

**TOWN OF WEDDINGTON
SPECIAL TOWN COUNCIL MEETING
MONDAY, MARCH 18, 2013 – 4:00 P.M.
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Special Session at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104 on March 18, 2013, with Mayor Walker F. Davidson presiding.

Present: Mayor Walker F. Davidson, Mayor Pro Tem Daniel Barry, Councilmembers Werner Thomisser, Pamela Hadley and Barbara Harrison, Town Planner Jordan Cook and Town Administrator Amy S. McCollum

Absent: None

Visitors: Rob Dow, Bill Price, Judy Johnston, Genny Reid, Jack Parks and Richard Natale

Item No. 1. Open the Meeting. Mayor Walker F. Davidson called the March 18, 2013 Special Town Council Meeting to order at 4:01 p.m. There was a quorum.

Item No. 2. Review of Chapters 1 through 5 of the Land Use Plan. Town Planner Jordan Cook presented the Council with Chapters 4 and 5 of the Land Use Plan. The Town Council continued to go through the Land Use Plan page by page outlining proposed changes.

The Council had a lengthy conversation regarding the following Goal #2 in the Plan:

Goal 2: To retain a single commercial center within the Town that occupies the same area as the existing commercial core. While businesses in the center will maintain the small-town scale needed to serve local residents, the design of the center should become more pedestrian-oriented.

Councilwoman Pamela Hadley advised that she wanted to change the wording to say: To retain a business center within the Town that occupies the same area as the existing Town core. She stated, "I have heard discussions regarding moving the Town core somewhere else. I am just saying to retain this business center as the Town core is my interpretation of it."

Mr. Rob Dow - Did you intentionally leave out single in your verbiage?

Councilwoman Hadley – No. I thought it was addressing the Town core. That is my interpretation of it. I don't think we should have multiple Town cores.

Mr. Dow – You have to decide what you really want. To me Goal #2 is talking about we wanted a single area in the Town of Weddington where there is commercial exclusively.

Councilwoman Barbara Harrison – We have commercial - whether you call it commercial or not in other places than here.

Mr. Dow - We have non-residential.

Councilwoman Harrison – To say that and then have a Swim and Racquet Club, a Dog Kennel and a Day Care Center that are not within this area and to say that all we have is one single area for business isn't exactly correct.

Mr. Dow – We disagree.

Councilwoman Harrison – You are going to argue that as long as we have residential we can put all these other things in residential. They are conditional uses that are businesses but we don't call them businesses.

Mr. Dow - The Day Care Center under the old zoning laws was allowed in residential. We have since changed that. That can't happen again. If they have to come in for a rezoning to MX, it's commercial. If they don't, it's not. Do you want a single place designated for rezoning to commercial or do you want that to be all over town? That is what this is saying. There is no other place in Weddington that has been rezoned for commercial.

Councilwoman Harrison – That I agree with. We disguised the wolf.

Mr. Dow - This new Land Use Plan is going to be less clear for Jordan to fall back on when people come in and say, "I'd like to put something down here in this corner or that corner." He is going to say, "Yes, it looks like we can."

Councilwoman Harrison – Didn't what we just voted on allow that? Didn't we just say that every property owner has the right?

Mr. Dow - Every property owner does not have the right. They have the right to ask, not the right to do it. We have control and the ability to indicate where we want commercial. The only place in Weddington that has zoning for business is right here and that is what Goal #2 is saying. If you want to change that, get it out in the open and change it. Make a clear and clean document so everyone can know what you want.

Mayor Pro Tem Barry - I started this process by saying in our zoning we have current uses that are non-residential spread all over town that we masked. You think we should do everything conditional use under residential exclusively. From my perspective, let's call a duck a duck.

Mr. Dow - That is the grey area to me. If someone has to rezone to commercial or business or MX it's a business. If they don't, if it is by right under the zoning or the way their land is currently zoned, it is not. If you want to go back and change rights you can. That is what we did with the Day Care Center when we realized that it is a commercial loophole that somebody can take a residential piece of property and put a business on it. We closed it and disallowed large daycare centers. If you want to go through the by rights list under our R-40 zoning, you can do that.

Councilwoman Hadley – As it is now if someone calls you and says they want to present a plan to Council and he wants to propose office space on the corner of Weddington-Matthews Road and Antioch Church Road, are you going to tell him he can't present that to Council or to Planning Board because it is not zoned commercial? He has the right to present his idea.

Town Planner Cook - He has a right for an application. The Land Use Plan is a tool for the planner and in this case one person in the planning department. In a big city such as Charlotte it would be a tool for 50 planners. If that property is not business on the Land Use Plan or we have said that we won't allow for any more than a single commercial center, if it says something like that then I have a tool in my toolbox that I can go to and say you can pay the \$1,500 fee and apply and hire the engineers and architects but that is not what we call for in our future plan. You don't have a good shot. That is how the Land Use Plan works. If it is called for business and we say you can have multiple commercial office centers then my tool is saying, "Yes, you can still apply and you probably have a better shot. We have identified this individual parcel as a commercial, as an office, a medical office center. Yes, you have a really good shot."

In either scenario I'm not ever telling a property owner or someone representing a property owner they can't submit an application. They have that right.

Councilwoman Hadley – They have the right to do that. I have heard of different plans to move the downtown core. That is why I was looking at this as preserving this vicinity, as maintaining it as the downtown core. A developer has the ability to present to the Planning Board and to the Town Council any of their ideas. I don't see this as the jugular of everything you are talking about. I see it as protecting that we don't end up with two downtown cores.

Mayor Davidson – Pam, you are focusing on the town core as what this paragraph is talking about. The Town core to you is the Town Hall, the only shopping center, etc.

Councilwoman Hadley – Yes.

Mayor Davidson – Rob, what you are talking about is the paragraph is saying this is the only place in town that will have commercial. Pam, you may be saying that this will remain the core but another commercial retail facility could take place in other parts of the town and is not threatening the Town core. It is more commercial though. That is the distinction between the two. To me this language says the single commercial center. You may want language that says commercial somewhere else and it's not single.

Councilwoman Hadley – I think we already have language that commercial could be somewhere else because they have the ability to spend their \$1,500.

Mayor Davidson – Everybody can ask. The Town gets to plan. We have the right to plan. What this document is used for is the guy's likelihood that this will happen. What are the plans for the future? If it says in locked terms single commercial center and the map shows this then when a guy wants to do something on 41 acres he would look at it and go I probably don't have much of a chance. That shouldn't deter him from his right. He has to play his odds on what he thinks will happen. This is a big deal. In the past the Town has attempted language that may be confusing. Northeast quadrant was in there to try and actually have a circle that said this is the only commercial that we will have. If you tear down the language to make it more, you know then he will think he has more of a chance.

Councilwoman Hadley – He could have talked to four of the Councilmembers and felt good in his chances.

Mr. Dow - Nowhere in this language does it suggest that anywhere but the town center is appropriate for commercial.

Councilwoman Hadley – The map doesn't if we decide not to do parcel by parcel which I don't want to do. I would like to leave the map personally like that, add my three circles for future fire department substations and be done with the map. If it is not on the map and this is saying this is where we want to keep our Town core doesn't that create the exclusivity that you guys want?

Mayor Davidson – Under your language you can't threaten the Town core. A second town core could not be created. Your Twelve Mile Creek proposal is not another Town core? None of those proposals said we are going to move Town Hall. It is separate.

Councilwoman Hadley – I have heard people say they want to build a Town center.

Mayor Davidson – We are planning now. We decide for the next five years – do you want another Town Center or not? I think you don't want another Town core? If everybody agrees that we are not going to

create another Town core, we can say that here for the next five years. The next question is do we want this to be exclusively the only place that you can have commercial in this geography and have a boundary on it?

Councilwoman Hadley – How can we be that black and white if you haven't gone parcel to parcel on the map?

Mayor Davidson – It would be parcel by parcel in the text because you will have boundaries set.

Councilmember Thomisser – This is a 10-year document. At the beginning of this process, you asked us all to do a map and identify what we felt were the areas in the Town that would possibly lend itself to mixed use. Basically everyone on Town Council submitted a blank map including you. You put a map out here and there wasn't anything on it.

Mayor Davidson – It wasn't a blank map. It was my vision for the next five years.

Councilwoman Hadley – It was not added to.

Mayor Davidson – None the less it was my vision for the next five years.

Councilmember Thomisser – It was the same map that basically exists. Suppose Harris Teeter is exploring the possibility of their stores being sold. Suppose they are bought out and the new owners decide to close this Harris Teeter. There are some businesses in the shopping center that are not happy with the way things are. In the last two to three years I have heard concern from citizens and members of Town Council that there might be a possibility that the whole shopping center might be boarded up. This is a 10-year document. In my opinion, we are handcuffing ourselves as to the future of the shopping center that I think it going to fail but who knows. I have a lot of faith in future Town Councils and they should have the opportunity to determine where an MX area should be. I am trying to avoid handcuffing any future Town Council to a specific area, particularly if this shopping center fails. We are not going to make a shopping center across the street from the fire department or a shopping center at the corner of Twelve Mile Creek Road and Highway 84 as rumor has it because no one on this Town Council has talked about that. Perhaps there is another area that will serve the Town better. Future Councils may look upon that differently.

Mayor Davidson – First of all this Land Use Plan doesn't bind any Town Councils. It is a vision at this point. This Council can write this Land Use Plan and there can be an election and another Council can do it again. We can change it anytime. It can be amended.

Mr. Dow – You don't need to amend it. You can vote for things outside of the Land Use Plan. This is a guide. This Town Council is not bound by the Land Use Plan.

Mayor Davidson – If you put in here language with intent that you want a single commercial center then you have something to show the citizens why what they are saying is wrong because it is in the Land Use Plan. If you take that down to no borders or barriers for commercial then everything in Town could be commercial. You can't show the citizens what is going to happen across the street from them and you can't promise it won't be commercial. There is not a plan that says it won't be commercial. This is a point we need to decide, do you want a geographic limitation on commercial or not? Every property owner that I talk to would love to have commercial over residential because it pays out more. Some are very honest about it. We have to make decisions of what the true intent for the plan is. If you lock it up into geography with language it can be changed when someone comes in with their application.

Councilmember Thomisser – I was in the minority when we voted regarding the Polivka application. Look at the problem it has caused. The citizens are upset. I am trying to avoid that problem because of the Land Use Plan being specific. All you have to do is look at the survey. The citizens don't want the whole Town to be commercial. I put my faith in future Town Councils to protect the residential areas of Weddington but at the same time don't want to tie future Town Councils to a specific area.

Mayor Davidson – This is not binding. It's your turn to take input from the citizens and write the plan down that you think the citizens want for the next five years. If the citizens change their mind next November then that Council has the freedom to change it again. If you have the geographic area that is listed as commercial then when someone says I am afraid of the property across from my neighborhood being commercial you can say that is not in our plan because we have this language in here and we can show you what is planned to be commercial.

Councilmember Thomisser – You just said this is a guide so it doesn't really mean anything.

Mayor Davidson – It might mean something to that person about that property regarding the Town's plans but it certainly is no guarantee.

Mayor Pro Tem Barry - Jordan, when you look at the Plan is it the plan and the map or does one supercede the other? Here is what the plan says and the current map reads like this and Council would amend the map from time to time based on the economic conditions or circumstances that exist. The map is identifying the current direction and this is setting up an overall vision.

Town Planner Cook - Yes, the map is also called a Future Land Use Plan and that map should identify the future.

Mayor Pro Tem Barry - The question is do you want only one single location for commercial business?

Mayor Davidson – If we have the Future Land Use Map and it has existing red on it and we write text describing the red that is now these boundaries and then you have the future. We have made a decision to make it static. Basically we are not changing it in the next five years. That has the map, the boundaries and the text. You can leave it like it is and tighten up the red or you could take the text and say we are not saying that it is just going to be in this area. It could be throughout town. That doesn't require you in my mind to go identify those parcels on the map.

Mayor Pro Tem Barry - Which would require the owner or their designee to come up with some creative use and then petition the Council and Planning Board? Councilwoman Hadley, your language is to remove the word single commercial core?

Councilwoman Hadley – It would read: To retain a business center within the Town that occupies the same area as the existing Town core.

Councilwoman Harrison – I like that. What I hear is you have two different things going on here with this one goal. We are saying this is the only place for commercial; however, we are also saying people have the right to come in. We could have a Goal #3 that a land owner has the right to come in and petition or come in with an application.

Mayor Davidson – That is not necessary. That is a fact. I think everybody is good with the Town core. We are not looking for another Town core or moving the Town core. Do you want commercial outside of the Town core?

Councilwoman Harrison – When we talk about the northeast quadrant, that is where if we are going to do something then we have to say a little bit more than northeast quadrant.

Mr. Dow - What is the vagueness of northeast quadrant?

Councilwoman Harrison - When you say that I could go all the way to our borders.

Mayor Davidson – We have to make a decision. Does this Council want to draw a circle around the current commercial and leave it that way or do they want commercial outside of that circle? Once we make that decision we can write language. If we say we want to stay in the circle let's tighten up so we know it's clear. If we don't want the circle, then let's write language letting us know that it is okay to have mixed use outside this circle.

Councilwoman Harrison – Currently, I have not seen anything that I like. I am not in love with anything that has come in. I don't feel that I can be God so I can't go parcel by parcel. There is going to come a time when an application comes in that will be unique enough and interesting enough that I might look at that and say yes I like it. I struggle with what I put here. Do I just say this is commercial and then a year from now when that unique plan comes in and I say yes and I get crucified because it was not called out in the Land Use Plan, or do we put something in?

Mayor Davidson - This is just a choice. You have to look in the future like you are talking about. It sounds like you would say I do not want a circle because there may be something else out there that I would want at another parcel.

Councilwoman Harrison – I think it has to be vague enough. Life is going to change whether we want it to or not.

Mayor Davidson – We have the right to plan. We are not binding future councils. We are giving our vision of the five people who are here now.

Mayor Pro Tem Barry - We are establishing a goal. We are not out there telling 150 developers go find something that is really unique and bring it to us. What we are looking for or creating is that if somebody uses their own creativity and comes to us with something really unique and fits within the scale and scope of our community we want the ability to allow that to happen. That is not a goal. We are trying to say Goal #2 doesn't prevent that. Just take the single out then.

Mr. Dow - The verbiage creates the goals and visions for future commercial. I think the map shows what we know now as future commercial. I don't think anywhere in there it states that it is not ever going to grow. This Council and Planning Board have actually voted in favor of all three additions to that Land Use Plan Map. Nowhere in there does it state that this is the future and you can't add to it. That Land Use Map is the result of the goals that are preset in the land use language.

Councilwoman Hadley - If you are not willing to designate another area on a map then I don't have a problem with the word single.

Mayor Davidson – I am trying to get us to a point where we say what we want and then we write language. Do you want to contain a commercial mixed use area and have borders or do you want to drop the language? You can go ahead and say commercial is maybe allowed outside of the existing commercial area. If you are looking for something but just haven't seen it. You may be open to it in the future and want that available to you though the Land Use Plan language. Then we don't have borders. My problem with this is you open the whole Town up in the Land Use Plan to an idea. I want to write this paragraph

but before we do that first I want a decision on this issue. So we write it that way knowing what we need and throughout we will continue to strengthen that vision.

Councilwoman Harrison – I want borders. Leave it as it is.

Mayor Davidson – Would you want to have boundaries on mixed used commercial and define it? We are writing a plan and if right after that the Twelve Mile Creek proposal may come to us and you would want to have that available.

Councilwoman Hadley – I have that available to me right now. If something came and it was just over the moon and I was ecstatic over it we could change it in one day.

Mayor Davidson – Do you want to change it now?

Councilwoman Hadley answered no.

Mayor Davidson – You are good with the boundaries.

Councilwoman Hadley – for Town Center.

Mayor Davidson – For commercial? For MX, for the only place in Town.

Mayor Pro Tem Barry - Since the Planning Board has the ability to recommend to the Council to override the plan because it is a guide, then just leave the plan like it is and if someone comes up with a good idea we will just override the plan. If you are going to accept the alternative whatever it is then you need to be willing to say that the option of exclusivity only at the intersection of Providence and 84 northeast corner is your answer. If you want to change that, then we have to change that. I don't want northeast corner because it doesn't exist.

Councilwoman Harrison – We need to change that verbiage. Everyone has the right to come in with an application that could be approved by this or any future Council.

Mayor Pro Tem Barry – Then write a goal that says the Council recognizes that economic conditions are going to change over time and recognizing that if you are creative bring it. What I don't want to do is open the door that says every time somebody walks in we could end up with public hearings for the next two years on land use. I want to be able to say to John Doe if you have an idea bring it.

Mayor Davidson – Do you want to define a contained border for commercial and mixed use in the Land Use Plan?

Councilwoman Hadley – I want the business center to occupy the same area as our Town core.

Mayor Davidson – That is not exactly saying single.

Councilwoman Hadley – I said put single back in.

Mayor Davidson – So it's exclusive.

Councilwoman Hadley – To retain a single business center within the Town that occupies the same area as the existing Town core.

Councilmember Thomisser – I don't like the word single and the verbiage that it occupies the same area. Look at all the problems we have had with the northeast quadrant language. Although I was in the minority it has caused unbelievable problems. We don't know what will happen in the future. I want future Town Councils to have the ability to make decisions based on things that are happening two or three years down the road. No one can predict that.

Mayor Davidson – You don't want commercial. Is it okay in the plan to allow commercial or business MX throughout the Town?

Councilmember Thomisser – Not throughout the Town. I want each individual situation to be analyzed and voted on.

Mayor Davidson – You don't want the Land Use Plan to prevent anyone from doing commercial mixed use throughout the Town.

Councilmember Thomisser – I want the option out there if there is a better idea and a future Town Council thinks it's a better idea.

Mayor Davidson – Every parcel out there if it is a good idea the plan says it can be commercial.

Councilmember Thomisser – Not every parcel. You have to be careful. I am not saying every parcel in Weddington. I am saying if there is a better option then future Town Councils should be able to address that. We have been tied up for the last year simply because of the northeast quadrant. The whole Town is upset. They think we are going to make the whole Town commercial when we are not. One citizen talks to another citizen and by the time it gets to the 4th citizen the whole Town is going to be a shopping center.

Mayor Davidson – I think your language adds to that.

Councilwoman Harrison – In the course of one year I have talked to ten different developers. I say the same thing to every one of them that our ordinances and our Land Use Plan do not support this. I don't want to get to the point where every single person thinks they have the right to come in. Again, I hear what you are saying you don't want it everywhere but it could be somewhere. But without saying where somewhere is, I am not sure I want to sit through 18 more I got a "good idea" meetings. The last threat was eventually there will be a Council that will vote for something I do not want wherever that is.

Councilmember Thomisser – It's not important what you want. It's important what the citizens of the Town want.

Councilwoman Hadley – The reason I am good with this like it is because neither we nor future Councils are handcuffed. I am suggesting: To retain a single business center within the Town that occupies the same area as the existing Town core. Like the land across the street, if you wanted to approve it there are plenty of statements to back you up and if you don't want to approve it there are plenty of statements to back up not approving it. It's a vision. I don't think we are handcuffed at all and so I am going to call the question. Councilwoman Hadley read Goal #2 for the Council:

To retain a single business center within the Town that occupies the same area as the existing Town core. While businesses in the center will maintain the small-town scale needed to serve local residents, the design of the center should become more pedestrian-oriented.

Council proceeded to go through the rest of the Plan. Councilmembers discussed the proposed glossary for the plan and requested that Attorney Fox assist in defining the word "density."

Item No. 3. Possible Call for Public Hearing on the Weddington Land Use Plan Update. Mayor Pro Tem Barry moved to call for the public hearing on the Weddington Land Use Plan Update to be held April 8, 2013 at the Weddington Town Hall and to change the time of the meeting to 6:00 p.m. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Hadley, Harrison and Mayor Pro Tem Barry
NAYS: None

Item No. 4. Consideration of Scheduling Open House Regarding Weddington Land Use Plan. Council agreed to hold an Open House regarding the Land Use Plan on April 4 from 5 to 7 p.m.

Item No. 5. Consideration of Scheduling Presentation by YMCA Representatives. Council asked that Councilmember Thomisser work with the YMCA to schedule a presentation for the May 13 Town Council Meeting to begin at 6:00 p.m. Councilmember Thomisser expressed concern with the 6:00 p.m. time and felt that it would not allow a lot of citizens to attend.

Item No. 6. Adjournment. Mayor Pro Tem Barry moved to adjourn the March 18, 2013 Special Town Council Meeting. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Hadley, Harrison and Mayor Pro Tem Barry
NAYS: None

The meeting adjourned at 7:37 p.m.

Walker F. Davidson, Mayor

Amy S. McCollum, Town Clerk