

**Planning Board Meeting –
March 17, 2014
Minutes**

Members Present: Betsy Rountree, Ruth Van Der Grinten, John Underhill, Bob Mancuso, Larry Vaughan, Errol Briggerman, Joe Sparacia, Judy Silver, Charles Kramer

Members Absent: None

Others Present: Grant Livengood, Chris Seamster, Brad Rhinehalt, Laurie Ford, Chris Boney

Staff Present: Interim Planning Director David Bergmark, Planner Patrick Reidy

1. Meeting Called to Order

Mr. Underhill called the meeting to order.

2. Welcome and Recognition of Guests

Mr. Underhill welcomed all guests.

3. Chairman and Board Members' Comments

Mr. Bergmark stated that the Board of Commissioners did pass the change to Section 4.4.B5 of the UDO that the Planning Board had reviewed at their last meeting.

4. Adjustment and Approval of Agenda.

Charles Kramer made a motion to approve the agenda. Errol Briggerman seconded the motion. The motion passed unanimously.

5. Public Comments

None.

6. Approval of Minutes

Charles Kramer made a motion to approve the minutes. Errol Briggerman seconded the motion. The motion passed unanimously.

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

Item #7A – Discussion and action on a sketch plan for the Wendell Falls Rec-1 Site.

Mr. Reidy said Newland Communities had submitted a sketch plan for review and consideration by the Wendell Planning Board. He said the amended Planned Unit Development (PUD) document that was adopted by the Board of Commissioners on July 14, 2008 would serve as the zoning ordinance for this subdivision.

Mr. Reidy said the applicant had requested to create a lot for the subdivision's amenity center. He said the center would feature a 7,000 square foot clubhouse area, a pool house, and one swimming pool.

Mr. Reidy said staff recommended approval of this sketch plan with the following conditions:

1. Add an approval block to Sheet 1.
2. Daniel Ridge Road shall be added for public dedication on the preliminary plat.

Ms. Rountree asked where Daniel Ridge Road was. Mr. Reidy indicated on the map where the road was located. Mr. Mancuso made a motion that the Amenities Site be approved with the staff recommendations. Mr. Briggerman seconded the motion. Mr. Vaughn asked about the right of way and Patrick Reidy explained about the loop drive. Chairman Underhill said that the only item being reviewed at this time is the sketch plan. The motion passed unanimously.

Item #7B – B. Discussion and action on a preliminary plan for the Wendell Falls Rec-1 Site.

Patrick Reidy introduced the Preliminary Plat Submittal for Wendell Falls Rec-1, asking that the Planning Board review and consider the proposed preliminary plan and make a recommendation to the Town Board.

Mr. Reidy said an attachment to the report indicated those additional items which must be included on a preliminary plat, compared to a sketch plan. Mr. Reidy said staff was recommending approval of the preliminary plat with the following conditions:

1. Change "Road B 50' public right-of-way dedication" to "Parcel B 50' private right-of-way to be dedicated to HOA"; label the acreage; and provide the proposed street name.
2. Delineate and label all existing and proposed easements.
3. Provide full utility plan which includes: Connections to existing systems, line sizes, material of lines, location of fire hydrants, blowoffs, valves, manholes, catch basins, force mains, etc. for sanitary sewer, water distribution, storm sewer, natural gas, electric, and cable TV.
4. Provide the proposed street name for "Road A".
5. Delineate and label the following dimensions for Road A and B: Centerline, full pavement width, right-of-way from the centerline, the full right-of-way.
6. Subtract Road B from the public right-of-way acreage and list it as Parcel B with the corresponding acreage listed in the site data.
7. Add the proposed square footage of the tobacco barn and play area to the site data and drawing.
8. Add the tobacco barn to the parking calculations and revise the minimum number of spaces required.

9. Revise Site Note #2 to state “Dry utilities to be provided underground by service providers”.
10. Provide pedestrian plaza area in front of “Building A” similarly to what was shown on Applicant’s Exhibit A.
11. At the time of construction drawings, all trail widths and materials on site shall be approved by the Administrator. Width of the trails should range between four and ten feet and appropriate materials could include: asphalt, concrete, mulch, or similar natural materials.
12. Provide a loading zone/ drop off area in close proximity to the tobacco barn in order to prevent vendors from stopping to unload equipment or products and causing traffic conflicts on the private street.

Patrick Reidy introduced Laurie Ford, who in turn introduced the key members of the Wendell Falls Team. Laurie Ford said the land which encompassed Wendell Falls was inspiring and Newland Communities wanted to promote the inherent characteristics of the land in their development. She said Newland hoped to get approval of the lot for the amenity center. She said her team was working within the land and hoped to be good stewards of the land.

Laurie Ford said Newland listened to what the market was telling them and were very careful as they proceeded. Ms. Ford introduced Mr. Chris Boney, Chairman of LS3P in Wilmington. Mr. Boney described the vision of the Amenities Center as looking at the fall line where the Coastal Plain meets the Piedmont. He said great things were happening here. Mr. Boney said he was always fascinated by tobacco barns and felt that he could design something with authenticity; a poetic building with porches and lots of covered spaces.

Chairman Underhill asked if any of the planning board members had questions. Mr. Mancuso said he wanted to know about the Planning Board getting “boots on the ground” and coming out to view the property. Mr. Reidy asked that the Planning board members email their information so that a time could be set up when Mr. Brad Rhinehalt could meet them on site and take them on a tour. Mr. Mancuso said that on the second to last page of their documents it was clear that the handicapped could be dropped off, but there were no ramps to get them down to the lower level. Chris Seamster stated that there were multiple ways to get from level to level and that there was an elevator inside the pool building and handicapped spaces in the parking lot adjacent to the pool deck.

Chairman Underhill asked for any other questions. Mr. Larry Vaughn asked about the Planning Board’s status with the Town Board. He asked if the Town Board had reinstated the Planning Board’s capacity to review site plans. Chairman Underhill said that this sketch plan was following under the old zoning code’s review process, rather than under the UDO review process. Mr. Mancuso stated that in the future, this Planning Board would not review site plans, which was unfortunate since they were citizens giving their time and effort. Chairman Underhill said he agreed but the TRC had a little more expertise. Mr. Mancuso said that as board

members, citizens volunteer their time. He said that he would not put in his application again. Chairman Underhill asked if there were any other questions. Mr. Underhill asked for a motion regarding staff's recommendation. Mrs. Ruth van der Grinten made a motion to recommend approval of staff's recommendation as amended. Joe Sparacia seconded the motion. Chairman Underhill asked for discussion. With no further discussion, Chairman Underhill asked for the vote. The motion passed unanimously.

Item #7C - Proposed amendments to Chapters 12.8Q and 19.3 of the UDO as they relate to mural requirements within the Town of Wendell's jurisdiction.

Mr. Reidy said section 12.8Q of the Unified Development Ordinance (UDO) stated that "murals or similar wall art located on secondary building walls (not primary frontages) are permitted provided the total area of commercial copy does not exceed 10 percent of the total wall area". He said currently, a mural was not defined in the UDO and did not require a sign permit.

Mr. Reidy said there was no defined distinction between what would be counted as a mural and what would be counted as signage. He said the Appearance Commission was raising funds to add a mural to the downtown area as a way to bring visual interest to buildings.

Mr. Reidy said the proposed text amendment would involve adding the following definition to Chapter 19 of the UDO:

"Mural: A hand-produced work of visual art which is tiled or painted by hand directly upon, or affixed directly to an exterior wall of a building. A mural is primarily intended to serve as a work of public art. A mural does not include:

1. Mechanically produced or computer generated prints or images, including but not limited to digitally printed vinyl;
2. Murals containing electrical or mechanical components; or
3. Changing image murals"

Mr. Reidy said the text amendment also proposed adding the following conditions to Section 12.8Q of the UDO as they related to murals:

A mural as defined in Chapter 19 of this ordinance is subject to the following regulations:

1. No mural shall be added to the primary façade of the building.
2. Murals are not intended to be placed on residential structures or their accessory structures.
3. The mural shall not extend more than 6 inches from the plane of the wall upon which it is tiled or painted or to which it is affixed.
4. If the name of any business within the town's jurisdiction is included, it will be counted as a sign and must meet the regulations for signage.

5. The proposed mural must be approved by the Appearance Commission prior to any paint being added to the building to review for appropriateness. A certificate of appropriateness will be issued by the administrator if approved by the Appearance Commission.”

Mr. Reidy said the proposed amendment would reduce the size limitation on murals and create oversight that would provide a distinction between signage and art as well as ensure that murals were tactful. He said this process would create a quick approval process for applicants.

Chairman Underhill asked how the mural painting would be enforced. Mr. Reidy stated that creating a mural which did not meet the conditions of the UDO would be considered a zoning violation and the code enforcement officer would be involved. Chairman Underhill asked what size the murals could be in other towns. Mr. Reidy said it varies from municipality to municipality, but the proposed text amendment was based on a review of other’s standards.

Mr. Errol Briggerman stated he had seen this before and that people drive to the town just to see the art. He said that it does have to be controlled but that if done properly it could bring people into Wendell.

Chairman Underhill asked if there were any other questions. Hearing none, he requested that a motion be made to accept the proposed text amendments. Joe Sparacia made the motion to accept the amendments. Mr. Larry Vaughn seconded the motion. Chairman Underhill asked if there was any discussion. With no discussion, Chairman Underhill asked for the vote. The motion passed unanimously.

Mr. Reidy said that Farley’s is doing fundraising and soliciting donations for a mural. He said the mural would require \$2000 - \$3000.

Item # 7D - ZTA14-02 – Proposed Amendments to the Wendell Code of Ordinance and Unified Development Ordinance Regarding Nuisance Vehicles and Front Yard Parking Regulations.

Mr. Bergmark said planning staff evaluated the town’s nuisance and vehicles ordinances at the request of the Town Board. He said during this evaluation, staff found the language used in Wendell’s nuisance and vehicle regulations to closely resemble the language used by other nearby municipalities. He said the enforcement of such regulations could vary significantly from one town to another, and could be greatly impacted by other factors, such as whether or not a municipality had active Home Owner Associations (HOAs) enforcing restrictive covenants.

Mr. Bergmark said in order to better address deficiencies in the current standards which regulate nuisances and vehicles within the Town of Wendell, staff proposed the following ordinance amendments:

1. Sec. 10-41 Definitions (Nuisance Vehicle)

▪ Current Language:

“Nuisance vehicle means a motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects or a breeding ground or harbor for rates or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water
- (4) A point of concentration of quantities of gasoline, oil, and other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, and the like;
- (6) One which presents a substantial risk of injury to minors or other persons because of broken glass, jagged edges, or protrusions; or
- (7) So situated or located that there is a danger of it falling or turning over.

▪ Proposed Amendment: Add the following additional standards to the definition of a Nuisance Vehicle.

- (8) One which has flat tires or is resting on blocks;
- (9) One which fails to display current tags/registration;
- (10) One which has broken windows;
- (11) One which is utilized for storage.

2. Section 10.4,k,1 of the Wendell UDO (Residential Parking Areas)

▪ Current Language:

1. **Residential Parking Areas:** Parking for single family residences shall be on prepared surfaces only. Prepared surfaces include concrete, asphalt, brick, gravel, or other similar materials, but shall not include landscaped areas or dirt. Parking areas must be properly prepared and maintained, as determined by the Administrator. No more than 25 percent of the yard or the width or two parking spaces (20 feet), whichever is less, may be used for motor vehicle parking. This provision shall apply to all existing development, with the

exception of driveways, and all new development within the corporate limits of the Town.

- Proposed Amendment: To move the ‘Residential Parking Area’ standards from section 10.4,k,1 of the UDO to section 24-95(b)(5) of the Wendell Code of Ordinances and to amend the language so that parking on prepared surfaces is only required in the front yard. Since this change involves an amendment to the UDO, the planning board’s recommendation is required.

3. Sec. 24-95. Parking in or near residential areas.

- Current Language

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Commercial, industrial or construction truck or vehicle means any motor vehicle having a gross weight of greater than 12,000 pound or having three or more axles or which has a length in excess of 270 inches (22 feet, six inches) overall or a width in excess of 96 inches (eight feet). For purposes of clarification, but without limitation, the term “commercial, industrial or construction truck or vehicle” includes dump trucks, tractor-trailers, tankers, tank trucks, buses, large panel vans, trailers and construction equipment or any part thereof.

- (b) Prohibited acts. It shall be unlawful:

- (1) To operate, park, store, maintain or repair a commercial, industrial or construction truck or vehicle within a residential area or on the public rights-of-way therein, except for:
 - a. The sole purpose of, and for the time period reasonable required for, loading or unloading commodities; or
 - b. An owner/driver of a tractor/trailer to park the tractor portion of the rig on property where he resides.
- (2) To park a commercial, industrial or construction truck or vehicle in a commercial or industrial zone unless it is at least 25 feet away from any residential area;

- (3) For any vehicle used, manufactured, or designed for transporting toxic or explosive materials or flammable liquids to park in any residential area or on the public rights-of-way therein.
- (4) To park any recreational vehicles, including, but not limited to, campers, motorhomes, utility trailers, and boats, within a residential area or on the public rights-of-way therein.

- Proposed Amendment:

- To amend sub-section (4) to permit more flexible parking standards in the side and rear yard and to clarify that residential utility trailers are not considered a '*commercial, industrial, or construction truck or vehicle*'.
- To create a new sub-section (5) using language from section 10.4,k,1 of the UDO with an amendment only requiring parking on prepared surfaces in the front yard.
- To create a new sub-section (6) limiting the number of vehicles which may be parked on non-prepared surfaces in the rear and back yards of single family dwellings.
- To add a definition under Sec. 24-95 for 'front yard'.

Mr. Larry Vaughn asked how the front yard would be treated if the property owner had a corner lot. Mr. Bergmark stated that the language included in the text amendment was based on the primary façade of the building. Mr. Mancuso asked if trespass laws would not prevent the code enforcement officer from truly enforcing the proposed regulations. Mr. Bergmark stated that anyone could approach a house through the driveway and front entrance, unless there was a no trespassing sign posted. Mr. Mancuso said that the code officer told him directly that he could not. Mr. Sparacia stated that anyone could go up to his front door without a trespassing sign. Mr. Mancuso said he had a neighbor who had a car in his driveway that he used to store things in, but it was covered. He said the car was slightly in front of the house.

Mr. Mancuso asked if something could be put into the violation letter to make it enforceable. Mr. Mancuso stated that the Code Enforcement Officer said that he did not have the authority. Mr. Bergmark said he would talk to the code enforcement officer regarding Mr. Mancuso's issue. Mr. Mancuso thanked Mr. Chairman for the time so that Mr. Bergmark could explain the situation.

Mr. Briggerman said the prepared surface regulations were intended to just to keep people from parking in the front yard. Mr. Sparacia asked if the Town was allowed to tow the car away. Mr. Bergmark explained that the town could not tow the car unless it was considered an abandoned vehicle, but it could fine the property owner. Mr. Mancuso asked if the Planning Board was going to vote separately on each proposed amendment or as a group. Mr. Bergmark stated that the board could do it either way.

Mr. Sparacia made the motion to accept the first amendment regarding additional nuisance vehicle standards. Mr. Mancuso seconded the motion. The motion carried unanimously.

The board then moved on to the second amendment concerning parking on prepared surfaces. Mr. Bergmark directed the Planning Board to separate that out and to move the language from the UDO to the code of ordinances and make those regulations only apply to front yards. Mr. Bergmark said the text amendment also proposed that a maximum of five cars be allowed to be parked on non-prepared surfaces in the side or rear yard. Mrs. Ruth van der Grinten said she thought five vehicles was a fair number. Mr. Sparacia made the motion to accept staff's recommendation and Mr. Briggerman seconded the motion. The motion passed unanimously.

Mr. Bergmark said the Planning board also needed to vote on the amendment to clarify that residential utility trailers were not considered a commercial, industrial or construction truck or vehicle for the purpose of this ordinance. Mr. Sparacia made the motion to accept this change. Mr. Briggerman seconded the motion. The motion passed unanimously.

Item #7E – Discussion and action on a proposed amendment to the solid waste ordinance as it pertains to collection practices for solid waste containers

Mr. Bergmark said currently Section 18-98 and Section 18-165 of the Wendell Code of Ordinances regulate when trash and recyclable material containers may be placed at curbside of residential property, as well as when they must be returned to the residence. He said the current regulations required that these containers be placed at curbside no earlier than 7:00 p.m. of the day prior to collection and retrieved no later than 7:00 p.m. of the actual collection day.

Mr. Bergmark said concerns were expressed to the Town that the current regulations did not allow enough time for residents. He said critics of the current standard complained that existing regulations did not allow enough flexibility for residents who may work the night shift. He said the Town Board asked the Planning Board to review the current time period allowed and discuss whether additional time should be provided for residents to place their trash containers by the road and retrieve their solid waste containers.

Mr. Sparacia asked how big the problem truly was. Mr. Mancuso said that most citizens, including him, were just concerned with getting the garbage out. Mr. Sparacia made a motion to allow 48 hours to take garbage cans out and bring them back in. Mrs. Silver seconded the motion. The motion passed unanimously.

Item 8 - Staff Update on Recent Technical Review Committee (TRC) Meeting

Mr. Reidy said the TRC had recently met to discuss a proposed addition to Hephzibah Baptist Church. He said no large changes were proposed at the meeting, but there had been some discussion between the applicant, the City of Raleigh, and the fire department regarding the placement of hydrants.

Mr. Kramer asked what the Planning Board's responsibilities were now, if they were not to review site plans. Mr. Bergmark said their duties included reviewing text amendments, rezoning petitions, new master plans, Planned Unit Developments (PUDs), as well as any other special projects directed to them by the Town Board. Mr. Mancuso said that good ideas came from this board and he took affront to the fact that the Town Board did not want to hear from us. Mr. Sparacia and Mr. Underhill suggested that this could be addressed by putting it on the agenda for the next meeting.

Chairman Underhill thanked Mr. Reidy and Mr. Bergmark for the information provided in the meeting.

Mr. Mancuso made a motion to adjourn. Mrs. Silver seconded the motion. The motion passed unanimously. The meeting was adjourned at 8:50 pm.