

VILLAGE OF WESLEY CHAPEL
PLANNING BOARD MEETING MINUTES
June 28, 2010, 7:00 PM

The Planning Board of the Village of Wesley Chapel, North Carolina, met in the Fellowship Hall of the Wesley Chapel United Methodist Church at 120 Potter Road South, Wesley Chapel, North Carolina, with Chairman Chuck Adams presiding.

Present: Chairman Chuck Adams, Vice Chairman Sandi Bush, Members Ray Davis, Stephen Keeney, Alternates Shirley Wilson, and Bill Fairman (sitting as regular member)

Absent: Member John Grexa

Others Present: Cheryl Bennett, Clerk; Joshua Langen, Planning/Zoning Administrator

Citizens: Carol Mullis, Mayor Brad Horvath

The meeting was called to order at 7:00 pm; a quorum was present.

1. Pledge and Invocation

Chairman Adams led the pledge; Keeney gave the invocation.

2. Public Comments - none

3. Additions, Deletions and Approval of Agenda

Item 6 was postponed; Keeney made a motion to approve the amended agenda, Bush seconded the motion.

The motion passed unanimously.

The Board requested that Langen prepare a text amendment to state that an alternate will be seated whenever a regular member is absent, not just to create a quorum, and that the alternate members will rotate turns. This has been practice for years but is not in the Rules of Procedure.

4. Approval of Minutes

Bush made a motion to approve the minutes from May 24, 2010. Fairman seconded the motion.

The motion passed unanimously.

5. Amendments to Homeowners' Associations-related Subdivision Articles

Langen presented the updated changes to the text. Fairman made a motion to accept the changes as written, and add "in by-laws" in Section 411.2(b) if the attorney agrees. Bush seconded the motion.

The motion passed unanimously.

The recommended text is as follows:

SECTION 411. Homeowners' Associations Required

~~411.1 New major subdivisions in which public or private streets are proposed or necessary shall establish a homeowners' association for the maintenance of improvements and common areas not dedicated to and accepted by a public authority for the purposes of maintenance. Improvements and common areas, that may be required by this Ordinance and that shall be maintained by the homeowners' association, include but are not limited to: streets not yet accepted into the public street system for maintenance by NCDOT, sidewalks, curbs and gutters, street lighting, and landscaped thoroughfare buffers. The homeowners' association also shall be responsible for maintenance of common improvements and common areas that are proposed by the subdivider for the benefit of all residents of the subdivision although not required by this Ordinance, including but not limited to entry signs, monuments, perimeter walls, entry gates and gatehouses, clubhouses, ponds and lakes including dams and other associated structures, and parking areas and driveways serving common areas.~~

New major subdivisions, consisting of twenty-five (25) houses or more, in which common areas are proposed and include facilities requiring maintenance, such as landscaping or mowing, as opposed to common areas which are to be left in a natural state, shall establish a homeowners' association for the maintenance of those common areas. New major subdivisions in which include facilities requiring maintenance, such as private roads, pools, tennis courts, parks, facility parking, stormwater facilities beyond curb and gutter, and clubhouses, are proposed, shall establish a homeowner's association for the maintenance of those facilities. Subdivisions providing only amenities, such as sidewalks, fountains, monument signs, street lighting, walls, gates, planting areas, flower beds and sculpture, are not required to be maintained through a homeowners' association and, therefore, a homeowners' association is not required. , as long as no common open space is proposed.

411.2 The homeowners' association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process. Membership in the homeowners' association shall be mandatory for each ~~original~~ purchaser of a residential lot within the subdivision ~~and each successive purchaser of such lot.~~ The homeowners' association shall be organized so that it has clear legal authority to maintain and exercise control over the required improvements, common areas and facilities, as specified in Section 411.1, and not dedicated to and accepted by a public authority for the purposes of maintenance.

~~a) The homeowners' association shall be responsible for the payment of premiums for liability insurance, local taxes, maintenance of recreational and other facilities located on the common areas, and payment of assessments for public and private capital improvements made to or for the benefit of the common areas. It shall be further provided that: 1) upon~~

~~default by the homeowners' association in the payment to the governmental authority of an ad valorem tax levied against the common areas or assessments for public improvements to the common areas; and, 2) should such default continue for a period of six (6) months; then, each owner of a residential lot in the development shall become obligated to pay to the taxing or assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the governmental authority by the total number of residential lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, then the sum shall become a continuing lien on the real property of the then owner, his heirs, devisees, personal representatives and assigns of such lot, and the taxing or assessing governmental authority may either bring an action at law against the owner obligated to pay the same or may elect to foreclose the lien against the real property of the owner.~~

~~b) The homeowners' association shall be empowered to levy assessments against the owners of residential lots within the development for the payment of expenditures made by the homeowners' association for the items set forth in the preceding subparagraph and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the residential lot of the owner.~~

ea) As a part of the final plat approval process, the developer shall submit to the Village the following documents, should an association be required, for review:

1. Proposed Articles of Incorporation for the association. Such Articles of Incorporation shall provide for homeowners control when over 50% of the lots are sold.
2. Proposed bylaws of the association. Such bylaws shall provide for annual meetings of the association, election of officers and distribution of an annual financial accounting to members.
3. Proposed annual budget of the association showing monthly assessments. The monthly assessments must be set at a sufficient level to insure success of the association and necessary capital expenses.
4. Proposed restrictions and covenants for the common areas.

d. b) All proposed common areas shall be designated on the subdivision plat as common areas to be held in separate ownership for the use and benefit of residents occupying residential lots in the subdivision. Should these common areas contain and facilities which require maintenance,

Approval of these common areas by the Village Council as part of the final plat approval process requires submission by the developer of restrictions and covenants that will govern the ownership, management, and maintenance of the facilities within those common areas. The Village Council reserves the right to conditionally deny approval of final subdivision plats if it finds that the restrictions and covenants do not properly address issues of ownership, management and maintenance of common areas.

There shall be a statement recorded on each preliminary and final subdivision plat and in the by-laws stating full disclosure that potential home buyers understand the obligations and requirements of homeowners' associations—a homeowners' association could foreclose on any property within the development for failure to pay dues and/or assessments. Also, this explanatory statement shall state that potential buyers shall be made aware of have the ability of the association to change the association bylaws to not include requiring foreclosure of homes in the event of non-payment of dues and/or assessments and/or fines. Also Finally, developers shall be made aware of the possibility of not including foreclosure language in homeowners' association bylaws during the subdivision review process.

c) Organization of homeowners' associations shall comply with all applicable North Carolina State Statutes. Homeowners' association bylaws shall not allow for the foreclosure of a home upon failure of a member homeowner to pay association dues or assessments or fines. A lien may be imposed to satisfy non payment of dues, assessments and fines without interest and may only be satisfied behind debts from lending institutions at the time of sale of the property. Barring the use of any and all common ground, parks, pools and playgrounds located in the development for the negligent homeowner, until such assessments or dues are paid, is recommended as a potential option and will be monitored by the homeowners' association. Existing organization of homeowners' associations may choose to comply with all applicable NC State laws.

6. Discussion of Internet Sweepstakes Zoning Ordinance addition
This item was postponed due to the Legislature addressing the issue.

7. Amendments to signs-related Zoning Articles
Langen presented the text amendments he has been working on in Articles 2 and 8. The size of signs in Article 8.9(d) was discussed and changed to twenty-four (24) square feet. Changes were made to Article 8.3 (l) "Window signs covering no more than 75% of total window square footage and affixed to the inside of the window", and Article 8.3 (k) to delete up to two (2) vehicles, and add a new sentence "One (1) sign per dwelling unit advertising the sale of two (2) or fewer personal vehicles or recovery of lost pets."
Chairman Adams will do some research and measure signs to check on the sign for

Article 8.3 (a). Langen will check on the difference between historical markers and historical signs. A definition will be added for a professional name plate. Langen will simplify the definition of “Sign- Vehicular” and add it to prohibited signs. Section 8.4 (e) was changed from “Luminous” to “exposed neon signs, exempting interior window signs and open/closed signs smaller than two (2) square feet.” Section 8.4(g) added the word “permanent” before “inflatable”. In Section 8.9 a new item was added as (b) Inflatable signs – ten (10) days once per year. Section 8.13 (c) was deleted and in Section 8.13 (a) “and may be continued subject to regulations of Section 8.11.b, provided however, that prohibited signs in Article” was removed.

Langen will update the text amendments and bring them back next month.

8. Discussion of parking standards for Parks and Recreation

Langen said there was a differentiation between indoor and outdoor areas for parking regulations. Discussion was held of how to compute the parking required. Langen will look at other towns’ regulations, and other parks and bring this back next month.

9. Other Business

Langen reported he had looked into group homes, there is one category of state subsidized and regulated homes for mentally handicapped, and another category for foster homes.

10. Topics to Discuss at Next Meeting

Topics include signs, parking standards and the definition of a family.

11. Adjournment

Bush made a motion to adjourn the meeting; Davis seconded the motion.

The motion was approved unanimously.

The meeting adjourned.

Respectfully submitted

Cheryl Bennett, Village Clerk

Chairman Chuck Adams