

Planning Board Meeting – September 19, 2016 Minutes

Members Present: Harold Broadwell, Errol Briggerman, Ashley Anderson, Ruth Van der Grinten, Lloyd Lancaster, Kathe Schaecher, Allen Swaim

Members Absent: Victoria Curtis, Gilda Wall

Staff Present: Planning Director David Bergmark, Planner Patrick Reidy, Planner Allison Rice, Clerk Sherry Scoggins

Guests Present: Commissioner Joyner

1. Meeting Called to Order

Mr. Broadwell called the meeting to order.

2. Welcome and Recognition of Guests

Mr. Broadwell welcomed the public and Commissioner Joyner.

3. Chairman and Board Members' Comments

None

4. Adjustment and Approval of Agenda.

The Agenda was adjusted to include item 4A. Swearing in of new member.

Allen Swaim was sworn in by Clerk Sherry Scoggins. Mr. Broadwell invited Mr. Swaim to introduce himself.

Mr. Lancaster made a motion to go over item 7B first. Mr. Briggerman seconded the motion. The motion passed.

5. Public Comments

No citizens had signed in to make a comment.

6. Approval of Minutes

A motion was made by Ms. Van der Grinten to approve the July 18, 2016 minutes. Mr. Briggerman seconded the motion. The motion passed.

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

Item 7B – Discussion and Action on Clerical Text Amendments to Chapters 3, 5, 6, 8, 12, and 15 of the Unified Development Ordinance.

David Bergmark said town staff maintained a running log of potential text amendments which could be required to make the UDO better accommodate the needs of the Town. In 2015, the Wendell Planning Board reviewed and made recommendations on a number of such changes. However, smaller clerical corrections were never brought before the planning board during the last round of review.

Mr. Bergmark said this report included a number of clerical corrections which should be made in order to make the UDO read correctly. These amendments did not constitute substantive changes. Details of the specific amendments proposed are included below.

Proposed UDO Amendments:

1. Amend Section 12.8.G to make the text read “shall be flown” rather than “shall not be flown”, to read as follows:

Governmental Flags, Banners, Signs, and Insignias. Flags of the United States, the State, the Town, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such a flag shall not exceed 60 square feet in area and shall be flown from a safe and properly-installed pole, the top of which is more than 45 feet in height. All flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes.

2. Amend Section 5.9C (note f) to say “Where garages are allowed see 5.9D1b” (rather than 5.9E4).
3. Amend Section 3.3Z1 to say “The Manufacture Home shall meet the architectural standards of Sections 5.8 and 5.9E” (rather than just 5.8).
4. Amend Section 6.7G1a to refer to the Special Flood Hazard Area and Neuse River Buffers rather than ‘Flood Hazard’ and ‘Buffer Zone’. ‘Flood Hazard’ and ‘Buffer Area’ are not defined terms, while ‘Special Flood Hazard Area’ and ‘Neuse River Buffers’ are. The amended section would read as follows:
 - a. No development or redevelopment is permitted within the Special Flood Hazard Area or Neuse River Buffer Zone except for stream bank or shoreline restoration or stabilization, water dependent structures, and public or private projects such as greenways, parks, and their accessory uses.
5. Amend the last sentence in Section 8.4A1 to reference Section 16.8 (rather than 16.10).
6. Amend Section 15.11C (Text Amendment Procedure) to reference within the text the same 4/5 Supermajority requirement referred to in the associated chart, to read as follows:

C. Procedure: All petitions to amend this Ordinance shall be directed to the Administrator, who shall transmit them to the Town Planning Board for review and recommendation. If the Planning Board recommends denial of a text amendment, a 4/5 supermajority decision by the Board of Commissioners shall be required to approved the text amendment.
7. Amend Section 15.12C (Map Amendment Procedure) to reference within the text the same 4/5 Supermajority requirement referred to in the associated chart, to read as follows:

C. Procedure: All petitions to amend this Ordinance shall be directed to the Administrator, who shall transmit them to the Town Planning Board for review and recommendation. If the Planning Board recommends denial of a map amendment, a 4/5 supermajority decision by the Board of Commissioners shall be required to approved the map amendment.

8. Amend Section 15.10E to reference section 16.14 (rather than 16.9).

Mr. Bergmark said staff recommends approval of the proposed text amendment. He 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. These changes were not substantive in nature and thus maintained the existing consistency with the comprehensive plan. The proposed amendments were reasonable in that they implemented clerical corrections to various sections of the UDO.

There was no discussion or comments from members of the Planning Board. Ms. Van der Grinten made a motion to approve of the recommended clerical text amendments to Chapters 3, 5, 6, 8, 12, and 15 to the UDO. Ms. Anderson seconded the motion. The motion passed unanimously.

Item 7A – 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.

Allison 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 that created 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. 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. She said 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. There was an emerging consensus that the Town should limit the concentration of less active service and professional office uses in the downtown district. She said stores with limited hours already created dead zones along the sidewalk at certain times of the week. Likewise, the location of certain businesses, such as indoor storage uses, provided 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 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 included in Attachment A. She said the only change to the boundary from the former version was the inclusion of 100 and 104 West Third Street. The Downtown Retail Overlay placed additional restrictions on use beyond those already in place in the underlying zoning district. A copy of those uses permitted in the DMX district was included as Attachment E.

Ms. Rice said staff researched 8 municipalities in North Carolina to compare their downtown regulations (Attachments B and C). All of the municipalities surveyed had a downtown commercial zoning district, but there was little consistency in the uses permitted within those districts. She said several municipalities had overlay districts that use design standards to encourage a walkable, pedestrian scaled commercial district. These overlays often had limits on square footage of a business and required shop windows, awnings, etc. on new development.

Ms. Rice said a copy of the proposed district standards and amendments to Wendell's UDO were included as Attachment D. One item which staff attempted to address through amendments to Chapter 3 was how to handle vehicle service and vehicle sales uses within the downtown. While the Town may not want small body shops or used car dealerships from establishing themselves in the downtown, it also did not want to negatively impact larger established businesses of this type which supported the downtown economy. She said in order to respond to these concerns, staff drafted language which would prohibit new stand-alone vehicle service uses and which would require any new vehicle sales establishment to have a large indoor showroom. Staff would also note that existing regulations restrict vehicle sales to comprise no more than 16% of the DMX district.

Ms. Rice said staff was proposing that language be included with the UDO that would require Bars/Taverns/Night Club uses to be open to the public. 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 establishments were conducive to a vibrant, inclusive atmosphere within the district.

Ms. Rice said staff had received several inquiries throughout the years from church groups, nonprofits, and other organizations that wished to rent a downtown storefront for office use. These types of uses did not receive clients and therefore didn't generate foot traffic. Ms. Rice said Wendell's current use code did not differentiate this use from the Professional Services use, which included accountants, architects, insurance agents, and other intellectual-based services that received clients. Staff therefore proposed language defining the Office Administrative Services use and adding the use to the Use Table. Staff also proposed allowing this use only on the second story within the Downtown Retail Overlay.

Ms. Rice said staff recommended approval of the proposed text amendment. 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. 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. Anderson asked what percentage did vehicle sales make up of the downtown. Mr. Bergmark said it was around 13 or 14% when the rule was put into the UDO a few years ago. Ms. Anderson asked if a vehicle showroom could be built in downtown Wendell without going over that 16% limit. Mr. Bergmark said it was based on land acreage, and likely a new vehicle sales business would only fit if the DMX district expanded. Mr. Bergmark said this rule didn't limit the number of vehicle sales businesses in town, it limited the size or distribution within this small area in town.

Mr. Lancaster asked when the 16% rule was first adopted. Mr. Bergmark said it was likely around 2010. He said it was included in the UDO when it was first adopted. Mr. Lancaster asked if this rule provided a carve-out for Universal Chevrolet while prohibiting other vehicle businesses. Mr. Bergmark said that the

16% rule wasn't on the table for discussion or vote by the Board. The rule had already been passed by the Board of Commissioners 6 years ago. He said he was informing the Planning Board that the rule existed since a topic relating to it was being proposed. He said, however, that the intent was to limit the amount of vehicle sales uses in the downtown core.

Mr. Lancaster said he hadn't been to many of the towns that staff had used for comparison, but that he was impressed with how much downtown Wake Forest had grown. He said Wendell should emulate what Wake Forest had, and Wake Forest had a hopping night life. He said that Greenville also had a lot of bars and clubs and a thriving downtown. He said that staff was trying to limit bars and clubs by restricting private clubs. Mr. Bergmark said that he agreed that nightlife was important to have in downtown Wendell. He said that the question was whether businesses that limit their clientele was the best thing to have right now, while the downtown was still trying to grow and there were limited building to house businesses. He said that staff would love for downtown to get to the point where private bars would be a benefit to the Town, and he said that the overlay could be updated to allow private bars when that point was reached. Mr. Lancaster said it was a chicken or egg argument.

Mr. Broadwell said, as he understood it, staff was proposing to add one line to the Bar/Tavern/Nightclub use that would require them to be open to the general public. He asked if it were correct that bars and nightclubs would still be permitted. Mr. Bergmark said that was correct, staff wanted to encourage bars, they just want them to be open to the public. Mr. Lancaster said that the public/private distinction was small. He said that the bar would often charge a dollar for a year membership to comply with ABC regulations regarding the percentage of food being sold on premises. He said these businesses often didn't mean that they were closed to the public. He said he agreed that these businesses often weren't open during normal business hours, but they still encouraged people to come downtown and see what other businesses were available.

Mr. Swaim said he agreed. He said he represented a couple bars, and that even though they served full meals as restaurants, it was still hard to hit the percentage of food sales the ABC board required to be considered public. He said he didn't like putting that burden on a new business coming in to Wendell.

Ms. Anderson and Mr. Lancaster had questions about whether specific types of community groups would be permitted within the Overlay District. Mr. Bergmark said that they would be permitted on the second story. He said that staff wasn't proposing that they discourage any type of business from coming to Wendell. He said that he would like to see bars and community service organizations come to Wendell. He said that there are very few storefronts in downtown Wendell and that these types of businesses might not be the best, most compatible uses in those locations. He said staff was trying to support the existing retail businesses downtown.

Mr. Lancaster asked, instead of putting a long list of conditions on auto sales or vehicle services uses in the DMX, why not just ban them outright. Mr. Bergmark said that the conditions for these uses already existed. He said staff was proposing only one additional point – that vehicle services uses be an accessory use to a vehicle sales operation under the same ownership.

Mr. Lancaster asked what the procedure was for notifying the public. He said when he got the board packet the previous week, he talked to business owners downtown and they had no idea that this was going on. He said so he then put something on the Facebook community page and nobody downtown knew the Planning Board was talking about this. He said he wasn't saying the town was doing anything shady, but he did want to know what the procedure was. Mr. Bergmark said it was based on public hearing. He said the public hearing was at the Town Board, so notices were usually sent out before the Town Board meeting but after the Planning Board meeting. He said while the Planning Board was open to the public, staff doesn't send out notices for those types of meetings.

Mr. Swaim said that he should disclose that the daughter of the person that owned Fleet Fuels was his secretary.

Ms. Van der Grinten asked if any business owners had given staff any feedback about this. Mr. Bergmark said that the Overlay District had been discussed at the Economic Development Committee, which is made up of local and downtown business owners. He said that the reaction among them was mixed. He said he imagined the responses would be similar among the rest of the downtown business owners.

Mr. Bergmark said if it were the Planning Board's will, they could include these additional zoning restrictions within the DMX instead of re-creating the Overlay District. He said that staff felt that it would be less awkward with the Overlay District, and would allow for more flexibility. He said there were places in the DMX that didn't have a retail storefront and it wouldn't make sense to include them in the retail overlay. That would end up being more restrictive than staff thought was necessary.

Mr. Lancaster said that he thought they should mimic what Wake Forest did since they have a successful downtown. He said that Wendell should allow the same uses that Wake Forest allowed instead of being more restrictive.

Mr. Lancaster made a motion to disapprove item 7A outright as proposed by staff. Mr. Swaim seconded the motion. Ms. Schaecher said that she didn't feel it was necessary to throw out the entire proposal if the board only disagreed with one item about private bars. Mr. Lancaster said it wasn't just about the private bars, he said that the Overlay District was raising the bar.

The vote was tied 3-3-1. Mr. Swaim, Mr. Lancaster, and Ms. Anderson voted in favor; Mr. Broadwell, Ms. Van der Grinten, and Mr. Briggerman voted against. Ms. Schaecher abstained.

Ms. Van der Grinten said she had no problem removing the language about private bars, but she said that it was important to raise the bar. She said that, nothing against the Masonic Lodge, but they only meet once a month and don't bring anyone to support any other businesses. She said that this was raising the bar and helping the businesses downtown be vibrant and that was a good thing. Ms. Schaecher said she agreed. She said she questioned some of the points, but overall she wanted to address this before it became an issue.

Mr. Lancaster made a motion to send the proposal back to planning staff for further clarification and that the Planning Board take no action. Ms. Schaecher seconded the motion. The board requested that staff change the language at 3.3H2 regarding private clubs. Ms. Anderson requested information regarding co-working and incubator space. Mr. Bergmark said that would be a good thing to address, but that it should be researched and proposed on its own, not in conjunction with this text amendment. Mr. Lancaster had questions regarding Light Manufacturing. The motion passed 7-0. Mr. Bergmark asked that board members that had specific concerns or questions bring them to staff sooner rather than later.

Item 7C – Discussion and Action on a Final Development Plan for Edgemont Landings – Phase 2.

Patrick Reidy said the applicant, Withers & Ravenel (on behalf of D.R. Horton, Inc.), had requested to create a Final Development Plan for 150 single family lots in the R4-CD14-01 conditional district zone for approximately 63.95 acres of property within the parcels identified by PIN #s 1774 59 4831; 1774 59 6154; and 1774 58 9781. This consisted of phases 2A, 2B, 2C, 2D, and 2E of Edgemont Landing, as shown on the Master Development Plan.

Mr. Reidy explained what a conditional district was and described its purpose.

Mr. Reidy said this property was located within the corporate limits of the Town of Wendell and was zoned R4-CD14-01. 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. 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. The full list of approved conditions was provided to the Planning Board.

Mr. Reidy said following approval of the Conditional District rezoning and the Master Plan by the Board of Commissioners, the applicant would be required to submit a Final Development Plan to the Planning Board for approval. A final plan should consist of a detailed set of construction plans that fully demonstrated 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.) could be issued for development of the site.

Mr. Reidy said the Final Development Plan submitted for Phase 2 did not include any substantial changes from the master development plan previously approved. Per condition #21, a tot lot design was previously provided with the detailed site plan for the Phase 1C Final Development Plan. The fee in lieu of open space dedication (condition #19) was collected by staff prior to staff's signature on the plats which were recorded. All other conditions had been met, or would be verified at the time of building permit processing and construction. He said staff would provide an overview of the final development plan at the September 19th meeting. To review the complete set of plans, please download the file at: <http://www.townofwendell.com/files/edgemont-landing-final-development-plan-phase-2>.

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 the applicant had reduced the number of sub phases within Phase 2 from the five sub phases that were approved with the Master Development Plan to three sub phases. Phase 2A consisted of 51 lots, Phase 2B consisted of 50 lots, and Phase 2C consisted of 49 lots for a total of 150 lots.

Mr. Reidy said as stated in Condition 21 of the Conditional District, a tot lot design was required the time of the Final Development Plan for Phase 1C. The tot lot design was provided, and was slated to be constructed as part of Phase 2. That phase of development was being proposed at this time, and the tot lot design, as approved by the Planning Board, would be implemented.

Mr. Reidy said the tot lot design consisted of a mulched area that was approximately 1,400 square feet. It contained a play structure for 2-5 year olds and a play structure for 5-12 year olds. Each play structure contained slides and other features for kids to use. The tot lot also provided four benches and two trash cans. Mr. Reidy said the Wendell Parks and Recreation Director reviewed the plans at the time of the Phase 1C Final Development Plan and it was determined that the proposed play area, in conjunction with the existing facilities, would be adequate for the proposed neighborhood. The applicant proposed to delay the installation of the tot lot until the prior to the start of Phase 2C. Mr. Reidy said staff recommended that the tot lot installation be completed prior to the approval of the Final Plat for Phase 2B.

Mr. Reidy said using staff’s recommendation, the tot lot would be built after 51 out of the 150 total houses were built. Using the final plat for Phase 2B as the construction trigger would ensure that the roads leading to the tot lot would be constructed providing access to the site. If the applicant’s proposal was approved, the tot lot would be built after 101 out of the 150 total houses were built. Mr. Reidy said staff believed that this delay would create too long of a delay for the new residents to be able to use a 2nd amenity at Edgemont Landing.

Mr. Reidy said the applicant proposed that 50% of the required greenway be constructed during Phase 2B and the final 50% of the greenway will be completed by the recordation of the Phase 2C Plat. Staff found the proposed installation to be acceptable, but did recommend the plan be revised to show the delineation of the greenway installation phasing.

Mr. Reidy said Public water and sewer were available at this site and had been approved for construction by City of Raleigh Public Utilities. He said Wake County Environmental Services had approved the proposed stormwater management and erosion control plans.

Mr. Reidy said Staff recommended approval of the Final Development Plan as submitted with the following revisions:

1. The tot lot installation be completed prior to the approval of the Final Plat for Phase 2B.
2. Show the delineation of the greenway installation phasing.

The representative from DR Horton introduced himself and said that they agreed with staff's request regarding the tot lot and the greenway. He said DR Horton agreed to everything staff had asked for.

Mr. Lancaster made a motion to approve the final Development Plan with the additional 6 recommendations made by staff. Mr. Briggerman seconded the motion. The motion passed 7-0.

8. Adjourn to Next Regularly Scheduled Meeting

Ms. Van der Grinten made a motion to adjourn the meeting. Ms. Schaecher seconded the motion. The motion passed unanimously.