

**TOWN OF WEDDINGTON
REGULAR TOWN COUNCIL MEETING
MONDAY, OCTOBER 9, 2017 – 7:00 P.M.
WEDDINGTON TOWN HALL
MINUTES
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Mayor Bill Deter offered an invocation prior to the opening of the meeting.

1. OPEN THE MEETING

Mayor Deter opened the October 9, 2017 Regular Town Council Meeting at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

Mayor Deter led the Pledge of Allegiance.

3. DETERMINATION OF QUORUM

Quorum was determined with all Councilmembers present.

Staff Present: Town Attorney Anthony Fox, Town Planner/Administrator Lisa Thompson, Town Clerk Karen Dewey, Finance Officer Leslie Gaylord

Visitors: Bill Price, Walt Hogan, Mike Carver, Barbara Gutierrez, Philip Gutierrez, Rob Dow, Cameron Helms, Joann Horstman, Thomas Cragg, Miriam Cragg, Terry Moore, Ray Roberts, Mary Ann Maxson, Mike Maxson, Liz Callis, Brian O'Connell, Kasey Rolfes, Tony Rolfes, Anna Marie Smith, Daniel Barry, Sherri McGirt, Barbara Harrison, Pat Harrison, Tim Wescott, Cooper Young, Elton Harris, Don Titherington, Irene Titherington, Brad Prillaman, Bjorn Riegle, Alam Tamboli, Andy Stallings

4. PUBLIC COMMENTS

Sherri McGirt - 302 Caledonia Way: Ms. McGirt wanted to clarify Mayor Deter's campaign information regarding getting left turn lanes in different areas, specifically Lockhaven Road and Providence Road. She wanted to make clear that this left turn lane was taken care of before Pulte presented the subdivision plans to the Planning Board in December 2015 or 2016. Ms. McGirt stated that she had spoken with the town planner about her concerns before the meeting and the town planner informed her that she would need to call NCDOT. Ms. McGirt and several other residents called and spoke to John Underwood, Sean Epperson, and Scott Cole. There was a traffic study done and crash analysis and the night of the meeting before Pulte presented to Planning Board, John Underwood had emailed the town planner. Ms. McGirt just wanted to clarify that when Mayor Deter is presenting the items that he claims to have completed in his campaign, that the items are those that he has done, not that the citizens have done.

Bill Price – 440 Weddington Road: Mr. Price wanted to thank Council and the safety committee for the street light at Tilley Morris and Weddington Matthews Roads. It makes it safer for everyone, especially elderly drivers at night. Again, thank you for everything.

Andy Stallings - 5100 Laurel Grove Lane: Mr. Stallings commented on R-CD regulations for minimum lot size. Mr. Stallings stated that he fully supports increasing lot size for R-CDs.
Mike Maxson – 7097 High Meadow Drive: Mr. Maxson stated that he has been a resident for 22 years. One of the things that attracted him to Weddington was the 1 acre zoning. He stated that R-CD regulations are not popular with citizens of Weddington. Mr. Maxson spoke in support of the R-CD amendment to increase minimum lot size.

5. ADDITIONS, DELETIONS AND/OR ADOPTION OF THE AGENDA

Staff requested to remove item 9B Discussion and Consideration of Final Plat for Harlow’s Crossing Subdivision from the agenda. The Applicant made changes to the already approved Carrington Final Plat; so it will need to be reviewed by the Planning Board.

Staff also requested to add Adopt Proclamation #P-2017-06 October as Domestic Violence Awareness Month to the Consent Agenda.

Motion: Mayor Pro Tem Titherington made a motion to adopt the agenda with the additions requested by Staff.
Vote: The motion passed with a unanimous vote.

6. CONSENT AGENDA

- A. Approve Reduction of Bond #1140892 for The Falls at Weddington from \$261,653 to \$67,797**
- B. Call for Public Hearing to be held November 13, 2017 at 7:00 p.m. at the Weddington Town Hall to consider Rezoning from R-40 to R-CD for property located at Weddington Matthews Road and Hemby Road, Parcel Number 06120002B**
- ** C. Adopt Proclamation #P-2017-06 Proclaiming October as Domestic Violence Awareness Month**

Motion: Mayor Pro Tem Titherington made a motion to adopt the consent agenda as amended.
Vote: The motion passed with a unanimous vote.

7. APPROVAL OF MINUTES

A. September 11, 2017 Town Council Regular Meeting Minutes

Mayor Deter presented a grammatical correction in the minutes.

Motion: Councilmember Smith made a motion to approve the minutes as corrected.
Vote: The motion passed with a unanimous vote.

8. PUBLIC HEARINGS AND CONSIDERATION OF PUBLIC HEARINGS

A. Conditional Rezoning for a Columbarium at Weddington United Methodist Church

Mayor Deter opened the Public Hearing.
No one signed up to speak.

Mayor Deter closed the Public Hearing.

Ms. Thompson presented the staff report: Weddington United Methodist Church requests a Conditional Rezoning (CZ) for property located on the southeast corner of NC16 and Hwy 84 to construct a columbarium in front of the existing cemetery. The columbarium area includes a new sidewalk, fountain, pavers, benches and brick columbarium walls with niche units and a precise concrete top. The project is broken up in three phases; Phase one includes 192 niches, phases two and three have 72 niches each. The applicant will remove and refurbish the existing fence to use between the units.

The ordinance defines a cemetery as property used for the dead, which may include the commercial sale and location of burial lots, crypts or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies; or the cremation of bodies. Setbacks for cemeteries shall be measured from the nearest structure or grave sites.

Cemeteries are conditional uses in the R-CD zoning district. The use may be permitted after review through the conditional district rezoning process.

Cemeteries require a minimum of 5 acres and have the following setbacks:

- Front Setback-75 feet
- Rear Setback-40 feet
- Side Setbacks-50 feet

The site will be accessed off of Providence Road.

Section 58-175 titled Off-street Parking requires 1 space per employee during the shift of greatest employment plus parking on private internal roads for cemeteries. Approximately 3 parking spaces will be removed to accommodate the new proposed structure. The church owns the property across the street for over-flow parking, if necessary; therefore staff does not recommend additional parking spaces for this use.

Because the existing cemetery use remains, staff does not believe additional screening buffers are needed, however, staff does recommend that the applicant plant the landscaping as shown on the elevation/site plan to break up the large walls and fencing between the sidewalk and parking lot and the columbarium.

The Conditional Rezoning requires two public involvement meetings, a Planning Board recommendation, a public hearing and Town Council review.

The required public involvement meetings for this project were held on July 31, 2017. One person attended the meeting for informational purposes only.

The Planning Board reviewed the plans on August 28, 2017. Questions were raised about the type of lights that are proposed and plans for expansion/phasing. The applicant explained that the lights would be ornamental, not parking lot pole lights and the existing security light on the building would remain. The applicant hopes to do all 3 phases at once; depending on finances and has no plans for expansion.

The Board unanimously recommended approval with staff's conditions and the additional condition that the lighting be consistent with the church conditional zoning requirements.

Staff reviewed the previous conditional use submittals from WUMC. In 2014 a plan for two soccer fields and one baseball field with parking was reviewed by Town Council. A condition of that approval was that a lighting plan shall come back to Town Council for approval and comply with the Town Lighting Ordinances. Prior to that, two CUP's were approved for a family life center and mobile classrooms. Both had the condition that lights had to conform to the Town Lighting Ordinance.

Section 14-85 exempts area lighting with an upscale architectural style such as the nostalgic lanterns. These decorative post-mounted fixtures are generally non-cutoff by the IESNA but are acceptable. The maximum lumens generated from each fixture shall not exceed 9,500 initial lamp lumens per fixture, and each fixture must be equipped with a solid top to reduce the amount of *light* going into the sky. There are no other timing restrictions in the lighting ordinance. Staff recommends approval with the following conditions:

1. Any proposed lighting shall comply with Town Lighting Ordinance;
2. The landscaping shown on the plan shall be required; any deviation shall require DRB review and approval; plant material shall be approved by the zoning administrator; and
3. Any future revisions to the approved site plan and other approved documents must comply with *Section 58-271 (i) of the Weddington Zoning Ordinance*;

Mayor Pro Tem Titherington asked for confirmation of the total number of niches. Phases 2 and 3 have 72 niches each plus 192 niches in phase 1.

The Applicant stated that each phase 2 and 3 has 72 niches, but it probably doesn't matter since it will probably all be built at the same time. The total number of niches is 336.

Mayor Pro Tem Titherington suggested to only give the total number of niches (336).

Motion: Councilmember Propst made a motion to approve the Conditional Rezoning for a Columbarium at Weddington United Methodist Church with the conditions:

- Any proposed lighting shall comply with the Town Lighting Ordinance;
- The landscaping shown on the plan shall be required; any deviation shall require DRB review and approval; plant material shall be approved by the zoning administrator; and
- Any future revisions to the approved site plan and other approved documents must comply with Section 58-271(i) of the Weddington Zoning Ordinance.

And adopt the land use plan consistency statement as follows: The columbarium is consistent with the land use plan goals and policies, in that it retains a mix of land uses that reinforces Weddington's unique small town character and the development is consistent with the Town's quality and aesthetic values, thereby protecting property values which is reasonable and in the public interest.

Vote: The motion passed with a unanimous vote.

Mayor Deter briefly explained the Land Use Plan consistency statement. Weddington has a Land Use

Plan that basically states what we want the town to be. As Council reviews these different items, they make sure that the decisions are in harmony with the current Weddington Land Use Plan.

B. Conditional Rezoning Amendment for Additional Parking spaces and Change in Lighting Requirement for All Saints Anglican Church

Mayor Deter opened the public hearing.

Cooper Young - 2415 Greenbrook Parkway – Mr. Young stated that he has no problem with the additional parking spaces as long as it meets whatever the code or zoning is. The lighting is set to turn off at 9 or 9:30, it is down lighting, like it's supposed to be. It's really bright, it's all LED. I can look out of any of my 6 front windows any night without trying and see them. I know their timer has been messed up for the last few weeks because they've been on until 10 at random times. It is very bright. It looks like a gas station between my neighbor's houses. I don't see what the exception is for them that's different from everybody else in the town. Mr. Young was also speaking on behalf of Ben Jones. He is ill and lives right behind the lights in the parking lot.

Tony Ross - 2408 Greenbrook Parkway – Mr. Ross stated that he has been in Weddington since 2010 and was a part of all the hearings for the approval for the church being built. Turning off the lights off at 9:30 was part of the original agreement. I don't know why we would go back and change that portion or why they're different from any other church. That is an extremely residential area, it's surrounded by homes. We sit out on our back porch almost every night and we watch those lights turn out. It lights up our backyard. I would hate to have to deal with that throughout the night shining into my daughter's bedroom windows. So I would like to ask the council to keep the ordinance to turn the lights off at 9:30. Thank you.

Bjorn Regal - 4225 Horseshoe drive: Mr. Regal wanted to echo same concern as his neighbors brought to the council's attention around the lighting as you just approved the 9:30 limit for another church. I Respectfully ask council to listen to the taxpaying citizens who live around the church and most likely the church is off the tax payrolls as a 501(c)(3), consider the tax payers.

Alam Tamboli - 2400 Greenbrook Parkway-Mr. Tamboli also wanted to echo his neighbor's concerns. He stated that he is relatively new to the neighborhood and he is probably the closest resident to the church. Drug use is definitely a concern of his, but he doesn't believe extending the hours for the lights will solve any potential drug problem. Mr. Tamboli believes a security gate would be better.

Mayor Deter closed the public hearing.

Ms. Thompson presented the staff report: All Saints Anglican Church requests an amendment to their Conditional Rezoning (CZ) for property located at 5328 Hemby Road to construct 18 parking spaces and amend the condition that the parking lot lights must be off at 9:30 p.m.

The church rezoning was approved on July 13, 2015. Phase 1 included a 13,900 sq ft multi-purpose building, parking, detention pond, two access drives off Hemby Road, and the required landscape buffering. The applicant received their certificate of occupancy with a condition that the 9' staggered evergreen bushes/trees that supplement the required landscaping along the rear property line be planted prior to December 1, 2017.

The church now seeks to amend their plans and lighting condition as stated above.

The church is requesting that the parking lot lights remain on throughout the night for security purposes.

The new parking spaces are proposed for the west side of the church with a sidewalk connection to the existing sidewalk. The spaces will be internal to the existing access drive. The town engineer concluded that the approved stormwater management plans show the total impervious area at 98,313 sq ft. The total proposed to date is 85,555 sq ft, included the proposed improvements, leaving 12758 sq ft impervious surface for phase 2 parking and additional buildings. In addition, the Town has a recorded Operation and Maintenance agreement with the Church. In order to ensure that stormwater control structures installed as part of development are functioning as intended, the Town monitors the ongoing maintenance and inspection of these structures by their owners. In accordance with the Agreement, regular maintenance and inspections of the onsite stormwater pond are to be conducted by the owner and a subsequent inspection report generated by a Professional Engineer. Reports are to be kept on file by the owner and submitted to the Town as requested. The Town requested a signed and sealed inspection report for the onsite detention pond to be completed and submitted to the Town by November 15, 2017. Any defects or maintenance needs found during the inspection are required to be addressed promptly.

The Planning Board reviewed the amendment on August 28, 2017. A motion recommending approval for the additional parking spaces was passed unanimously. A motion to recommend denial on the amendment to the lighting condition passed unanimously.

Mayor Pro Tem Titherington stated that he was on Town Council when the application from All Saints was submitted. This property was purchased for \$220,000 in 2013-2014. It was a good opportunity for the church, which is one of the reasons it was approved for the community. He presented an aerial photo showing the residential areas surrounding the church. The Mayor Pro Tem noted that there have been some comments that Council is being more difficult on this applicant than on others, so he provided some examples of the accommodations Council has worked through with this applicant:

- Mayor Pro Tem Titherington met with the building committee and architect in January/February of 2015 and again in June 2015. One of recommendations given to the applicant was to meet with residents and address concerns they may have. Mayor Pro Tem Titherington checked with the HOA president, and it never happened. This was suggested as best practice, that other churches seeking conditional zoning have done. This may be what has created some of the angst.
- Mayor Pro Tem Titherington presented a second photo showing the adjustment of the site plan for the retention pond. The drainage couldn't flow to Hemby Road because of the septic field. The drainage flow now travels through 11 neighbor's yards and ends in a private pond, which affects 9 more neighbors whose homes are adjacent to the drainage pond. Looking at that site for the church to be built, it did have some impact on the local area and all residents supported it because it was the normal drainage for the stormwater. To state that is not being flexible, Mayor Pro Tem Titherington disagrees. That adjustment was at request of the church.
- Due to construction restraints, the Council allowed the applicant to change the building orientation; they rotated the building 90 degrees to fit to the site, without requiring the plans be sent back to Planning Board for approval to prevent delay in the construction.
- The Council allowed the project to be tabled while the applicant modified the Traffic Impact

Analysis. The information given to the engineer didn't match the activity of the church. To allow the project to stay on schedule, Councilmembers Titherington and Harrison worked with the applicant on solutions; one being the "pork chop" coming out on the western side of their parking lot. That allowed the left hand turn lane to enter on the eastern side.

- The Town allowed Storm Water Maintenance Program to infringe into the side buffer and count as the buffer, with plantings. The retention pond goes into the 42 foot buffer.
- The Town allowed for an adjustment of the hours of operation. Timing discussed was an 8 a.m. start; the applicant requested 7 a.m. for morning Bible studies. The Town agreed.
- The Town allowed for a delay of the deadline for the planting of the rear buffer screening, which is consistent throughout Weddington, (9 ft. tall evergreens) until December 2017, and granted a temporary zoning compliance certificate in July. The buffer is to run the entire length of the property to provide a 100% staggered visual and a physical buffer for the residents. The residents originally requested a fence.

Mayor Pro Tem Titherington stated that there has been a lot of good work with the church. He doesn't believe that the screening for the rear buffer is too much to ask.

Mayor Pro Tem Titherington discussed the dumpster pad. He stated that he has no issue with it. The applicant asked for the dumpster pad and Staff gave administrative approval. It can be seen from Hemby Road. In Weddington, any facility that has a dumpster, the Town requires fence or evergreen screening to protect the visual viewshed. There is no screening around the dumpster pad.

Mayor Pro Tem Titherington then addressed the applicant's lighting request. He stated that the lighting was discussed in all the meetings in which the original conditional zoning application was reviewed. 9 o'clock is the last meeting at the church; lights should be out at 9:30. It is documented in minutes from Mr. Lowery that 9:30 p.m. wouldn't be an issue for the church. Council suggested security lights at the door, the applicant didn't want security lights at the door. They have cameras and security inside the building. This lighting issue is all about the down lighting in the parking lot. Other facilities in town have security lights at the door. That was approved and suggested and Max McCloud stated that they were planning on doing that.

Mayor Pro Tem Titherington addressed the impervious surface issue. He stated he has no problem approving the additional parking spaces. He noted that stated within the application that the additional spaces are requested because they are making up for the spaces taken away because of the stormwater retention pond the town required. Mayor Pro Tem Titherington stated that is incorrect. The original plan shows 12 spaces, not 18. He stated his concern is that the facts seem to slide a bit. Future councils will have to deal with this and that's why it will be in the stated impervious summary from USI. The entire footprint is for 85,555 ft, that's what is approved and what retention plan can hold. The Applicant wants the parking spaces; however, phase two impervious surface will have to be reduced.

Mayor Deter stated that the applicant will either have to reduce the number of parking or reduce size of future building.

Mayor Pro Tem Titherington concluded by saying that the temporary COO (zoning compliance certificate) expires in December if the rear buffer plantings aren't done. He hopes the applicant will live up to their agreement. He requests all referenced materials be attached for the record.

site maps, and aerial photographs are hereby submitted for the record).

Councilmember Smith commented that the review from the Mayor Pro Tem was very thorough and was a good refresher. He thanked Mayor Pro Tem Titherington.

Mayor Deter explained that the Council has a recommendation from the Planning Board to approve the parking lot addition, but the Planning board recommended denial of the extended hours for the lighting.

Ms. Thompson reviewed the Land Use Plan Consistency Statement. The parking lot addition is consistent with the Land Use Plan in that the scale and design of the parking lot is consistent with our unique small town character and it is reasonable because town has storm water standards/measures to protect the downstream properties.

Motion: Mayor Pro Tem Titherington made a motion to approve the conditional rezoning amendment for additional parking spaces for All Saints Anglican Church as outlined with the additional conditions:

- that the Applicant resubmit a summary that they have a reduction in additional impervious surface in phase two,
- completion of plantings for rear buffer screening by December 1, 2017, or approval will be revoked, and
- that lighting will get fixed and off at 9:30 p.m. as previously approved;

And to adopt the Land Use Plan consistency statement: The parking lot addition is consistent with Land Use Plan in that the scale and design of the parking lot is consistent with our unique small town character and it is reasonable because town has storm water standards/measures to protect the downstream properties.

Vote: The motion passed with a unanimous vote.

Ms. Thompson suggested taking a straw poll to get an idea where the Council stands on the change in lighting. Mayor Pro Tem Titherington stated that he does not support the lighting change.

Councilmember Buzzard asked if the current lighting requirement was consistent with other lighting requirements in town. He stated that he lean towards denying the amendment.

Councilmember Smith stated that he agrees with not approving the lighting amendment.

Councilmember Propst expressed that all commercial properties should be kept at 9:30 p.m.

Motion: Mayor Pro Tem Titherington made a motion to deny the conditional rezoning amendment for a change in lighting requirement for All Saints Anglican Church.

Vote: The motion passed with a unanimous vote.

C. Text Amendment to Section 46-76(d)(16), 58-8(a)(14), and Appendix D Regarding Landscaping Near Power Lines

Mayor Deter opened the public hearing.

No one signed up to speak.

Mayor Deter closed the public hearing.

Ms. Thompson presented the text amendment. Union Power presented information on planting the appropriate trees within or near power line easements. After seeing the presentation, the Planning Board agreed that the Town should revise the ordinances. Section 46-79 currently does not allow landscaping within the right of way. However, the issue seems to be the canopy of the trees near the utility lines. Staff drafted text to further regulate landscaping near overhead lines in **bold**.

In addition, Union Power reviewed the plant list. An asterisk was added to species that cannot be located within the utility right of way.

The Planning Board reviewed the text on August 28, 2017 and unanimously recommended approval with the condition that hedge bamboo be removed from appendix D.

Since the last Planning Board and Council meetings, staff made a few changes for clarification purposes. The additional changes are highlighted (*the Text Amendment is hereby attached for the record*).

Land Use Plan Consistency Statement

The amendment is consistent with the Land Use Plan because it will conserve the scenic views and minimize the visual effect of development from surrounding properties and roadways. The amendment is reasonable and in the public interest because it keeps trees from being topped by the utility companies and will help prevent future HOA's from having to replant the buffers.

Staff recommends approval of the text amendment to Sections 46-76(d)(16), 58-8 (a)(14), and Appendix D and the Land Use Plan Consistency Statement as provided.

Mayor Deter explained that this will help control the issues of NCDOT and Union Power having to trim the mature trees.

Councilmember Propst stated that she attended the Planning Board meeting where Union Power gave the presentation and she believes it's a smart thing for the Town to do.

Motion: Councilmember Buzzard made a motion to approve the Text Amendment to Section 46-76(d)(16), 58-8(a)(14), and Appendix D Regarding Landscaping Near Power Lines; and to adopt the Land Use Plan Consistency Statement as follows: The amendment is consistent with the Land Use Plan because it will conserve the scenic views and minimize the visual effect of development from surrounding properties and roadways. The amendment is reasonable and in the public interest because it keeps trees from being topped by the utility companies and will help prevent future HOA's from having to replant the buffers.

Vote: The motion passed with a unanimous vote.

D. Text Amendment to Section 22-1 Titled Excessive Noise Prohibited; Exemptions; And Section 58-19 Titled Noise

Mayor Deter opened the public hearing.
No one signed up to speak.
Mayor Deter closed the public hearing.

Ms. Thompson presented the background. This text amendment has been reviewed and discussed in the past few council meetings. At the September meeting, Council decided to move forward to consider its own ordinance, not to adopt the county ordinance.

Sec. 22-1. - ~~Excessive noise prohibited; exemptions.~~ Unreasonably loud noise.

(a) It is unlawful for any person to make, continue, or cause to be made any unreasonable and excessive noise which injures, endangers, or disturbs the comfort, repose, health, peace, or safety of others within the town limits.

(b) **In determining whether a *noise* is unreasonably loud, the following factors incident to such *noise* shall be considered:**

- (1) Time of day;
- (2) Proximity to residential structures;
- (3) Whether the *noise* is recurrent, intermittent or constant;
- (4) The volume and intensity;
- (5) Whether the *noise* has been enhanced in volume or range by any type of electronic or mechanical means;
- (6) The character and zoning of the area; and
- (7) Whether the *noise* is subject to being controlled without unreasonable effort or expense to the creator thereof.

Sec. 22-2. Particular sounds prohibited.

The following acts and activities, among others, are hereby declared to be unreasonably loud and disturbing sound levels in violation of section 22-1. This enumeration shall not be construed to be an exclusive list of activities or acts which violate section 22-1:

(a) Operating a truck for refuse collection except on Monday through Saturday between the hours of 6:00 a.m. and 10:00 p.m. The violator is the operator of the truck, the employer of the operator, and/or the person whom owns the truck used by the operator.

(b) Construction operations, including any building and land disturbing activities except Monday through Friday between the hours of 6:00 a.m. and 9:00 p.m., Saturday between the hours of 8:00 a.m. and 9:00 p.m. and Sunday between the hours of 10:00 a.m. and 9:00 p.m.

(c) Operating electric and gas lawnmowers and other motor-driven domestic tools out-doors except Monday through Saturday between the hours of 6:00 a.m. and 9:00 p.m. and Sunday between the hours of 9:00 a.m. and 9:00 p.m.

(d) It shall be unlawful to operate or allow the operation of any motor vehicle in the town:

(1) By spinning tires, racing engines or other operations which create unreasonably loud and disturbing noises.

(2) To amplify sound produced by a radio, tape player, compact disc player or other sound-making device or instrument from within the motor vehicle so that the sound is audible from a distance of 50 or more feet from the source of the sound.

(e) Trap shooting, skeet shooting or other target shooting between the hours of 9:00 a.m. and 10:00

p.m. on property where such activities are authorized and regulated by Chapter 34 Article II of the Weddington Code of Ordinances.

Note: Animal Nuisances – see Appendix A.

Sec. 22-3 Exemptions.

(a) The following uses and activities shall be exempt from this section:

- (1) Noises of safety signals, warning devices, and emergency pressure relief valves.
- (2) Noises resulting from any authorized emergency, fire or law enforcement vehicle.
- (3) Noise resulting from the activities of a temporary duration permitted by law for which a license or permit therefore has been granted by the town.
- (4) Any aircraft or railroad equipment operated in conformity with or pursuant to state or federal law. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to the declaration of an emergency under federal air regulations shall also be exempt.
- (5) **Noise resulting from agricultural and horticultural operations conducted in a reasonable manner on property classified as a bona fide farm for ad valorem tax purposes.**
- (6) **Noise resulting from emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from imminent danger.**
- (7) **Noise resulting from any military or law enforcement activities of the federal, state, or any local government, to include military observances.**
- (8) **Noise resulting from any event held in recognition of a community celebration, or national, state, or county events or public festivals or parades.**
- (9) **Noise from lawful fireworks and noise makers on holidays and at religious ceremonies.**
- (10) **Noise created by any public recreational activity.**
- (11) **Game-hunting activities on property where such activities are authorized and regulated by Chapter 34 Article II of the Weddington Code of Ordinances.**

(b) This provision shall not be applied to a shooting range in existence prior to adoption of this code section, provided there has been no substantial change in use of the range.

Sec. 22-4. -Enforcement and penalties.

(a) Civil penalty. Violation of this section shall subject the offender(s) to a civil penalty in the amount of \$100.00. In the event there is more than one violation within any 30-day period, then the civil penalty shall be increased for each additional violation over one during such period, as follows. The date of the first violation shall establish the beginning date for the initial 30-day period.-

The penalty shall be: Second offense within same 30-day period: \$250.00

Third offense within same 30-day period: \$500.00

Fourth offense within same 30-day period: \$750.00

Fifth and any subsequent offense within same 30-day period: \$1,000.00

- (1) **Once the 30-day period has expired from the "first violation," the next violation shall be considered to be a first violation for the purposes of establishing a new 30-day period.. In the event there are more than six violations within any 12-month period, then each violation after six shall subject the violator(s) to a civil penalty of \$1,000.00 per event.**

(2) Under circumstances where a citation is issued, the fine must be paid within 5 business days of the issue date and time. The town attorney, or designee, is authorized to file suit on behalf of the town to collect any unpaid citations, and the town administrator, or designee, is authorized to verify and sign complaints on behalf of the town in such suits. A sheriff's deputy, animal control officer enforcing subject matter jurisdiction, or other person duly authorized to enforce the noise control ordinances may issue a citation for violations of this article.

(b) Remedies. This article may also be enforced through equitable remedies issued by a court of competent jurisdiction pursuant to G.S. 154A-123.

(c) Criminal penalty. In addition to, or in lieu of, such civil penalties or other remedies, violation of this article shall constitute a misdemeanor pursuant to G.S. 14-4.

Sec. 58-19. - Noise.

~~Every use of land must be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment or nuisance to any person of ordinary sensitivities.~~

See Section 22-1

Ms. Thompson explained that the draft amendment mimics county ordinance. Differences are struck out and in bold. She stated that Staff added hunting to the list of exceptions in section 22-3. Staff was asked about target shooting, not realizing it is prohibited in the town firearms ordinance., It was added to section 22-2. Staff is requesting to remove subsection (e) of Section 22-2.

Councilmember Smith thanked Council for their input and patience. There was a general consensus to changes the times in Section 22-2 (a), (b), and (c) to read from 7:00 a.m. to 9:00 .p.m. (instead of from 6:00 a.m.) Sunday times listed will stay as they are. Only changes proposed are to 22-2 (a), (b), and (c) weekday times.

Councilmember Buzzard confirmed that section 22-2 (a) is a new section for the Town and the current hours are listed as 6:00 a.m. to 10:00 p.m. Sections (a) (b) and (c) will all change the Monday through Friday times to read from 7:00 a.m. to 9:00 p.m. Sunday times will remain 9:00 a.m. to 9:00 p.m. Section 22-2 (e) will be struck from the amendment.

Mayor Pro Tem Titherington thanked Councilmember Smith for his hard work on this text amendment.

Motion: Councilmember Smith made a motion to approve Text Amendment to Section 22-1 Titled Excessive Noise Prohibited; Exemptions; and Section 58-19 Titled Noise as presented by Staff with the following changes to Section 22-2 times to reflect in subsection (a) 7:00 a.m. to 9:00 p.m., subsection (b) 7:00 a.m. to 9:00 p.m. and subsection (c) 7:00 a.m. to 9:00 p.m. and deletion of 22-2 (e).

Mr. Fox asked the record to reflect that this is text amendment to 22-1 *et seq.*.

Vote: The motion passed with a unanimous vote.

E. Canisteo Conservation Subdivision (formerly Deal Road Subdivision) Preliminary Plat/Construction Plans

Mayor Deter opened the public hearing.
No one signed up to speak.
Mayor Deter closed the public hearing.

Ms. Thompson presented the staff report. Cameron Helms with Deal Road Ventures, LLC submitted a preliminary plat and construction plans for a 15 lot subdivision on 19.96 acres located at northeast corner of Highway 84 and Deal Road. The proposed subdivision contains 15 lots on 19.96 acres with a total density of .75 units per acre. The average lot size is 18,686 SF. This is a conservation subdivision where 50% of the gross acreage must be retained as conservation land. 8.97 acres is required and 9.08 acres has been provided.

The subdivision will be served by Union County Public Water and Sewer.

The subdivision is accessed by an entrance off of Deal Road. The entrance is 600'+ from Highway 84 which is NCDOT's minimum standard.

The Town Engineer approved the construction plans and they have been submitted to other outside review agencies including NCDOT, Public Works, NCDEQ and the Army Corps of Engineers.

A draft maintenance plan and CCRs have been submitted for review.

Two public involvement meetings were held on Monday, April 3, 2017.

The sketch plan was approved by the Planning Board on April 24, 2017 with a condition that the Town Council allows an exception for a private driveway access in lieu of the marginal access street on the submitted yield plan. The yield plan was amended after the Planning Board meeting to provide a public road right of way on lots abutting Highway 84 and a private driveway along Deal Road. In doing so, the applicant lost one lot bringing the yield plan from 16 lots to 15 lots. An exception was granted for the 15 lot yield plan on May 8, 2017 for the shared driveway along Deal Road as long as the overall layout does not change.

The Planning Board reviewed the preliminary plat/construction plans on August 28, 2017. Questions were raised around grading and stormwater and the effect that Rea Road Extension will have on this property. The Board unanimously recommended approval.

Since the last meeting staff discussed the Highway 84 widening as part of the Rea Rd Extension with NCDOT. NCDOT originally asked for 50' of right of way on Highway 84 and 30' from center for right of way on Deal Road. Staff based the 100' buffer from that right-of-way line per NCDOT's comments. The proposed preliminary design provided by Calyx Engineers dated 8/25/2017 shows the right of way encroaching onto the subject property an additional 50' in some areas. The applicant has agreed to amend the plans to accommodate the additional right of way on Highway 84 with a 100' buffer from the new proposed line. The preliminary design also shows additional right of way needed on Deal Road to accommodate new turn lanes at the future signalized intersection. The construction limits are within the current 60' right of way already proposed. The Deal Road buffer along lots 1, 13-15 will be approximately 72', once acquisition is finalized, and 100' north of the proposed Canisteo

Drive access.

Staff recommends approval of Canisteo Subdivision with the following conditions:

1. The Applicant must provide approvals from all local, state, and federal agencies prior to commencing construction.
2. The maintenance plan and agreement shall be reviewed by the town attorney.

Ms. Thompson reviewed the Canisteo Subdivision map illustrating the Deal Road and NC 84 intersection with the proposed changes in the right of way and buffers. (*Canisteo Subdivision map is hereby submitted for the record*). She explained that the blue marking shows the current edge of road pavement. The Department of Transportation requested 50 feet on NC 84 and 30 feet on Deal Road for right of way, illustrated by the orange line on the map. Originally, the subdivision 100 foot buffer would be measured from the orange line. However, NC 84 improvements require the entire intersection to shift north an additional 50 feet, so on the map, the yellow lines illustrate the new right of way. Ms. Thompson stated that there would need to be an exception to allow a reduction in the buffer along Deal Road because of construction limits within requested right of way.

Mayor Pro Tem Titherington stated that on Deal Road, based on the right of way that DOT is requested, the buffer will be down to 71 feet in some places and a total of 5 lots will have less than 100 foot buffer. He asked for confirmation that DOT construction would stop at the orange line and the right of way will be in that 100 foot buffer.

Mayor Pro Tem Titherington explained that on Deal Road, the turn lane on to 84 will reduce the buffer. DOT has communicated that construction will not go into the buffer, which is a fairly wooded area. Due to the taper in the road, the buffer will be less than 100 feet, which may be approved in an R-CD.

Ms. Thompson confirmed that this is a preliminary design. There may be some adjustments because of topography.

Council member Buzzard expressed concern about the tree screening in the thinner buffer. He asked if the Town has something that will require applicant to keep the screening.

Mayor Pro Tem Titherington asked if the applicant was planning to thin the trees in the buffer. Ms. Thompson stated that she believes the applicant will leave it. There is a plan for the landscaping in the buffer included in the preliminary/construction plans and it includes the limits of disturbance and shows tree protection fencing during building.

Mayor Pro Tem Titherington asked the applicant what the plan for the trees in the right of way is. The applicant responded that all trees in the right of way within the protection fence will be left as they are. Mayor Pro Tem Titherington asked if the applicant would be amenable to a condition that would require all trees 6 inches in diameter and larger in the buffer to be left undisturbed. The applicant agreed.

Councilmember Buzzard wanted to ensure that the Town is providing for less than a 100 foot buffer. He asked Ms. Thompson if there needs to be an amendment considered because of the reduced buffer. Ms. Thompson explained that the Preliminary Plat and Construction Plans show the updated buffer, so Council can approve it as is with any conditions.

- Motion:** Mayor Pro Tem Titherington made a motion to approve the Canisteo Conservation Subdivision Preliminary Plat/Construction Plans with the following conditions:
- The Applicant must provide approvals from all local, state, and federal agencies prior to commencing construction
 - The maintenance plan and agreement shall be reviewed by the town attorney
 - In the buffer zone, including the 30 foot right of way along Deal Road by DOT, trees 6 inches and larger in diameter will remain undisturbed.
- Vote:** The motion passed with a unanimous vote.

9. OLD BUSINESS

A. Discussion and Consideration of Calling for Public Hearing to be held November 13, 2017 at 7:00 p.m. at the Weddington Town Hall to consider a Text Amendment to Section 58-58(4)(e)(1)–Minimum Lot Size

Mayor Pro Tem Titherington stated that he requested that this item be put on the agenda this month. He explained: The Council discussed this amendment in July and took no specific action on it. The Planning Board put a lot of time and effort in to this; Brad Prillaman and Jim Vivian led the charge from the Planning Board perspective. It was forwarded to the Council with a 5-1 vote in support of a favorable recommendation. From the comments made tonight, it would be prudent that Council have this as a review and consideration on the November agenda. After reading through some notes from the July council meeting, recommendations from the Planning Board don't affect yield. That is done at R-40 level and it does contain a hardship clause that would not prevent an R-CD development if that is the best use of the land, at a smaller lot size because Planning Board can approve that. Mayor Pro Tem Titherington is recommending that the Council add it to the November agenda and call for a public hearing.

Councilmember Buzzard stated that he had a discussion with Councilmember Smith and Brad Prillaman from the Planning Board. He expressed his thanks to Board member Prillaman for providing answers to some questions. Councilmember Buzzard stated that the biggest take from that meeting was that the lot size numbers looked at are not necessarily compelling as referenced in Ms. Thompson's memo (*hereby incorporated for the record*). He stated that his recommendation is to table this until the January meeting so Council can get some questions answered and do a little digging on their own. Then decide whether or not this is a situation where we want to have larger lot sizes or larger open spaces. Councilmember Buzzard expressed that he is not ready to make that decision.

Mayor Pro Tem Titherington stated for clarity, the data in Ms. Thompson's memo is average lot size, the Planning Board recommendation was for minimum lot size. The viewshed as well as the proximity of houses is a concern. He would like to see how many lots are below the average.

Councilmember Buzzard stated that he would like to look at the layout of developments and see if all 13,000 sq. ft. lots are next to each other. If the lots are interspersed, that creates a different viewshed. He also stated that he would like to see how the layout of the developments plays out with topographical features. What's being proffered is: we are systematically going to smaller lots. That may just be that the Town is in a situation where what has been approved because the topography of land has dictated that. He stated that he would like a little time to put some effort into having a more thorough picture

before the Council changes the ordinance.

Mayor Deter confirmed with Councilmember Buzzard that he would like a color coded plat to see how lots are laid out in different R-CD subdivisions.

Councilmember Buzzard said if Council looks at the maps and discovers that because of the topography, the subdivisions couldn't have been laid out differently, then he doesn't see a good reason to change the ordinance. He believes that one of the things that has been beneficial to Weddington has been the consistency with how the Town manages land use. It benefits residents to have a complete picture before we make changes to the ordinance.

Mayor Pro Tem Titherington asked Ms. Thompson how long it would take to look at preliminary plat lot size data from Vintage Creek, The Falls, The Enclave, and Carrington. Ms. Thompson replied that it could be done in a week or two. Mayor Pro Tem Titherington requested that 2 weeks before the November meeting, Council can look that that data.

Councilmember Smith stated that he is uncomfortable with making such an important change to the ordinances without knowing it's the right change to make. He appreciated listening to the Planning Board and Brad Prillaman as they brought up some good points, he just wants to make sure the Town is going down the right road.

Mayor Pro Tem Titherington agreed and would like to put this item on the November agenda as review and consideration, if Ms. Thompson is able to commit to having the data done in 2 weeks.

Councilmember Smith asked Ms. Thompson's thought on bringing in a professional to look at the R-CD requirements.

Ms. Thompson explained that even looking at data from the four named subdivisions, that won't tell what some of the other subdivisions will face because every piece of land is unique.

Councilmember Propst suggested going back to the original architect of R-CD and have him work with Council to look at the lots, neighborhoods and ordinances regarding the size of lots and see what a professional could do to raise the minimum lot size. She stated that she has no problem with bigger lots. It has to stay consistent with yield. She doesn't believe there's anyone on Council in disagreement with this, however she is not willing to make a decision quickly on something this big. Councilmember Propst recommended getting Randall Arendt to work with Council, have a workshop within next 2-3 months to review all R-CDs because every property is different. She doesn't think this is something to rush into. She stated that the Town didn't rush into R-CD as a community. A lot of people have been swayed to like R-CD because they see the advantage of open space.

Mayor Deter expressed concern about the scope creep. He reviewed the request to Ms. Thompson to capture the data on a color coded map that Councilmember Buzzard requested. He would like along with the graphic layout of subdivisions, to show where conservation and open space is going and have the Council review that. He suggested that if Council cannot come to alignment, they could then consider consulting Randall Arendt.

Councilmember Propst stated that this is a big change. Not giving the flexibility to a developer on lot sizes is a big change. When considering changing lot sizes at all, a professional should look at it.

Councilmember Buzzard stated that Mayor Deter's point is not to rule that out, but to make it a possible second step. That if after review of the maps and data, the Council can decide if a professional is needed.

Mayor Pro Tem Titherington reiterated that the Planning Board has done a lot of good work on this and no action has been taken. He asked staff to compile the data from the preliminary and final plats of Carrington, The Enclave, The Falls, and Vintage Creek. He believes that a lot of the open space is going to little circular areas and that was not the original intent of the R-CD.

Mayor Deter confirmed that this item will go on the agenda under Old Business for the November Regular Town Council Meeting.

~~** B. Discussion and Consideration of Final Plat for Harlow's Crossing Subdivision (formerly Carrington Subdivision)~~

10. NEW BUSINESS

A. Discussion of Disbanding Public Safety Committee

Councilmember Smith stated that the council has talked about this. He expressed his gratitude for the past and present members of the Public Safety Committee; there has been a lot of hard and good work. Councilmember Smith has tried to find a purpose for the committee, it is struggling. There doesn't seem to be a strong need for it at this point in time. The Town doesn't want to waste the members' time. He would like the Council to consider disbanding it for now. The Council agreed.

B. Discussion and Consideration of Entry Monument and Landscaping for Harlow's Crossing Subdivision

Ms. Thompson presented the staff report. The signs will be facing Weddington-Matthews Road. The columns are 6'9" tall with a stone cap for a maximum height of 7'. The proposed plans include ornamental aluminum fence and lanterns. The site plan shows the monument signs and plantings located outside of the sight triangles and 500' line of sight area. The landscape plan meets the new proposed text which considers distance from the power lines. The lanterns meet the lighting ordinance requirement.

Section 58-152 (f) of the *Weddington Zoning Ordinance* permits two signs per subdivision entrance, behind the right-of-way line with a maximum area of 20 square feet per sign. The signs are in general conformance with the *Weddington Zoning Ordinance*.

The Planning Board reviewed the application and unanimously approved the entry monument and sign with the condition that Staff confirms that the monument is placed in common open space and not the required conservation area. Staff did review the original Carrington plant all view shed buffer was platted as common open space. Town ordinance requires it to be conservation land, so on the amended plat to be reviewed next month, where the entry monuments are located, it is open space.

Mayor Pro Tem Titherington asked if consideration of the entry monument should be tabled to the November meeting, when the final plat will be reviewed.

Ms. Thompson answered that they have an approved plat with open space. The applicant amended their

plans to comply with the new landscaping near utility ordinance.

Mr. Fox asked if there is any urgency. He suggested to table the item for next month's meeting when final plat is reviewed by the Council.

Motion: Mayor Pro Tem Titherington made a motion to table discussion and consideration of entry monument and landscaping for Harlow's Crossing subdivision until the November Regular Town Council Meeting.

Vote: The motion passed with a unanimous vote.

11. UPDATE FROM PLANNER

Ms. Thompson stated that she attended an NCDOT meeting in Albemarle to review the NC 16 improvements from Rea Road to Waxhaw Parkway. The 2040 traffic estimates are around 50,000 cars per day. That is what the count at the interchange of 485 and NC 16 is currently. NCDOT is looking for a response from Town Council for sidewalks on both sides, or a multi-use path and sidewalk on one side. Ms. Thompson will add this to the agenda for the November Council meeting. NCDOT is looking for a tentative design for that cross section by Thanksgiving in order to start planning right of way.

Councilmember Propst asked if that is all we have to commit to right now.

Mayor Pro Tem Titherington stated that as it exists today we're committed, but the Council will make a decision once designs are final.

Mayor Deter said the Council will need an estimate for the cost of sidewalks.

12. CODE ENFORCEMENT REPORT

Mayor Deter asked if there were any questions. He commented that it is good to see the list of reported violations getting smaller. He stated that item 1 will be discussed in closed session. Mayor Deter discussed a couple of the code enforcement issues:

He asked if item number 4 has been resolved. He suggested monitoring the issue and at some point remove it from the code enforcement report.

Mayor Deter asked about item number 5; if the accessory building has been removed, this item can be taken off the report. Ms. Thompson explained there were additional violations. An accessory building is not permitted without a primary structure. The owner pulled a zoning permit for a primary structure; however the accessory building needs to be removed from the lot until construction on the primary structure has started. Mayor Deter suggested adding a note to the Code Enforcement Report with that detail.

13. UPDATE FROM FINANCE OFFICER AND TAX COLLECTOR

Ms. Gaylord presented the monthly financial report. She confirmed that the Town received the quarterly franchise tax in September and the monthly sales tax has kicked in as well.

Mayor Pro Tem Titherington stated that he thought the Tilley Morris funding was moved into an assigned category in the general fund balance. Ms. Gaylord responded that there are assigned balances, however this one is different. The fund balance doesn't change until the audit comes out. It will be adjusted then.

14. PUBLIC SAFETY REPORT

Mayor Deter commented on the high number of false alarms. There were no other questions or comments.

15. TRANSPORTATION REPORT

Councilmember Buzzard gave the Transportation update. The Waxhaw Indian Trail Road round about is completed. The group of projects that includes the Tilley Morris round about was approved by the state. This allows CRTPO to approve the project and send it to the federal level.

16. COUNCIL COMMENTS

Councilmember Buzzard: I want to thank the large crowd that we have here tonight. It's always nice to see smiling happy faces out there – more than the general 2-3 or few that we have. I'd also like to thank my fellow council members. I think that we have had quite a number of complex issues that we have discussed over the past few months. We have come up with some very good ideas for the Town. I appreciate everybody's hard work.

Mayor Pro Tem Titherington: Mayor Pro Tem Titherington's prepared statement is hereby submitted for the record.

Councilmember Smith: I want to thank everybody for coming tonight. I also want to thank the Council as Scott did, for their help on some tough issues. Appreciate the effort. I'm not so sure this was the right forum for this, Don. This could have been done internally. If you have a problem with Janice, you might have wanted to talk to her in private. I think that might have been a more appropriate, proper way to handle that. Thank you.

Councilmember Propst: I did resign my position with Providence Fire Department in August 2015 and I'll be glad to find that document. I'm sorry they put some document that you believe isn't real, or realistic out there. I've actually recused myself many times. I would prefer to not be a part of any legal matters regarding Providence Fire Department. With regard to Karen, when I contacted Lisa to ask if Karen was a notary, there wasn't an issue with my asking if Karen is a notary. I asked her as a personal favor if she would be able to notarize something for a friend of mine that is flying out of town. This is petty and ridiculous. I did not use town resources. She did not use town resources, to notarize a document for a citizen or me asking a personal favor. She could have said "Janice, I can't do it". There wasn't any work done that was town related and it did not cost the town a penny. In regards to the Providence Volunteer Fire Department, you can talk to PVFD about that. I am really actually appalled that you use this time to be so petty with such a ridiculous issue. Thank you all for coming out tonight. I appreciate everyone in this room for being a part of this community. We do have a notary. Karen is a notary, if you ever want to use her services; I used Amy's all the time, on a personal note. I'm sure Karen would be glad to work with you on any personal project you have that needs a personal notary.

Mayor Deter: I want to thank everybody for coming out. We had an exciting Council meeting tonight. I will echo Janice said: We have a notary here that will provide a service as long as that service is between the hours that Town Hall is open.

17. CLOSED SESSION PURSUANT TO NCGS 143-318.11 (A)(3) TO CONSULT WITH ATTORNEY ON MATTERS

PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE RELATING TO PROVIDENCE VOLUNTEER FIRE DEPARTMENT VERSUS TOWN OF WEDDINGTON AND TOWN OF WEDDINGTON VERSUS COX MOTORSPORTS

Motion: Mayor Pro Tem Titherington made a motion to go into Closed Session pursuant to NCGS 143-318.11 (A)(3) to consult with attorney on matters protected by the attorney-client privilege relating to Providence Volunteer Fire Department versus Town of Weddington and Town of Weddington versus Cox Motorsports.


Vote: The motion passed with a unanimous vote.

The Council entered into closed session at 8:41 p.m.
Mayor Deter called the Council back to order at 10:18 p.m.

18. ADJOURNMENT

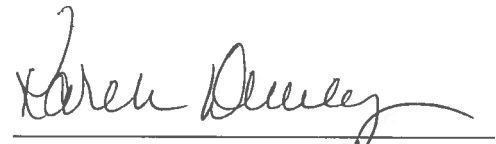
Motion: Councilmember Smith made a motion to adjourn the October 9, 2017 Regular Town Council Meeting at 10:18 p.m.

Vote: The motion passed with a unanimous vote.



Bill Deter, Mayor

Adopted: November 13, 2017



Karen Dewey, Clerk