

**TOWN OF WALLACE
MONTHLY TOWN COUNCIL MEETING
October 13, 2022
6:00 pm**

The Wallace Town Council held its regularly scheduled monthly meeting in the Council Chambers at the Town Hall.

The following Governing Body members were present:

Jason Wells, Mayor
Council Member/Mayor Pro-Tem Wannetta Carlton
Council Member Frank Brinkley
Council Member Jeff Carter
Council Member Jason Davis
Council Member Francisco Rivas-Diaz

The following members of the Governing Body were absent:

None

Also Present were:

Larry Bergman, Town Manager	Anna H. Herring, Town Attorney (via Zoom)
Jackie Nicholson, Town Clerk	Jimmy Johnson
Jimmy Crayton, Police Chief	Joseph Merritt
Brent Dean, Public Services Director	Ranae Merritt
Rod Fritz, Planning Director	Brenda Rivas-Diaz
Gage King, Airport Manager	Emily Saunders
Rob Taylor, Finance Director	Beverly Trobaugh
Marlane Carcopo (via Zoom)	Curtis West
Marie Davis	Rebecca Whitman, <i>Duplin Times</i>
Ann Henderson	

Mayor Jason Wells called the regular meeting to order with a quorum of the governing body members present and the invocation was offered by Council Member Jason Davis.

The Pledge of Allegiance was recited.

Presentations

Proclamation for Hispanic Heritage Month. Mayor Wells Proclaimed that September 15 through October 15 be National Hispanic Heritage Month and called for its observance by all residents.

Rotary Presentation by Rob Taylor, President. Mr. Taylor spoke about upcoming events and projects a specifically about a community project to add a new Town Welcome sign in Tin City and asked the Council to consider financial participation.

Public Services Director Brent Dean reported to the Council regarding projects and activities in each division of the Department and invited the Council to an open house at the new facility on November 10.

Adoption of the Agenda

Mayor Wells said that a closes session needed to be added at the end of the meeting and asked if there were any other changes on the Agenda. Airport Manager Gage King said item #9 for the AWOS (Automated Weather Observation System) right-of-way could be removed. Council Member Frank Brinkley made a motion to adopt the agenda as amended which was seconded by Council Member Wannetta Carlton and approved by unanimous vote.

Public Comment Period

None.

Consent Agenda

Mayor Wells called for discussion of the minutes from the September 8, 2022 meeting. There being no additions or corrections Council Member Carlton made a motion to approve the minutes as submitted. The motion was seconded by Council Member Francisco Rivas-Diaz and unanimously approved.

Manager Bergman made the tax report and said that it is still early in the year. He presented a tax release and refund for Lois Judge in the amount of \$284. 58 for tax years 2018-2020.

Council Member Jeff Carter made a motion to approve the release/refund that was seconded by Council Member Rivas-Diaz and approved unanimously.

Old Business

PUBLIC HEARINGS

Amendment to Unified Development Ordinance for HB (Highway Business) Setbacks

Manager Bergman said that currently nearly all development in the HB zoning district is not in compliance with the current setbacks and there are parking lots/spaces within the setbacks; this was permissible in the regulations from 1983. Developers have indicated that the current setbacks limit commercial development. The proposed amendment doesn't change the setbacks but allows parking in the rear half of a front setback (or the rear 20 feet of the 40 foot setback).

Council Member Frank Brinkley made a motion to open the public hearing. It was seconded by Council Member Carlton and approved by unanimous vote.

There were no comments from the public and Council Member Carter made a motion to close the public hearing which was seconded by Council Member Carlton and unanimously approved.

Request for Street Closing – Jim Russ Property

Manager Bergman stated that the property owner has requested closing a portion of the alley between two (2) parcels on the corner of West Boney Street and South College Street for development of both parcels for one business.

Council Member Rivas-Diaz made a motion to open the public hearing. The motion was seconded by Council Member Wannetta Carlton and approved unanimously.

Joseph Merritt, who owns property adjacent to the alley, stated that he is opposed to closing the alley because it isn't possible to get big equipment in the alley from the other end and the gas truck can't get in either.

Council Member Davis made a motion to close the public hearing that was seconded by Council Member Carter and approved by unanimous vote.

Action on Public Hearing Items

Council Member Davis made a motion to approve the proposed amendment to the UDO (Unified Development Ordinance) for HB (highway business) setbacks which was seconded by Council Member Brinkley and unanimously approved.

The Council concurred to table action on closing the alley and asked for alternative solutions to encourage development of the property.

Certificate of Sufficiency (Gevargis AX-2022-01) and Adoption of Resolution Fixing Date of Public Hearing

Planning Director Rod Fritz said that at the last meeting the Council directed the Clerk to investigate the sufficiency of Petition for Annexation AX-2022-01. The Clerk has submitted a Certificate of Sufficiency for said petition and the next step is for the Council to adopt a resolution for a public hearing.

Council Member Davis made a motion to adopt a Resolution Fixing The Date Of A Public Hearing On The Question Of Annexation (AX-2022-01) Pursuant to G.S. 160A-31 Thursday, November 10, 2022 after 6:00 pm at Town Hall. The motion was seconded by Council Member Brinkley and approved by unanimous vote.

Certificate of Sufficiency (Fleer AX-2022-02) and Adoption of Resolution Fixing Date of Public Hearing

Planning Director Fritz stated this is a Certificate of Sufficiency for another annexation and asked the Council to adopt a similar resolution for a public hearing.

Council Member Davis made a motion to adopt a Resolution Fixing The Date Of A Public Hearing On The Question Of Annexation (AX-2022-02) Pursuant to G.S. 160A-31 Thursday, November 10, 2022 after 6:00 pm at Town Hall. The motion was seconded by Council Member Carlton and unanimously approved.

Approve Contract for stRAP Grant

Manager Bergman said that the Town was awarded a \$110,000 grant from the Soil and Water Conservation Commission to rehabilitate 600 linear feet of drainage along Stevens Street. Bids

were solicited for the project which were opened September 13, 2022. He recommended the project be awarded to the lowest bidder D&D Construction. The bid was actually lower than the grant award, the remaining funds may be used for similar projects.

Council Member Rivas-Diaz made a motion to award the bid to D&D Construction in the amount of \$44,500, seconded by Council Member Carlton and approved unanimously.

New Business

Consideration of Petition for Annexation (AX-2022-03 Strongrock Engineering Group, LLC-Owner Tony Davis) and Direct the Clerk to Investigate Sufficiency

Planning Director Fritz said a petition for annexation had been received from Keith Spalding-Robbins representing Strongrock Engineering and asked the Council to adopt a Resolution Directing The Clerk To Investigate A Petition Received Under G.S. 160A-31 (AX2022-03).

Council Member Davis made a motion to adopt said resolution. The motion was seconded by Council Member Carlton and unanimously approved.

Establish Public Hearing for Petition for Zoning Amendment – Ernie Dixon

Planning Director Fritz stated that a rezoning request has been submitted by Ernie Dixon for a parcel of property across Hwy 41 from Dixon's Grill to construct and operate a seasonal Farmer's Market and asked the Council to establish a public hearing.

Council Member Carter made a motion to establish a public hearing on Thursday, November 10, 2022 after 6:00 pm for a Petition for a Zoning Amendment that was seconded by Council Member Brinkley and approved by unanimous vote.

Establish Public Hearing or Petition for Zoning Amendment – Royal Farms

Planning Director Fritz asked the Council to establish a public hearing for a rezoning request for property on Hwy 11 to construct and operate a gas station, car wash and out parcel fast food restaurant.

Council Member Davis made a motion to establish a public hearing on Thursday, November 10, 2022 after 6:00 pm for a Petition for a Zoning Amendment. The motion was seconded by Council Member Rivas-Diaz and approved unanimously.

Cancellation of Stallings Deed of Trust

Manager Bergman stated that the Stallings property was part of a previous CDBG (Community Development Block Grant) project and part of that process includes a Deed of Trust with the Town as a beneficiary. Mike Barnett of McDavid Associates, Inc. was the project manager and confirmed that the note had been forgiven and the Deed of Trust should be cancelled. Manager Bergman asked the Council to agree to the cancellation of the Deed of Trust and for the appropriate documents to be filed with the Register of Deeds.

Council Member Davis made a motion to approve a Certificate of Satisfaction for the Deed of Trust by Mattie K. Stallings, and Husband, Joseph Stallings. Council Member Rivas-Diaz seconded the motion and it was unanimously approved.

NCDOT (North Carolina Department of Transportation) Bicycle Pedestrian Capital Project Ordinance

Manager Bergman said that the Town has been awarded a grant from NCDOT to develop a comprehensive bicycle and pedestrian planning grant in the amount of \$50,000 with a \$5,000 Town match. The Capital Project Grant will track the expenses, reimbursements and Town match.

Council Member Carlton made a motion to adopt Capital Project Ordinance 23-08. The motion was seconded by Council Member Brinkley and approved unanimously.

Council Reports

Council Member Carlton mentioned the condition of the Veteran's Memorial Fountain in front of Town Hall. Planning Director Fritz said he will soon be receiving a proposal to do some rehabilitation on it.

Council Member Davis suggested a financial update to determine how we are managing the budget sometime in December and if we had received any applications for the Code Enforcement position.

Council Member Carter asked about the assessment of the WWTP (Wastewater Treatment Plant) by Highfill Infrastructure Engineering, P.C. Manager Bergman said that they have been on site and are communicating with Lisa Cottle, ORC. He also had questions about the 830 project and Valley Proteins.

Council Member Rivas-Diaz said there are numerous pot holes on Raleigh Street that need to be filled.

Mayor's Report

Mayor Wells questioned the purpose of business registration fees for established businesses, an issue regarding taxes at the airport which Airport Manager Gage King discussed. The Mayor also stated that early voting starts October 20.

Town Manager's Report

Manager Bergman said that the Duplin County may draft another Animal Control Ordinance that would replace the one that Council adopted at the last meeting.

Closed Session

Council Member Carter made a motion to go into closed session to discuss a personnel matter (G.S. 143-318.11(a)(6)). The motion was seconded by Council Member Brinkley and approved by unanimous vote.

Manager Bergman announced his intention to retire from local government and the Town December 1. Council discussed possible interim managers.

Council Member Rivas-Diaz made a motion to end the closed session that was seconded by Council Member Brinkley and unanimously approved.

With there being no other business to discuss at this time, Council Member Rivas-Diaz made a motion to continue the meeting on Thursday, October 20, 2022 at 6:00 pm. The motion was seconded by Council Member Brinkley and unanimously approved.

Respectfully submitted,

Jason Wells, Mayor

Jacqueline Nicholson, MMC, NCCMC
Town Clerk

AN ORDINANCE APPROVING A TEXT AMENDMENT TO THE TOWN OF WALLACE UNIFIED DEVELOPMENT ORDINANCE CHAPTER 10. DEFINITIONS, SECTION 10.1. RULES OF MEASUREMENT, COMPUTATIONS, AND EXCEPTIONS, SUBSECTION (E)(2)(D) SETBACKS

THAT WHEREAS, in order to promote the public health, safety and general welfare and to promote the best interests of the Town and community, it is necessary from time to time for the Planning Board and Town Council to consider appropriate revisions, modifications and updates to the Town of Wallace Official Unified Development Ordinance; and

WHEREAS, the Planning Department has requested a text amendment of the *Unified Development Ordinance, Chapter 10. Definitions, Section 10.1. Rules of Measurement, Computations, and Exceptions, Subsection (E)(2)(d) Setbacks*, by modifying the language and dimensions required for a front setback related to development in a HB - Highway Business Zone; and

WHEREAS, the Town as applicant is seeking to amend the Unified Development Ordinance to more accurately reflect both historical and intended future development in HB – Highway Business zoned properties; and

WHEREAS, the purpose of the **HB - Highway Business Zoning District** is to accommodate a diverse range of retail, service, and office uses that provide goods and services to the residents and businesses in the community at large – e.g., shopping centers, convenience stores, and retail sales establishments; and

WHEREAS, pursuant to N.C. General Statutes and Town ordinances, a public hearing, properly noticed, was held on October 13, 2022, where public comment was heard and considered by the Town Council regarding this zoning amendment; and

WHEREAS, the Planning Board hereby recommends adoption of the proposed UDO Text Amendments to the Town Council and finds that the amendments are consistent with the Town’s 2011 Land Use Plan (Land Use Plan 2011-2030), for the following reasons:

- The **Highway Business (HB)**, which is a district designed for high density commercial development, account for the largest percentage of the Town’s land area zoned for commercial purposes. Currently, there are approximately 316 acres of land zoned as HB within the Town limits and approximately 369 acres zoned HB outside of the Town limits, for a combined acreage of approximately 685 acres. This represents 19.5% of the total land within the Town, 7.1% of the land in the ETJ and 10% of land within the Town’s entire zoning jurisdiction. This accounts for about 10% of the land within the Town limits, nearly 23% of the land in the ETJ and slightly less than 20% of the land in the Town’s entire zoning jurisdiction.
- Large areas of HB zoning are found along US 117, on NC 41 at Tin City and at the interchanges of I-40 and NC 41 and NC 11.
- One of the recommendations for this area in the Town’s Land Use plan is to encourage the creation of a hub for commercial growth close to the I-40 interchange.

- The proposed HB zoning setback language was used in a previous version of the Town of Wallace Zoning Ordinances, and the language is reflective of the prevailing existing development along all HB zoned corridors.

WHEREAS, the Town Council for the Town of Wallace hereby finds that the proposed text amendment is consistent with the Town’s 2011 Land Use Plan (Land Use Plan 2011-2030) for the reasons stated above; and

WHEREAS, in order to further promote the public’s best interest and promote the public health, safety, and/or welfare of the Town of Wallace the Town Council wishes to amend the *Unified Development Ordinance, Chapter 10. Definitions, Section 10.1. Rules of Measurement, Computations, and Exceptions, Subsection (E)(2)(d) Setbacks*.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of the Town of Wallace that:

1. The Town of Wallace Official *Unified Development Ordinance, Chapter 10. Definitions, Section 10.1. Rules of Measurement, Computations, and Exceptions, Subsection (E)(2)(d) Setbacks* is hereby adopted and amended as indicated in **bold** and underlined:

“Parking lots and parking spaces are not allowed within setbacks, **with the exception of Front Setbacks in HB - Highway Business Zoned parcels. In HB - Highway Business Zoned Parcels, the front setback may be encroached upon with parking spaces and parking lots only within the rear 20-feet of the 40-foot setback.**”

2. **Repeal of Conflict Ordinances** - All parts of the UDO of the Town of Wallace conflicting or inconsistent with the provisions of this ordinance Amendment are hereby repealed.
3. **Severability** - If any section, part of a section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances
4. **Inclusion in code** - It is the intention of the Town Council entered as hereby ordained, that the provisions of this Ordinance shall become and be made part of the Unified Development Ordinance of the Town of Wallace, North Carolina; that the Section(s) of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word “Ordinance” may be changed to “Section, or “Article” or other word.
5. **Effective Date** - This ordinance shall be effective upon adoption this 13h day of October, 2022.

Adopted by motion of Council Member Davis, seconded by Council Member Brinkley and approved by vote of ____ in favor and ____ against.

Jason Wells, Mayor

Attested to:

Jacqueline Nicholson, MMC, NCCMC
Town Clerk

RESOLUTION FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION (AX2022-01) PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification of the Town Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Wallace, North Carolina, that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Wallace Town Hall, 316 E. Murray St., Wallace, NC after 6:00 pm on Thursday, November 10, 2022.

Section 2. The area proposed for annexation is described as follows:

Individual tract on N.C. Hwy 41, Island Creek Township, Duplin County, NC; 1.549 acres.

Commencing at N.C.G.S. monument “Rivenbark”, said monument having N.C. grid coordinates of North = 364,549.207 and East = 2,312,428.396; thence north 28 degrees 28 minutes 59 seconds east 29.00 feet to a ¾ inch existing iron stake one inch above ground in a ditch and on the northwestern right-of-way line of NC Highway 41, said iron stake being located north 53 degrees 36 minutes 16 seconds east 199.92 feet from a 5/8 inch existing iron stake four inches below ground at the intersection of the northwestern right-of-way line of NC Highway 41 with the northeastern right-of-way- line of N.C.S.R. 2010 (Eastwood Drive), said iron stake also being **THE TRUE POINT OF BEGINNING**; thence from the above described point of beginning and leaving said right-of-way line and with the northeastern line of the Goshen Medical Center Inc. property recorded in Deed Book 1674 page 727 and shown as Tracts G-1, G, and H in Map Book 22 page 153, and along a line near the center fo ditch, north 37 degrees 10 minutes 33 seconds west 270.00 feet (passing a 5/8 inch existing iron stake three inches above ground at 70.04 feet and passing a 5/8 inch existing iron stake one inch below ground at 230.03 feet) to a 5/8 inch iron stake set two inches below ground; thence leaving said Goshen Medical Center property and ditch, a new line, north 53 degrees 35 minutes 58 seconds east 250.00 feet to a 5/8 inch iron stake set two inches below ground; thence a new line, south 37 degrees 10 minutes 33 seconds east 270.00 feet to a 5/8 inch iron stake set two inches below ground on the northwestern right-of-way line of NC Highway 41; thence along said right-of-way line, south 53 degrees 35 minutes 58 seconds west 250.00 feet to the point and place of beginning.

GPS-Robotic-Subdivision Planning-Property-Elevation-ALTA Surveying Containing 1.549 acres and being a portion of that property recorded in Deed Book 1991 page 877, and being all of that property as shown on a map entitled “Boundary survey for Julian Gervargis and wife, Dayana Gervargis” recorded in Map

Book ____ page ____ of the Duplin County Registry which is hereby referenced for a more complete and accurate description.

The above description was prepared by Johnny J. Williams Land Surveying, P.C. from a survey completed on July 22, 2022. All courses are correct in their angular relationship to N.C. grid north NAD 1983 (2011 adjustment)

Section 3. Notice of the public hearing shall be placed on the Town of Wallace website and published in *The Duplin Times*, a newspaper having a general circulation in the Town of Wallace, at least ten (10) days prior to the date of the public hearing.

Adopted this 13 day of October, 2022 by the Wallace Town Council.

Jason Wells, Mayor

ATTEST:

Jacqueline Nicholson, Town Clerk

RESOLUTION FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION (AX2022-02) PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification of the Town Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Wallace, North Carolina, that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Wallace Town Hall, 316 E. Murray St., Wallace, NC after 6:00 pm on Thursday, November 10, 2022.

Section 2. The area proposed for annexation is described as follows:

NC Hwy 11, Duplin County PIN 330500694194
Located in the Town of Wallace ETJ, Island Creek Township, Duplin County, North Carolina and beginning at a nail in the center line of NC Hwy 11 (60 foot public right of way). Said nail has NC Grid Coordinates (NAD 83/2011) of North = 359,404.20', East = 2,307,173.87, and CF = 0.999916490 and is also located South 02 degrees 00 minutes 16 seconds West-605.48 feet and South 03 degrees 02 minutes 04 seconds West-14.82 feet from NCGS Monument "Element" which has NC Grid Coordinates (NAD 83/211) of North = 360,024.11', East = 2,307,195.83'. Running thence from said point of beginning, along the center line of NC Highway 11, South 02 minutes 23 seconds 00 minutes West-429.87 feet to a point; thence, South 87 degrees 04 minutes 46 seconds West-1247.17 feet (passing over and iron rod at 1119.75 feet) to a point in Rockfish Creek; thence, along a computed line, North 29 degrees 26 minutes 23 seconds West-448.59 feet to a point in Rockfish Creek; thence, North 86 degrees 03 minutes 11 seconds East-1487.44 feet (passing over an iron rod at 332.47 feet) to the point of beginning, containing 13.336 acres, more or less, to the computed tie line, excluding the right of way of NC Hwy 11 as claimed by NC Department of Transportation.
All bearings are in angular relation to NC Grid (NAD 83/2011) and all distances are horizontal field measurements.

Section 3. Notice of the public hearing shall be placed on the Town of Wallace website and published in *The Duplin Times*, a newspaper having a general circulation in the Town of Wallace, at least ten (10) days prior to the date of the public hearing.

Adopted this 13 day of October, 2022 by the Wallace Town Council.

Jason Wells, Mayor

ATTEST:

Jacqueline Nicholson, Town Clerk

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31
(Petition #AX-2022-03)

WHEREAS, a petition requesting annexation of an area described in said petition (Duplin County PIN #3331600130853, #330600037591, #330600854246, #330600947617, #330600863057, 80.87 acres) was received on October 13, 2022 by the Town Council of the Town of Wallace; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk of Wallace before further annexation proceedings may take place; and

WHEREAS, the Town Council of the Town of Wallace, deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Wallace, that;

The Town of Wallace Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Town Council the result of her investigation.

Jason Wells, Mayor

ATTEST:

Jacqueline Nicholson, Town Clerk

STATE OF NORTH CAROLINA
TOWN OF WALLACE
CAPITAL PROJECT ORDINANCE

23-08

WHEREAS, the Town of Wallace has been awarded a grant from the North Carolina Department of Transportation for up to \$50,000 with a \$5,000 match from the Town to develop a bicycle and pedestrian plan, and

WHEREAS, the Town desires to establish a capital project ordinance to track the revenues and expenditures for the project;

NOW, THEREFORE BE IT ORDAINED by the Town Council of Wallace that pursuant to section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance 23-08 is hereby established and adopted:

Section 1: The Project authorized is for the development of a bicycle and pedestrian plan.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the board resolution, and the budget contained herein.

Section 3: The following initial amounts are appropriated for the project:

Professional Services	<u>55,000.00</u>
Total	\$ 55,000.00

Section 4: The following revenues are anticipated to be available to complete this project:

Contributions – NCDOT	\$ 50,000.00
Contributions – Local Match	<u>5,000.00</u>
Total	\$ 55,000.00

Section 5: The finance officer is hereby directed to maintain within the capital project fund enough specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and federal regulations.

BE IT FURTHER ORDAINED by the Town Council of Wallace that this ordinance shall become in full force and effective upon adoption.

Adopted this the 13th day of October 2022.

Jason Wells, Mayor

Attest:

Jackie Nicholson, Town Clerk

{SEAL}