

Planning Board Meeting

July 17, 2017

Minutes

Members Present: Victoria Curtis, Gilda Wall, Ashley Anderson, Lloyd Lancaster, Terry “Allen” Swaim, Kathe Schaecher, Michael Clark and Jonathan A. Olson.

Members Absent: Errol Briggerman

Staff Present: Planning Director David Bergmark, Planning Technician Wyatt McGhee, Clerk Sherry Scoggins

Guests Present:

1. Meeting Called to Order

Vice-Chair Ashley Anderson called the meeting to order at approximately 7pm and recognized that a quorum was present.

2. Welcome and Recognition of Guests

Ms. Anderson welcomed the public and new members to the meeting.

3. Swearing-in of New and Re-Appointed Planning Board Members

Clerk Sherry Scoggins performed the swearing-in of new members Michael Clark and Jonathan A. Olson; afterwards she presided over re-appointed member Terry “Allen” Swaim’s affirmation.

4. Chairman and Board Members’ Comments

Ms. Anderson welcomed the newly sworn in members and invited all of the board members to introduce themselves. Each member shared their background information with everyone present.

5. Annual Election of Officers - Chair and Vice-Chair

Ms. Anderson turned the election proceedings over to David Bergmark, who explained the nomination and election process. He started off by indicating that the election for chair and vice-chair is done annually (one year terms) and that the current chair Harold Broadwell’s term expired, but even if he was still on the Board there would still need to be an election for the chair. Mr. Bergmark continued by noting that Ashley Anderson was the vice-chair during the previous term and an election would also need to be held for that office. Mr. Bergmark continued by stating that everyone on the Boards is eligible to vote on any matter, whether they live in Town or in the ETJ. Mr. Bergmark indicated that his suggested process would include verbal nominations for the chair with voting by ballot thereafter, and that each ballot would be signed by the member voting. He further indicated that after the election for chair was completed, the election for vice-chair would then take place.

Lloyd Lancaster started the nomination process by making a motion for Ashley Anderson as chair; Gilda Wall seconded that motion. Allen Swaim made a motion that the nominations for chair be closed; Lloyd Lancaster seconded that motion. Since there was only one nomination for chair, Mr. Bergmark called for a voice vote on the nomination of Ashley Anderson for chair; that vote passed unanimously.

Mr. Bergmark then asked if there were any nominations for vice-chair. Lloyd Lancaster made a motion that Allen Swaim be the vice-chair; Gilda Wall seconded that motion. Kathe Schaecher then made a motion for Michael Clark to be included in the nominations for vice-chair; Ashley Anderson nominated

Victoria Curtis; Allen Swaim nominated Lloyd Lancaster. Michael Clark then made a motion that the nominations be closed; Jonathan Olson seconded that motion. Paper ballots were then distributed, and the votes counted by staff. Mr. Bergmark announced that the winner for vice-chair was Michael Clark with four votes; other votes included two for Victoria Curtis and one each for Lloyd Lancaster and Terry “Allen” Swaim. Chairperson Anderson then asked if there were any additional comments from the Board. There were no additional comments.

6. Adjustment and Approval of Agenda.

Chairperson Anderson asked if there were any adjustments to the agenda; as there were none, she then asked for a motion to approve. Lloyd Lancaster made a motion to approve the agenda; Michael Clark seconded the motion.

7. Public Comments

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

8. Approval of Minutes

Chairperson Anderson asked if there were any adjustments to the minutes or a motion to approve the minutes. Allen Swaim made a motion to approve the minutes of the previous (June 19, 2017) meeting, as published in electronic form. Lloyd Lancaster seconded the motion. The motion passed unanimously.

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

A. Planning Board Training for new and existing members.

Mr. Bergmark presented the attached training materials to the Planning Board, which included information on the duties of the Planning Board and Town’s Code of Ethics (adopted in 2008) as it applies to the Planning Board. During the training Chairperson Anderson asked Mr. Bergmark to give examples of neighborhoods that are TNDs and Conditional Districts. Mr. Bergmark indicated that there currently are not any TNDs, but that there are several Conditional Districts, such as Edgemont Landing and Old Wendell.

At the conclusion of the Planning Board Training, Jonathan Olson asked David Bergmark, “How do you communicate with us”? Mr. Bergmark explained that typically he emails the meeting package to the Planning Board members ahead of the meeting, and that he or another staff member will call as a reminder, but that most communication from staff is via email. A discussion of public records and public meeting requirement then took place between the Board and staff.

Allen Swaim then brought a concern of his to Mr. Bergmark’s attention, which was a traffic sign located beside the Post Office right on the side of the roadway; Mr. Swaim indicated that he witnessed a camper that rubbed against the sign due to location of the sign being so close to the road, and that it appears that several vehicle have hit the sign. Mr. Bergmark indicated that staff would take a look at that situation.

Chairperson Anderson asked if there were any more comments. There being none, she asked for a motion to adjourn.

8. Adjourn to Next Regularly Scheduled Meeting

Lloyd Lancaster made a motion to adjourn the meeting. Gilda Wall seconded the motion. The motion passed unanimously and the meeting adjourned at approximately 7:42pm.

Planning Board Training 2017

Board Composition

- ▶ 9 total members. 6 in-town and 3 ETJ
 - In Town members serve 3 year terms
 - ETJ members serve 2 year
 - Officers are elected annually

For Review By the Planning Board

- ▶ Zoning Map Amendments
 - Traditional, Conditional District Rezoning, PUDs
- ▶ Zoning Text Amendments
 - Changes to UDO text
- ▶ Comprehensive Plans and other land use related documents
- ▶ Other Items As Determined By Board of Commissioners

Zoning Map & Text Amendments

- ▶ Any time the text or map of the UDO is changed the proposed change must go to the Planning Board prior to going to the Town Board for a public hearing and action.
- ▶ May be initiated by the Board of Commissioners, Planning Board under direction of the Town Board, Staff, citizen, or other entity.

Zoning Map Amendments

- ▶ More commonly known as rezonings.
- ▶ **Traditional rezonings** (no conditions) may be initiated by the Board of Commissioners, the Planning Board under the direction of the Town Board, or any other person regardless of if they have any ownership interest in the property.
- ▶ Planning Board should render its decision based on the applicability of the land use plan.

Zoning Map Amendments

- ▶ If the requested zoning meets the land use plan and is reasonable in nature, the rezoning should be granted without regard to potential use of the land, the applicant/developer/builder or other such items.
- ▶ If a particular piece of property is rezoned with no conditions, the Planning Board should assume that any permitted use could be built upon the land.
 - Testimony of the applicant with regard to a potential use, without conditions attached, should be disregarded.

Zoning Map Amendments

- ▶ Conditional District Rezoning (with special conditions attached) may be initiated only by the owners of the property to be conditionally rezoned.
- ▶ Within an approved Conditional District, no use shall be permitted except pursuant to the conditions imposed by the applicant on the Conditional District in the approval of the rezoning.
 - The Planning Board may however voice concerns and see if the applicant will voluntarily create a condition to address the concern.
 - The Board of Commissioners may impose additional reasonable and appropriate conditions or safeguards to serve the purpose and intent of conditional districts, and to preserve public welfare, and justice. Conditions may be suggested and, if acceptable to the applicant, can be attached to the property.

Zoning Map Amendments

▶ Conditional District – Purpose & Intent

- ▶ The purpose of the Conditional Districts is to provide an alternative means of land development and an alternative zoning procedure that may be used to establish residential, commercial, and industrial Conditional Districts at appropriate locations and in accordance with the planning and development objectives of the Town.

Zoning Map Amendments

▶ Conditional District – Purpose

- ▶ A Conditional District (CD) may depart from the strict application of the requirements of the town's general zoning districts.
- ▶ The CD alternative may allow uses which are not specifically allowed in a given zoning district. A primary purpose of this section is to provide standards by which such flexibility may be achieved while maintaining and protecting the public health, safety and welfare of the citizens.

Zoning Map Amendments

▶ Conditional District – Purpose

- ▶ A second purpose of the conditional district is to establish a more complete living and working environment through the application of enlightened and imaginative approaches to community planning and property design. A CD should provide a variety of natural features and scenic areas, efficient and economical land use, improved amenities, orderly and economical development, and the protection of existing and future adjacent development.

Text and Map Amendment Hearings

- ▶ **Fair and Reasonable Conditions:**
- ▶ The provisions of the CD Master Plan shall replace all conflicting development regulations set forth in this Ordinance which would otherwise apply to the development site. The Planning Board may recommend and the Board of Commissioners may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to 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.

Zoning Map Amendments

- ▶ Conditional District classification shall only be considered upon the request of the owners and/or their representatives of all the property to be included. A CD shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers.
- ▶ Conditional districts must be accompanied by a development plan.

Zoning Map Amendments

- ▶ Following approval of the Conditional District rezoning and the Master Plan by the Board of Commissioners, the applicant shall submit a Final Development Plan to the Planning Board for approval. The Final Development Plan shall implement the Master Plan with any changes, additions and conditions required and approved by the Board of Commissioners. Following Final Development Plan approval, permits for the installation of infrastructure only (streets, utilities, etc.) may be issued for development of the site.

Zoning Map Amendments

- ▶ All Final Development Plans shall conform to the general development concept of an approved Master Development Plan. A final plan shall 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.

Zoning Map & Text Amendments

- ▶ Statement of Comprehensive Plan consistency, or a reference to, must be included in the motion from the Planning Board.
- ▶ Planning Board must make written recommendation to Board of Commissioners.
- ▶ Planning Board has 45 days to act on a zoning amendment. Failure of the Planning Board to submit its recommendation in this time frame allows the Town Board to move forward as though the Planning Board made a favorable recommendation to the Town Board.

Text and Map Amendment Hearings

- ▶ If the Planning Board recommendation is favorable, a simple majority vote by the Board of Commissioners is required.
- ▶ If the Planning Board recommends denial, a super majority, or 4/5ths vote of the Board of Commissioners is required to approve the amendment.
- ▶ A public hearing is advertised and then held by the Board of Commissioners before they render a decision on the proposed map or text amendment. The Wendell Planning Board does not hold public hearings.

PUDs and TNDs

Planned Unit Developments and Traditional Neighborhood Developments

- ▶ PUDs and TNDs are often developed for larger subdivisions, subdivisions with mixed uses, or where changes in regulations are needed.

TNDs

Traditional Neighborhood Developments

- ▶ TNDs have specific parameters. If the specific parameters are met and no density increase is sought a rezoning to TND may be applied for. If an applicant wishes to do something outside of the parameters of the TND as shown in Chapter 2 of the UDO, the applicant must seek a conditional district which involves development of a master plan.

TNDs

Traditional Neighborhood Developments

- ▶ Must be between 40 acres and 200 acres.
- ▶ There are regulations about land use relationships such as similar categories should be grouped together and dissimilar categories must abut at rear lot lines.
- ▶ Land is also allocated by type within a TND. Single-family, multi-family, lodging/office/retail, civic, and open space all have a minimum percentage and maximum percentage of land required within a TND. Therefore all these uses must be represented if a rezoning to TND is sought.

TNDs

Traditional Neighborhood Developments

- ▶ PUDs act much like a Conditional District, but have specific size requirements in Wendell (200+ acres), and include more prescribed standards which must be addressed within a PUD document. However, the master land use plan for a PUD does not have to be as detailed as a Conditional District due to its size.

Land Use Related Documents

- ▶ Comprehensive Plans
 - Updates to Comprehensive Plan
- ▶ Other official documents related to land use that are to be officially adopted by the Board of Commissioners as a guiding document for the town.

Other Items As Determined By BOC

- ▶ Some times the Board of Commissioners ask the Planning Board to review documents or policies that may or may not be related to land use.
 - The Town has a complete Code of Ordinances of which the UDO is a part. Other ordinances, not related to land use, may regulate parking, traffic, streets, parks and recreation, finance, the makeup of the Town Board, and more.
 - Amendments to the Code of Ordinances, other than the UDO section, are generally not reviewed by the Planning Board. However, the Board of Commissioners may request the Planning Board's assistance in reviewing a proposed ordinance amendment.

Items Not Reviewed By Planning Board

- ▶ Annexations
 - Annexation of land into the corporate limits goes only before the Board of Commissioners.
- ▶ Special Uses
 - Some use categories are deemed as Special Uses. These uses are noted as SUP on the use matrices in Chapter 2 of the UDO.
 - These uses are ones the Board of Commissioners has determined may be acceptable for a given area if additional conditions are applied. The applicant may suggest conditions and the Town Board may impose additional standards if they so desire.
- ▶ Development Review
 - Under the old zoning code most plats came before the Planning Board. Under the UDO most plats will come before the Technical Review Committee rather than the Planning Board, unless they are included as part of a Conditional District.

TRC

Technical Review Committee

- ▶ The Technical Review Committee (TRC) plays a vital role in development review.
- ▶ TRC comprised of staff members from each department within the town, fire chief, fire marshal, town engineer, and other technical representatives as needed.
- ▶ Each of these members looks at a development plan as it relates to their particular area of expertise.

TRC Technical Review Committee

- ▶ TRC members return comments to planning staff who in turns compiles them and relays them to the applicant.
- ▶ TRC meetings are held once a month on as-needed basis.
- ▶ At TRC meeting, each TRC member gets to relay their particular concerns to the applicant who then gets a chance to respond and/or offer possible solutions.

TRC Technical Review Committee

- ▶ Under the UDO the TRC is a more formal committee.
- ▶ A member of the Planning Board and a member of the Board of Commissioners serve as ex-officio members of the TRC.
 - This member will be the Planning Board's liaison to the TRC.

Additional Information

- ▶ Planning Staff includes
 - Wyatt McGhee- Planning Technician, Building permits and various zoning items
 - Patrick Reidy - Planner II, Development Review
 - David Bergmark - Planning Director
 - Daryl Hales - Code Enforcement Officer

Additional Information

- ▶ The UDO applies to the town limits and to its Extraterritorial Jurisdiction (ETJ).
 - Other items in the town's Code of Ordinances only apply within the town limits.
- ▶ The Town contracts with Wake County for building permits and inspections.
 - All permits for construction within the Town or its ETJ should be applied for in the Planning Department.
 - Plans are reviewed and inspections made by Wake County inspectors.

Additional Information

- ▶ Wendell has a code enforcement policy.
 - Items typically looked at include tall grass (8" for developed lots and 24" for undeveloped lots), unpermitted structures being erected, junk/abandoned vehicles, unpermitted and/or unlawfully erected signs, outdoor storage of white goods, unlicensed businesses, etc.

Additional Information

- ▶ Planning Board packets are typically delivered the Tuesday prior to the meeting so you should receive your packet approximately one week before the meeting.
- ▶ Planning Board meetings are the third Monday of each month at 7 p.m. in the courtroom unless otherwise notified.
- ▶ Planning Board members will be given as much notice as possible if a meeting has to be cancelled or its date changed due to a holiday or other conflict.

Additional Information

- ▶ The Planning Board chair is eligible to vote on all items.
- ▶ ETJ members (out-of-town members) are eligible to vote on all items.
- ▶ The UDO can be found on the town's website at www.townofwendell.com or on Municode.

Code of Ethics

- ▶ The Board of Commissioners adopted a Code of Ethics in 2008 that applies to the Town Board and all citizen boards and commissions.
- ▶ The purpose of the document was "to assure public confidence in the integrity of local government and its effective and fair operation."
- ▶ Code addresses 18 topics.

Code of Ethics

- ▶ Act in the Public Interest
 - Work for the common good of Wendell and not for any private or personal interest.
- ▶ Comply with the Law
 - Comply with laws of the nation, State of NC and Town of Wendell.
- ▶ Conduct of Members
 - Avoid the appearance of impropriety.
- ▶ Respect for Process
 - Perform duties in accordance with rules of order established by the Town Board and or advisory boards.

Code of Ethics

- ▶ Conduct of Public Meetings
 - Members shall prepare themselves for public issues, listen to public discussions before the body and focus on the business at hand.
- ▶ Decisions Based on Merit
 - Members shall base decisions on the merits and substance of the matter at hand.
- ▶ Communication
 - Members shall publicly share information relevant to the matter under consideration.

Code of Ethics

- ▶ Conflict of Interest
 - In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest or where they have an organization responsibility or personal relationship which may create a conflict of interest or which give the appearance of a conflict of interest. As may be related to matters before them, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

Code of Ethics

- ▶ Gifts and Favors
 - Members shall not take special advantages or opportunities for personal gain by virtue of their office that is not available to the general public.
- ▶ Confidential Information
 - Members shall respect the confidentiality of information concerning the property, personnel or affairs of the town.
- ▶ Use of Public Resources
 - Members shall not use public resources not available to the public in general for private gain.
- ▶ Representation of Private Interests
 - Members shall not appear on behalf of the private interest of third parties before any board, commission, or proceeding of the town.

Code of Ethics

- ▶ **Advocacy**
 - Members shall represent the official policies or positions of their board when designated as a delegate for this purpose.
- ▶ **Policy Role of Members**
 - Members shall respect and adhere to the council-manager structure of Wendell government.
- ▶ **Independence of Boards and Commissions**
 - Members shall refrain from using their position to influence deliberations or outcomes of board or commission proceedings.

Code of Ethics

- ▶ **Positive Work Place Environment**
 - Members shall support a positive and constructive workplace environment for town employees and in no way create the perception of inappropriate direction to staff.
- ▶ **Implementation**
 - Code is self-enforcing and is most effective when members are thoroughly familiar with it.
- ▶ **Compliance and Enforcement**
 - Members have the primary responsibility to assure ethical standards are understood and met but citizens have the right to intervene when there appears to be a violation of the code. The Town Board may impose sanctions.