use (Sec. 13.4.C)	✓	✓							
Reconstruction of nonconforming principal structure (damage > 65% of assessed value) (Sec. 13.4.H)	✓	✓	✓	✓	✓		✓	✓	✓
Replacement of non-conforming manufactured home (Sec. 13.5)		✓							
Nonconforming vacant lot (Sec. 13.3.A)	✓								
Replacement, alteration of nonconforming signs (Sec. 13.7)									✓
Expansion of non-residential structure: >25% of total floor area (Sec. 13.8.A) (Sec. 13.9)		✓(a)	✓(a)	✓	✓	✓	✓	✓	✓

(a) For expanded portion only; (b) non-residential structures only; (c) non-residential and multi-family uses only

13.9 Nonconforming Street Frontages

For an existing non-residential or multi-family use, if there is an expansion to the total square footage of building space (heated or unheated; enclosed or unenclosed) by more than 25 percent, the lot shall fully comply with the roadway improvement requirements of Chapter 9, including right-of-way dedication and installation of physical improvements. Expansions of less than 2500 square feet shall be exempt from this requirement for physical improvements to roadway infrastructure, but shall adhere to right-of-way dedication requirements.

Additionally, ~~For an existing non-residential or multi-family use,~~ if there is an expansion to the heated square footage of an existing non-residential or multifamily use and/or to the paved areas which increases the total impervious area more than 40 percent, the lot shall fully comply with the sidewalk requirements of Chapter 9, Section 9.3.C, Sidewalks. This requirement for sidewalks shall not apply in the OSC, RA and RR zoning districts.

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 # 8 of the Wendell comprehensive plan and is reasonable in order to ensure transportation improvements occur over time without creating a disincentive to businesses looking to make small expansions or improvements.*
 - *Principle # 8: Ensure local and regional transportation interconnectivity and options while also maintaining and enhancing Wendell as a walkable community.*

Staff Recommendation:

Staff recommends approval of the text amendment request.

At the conclusion of his presentation, Mr. Bergmark answered questions and received comments from the Board, as follows:

Several Board members posed hypothetical situations and asked Mr. Bergmark to comment on how they would be impacted by the proposed amendment. Chairwoman Ashley Anderson then asked if there were any comments from the public.

John Oglesby, licensed engineer and land planner, indicated that in some other jurisdictions there are different requirements for heated vs. unheated expansions of existing buildings, and that he recommended that the Town allow a 40 to 60 percent increase in the unheated space on a lot before any roadway improvements are required. He also suggested that there be different requirements for expansions to pervious vs impervious space on lots.

David Perry, owner of Wendell Builder Supply, indicated his opposition to increasing regulations on business development in general and claimed that regulations were increasing the cost to develop the Wendell Builder Supply site by \$400,000.

Allen Swaim asked Mr. Perry specifically how the Town's regulations are affecting him. Mr. Perry indicated that he was being required to install a turning lane and associated improvements, such as a bike path, sidewalk, a median in the middle of the street, and curb and gutter.

Errol Briggerman indicated that he thought a turn lane is needed, but he questioned the need for a bike lane. Lloyd Lancaster indicated that he doesn't think that private development should be held accountable for public road improvements.

Commissioner Joyner reminded the Planning Board that the UDO (Unified Development Ordinance) requires such improvements, and informed everyone that there would be more discussion by the Town Board regarding these requirements in upcoming months. He pointed out that the proposed changes represented a reduction in development improvement requirements.

Chairwoman Ashley Anderson noted that bonds are another alternative for funding for street and sidewalk improvements. She then asked if there were others present who would like to comment (on the proposed UDO amendment).

Paul White commented that the planned Wendell Boulevard and Marshburn Road improvements could be a business disincentive. After some additional discussion among the Planning Board regarding roadway improvements and the Transportation Plan, Mr. Bergmark pointed out the normal process is for new development to pay for road improvements and that the turn lane is a DOT (NC Department of Transportation) requirement.

Lloyd Lancaster said he thought there was a need to differentiate heated and unheated expansions.

Allen Swaim asked for staff to confirm if this was a reduction in the Town's requirements? David Bergmark responded in the affirmative.

John Oglesby suggested exempting heated commercial/residential expansions of 25% or less, and unheated expansions of up to 50%.

Allen Swaim disclosed that he owns an office building that could be impacted if he were to make any improvements— he then made motion to recommend approval of staff's proposed amendment. The motion failed for lack of a second.

Commissioner Joyner said if the Planning Board recommended approval of staff's proposal, he would work on addressing the issue of heated vs unheated expansions.

Lloyd Lancaster made a motion to increase the permitted unheated expansion to 50% before road improvements were required, but to remove the language stating that expansions would be tracked cumulatively. David Bergmark explained the impact of not tracking cumulative improvements. Allen Swaim seconded the motion. The motion failed with 3 votes in favor and 4 votes against.

Kathe Schaecher made a motion to increase the permitted unheated expansion to 50% before road improvements were required, but to retain the language related to cumulative tracking. The motion passed with a 4-3 vote.

Voting in Favor: Errol Briggerman, Gilda Wall, Kathe Schaecher, and Victoria Curtis.

Voting Against: Ashley Anderson, Lloyd Lancaster, and Allen Swaim

B. Planning Board Membership

David Bergmark provided a summary of those planning board members whose terms were expiring.

8. Adjourn to Next Regularly Scheduled Meeting

Chairwoman Ashley Anderson thanked everyone for attending the meeting and then asked for a motion to adjourn. Lloyd Lancaster made a motion to adjourn the meeting; Errol Briggerman seconded the motion. The motion passed unanimously and the meeting adjourned at approximately 7:58 p.m.