

October 12, 2015
Board of Commissioners Meeting Minutes

The Wendell Town Board of Commissioners held their regularly scheduled meeting on Monday, October 12, 2015, in the Board Meeting Room at 7:00 pm with Mayor Pro Tem James Parham presiding. Present were Commissioners Virginia Gray; John Boyette; Jon Lutz; and Sam Laughery; Teresa Piner-Manager; Butch Kay-Finance; Bill Carter-Police; David Bergmark-Planning; Patrick Reidy-Planning; Allison Rice-Planning; Jonnie Driver-Town Clerk; and Tamah Hughes-IT. Mayor Timothy A. Hinnant was unable to attend the meeting.

The Pledge of Allegiance was led by Police Chief Bill Carter and invocation was given by Bennie Collins of Wendell Baptist Church.

Adjustment and approval of the agenda

Commissioner Boyette made a motion to add Item-9a - Action on the Zoning Map amendment request by Sanderson Engineering and to approve the agenda with the adjustment. There were no further adjustments needed. The motion passed unanimously.

Item 1 – Public Comment Period

Ms. Frankie Ruth – 426 Wall Street, Wendell, said she was unable to stay for the Public Hearing on a Zoning Map amendment request for 245 Short Street from R3 to R4. She said she was not concerned about the rezoning of the property. She said her concern was with traffic. She said she had heard that the Town was planning to block off Wall Street. She said Short Street, Todd Street and Academy Street were not as wide as current Town regulations require. Academy was only 18 foot wide and the regulation called for 22 foot wide. She said she was also concerned about the curb and guttering that would pick up in front of her house with that extension. She said anytime it rained she had a pond because there was no guttering. She said there were no sidewalks there for the children in the new development to use when walking to school.

Item 2 – Consent Agenda

- a. Approval of the Minutes from Monday, September 28, 2015.
- b. Approval of a monetary gift to Town employees in the amount of \$250.00 to full time, permanent staff in lieu of a salary adjustment.

Commissioner Boyette made a motion to approve the consent agenda as written. There was no discussion and the motion passed unanimously.

Item 3 – Review and action on a Façade Grant application for 14 N. Main Street.

Patrick Reidy stated at the October 5, 2015 meeting, the Appearance Commission reviewed a Downtown Façade Grant application for the September 30th deadline period.

The Appearance Commission members recommended to the Board of Commissioners by a vote of 3 to 0, approval of the downtown façade grant application for 14 N. Main Street in the amount of \$1,000.

Patrick said the Application proposed to replace the flat metal awning over the door with an angled fabric awning; repair the front door; paint the exterior wall; and add decorative lighting for the building at 14 N Main Street. Patrick said the property was currently vacant, but in the process of becoming a new boutique retail store called “Southern Glimpse”.

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Commissioner Laughery said there was already a canvas awning on each side of 14 N. Main Street. Was this going to be the metal frame and awning that looked similar to the ones already installed? Patrick replied yes.

Commissioner Laughery made a motion to approve the Façade Grant application for \$1,000 for 14 N. Main Street. There was no discussion. The motion passed unanimously.

Item 4 – Public Hearing on a Zoning Text Amendment to amend Chapters 2, 15, and 19 of the Unified Development Ordinance (UDO) in order to establish standards for Planned Unit Developments (PUDs).

Planning Director, David Bergmark stated the applicant had submitted a text amendment to amend Chapter 2 of the UDO to create the ability to produce a Planned Unit Development (PUD). A Planned Unit Development was a large scale integrated development which provided higher quality community design, environmental protection, and community amenities in exchange for greater flexibility in site design requirements.

David said the procedure and minimum requirements for what must be included in a PUD would be placed in chapter 2. He said for example, as proposed, a PUD must be at least 200 acres in size. He stated the PUD plan must identify permitted uses, address various development standards, set minimum percentages of different housing types, and identify maximum density set minimum percentages of different housing types, and identifies a maximum density. As proposed, a PUD district would serve as the underlying zoning district (not an overlay district). The creation of a PUD district would follow the standard map/text amendment process (review and recommendation by the planning board, and approval by the town board), but would also require a special use permit approval by the Town Board. The intent of this process is to allow the Town Board and the applicant to negotiate specific trade-offs within the PUD plan document.

David said the proposed text amendment included amendments to the UDO's use table to add new uses which Newland desired to be included in the PUD. He said the Town attorney recommended amendments to the use table from a procedure standpoint. He said the inclusion of the uses in the use table does not mean they were permitted by right in any PUD submittal. David said the specific uses included in any given PUD must be specified in the corresponding PUD plan, upon agreement between the applicant and the Town Board.

David said there were two changes to Chapter 15 and again this is something our attorney brought up where based on the conditions for approval of a Special Use some of those are more appropriate for a specific site compared to a huge development especially a PUD.

David said there were also amendments to Chapter 19 to include the addition of new definitions based on new uses added to Chapter 2 as part of this request.

David said the new definitions added to Chapter 19 were:

- Animal Services – Boarding as Primary
- Continuing Care Retirement Community
- Farmers Markets, Outdoor
- Sports Training/Fitness Complex

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David said the Planning Board voted 8-0 in favor of recommending approval of the text amendments at their August meeting, and staff recommended approval of the proposed text amendments.

Nate Robinson-Bradshaw and Robinson Law Firm said he was here on behalf of Nash Wendell Falls LLC in connection with the PUD. He said Mr. Bergmarks summary of the text amendment was thorough and true. He said Wendell Falls was originally approved in January 2006 and an amendment to the PUD was done in 2008 and in October 2013 Newland acquired the project. He said between those two dates there were two very significant events that occurred, one was the real estate recession that we all experienced and the second one was that the Town of Wendell adopted a whole set of comprehensive ordinances called the Unified Development Ordinance. He said when Newland acquired this project they had a site plan designed with the pre-recession real estate market in mind and a site plan that was still subject to a set of ordinances that would be old ordinances and quickly disappearing in the background.

Mr. Robinson said when Newland acquired the project they sized all that up, and developed a short term and long term step plan. The short term step was to immediately inject some life into the project by getting the residential part of the development going. He said the way they did that was to come to the town and address that by rezoning small sections of the PUD so as to make the UDO applicable to small sections in a way that was functional. He said the long term step was to determine what ways they could look at the overall plan for Wendell Falls and take the new market into account and try to fold in the new ordinance framework that existed. He said the idea in the big picture was to increase the flexibility by not tying particular commercial uses to a pre-drawn POD lines. He said the original plan had 34 PODS and they are requesting to reduce those 34 PODS to 5 zones. He said the other thing they wanted to do was fold in the UDO use table which created more specific and modern use characterizations into the project. However, the UDO did not have a provision for a Planned Unit Development in it that exceeds 200 acres in size. He said there was not a way to get the UDO to apply to the project without modifying the text of the ordinance to provide an opportunity for there to be a PUD under the UDO for projects greater than 200 acres, and that is how we got this meeting.

Mr. Robinson said Newland started working on this several months ago with Town staff and in June we had a meeting with the Town Attorney and Town staff at which it was suggested that we take the approach of doing a text amendment allowing a PUD within the UDO and do a map amendment for this particular project to do a Special Use for the project to incorporate the standards for it and then modify the development agreement to tie it all together.

Mr. Robinson said since July there had been a very good cooperation process of refining the documents by working with the Staff, the Planning Board and the Town Board. He said we also voluntarily sent out a letter and invitation to an Open House to all of the 65+ adjoining property owners for the project to come to Wendell Falls for an Open House that was held last week. He said it was well attended and those in attendance were interested in the changes also.

Commissioner Laughery said he would not be at the October 26, 2015 meeting so he wanted to make a comment. He said at the last meeting Mayor Hinnant said he thought the Town should require a Special Use Permit for Multi-family housing. He said he did not agree with that; in downtown Wendell maybe that was appropriate but dealing with Newland and Wendell Falls this was not someone coming in trying to make a quick buck. He said they had a huge investment in Wendell Falls and it would just get bigger so he thought asking them to have a Special Use to develop multi-family did not make sense.

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Mayor Pro Tem Parham opened the Public Hearing for anyone who wished to speak for or against the Zoning Text Amendment.

Kathleen Battle – Wendell Falls Area said Mr. Robinson stated Newland sent a letter out to some of the adjacent property owners about a meeting, but she did not get a letter, and saw a sign beside the road about the public hearing, so if you did not see the sign, you would not know about the public hearing. She said she would like to see some of the plans they have if possible.

David said that the Town had additional public hearings tonight dealing with the establishment of districts, and the standards within the district. During those items, staff would go into more detail as to what was being proposed. He said this item was to allow anyone, not just Newland, to establish a PUD District.

There were no other comments to be made and Mayor Pro Tem Parham closed the Public Hearing and asked that this item be placed on the agenda for October 26, 2015 for discussion and action.

Item 5 – Public Hearing on a Zoning Map Amendment request to rezone approximately 1,050 acres of property (excluding ROW) within the Wendell Falls development to a proposed Planned Unit Development (PUD) zoning district.

David Bergmark said this Public hearing was to establish the boundaries of the district. He said before any action would be taken, this item would be contingent upon the Special Use Permit being approved which established the standards within the district

David said there was currently a PUD in place for Wendell Falls and this would replace the standards of the current PUD and the standards of those areas that were rezoned and brought into the UDO. He said any site plan that was already approved would stay valid.

David said the property included within this request was located within the corporate limits of the Town of Wendell, with three exceptions: a 21.3 and 22.84 acre property owned by Nash Wendell Falls LLC (PIN Numbers 1764716160 & 1773080073) and a 46.5 acre property owned by Malouf Anderson (PIN Number 1774113595). He said these three properties are all located within the Town's ETJ.

David said the purpose behind all the proposals submitted by NASH Wendell Falls LLC is to simplify it from 34 PODS down to five (5) Zones to make it more marketable.

David said in terms of adjacent property you have zonings that are R3, RA, RR NC and R7. He said the PUD district covers the same properties that were included before, with the exception that the applicant did not include the property owned by Wake County which was (the future Lake Myra Park and the Lake Myra Elementary school property).

David said anytime we look at a rezoning we had to look at how the Comprehensive Plan addresses the area and the Comprehensive Plan identified the area in which Wendell Falls was located as primarily a Controlled Growth Area (S4). He said the area closer to the interchange was identified as an Intended Growth Area (S5), and it included 'Village/Town Center'. He said these were appropriate for traditional neighborhood developments, neighborhood centers, single-family and multifamily residential, neighborhood-serving commercial uses (retail and office), civic uses, and industrial uses. He said the

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intended Growth Area includes the same uses, but also allowed for village/town centers. This area was appropriate for higher density missed-use centers of employment.

David said the Planning Board voted unanimously to recommend approval of the Wendell Falls PUD submittal at the September 21, 2015 meeting, including the map amendment request, but asked that the Town Board give further consideration to the proposed language and/or cross-sections for roads within and adjacent to Wendell Falls prior to adoption.

David said staff recommends approval of this rezoning request based on the following factors:

- Pending the approval of the Special Use Permit request, staff finds the proposal to be consistent with the comprehensive plan.
- The PUD district request aligns very closely with the current PUD boundaries, which has existing entitlements in the form of the approved PUD document and a development agreement with the Town. These existing entitlements already permit and acknowledge the appropriateness of more intense land uses and densities within this area.

With no questions or comments from the board Mayor Pro Tem Parham opened the Public Hearing for anyone wishing to speak for or against the rezoning request. No one wished to speak for or against the rezoning request and Mayor Pro Tem Parham closed the public hearing. Mayor Pro Tem Parham asked that this item be placed on the October 26th agenda for discussion and action.

Item 6 – Public Hearing on a Special Use Permit request to establish standards for a Planned Unit Development (PUD) governing the Wendell Falls subdivision.

David said the standards included in the PUD submittal would effectively replace the existing PUD document for Wendell Falls approved in 2006 and modified in 2008. He said they would also replace the standards of the UDO for those sections of Wendell Falls that have been made subject to the UDO since 2014. He said however, all current site plan approvals would remain valid.

David said there are some things to point out, the following cornerstones of the project remain unchanged:

- a. Maximum number of residential units over entire Project: 4,000
- b. Maximum amount of commercial square footage: 2,000,000
- c. Maximum density of entire Project will not change: 3.43 dwelling units/acre
- d. Minimum Open Space over entire Project will not change: 273 acres of Open Space (as described in section IV.G of this 2015 PUD Plan Document)
- e. The maximum number of multi-family and attached residential units within the Project shall be 1,400, which is derived from calculating 35% of the number of permitted dwelling units of 4,000

David said Newland established 5 zones; they simplified it from 34 PODS to 5 zones:

- Zone 1: Regional Mixed-Use
- Zone 2: Neighborhood Mixed-Use
- Zone 3: Residential
- Zone 4: Recreation
- Zone 5: Flex

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David said a minimum of 50% of the acreage would be developed for residential uses and a minimum of 10% of the acreage will be developed for non-residential/mixed uses. David said residential was allowed in all the zones except for Zone 4 which was recreation and multi-family uses were listed as permitted by right in Zones 1, 2, 3, and 5B. David said two development options were provided for Zone 5. Zone 5A consists of the permitted uses if the first development was categorized as manufacturing or wholesale/storage. Zone 5B consists of the permitted uses if the first development was categorized as anything other than manufacturing or wholesale/storage.

David said pages 10-14 of the PUD plan document contain diagrams and standards for 7 residential building types, which covered different options for single family homes and townhomes. Apartments and Condos were considered a commercial building type. He said, as proposed, the minimum front setback for single family homes is 8 feet for alley-loaded products and 10 feet for front-load products. The minimum side setback is 3 feet for lots less than 70 feet wide and 5 feet for lots 70 feet or wider. The minimum rear setback is 20 feet, which is consistent with the UOD's rear setback for the R3 and R4 zoning districts.

David said the PUD plan document included a detached housing mix table, which seeks to ensure diversity of product types within Wendell Falls. Detached housing is broken into three categories (24'-35'; 36'-50'; 51'+). As proposed, at least 30% of the product would be in one of the two larger categories.

David said Newland was seeking six modifications to the environmental standards of Chapter 6 of the UDO that would otherwise apply. He said per their existing Development Agreement stormwater standards for Wendell Falls follow Phase 1 and Phase 2 state regulations. The proposed standards seek to permit predevelopment grading without first obtaining a stormwater permit (this change would be consistent with current state standards), clarify what information must be included on the recorded plat, and clarify that stream corridor buffers shall follow state standards for the Neuse River. The Fifth Amendment to the Development Agreement would also include language that would allow phased developments sharing a stormwater device to receive a certificate of occupancy prior to the stormwater device being finalized, so long as any required improvements to finalize the storm water device were bonded.

David said Newland also clarified that any open space provided that was above and beyond the amount required in the PUD plan was not subject to the accessibility, location, and usability standards contained in Chapter 7 of the UDO.

David said the proposed PUD plan retained language regarding the 'Perimeter Buffer' contained in the existing PUD Plan. However, due to the high quantity of open space being preserved in Wendell Falls (min. 273 acres) Newland was requesting to be exempt from the tree protection regulations of the UDO. He said Wendell Falls was not subject to such regulations under the existing PUD approval. He said they were also requesting to apply their own landscaping standards in lieu of those in Chapter 8 of the UDO, through their residential and commercial design guidelines.

David said one such standard would allow street trees to be placed every 50 feet on center, rather than every 10 feet on center. Another notable standard would exempt Wendell Falls from the requirement that abutting rear yards had rear yard plantings to create a separation.

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David said they changed a few things in parking. He said the existing PUD document contained no standards related to the location of parking, with the exception of parking within the Gateway Overlay (GO) district (referred to as the Special Highway Overlay District (SHOD) within the old zoning code). He said however, the UDO places a number of restrictions on the location of parking, based on the type of use and the zoning district it is located in.

David said the proposed PUD document includes a slightly different parking standard for Wendell Falls Parkway (compared to the Gateway Overlay District Standard). The proposed standard would permit a larger user to have unlimited front yard parking if 60 percent or more of the road frontage is covered by out-parcels (i.e. lots for restaurants, banks, etc.). The outparcels would continue to have limited parking in the front yard.

David said Newland proposed to include language that would allow the Board of Commissioners to grant a gateway monument sign for non-residential, mixed use or commercial parcels 50 acres or greater in size, for the purpose of demarcation. He said they also proposed language that would permit the administrator to approve a private banner design and program for light poles within the project.

David said in terms of Development Plan Requirements, Newland proposed a number of changes to the UDO's standard Development Plan Requirements. The majority of the changes were clarifications related to process and timing of submittal information. He said one substantive change stated Wendell Falls shall not be required to submit additional environmental surveys, since significant environmental due diligence was performed during the initial approval process.

David said in terms of Residential Design Standards with the passing of House Bill 150, municipalities were no longer authorized to regulate design elements for single family homes, townhomes, and their associated accessory structures. He said as a result, any design guidelines included within this PUD plan or its associated Development Agreement for single family homes and townhomes represent benefits Newland was offering which goes above and beyond what the Town could require. David said House Bill 150 did not impact the Town's ability to regulate the design of apartments, condos or commercial buildings. He said the existing PUD document and the old zoning code did not include design standards for apartments, condos, or commercial buildings, however, the UDO did contain such standards.

Commissioner Laughery asked David to expand on the Town's inability to regulate designs standards. David said House Bill 150 was passed by the State Legislature so it removed the Town's ability to regulate design standards for single family as well as townhomes and their associated accessory structures. David said if construction met state building code that was all the state required. . He said when he was listing the standards, these were standards Newland offered to go provide in exchange for some things they were requesting deviations.

David said the Town can still regulate the objective standards for Apartment/Condos. He said the standards Wendell Falls has set are:

1. A minimum of 30% of front elevations and a minimum of 15% of side and rear building elevations shall provide doors, porches, balconies and or/windows. He said that is lower than our UDO but higher than the lack of a standard that is currently in the existing PUD
 - a. Staff Comment: The UDO requires 60% for front elevations and 30% for side.
2. Front entrances may be built slab on grade.
 - a. Staff comment: The UDO requires 1.5 foot raised entrances, except for live work units.

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3. Porches (where prohibited) must be at least 6 feet deep.
 - a. Staff comment: The UDO states that “useable porches and stoops shall form a predominant motif of the building design and be located on the front and/or side of the building. Useable front porches are at least 8 feet deep and extend more than 30 percent of the façade width”.
 - b. Under Newlands proposal, nothing prohibits or limits stoops, which would not have to be 6 feet.
4. At least 3 design details (as listed) must be provided on primary elevations and elevations facing a public street or open space.
5. All rooftop equipment shall be screened from view.
6. Vinyl siding is prohibited.
Staff Comment: The UDO also prohibits garage doors on the front of the apartment.

David said the most significant differences between the town’s commercial design standards and what they proposed was they do not have a set standard for blank walls. He said they do list acceptable building materials, but it varied from the Town’s in that the percentage of premier materials was (50 percent required rather than the Town’s 80 percent). He said they also allow up to 50% of the building to EIFS, while the UDO limits EIFS to 20%. He said they also varied in transparency (windows, doors, etc.) along the front entrance of the retail stores, while the UDO requires 40% transparency. He said Newland does require a higher level of transparency for office buildings.

David said there had been a few changes since last time this came before the Town Board and since the Planning Board’s Recommendation:

1. Page 23 of the PUD document was amended to update and expand information on the Transportation Impact Analysis (TIA). The applicant has included language which would require a new TIA to be created upon the first commercial site plan accessing Wendell Valley Blvd. that can be anticipated to create a cumulative commercial trip generation on Wendell Valley Boulevard of at least 150 two-way vehicle trips during the peak hour. They have also included language to clarify that if an updated TIA shows the need for additional lanes (to a 4 lane divided based on their trips generated, that Wendell Falls shall be responsible for dedication and construction. They are still showing an initial reservation of ROW rather than dedication for the additional space needed for 4 lanes (unless changed by a future TIA).
2. Page 65 of the PUD document (Exhibit D – Cross Sections) was updated in the following ways:
 - a. The Collector and Local Residential Street cross-sections were updated with utility details and amended to show Street Trees in the ROW along Collector roads and outside of the TOW on local roads. This change was made to address utility conflicts. The developer did not wish to place a 5’ utility easement for dry utilities along the front of lots on local roads.
 - b. Wendell Valley Blvd. was changed from a 90’ ROW to a 93’ ROW at staff’s request.
 - c. Cross-sections were added for Martin Pond Rd, Poole Road, and Knightdale Eagle Rock Rd.
 - d. The detail for the alley apron was amended to show an expanded turn radius and the use of asphalt rather concrete for the apron.
3. The residential Design Standards (within the Development Agreement Amendment) was changed in the following ways:
 - a. Front loaded garage doors were amended to still require window inserts, but not carriage style hardware (handles)
 - b. The required warranty on roof shingles was changed from 30 years to 25 years.
 - c. Stoops will be permitted on up to 40% of lots per phase (rather than 30%)
 - d. Minimum off-sets for building faces or roofs (when used) were changed from a minimum of 16” to a minimum of 12” for Townhomes and Apartments.

Staff Comments:

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1. Staff received comments regarding concern over having multi-family dwellings as permitted by right (rather than requiring a special use permit), especially for apartment buildings. Under the UDO, all attached residential products require a special use permit. Under the existing PUD document townhomes and apartments do not require a special use permit.
2. Staff received comments regarding concern over working within the existing development agreement which seemed to require the Town to condemn property for roads or utilities necessary for the development if the developer was unable to purchase the property after making all feasible efforts. The town's attorney has reviewed this language and has stated that the wording would allow, but not obligate or require, the Town to condemn property.

David said the Planning Board voted to recommend approval of the Wendell Falls PUD submittal, but asked that the Town board give further consideration to the proposed language and/or cross-sections for roads within and adjacent to Wendell Falls prior to adoption.

Commissioner Boyette said Wendell Falls wanted to set up an administrative process to approve signage on neighborhood light poles. David said that is correct, like banners. Commissioner Boyette asked if they were talking about a HOA Administrator or someone with Newland. David said it would be town staff.

Commissioner Boyette said he guessed they were going to do some type of pervious pavers in some area. David said he did not think that was addressed, but the UDO standards for pervious pavement requirements would still apply to them. If they exceeded a certain amount of parking over what they were allowed, they would have the same standards that were required in the UDO. Commissioner Boyette asked if there was an area that would eventually be turned over to state or town maintenance would be pervious pavers. Pervious pavers were more expensive to maintain. David said we were talking paved parking, not pervious pavers.

Commissioner Boyette said you brought up the total number of units and that the residential density would not change. How do you measure that density, because if you have an apartment building with 16 units obviously it would be higher than 3.3 per acre. David said it was based on the entire project. David also stated that the density still included the school and future wake county park acreage.

Mayor Pro Tempore Parham said the Public Hearing was now open. He said this was a quasi-judicial procedure, anyone wishing to speak on this item for or against please step forward and be sworn in by the Clerk. Town Clerk Jonnie Driver swore in those wishing to speak.

Nick Robinson stated he was representing the applicant Nash Wendell Falls LLC., and Mr. Bergmark has made an excellent presentation and he just need to take care of a couple of housekeeping matters for the public hearing. He said Newland wanted to formally state that they would like to submit as evidence for this Public Hearing all of the application material and revisions that had occurred since the application so they would be a part of the record. In addition, they would like to submit into the record formally, the minutes from the three Planning Board meetings August 17, September 1, and September 21, 2015. They also like the clerk to submit the minutes from the meeting of the Town Board on September 28, 2015 as part of the record. He said to keep him from restating everything that Mr. Bergmark said we would like to have Mr. Bergmark comments from this meeting made a part of the record and his PowerPoint presentation. He said in addition, they would like to include in the record the statements that had had been made this evening during the four public hearings, submitted into record. He asked the clerk to include a copy of resumes for Mr. Livengood, Mr. Seamster, and Mr. Adams for the record. He said he would like to ask the professionals, for whom he tendered resumes, if they would answer so that the board could acknowledge a response. Mr. Robinson asked each if they had had an opportunity to review the materials that had been submitted with the application. All three answered yes. Mr. Robinson asked to the best of your knowledge is everything in those materials true and accurate. They all responded yes.

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Mr. Robinson said we do this in every public hearing for the purpose of continuity and expediency in a quasi-judicial proceeding. He said he wished to lodge at this time a general objection to any testimony from anyone other than the applicant to the extent that it was here-say or in-material or incompetent otherwise objectionable evidence. He said we fully support the presentation that Mr. Bergmark made and if we could answer any questions, he would be happy to do so. He said we specifically incorporate all of our comments and findings in the prior meetings and with that he would defer to any other portion of the Public Hearing, except he would like to reserve some time at the closing of the hearing tonight to respond as may be appropriate. (Attached and made a part of these minutes for the record are Minutes from the August 17, Sept 1, and Sept. 21, Planning Board meetings, September 28th Board of Commissioners Meeting, Power Point from the October 12th Board Meeting, and resumes from Richard C. Adams, PE Vice President of Kimley-Horn and Associates, Inc. and Christopher Seamster, RLA Regional Manager of McKim and Creed.)

Sid Baynes- 3900 Wendell Boulevard stated he was a skeptic by nature, and had studied and tried to keep up with Wendell Falls since its early days. He said he sat on the board for 4 years as we digested some of the Development Agreement and modified it and throughout that process he was not an advocate for Wendell Falls. He said he did not recall ever voting in the affirmative for anything they requested because the numbers did not make sense to him. He said maybe it was because of the downturn in the economy and the depth involved in the Wendell Falls project. He said now is a new day, Newland had resurrected that project and he saw good things happening He said he attended an Open House out there and asked questions, and he got answers that made him feel good about where they were going. He said he thought if we look at what the Unified Development Ordinance was all about; one of the primary criteria was to increase the flexibility allowed in providing this development to go forward. He said what he understood the Board was being told that flexibility was not there. He said he still did not think the numbers in the old PUD make sense, we had encumbered this project, almost to the point of death, over regulations. He said what he was concerned about was the sustainability of the project, the environmental protection, and he was satisfied with all of that, I will leave the engineers and developers to satisfy yourself with the rest of it. He said I am satisfied. A group of people came into town and bought what Wendell was, and they were trying to build a better Wendell and that was what we all want as citizens. They were doing good work and were a part of our community. He said they were already helping our community and what they were telling us was they need our help and he thought we needed to give it to them. They have earned our trust and support. We don't know exactly what they were going to do, but he felt in his heart we needed to trust them to do what was going to be best for all of us. He said what's good for them would be good for us. We need to raise our per capita tax base; we are the lowest in the county. He said they were all about Economic Development, let them help us with that. He said they would put us on the map, but they could not do it if we don't let them do it. He was asking the board to support them when they asked for something.

No one else wished to speak for or against the request. Mayor Pro Tem Parham asked if there was any reason this Public hearing should not be closed. No one responded so Mayor Pro Tem Parham closed the Public Hearing and asked that the public hearing be placed on the October 26th Agenda for discussion and action.

Commissioner Laughery said neither Commissioner Lutz nor myself will be at the October 26th Board meeting. He said we would have a quorum, but he just wanted everyone to know. Mayor Pro Tem Parham asked the board if there was any reason to leave the hearing open. Commissioners Gray, Boyette, and Parham replied they would be at the meeting. Mayor Pro Tem Parham closed the public hearing and asked that it be placed on the October 26th Agenda.

Item 7 – Public Hearing on an amendment to the Wendell Falls Development Agreement to apply standards from a newly created Planned Unit Development (PUD) document.

David Bergmark said this item dealt with the Developers Agreement. These are to fold in everything you have just heard and action would be taken in two weeks. He said the Developers Agreement would take the changes for the new PUD document, the designed standards that were housed within the agreement and apply them within the Developers Agreement. He said the fact that the other design

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standards were in this, really did not make a distinction since the entire PUD document was going to have to be incorporated by reference into the Development Agreement.

David said the Planning Board voted unanimously to recommend approval of the Wendell Falls PUD submittal including the amendment to the development agreement, but asked that the Town Board give further consideration to the proposed language and/or cross-section for roads within and adjacent to Wendell Falls prior to adoption.

Mayor Pro Tem Parham opened the Public Hearing for anyone to speak for or against the Amendment to the Wendell Falls Development Agreement. No one wished to be heard. Mayor Pro Tem Parham closed the Public Hearing.

Item 8 - Public Hearing on a Zoning Map amendment request by Kirk Rightmyer and Bob Polanco to rezone 12.75 acres of land (excluding ROW) located at 245 Short Street from R3 to R4.

David said if the Board chooses to approve this Public Hearing request, staff would also like to include .015 acres of land located at 99 Church Street the Town owns so that we don't leave an island there.

David said the property was currently vacant and located within the corporate limits of the Town of Wendell. He said the property was owned by Betty B. Williford who was attempting to sell the property. The applicant had indicated a desire to construct a small single family subdivision on this property.

David said the applicant provided the following justification within their petition:

"The purpose of our proposed amendment is to bring the subject property to a zoning designation more in line with the existing land use patterns and protect the economic value and viability of the property by merging the existing land use and the designated within the adjacent property".

The Residential (R-4) zone was adjacent to the subject tract and this rezoning application would expand the existing Residential (R-4 zone and also buffer the Manufacturing and Industrial zone located to the south).

We feel that the proposed use was much better aligned with the current uses in the immediate area. By permitting this zoning designation, the classification will match the current use of the property".

David said the Land uses were R3 to the North and East, R4 and RA to the West, and MI to the South,

David said the difference between R3 and R4 was the lot size. R3 had a minimum lot size requirement of 10,000 square feet and R4 had a minimum lot size requirement of 6,000 square feet. The only use allowed in the R4 that was not allowed in R3 was 'Group Care Facilities (more than 6 residents)', which requires a Special Use Permit (SUP) in the R4 zoning District. He said neither zoning category permits multi-family dwellings.

David said the Comprehensive Plan defines this section as S6 "Infill Redevelopment Area".

David said the Planning Board voted 5-2 in favor of the requested zoning map amendment, including the 0.15 acre parcel at 99 Short Street, to be rezoned from R3 to R4. David said those voting in opposition of the request cited concerns over the likelihood that the denser development would result in small starter homes, which the Town already has a prevalent amount of and which could hurt the Town's tax

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base. There were also concerns about the traffic as you heard from Mrs. Frankie Ruth under public comment tonight.

Mayor Pro Tem Parham opened the Public Hearing.

Mr. Bob Polanco – 8804 Albright Road, Raleigh stated we were proposing this project in this location and we saw the need to go to R4 due to the impediments the property had with industrial segment working on one side, a grave yard on the other, and a rather large cell tower. He said it was not the kind of project that would attract large high-end homes, yet its current use was agriculture and it was not delivering any benefits to the town for its tax base. The project was surrounded by infrastructure and everything it needed to bring in something that increased the tax base for the Town and roof tops that would bring economic development to the Downtown Core District. He said it benefited the town to make use of the infrastructure in place while helping out local businesses. He said he would take any questions the Board had.

Commissioner Laughery asked what plans were for the traffic in that area. Do you have any ideas or suggestions as to how to address the traffic? Mr. Polanco said we would like to think that what we would be developing would help with the traffic problem. He said the street layout would cause a connection between Church and Wall Street which seemed to be a natural flow through there.

Commissioner Gray asked could if Mr. Polanco could give her an idea of the number of homes they planned to put in this area. Mr. Polanco said we had not done a layout yet, because we don't know what zoning we would be laying out for. He said we thought between 50-60, but he thought 60 would be pushing it. Commissioner Gray asked what the size of the home would be. He said we don't plan to build the houses; we plan to develop the lots and sell them to builders. She asked were there any plans for amenities. He said they had talked with the staff about the required open space and one thought was we would like to put a playground there and work a trail into the south west corner of the tract.

Commissioner Lutz asked what the timeline was for this project and what they wanted to do. Mr. Polanco said once we get approval we could start the creation of the construction drawings for the development working with staff and probably in the spring get the lots ready and building begin in late fall of next year.

Commissioner Laughery said when he asked Mr. Polanco about the traffic he mentioned about a possible street coming out to Wendell Boulevard. David said he had mentioned Church Street and he thought he was saying it would be connection to Church Street on the Northwest side of the property. David said he did not know how much that would help the traffic in this development. He said motorists could go out Wall Street, Academy or Industrial. He said there was more than one route in and out of the development. David said we do have the Transportation Impact Analysis requirement for certain developments, but this development is not large enough to require a TIA. David said you would normally be looking at 300 homes to require a TIA. He said that was something we were looking at in the Transportation Plan to amend that standard, but even after it was amended it would probably not apply to 50-60 lots.

Commissioner Gray said typically when we get things like this, we get staff recommendations for it and that was not included. She asked if staff had a recommendation. David said a recommendation was not included partly because we were not taking action tonight, but in terms of being consistent with the

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Comprehensive Plan it was consistent. He said this was also our first rezoning since HB 150 passed, so there was less certainty of what would be developed, but we acknowledged it was a constrained site. Commissioner Gray said she agreed and felt like there was a lot we don't know.

Commissioner Laughery asked David if the Board could ask for certain concessions to pass the rezoning. David said since this was a traditional rezoning and not a conditional district, the Board could rezone it to a different district, or you can turn down the request, but you cannot require conditions. .

Ruth van der Grinten- 636 Timber Drive, Wendell said she was on the Planning Board and voted against this rezoning. She said she kept hearing over and over again that Wendell had enough starter homes. She said if you go to this area the houses were small and on small lots, and they were asking for the lots to be even smaller. She said it would be congested in the area and she asked the Board to look at this thoroughly before making a decision.

Nelson Hernandez- Owner of Wendell Tap Room said his issue was why everyone was so afraid to bring people to Wendell. There were people investing money here and you should welcome money here. He said this was why the town was the way it is, because of the way you guys had been thinking. You have to take a risk. My wife and I took a risk to come to Wendell, and he saw the town meetings and he did not see how you think people would continue to invest money here. He said people were our way of survival but the Board has to change the way it thinks.

Kirk Rightmyer -238 W. Millbrook Road, Raleigh said we had done a good bit of research on the properties in the area and the average Wake County tax value of R4 zoning was \$94,000 and the average tax value for R3 was \$98,000. He said what we were proposing was not going to be pulling down the value of the property; it could do nothing but bring them up. He said he could not see any of the homes that would be built in the R4 zoning that we were requesting to be any less than \$150,000 - \$160,000. Everyone keeps talking about the traffic and by having the extra connectivity it improves the traffic patterns. He said I agree with what the Planning Board member brought up, this property had been sitting vacant for some time and it had been vacant for a reason. We were trying to make the project more economically feasible and we need your help to make it work.

Julia Ledford – 3 Ledford Lane said no one had mentioned the impact on our schools. When we talk about the small housing developments with small houses it did tend to bring lower income families, and we already had a very high percentage of that in our schools. She said she would like to see some studies to see if there was any way to put something in that area that raised our school standards for our children.

Ray Hinnant - 205 Dogwood Trail in Wendell said he would like to see the zoning remain as R3 because the Board could no longer dictate the size of the house, but if you kept the lots sizes larger you had a good chance of not having so many starter homes. He said the people that buy starter homes would not be eating at the Tap Room or anywhere else.

Ann Stuart – Hollybrook Road said she was very active in the schools and saw what small housing and public housing had done to bring Wendell down. Everyone needed to have an opportunity to have a home, but it did not have to be in Wendell. She had begged the Board to go to the schools at breakfast and see what was going on. Years ago when they started to build Public Housing the principal said she told the builder, you were going to ruin our schools and he looked her in the eye and said you do not know what you are talking about. It has killed our schools and people say we need more roof tops in

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Wendell to bring more business. She said if they are not substantial people who can afford to buy things and shop in Wendell, roof tops don't do any good. She said we have a surplus of smaller homes, we need to think larger and move on up for our children. She said we had underscoring schools because of all of the affordable housing we had in Wendell. She asked the Board not to make a decision that would hurt our schools any more, give our children a fair chance.

Mr. Polanco said everyone deserved a house, and he did not think everyone wanted a big lot; they wanted something they could maintain. We were not talking about bringing starter homes here. He said to sit here and make the accusation that the people that would buy our homes would be bad parents was way out of line. He said the reality of what we saw here was when you buy a home you had to qualify to buy a home, and to say that they do not have any disposable income to spend on local business was out of line. He said if the project was approved it would take a piece of Agriculture Land that was not utilizing any of the services and turn it into a piece of property that was carrying its weight in this town. He asked the Board to please consider this request.

No one else wished to be heard and Mayor Pro Tem Parham closed the public hearing. He asked that this item be placed on the Agenda for October 26, 2015, for discussion and action.

Item 9 – Public Hearing on a Zoning Map amendment request by Sanderson Engineering to rezone 5 properties of land totaling 5.76 acres (excluding ROW) located at 2701, 2721, 2731, 2741, and 2751 Wendell Boulevard from Rural Agricultural (RA) to Corridor Mixed-Use (CMX)

Allison Rice stated the five properties included in the rezoning request were next to the Food Lion Shopping Center. She said Steven Sanderson of Sanderson Engineering was the applicant representing the property owners in the Zoning Map Amendment. She said none of the properties were in the corporate limits of Wendell. She said two properties had single family dwellings on them and the other three were vacant.

Allison said because the property was outside the corporate limits they would be annexed when developed. She said Wendell Boulevard was designated by the North Carolina Department of Transportation as a Business Corridor.

Allison said the Wendell Comprehensive Plan defines this section as S4 "Controlled Growth Area.

Allison said the Planning Board voted 7-0 in favor of the requested zoning map amendment. Staff recommended approval of the rezoning request.

Mayor Pro Tem Parham opened the public hearing for anyone wishing to speak.

Julia Ledford – 3 Ledford Lane said we would be front row to any commercial development that came in this area. She said we own 3 Ledford Lane, 110 Ledford Lane, our son owns 9 Ledford Lane and we also owned 20 Ledford Lane. She said we bought those properties because they had gotten out of the family tract of land that had been in the family for 100 years. She said we intend to live there another 100 years, so we were asking our fellow developers, citizens of Wendell and Town Board to consider that people lived there. We don't want lights shining into our windows, we don't want a lot of noise, we don't want danger in our neighborhood anymore that we already have. She said she did not want to impede on progress, but she also did not want anyone to impede on our families wellbeing. She said 50 years ago, a very outstanding citizen of Wendell came to our door opposing zoning and wanted us to

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sign a petition. They got very angry when she refused to sign and said zoning was good. She said since she had been there the town had allowed what she called spot zoning. She said any developer or land owner that came before the Board that had a plan to make some money; the Board let them rezone it. She was asking the Board you to get a bigger vision and think about when they drove in on Wendell Boulevard, do you really want to market Wendell as a business alley. She said what they saw when they came in would be businesses.

Mrs. Ledford said if this happened, she would be standing before the Board expecting the biggest, deepest buffer and fence that you could be put up, no lights focused towards our property. She was opposed to Wendell Boulevard becoming a Capital Boulevard, not because she lived there, but because she did not think this marketed Wendell very well. She asked if this was going to raise her axes so someone else gets more dollars. She said that was a question that she wanted answered.

Amy Benson- Marshburn Road said her mother was the owner of over a 100 acres farm; it joined the lots that Mrs. Ledford mentioned. She said she did not want anything that would impact her mother's farm with water run-off. She said that corner was the best producing part of the farm. She said she knew when development came you could end up with all kinds of problems from what was being built and she did not want to see anything happen to our farm land.

Commissioner Gray asked staff what they could tell the Board about the buffer requirement which would be in place. David Bergmark said the UDO called for a Type B buffer between the CMX zoning district and the RA zoning district. He read the buffer standard to the Town Board.

A commissioner asked staff how lighting from the commercial area would impact the Ledford's property. Mr. Bergmark said the UDO contained lighting standards that mandated that a certain lighting level, or foot-candle, not be exceeded at the property boundary. Commissioner Boyette asked if most of the light wouldn't be on the front side of the lot. Mr. Bergmark said he could not say for sure without seeing a site plan, but that given the size of the lot it is likely that most of the parking and therefore most of the lighting would be on the front side of the lot.

Steven Sanderson – 105 Lake Drive Wendell said he was the engineer who requested the rezoning on behalf of the property owners. He said he represented all 4 property owners of the 5 pieces of property. He said it started with two properties and after some conversation with the real estate office they all decided to sign on to this request. He said in response to the questions the ladies brought up, the Town Ordinances requires when any property was developed for commercial business that a buffer be in place and the width and density spelled out by the ordinance dependent upon the zoning of the property that was being developed and the zoning of the property that it was adjacent to. He said adjacent to Residential Agricultural property the buffer would be as large as it possibly could be based upon the ordinance of the Town, or as dense as it possibly could be based upon the ordinances of the Town because of the disparity between the two particular businesses. He said lighting, stormwater, landscaping, and access would all be taken care of during the planning process of the design of the particular lot and it specifically addresses the adjacent property owner.

Mr. Sanderson said what we were addressing tonight was what would be the appropriate use for the property. He said the land was currently zoned Agricultural and it was adjacent to the only shopping center in Town and also adjacent to the Town property boundary. He said by the location it was no

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longer rural, it was in town. He said Mrs. Ledford asked would her property taxes go up, and they would not because she does not pay Wendell property taxes because she is out of Town.

Mr. Sanderson said the zoning being requested allows single-family dwellings, so the houses that were there now could remain there. He said it was also allowed it to be developed as commercial property as outlined in the UDO. He said anything that we do to any of those properties would require connection to the City of Raleigh water/sewer system which would require fees to be paid to decrease our debt to Raleigh for the improvements made to our water/sewer system. He said it would also require that road improvements be made along Wendell Boulevard.

Mr. Sanderson said we felt the request provided the best and most appropriate use of the land, and would benefit the Town and increase the commercial tax base.
No one else wished to speak and Mayor Pro Tem Parham closed the Public Hearing.

Item 9a – Discussion and action on a Zoning Map Amendment request for 5 properties on Wendell Boulevard from Rural Agricultural (RA) to Corridor Mixed-Use (CMX).

Mayor Pro Tem Parham said the board had heard the pros and cons from the people who spoke, was there any discussion on this matter.

Commissioner Laughery asked why the Board was taking action on this tonight. It was the first time the Board had seen it. He said this was a significant rezoning and he did not understand why we were being asked to vote on it tonight.

Mr. Sanderson said the Town's UDO states that anyone making a request for rezoning could request that a vote be made on the night of the Public Hearing so he made that request to the Town. He said his client, in discussion with the property owners, made a due diligent period that ended on October 20, 2015 and the next meeting was not until the 26th which would be too late for him to fulfill his contract. Mr. Laughery said we do not have an attorney here tonight, and he was very uncomfortable with voting on it tonight.

Commissioner Boyette made a motion to approve the rezoning request for 5.76 acres of land on Wendell Boulevard from RA to CMX.

Commissioner Boyette said he understood some hesitancy for adjacent property owners, but his concern was we talk about Economic Development and getting businesses into town. If we could not extend a commercial district that directly abutted and has a majority of its lot along the main road through town, he did not know where we could expand commercial anywhere. He said with that said, he was also concerned that we had not taken action on any other public hearing tonight and understood it was the right of request to do so, and he was not sure why the lawyer was not here, but it came down to if we were trying to get more commercial base in this town, if this was not an appropriate place, he did not know where it was.

Commissioner Gray said she agreed that we generally had a public hearing and then at the next meeting took action, but there was a right to ask and it had been on her radar for a couple of weeks so she did not have a problem voting tonight. Commissioner Lutz said he was also comfortable voting tonight. Commissioner Laughery said he agreed that it was a good place for commercial, but was uncomfortable.

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Commissioner Gray asked Mr. Bergmark if he could speak about the required buffer. David said it was based on the zoning district so if the development adjacent to the Ledford's farm was developed as commercial it would be required to have a Type B buffer. He said a Type B buffer was a minimum width of 20 feet and had one tree every 25 feet and one shrub every 6 feet. He said a Type B buffer was not a buffer that you can't see through.

Commissioner Laughery said he would ask Mr. Sanderson to do in good faith what he could concerning the light and noise that Mrs. Ledford had concerns about. Mr. Sanderson said the Town had standards in which we had to develop and that applied to every piece of property in Town. He said the standards were specific, you can't project but so much light across the boundary. We had to do engineering plans and show that when a site plan was done and where the light poles were located and that the light was limited and decreased when it projected out. Steve said it does not concern him because the Town had control of what had to be done.

The motion by Commissioner Boyette to approve the rezoning request for 5.76 acres of land on Wendell Boulevard from RA to CMX passed unanimously.

Item 10 - Commissioner Comments

Commissioner Laughery said the Harvest Festival was amazing. The Town and Chamber worked together to move the festival inside and you could not have asked for a better set up. It was unfortunate that it rained, but again the efforts made helped make the festival successful. He said I hope that our citizens will use our business in Town. He said there was a new business coming into Town and the buildings were filling up and it was really amazing.

Commissioner Lutz said he echoed Commissioner Laughery's comments on the Harvest Festival, the rain was horrible, but the spirit of the town was present there and he thought everyone had a good time. Thanks to all that worked so hard to make the festival possible. He said I also wanted to remind everyone that Saturday, October 17, 2015, if you have some canned foods in your pantry please put them in a bag and someone would come around and pick up your donation for the Food Pantry at the local churches. He said it was a great way to help our neighbors. He said there was also a 5K run on Saturday to help support the Food Pantries and you could register at WendellUMC.org to register or register the day of the event.

Commissioner Boyette said in talking about the schools he made a comment that NC Schools ranked 50 out of 51 statewide. He said there is only one group of politicians you could blame for statewide problems. He said when charter schools were thrown up for children who needed a different way to learn a lot of people were hesitant. He said he thought Charter Schools had turned out to be different than what was expected. He said when we talk about school achievement, he did not think there was a lot of affect that a single town board could have with a rezoning of a twelve acre parcel on how well school does. He said as far as trying to get bigger and better homes, we spend a better part of this meeting talking about a 1300 acre development with houses he could not afford whereas the moving down was a max of 60 house. He said he did not have any control over the schools, the best thing he could do was encourage the teachers and state legislators to make better decisions. He said he also enjoyed the Harvest Festival, it was cold and wet, but it was also different and sometimes different was

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good. He said today is Columbus Day so don't forget to celebrate the person who never set foot in America.

Commissioner Gray said the food truck luncheon would be tomorrow at the Park and this would be the last one. She said Lake Myra Lights had asked for sponsors to help with the candy and some incidental cost they had. She said this was something they do. She said Patrick Reidy asked me to remind everyone about the mail box decorating contest. She said the deadline for entry is October 31, 2015, please participate.

Commissioner Gray said she wanted to offer her congratulations to the Chamber and the Town about the Harvest Festival. She said she saw what efforts the Chamber put into making the Harvest Festival a success all year and too had to change everything two days before the festival was a lot. She said she also want to thank Teresa, Chief Carter and Parks and Recreation for all of their work helping the Chamber get everything lined up.

Item 11 – Mayor Pro Tem Parham's Comments

Mayor Pro Tem Parham said he just wanted to say kudos to Mr. Sid Baynes, his comments about relaxing the UDO was right on the spot tonight. He said we were going to have to relax them a little for us to move forward. He could understand Newland's position, because at this point they weren't quite sure where they were going.

Mayor Pro Tem Parham said he thought the Harvest Festival was good, under the circumstances that they were up against. He said overall he thought it was quite successful.

Mayor Pro Tem Parham said being a 47 year educator, he knew there were many other variables that come into play for kids being educated, the kids we were talking about are latchkey kids and the parents working one and two jobs and doing the best they could. He said when he was in the classroom he had a sign printed that read "Parents are Teachers too". Parents need to get involved with their kids. He said we could not make kids learn, we had to make them want to learn by motivating them. He said he had been asking the Wendell Community to volunteer for some time and help make the kids better.

Item 12 – Adjourn.

Mayor Pro Tem Parham adjourned the meeting at 9:22 pm

Mayor Timothy A. Hinnant

Attest:

Jonnie S. Driver, Town Clerk