

VILLAGE OF WESLEY CHAPEL  
PLANNING BOARD MEETING MINUTES  
January 26, 2009, 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 John Grexa presiding.

**Present:** Chairman John Grexa; Members- Chuck Adams, Ray Davis, Stephen Keeney; Alternates - Sandi Bush, Shirley Wilson, Bill Fairman (sat as regular member)

**Absent:** Jimmy Allison

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

**Citizens:** Carol Mullis, Butch and Becky Plyler, Scott Garner, Jerry Davis

The meeting was called to order at 7:03 pm; a quorum was present.

1. Pledge and Invocation

Grexu led the pledge of allegiance, and Adams did the invocation.

2. Additions, Deletions and Approval of Agenda

Item 7, Review of CUP 09-01 was moved up to after item 3. Keeney made a motion to approve the agenda with this change; Adams seconded the motion.

The motion passed unanimously.

3. Approval of Minutes

Adams made a motion to approve the November 24, 2008 minutes. Davis seconded the motion.

The motion passed unanimously.

4. Review of CUP 09-01

CUP 09-01 is for a new fire station at Waxhaw-Indian Trail Road. Langen reported that the property is zoned R-40, and the project meets the setbacks. The map shows a 30 foot rear setback, but it should be 40 feet, and the line needs to be moved on the map. The landscape plan is conceptual, and it would have to be worked out in detail. The stormwater plan is not yet complete. The architect, Scott Garner, was present. Butch Plyler was asked about future barbecues; no pits are planned, and it would be difficult to run barbecues since there would not be sufficient parking. The fire department has eight to nine vehicles with five at this location; the building provides room for six. The projected maximum number of vehicles is five to seven. There is paid staff during the day now, and the second floor provides twelve beds. Their revenues come from taxes. Keeney asked if the tax rate will stay the same with paid staff, and Plyler said probably not. The tree line will remain on the side. The eave height is twenty two feet, and it is forty one feet to the ridge of the roof. Plyler noted fund raisers have kept the tax rate at the lowest fire rate in the county. This building will be a certified

“green” building, the first in the county, and the estimated cost is \$4.5 million. They hope to break ground in June and estimate twelve months for construction. They think it will meet the community’s needs for forty years. Adams made a motion to go through the finding of facts criteria. Keeney seconded the motion.

The motion passed unanimously.

Finding of Facts:

a) The use will not materially endanger the public healthy or safety if located were proposed and developed according to the submitted plan.

All Planning Board members agreed.

b) The use meets all required conditions and specifications.

Adams made a motion to require that landscaping and flood/stormwater criteria are met with detailed landscape drawings, and that the project meet stormwater management requirements. Davis seconded the motion.

The motion passed unanimously.

c) The Use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity.

All Planning Board members agreed.

d) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan.

All Planning Board members agreed.

e) Additional review criteria, as stated in the Ordinance, shall also be considered and addressed where required.

All Planning Board members agreed.

f) Any deviation from the terms of this Ordinance will result in a project that is at least equal to or better than what would be accomplished under the strict application of this ordinance.

There being no deviations, all Planning Board members agreed.

g) Any deviation from the terms of this Ordinance will not adversely affect the right of other abutting or nearby property owners in any material manner.

There being no deviations, all Planning Board members agreed.

Adams made a motion to recommend approval with the conditions of the detailed landscaping plans and stormwater approvals being obtained. Davis seconded the motion.

The motion passed unanimously.

Plyler asked if there was a deadline for the stormwater and landscape information; it will be up to Council as to when they want it. Keeney asked about what was entailed in

getting the stormwater plan. Their engineer and our engineer will work on the stormwater plan and evaluation. Timing of obtaining the landscape and stormwater plans was discussed. Detailed plans were not yet obtained pending preliminary approval. Keeney made a motion to recommend approval of the CUP to Council, based on final Council approval, with precedent stormwater and landscape plans approved by the Zoning Administrator. Fairman seconded the motion.

The motion passed unanimously.

Bennett asked about the application fee and the request in the application that the fee be waived. Adams recommended Council waive the \$250 fee and not charge for our engineer's fees that are usually charged to applicants. Keeney seconded the motion.

The motion passed unanimously.

Plyler asked if the Village could refund the fee the fire department paid for the text amendment on height of the building. Adams made a motion to recommend to Council that they consider refunding the fee for the text amendment. Davis seconded the motion.

The motion passed unanimously.

Plyler noted that the presence of the Sheriff's department in the fire department building would be worth more than \$350 to the Village.

5. Review of proposed Zoning Amendment to add Planning Board Rules of Procedure

Changes requested by the Planning Board last month were made by Langen. Adams made a motion to approve the changes. Keeney seconded the motion.

The motion passed unanimously.

Adams made a motion to approve Article 15, incorporated herein, to add the Planning Board Rules of procedure to the Zoning Ordinance. Davis seconded the motion.

The motion passed unanimously.

## **ARTICLE 15**

### **PLANNING BOARD**

#### **Section 15.1 Planning Board Powers, Duties and Procedure**

##### **15.1.1 Establishment**

The Wesley Chapel Planning Board, having been created by the Wesley Chapel Village Council, shall be hereafter referred to as the "Planning Board". The Planning Board shall be considered a "public body" and is subject to all rules and regulations for public bodies contained in North Carolina's Open Meetings regulations.

### **15.1.2 Duties and Powers**

The primary objective of the Planning Board is to develop and maintain a continuing, cooperative planning program to benefit the residents of the Village of Wesley Chapel.

The purposes of the Planning Board are as follows:

- a. To make studies of the Village and its environs;
- b. To determine objectives to be sought in the development of the areas under study;
- c. To prepare and recommend plans for achieving these objectives;
- d. To develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- e. To keep the Village Council advised as to these matters.
- f. To review and make recommendations to the Wesley Chapel Village Council (hereinafter referred to as the "Village Council") regarding proposed changes to the Wesley Chapel Zoning Ordinance and Wesley Chapel Land Use Plan, and regarding conditional use permits.
- g. To adopt a set of Rules of Procedure, as provided herein, not inconsistent with any North Carolina General Statute or any Village ordinance.
- h. To elect ~~officers~~ a vice-chairperson from its membership.
- i. To perform any other related duties contained in the Wesley Chapel Zoning Ordinance or as directed by the Village Council.

### **15.1.3 Appointment and Terms**

The Planning Board shall consist of five (5) regular members and three (3) alternates, all of whom are residents of the Village of Wesley Chapel and who have been duly appointed by the Village Council for designated terms.

If a vacancy on the Planning Board occurs by reason of death, resignation, change of residence, Village Council removal, or any other cause, the seat

shall be filled by the Village Council in an expeditious manner for the duration of the unexpired term.

The terms of office of the members of the Planning Board shall be for overlapping terms of three (3) years. Initial appointment of the members shall follow that of the Board of Adjustment as described in Section 11.1.2 of the Wesley Chapel Zoning Ordinance.

#### **15.1.4 Election of Officers**

A Chairman shall be appointed by the Village Council and shall serve for a one (1) year term, but may be appointed by the Council for successive terms to the same office. Annually, at the meeting of the Village Council held in the month of July, a Chairman shall be appointed. The Chairman shall serve until relieved of his duties as herein provided.

A Vice-Chairman shall be elected by the regular Planning Board members and shall serve for a one (1) year term but may be elected by the Planning Board membership for successive terms to the same office. Annually, at the meeting of the Planning Board held in the month of July, a Vice-Chairman shall be elected. Each officer shall serve until relieved of his duties as herein provided.

The Chairman shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Planning Board in session at the time. The Chairman shall appoint any committees found necessary to investigate any matters before the Planning Board. The Vice-Chairman shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman.

#### **15.1.5 Secretarial Services**

The Village Council shall arrange to have secretarial duties performed for the Planning Board. Said persons (hereafter referred to as the "Secretary"), subject to the direction of the Chairman, shall take minutes and keep all records. The Secretary shall keep in a permanent volume the minutes of every meeting of the Planning Board. These shall show the record of all important facts pertaining to each meeting, every resolution acted upon by the Planning Board, and all votes of members of the Planning Board upon any resolution or upon the final determination of any question, indicating the names of members absent. The Planning Board minutes and records shall be kept at the office of the Village Clerk.

### **15.1.6 Rules of Conduct for Members**

Members of the Planning Board may be removed by the Village Council for cause, including violation of the rules stated below herein.

In order for the Planning Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any member is absent for two (2) consecutive regular meetings, the Chairman may direct the Secretary to notify such member in writing of his absences and if such member fails to attend the next meeting, the Planning Board, by majority vote of the remaining members, may request that the position be vacated and also request that a replacement be made by the Village Council.

No member of the Planning Board shall seek to influence a decision, participate in any action or cast a vote involving any matter that is before the Planning Board which may result in a private benefit to themselves, their immediate relatives or their business interest. A member may be excused from voting on a particular issue under the following circumstances:

- a.** If the matter at hand involves the member's own official conduct;  
or
- b.** If the member has such close personal ties to the applicant that he cannot reasonably be expected to exercise sound and impartial judgment on behalf of the public's interest.

For zoning map and text amendments, Section 12.1.4 of the Zoning Ordinance Specifically regulates voting by Planning Board members who may have a conflict of interest: A Planning Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

If a Planning Board member determines that he may have a conflict of interest on a particular issue, either according to these Rules of Procedure or according to Section 12.1.4 of the Zoning Ordinance, he shall declare the nature of such conflict and ask to be excused from voting on the issue related to such conflict. The remaining Planning Board members, by majority vote, shall determine whether such conflict exists and whether said member may excuse himself from further deliberations on said matter. If a member is excused from voting, he shall seat himself in the audience and not participate in any further discussion on said matter or (at his discretion) he shall remove himself from the meeting room during

all deliberations pertaining to such matter. In no instance may a member be excused from voting merely due to an unwillingness to vote on the issue at hand and where no conflict of interest is found to exist.

A challenge to the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Planning Board. Such a challenge may be an appeal for a review of the findings of the Planning Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Planning Board shall be supported by competent evidence and shall be submitted at a properly convened meeting of the Planning Board. The Planning Board shall hear all evidence. In order to find that a member does have a conflict of interest, a majority vote of the remaining members shall be required.

Prior to a Planning Board meeting, Planning Board members are ~~not~~ permitted to listen to comments regarding a pending case but shall refrain from responding with opinions or views; provided, however, that members may receive and/or seek general technical information pertaining to the case from the Secretary, Zoning Administrator, Subdivision Administrator, or Village Attorney prior to the Planning Board meeting at which the case is to be heard.

### **15.1.7 Meetings**

Regular meetings of the Planning Board shall be held each 4th Monday of the month at 7:00 p.m. at Wesley Chapel Village Hall (WCUMC, Fellowship Hall); provided that meeting may be held at any other convenient place in the Wesley Chapel area if directed by the Chairman in advance of the meeting. Each member shall be notified of each regular meeting and provided with all necessary materials at least fifteen (15) days in advance of the meeting by the Secretary or other person so designated by the Chairman.

Special meetings of the Planning Board shall be held on an as-needed basis at any convenient time and place in the Wesley Chapel area, as directed by the Chairman. Each member shall be notified of each special meeting and provided with all necessary materials at least forty eight (48) hours in advance of the meeting by the Secretary or other person so designated by the Chairman.

A quorum of the Planning Board shall be required to open any meeting and to conduct business. A quorum shall consist of at least three (3) Planning Board members.

**15.1.8 Voting; Conduct of Meetings**

- a.** Only unexcused Planning Board members present at a duly convened meeting shall be eligible to vote.
- b.** A vote may be taken on a matter once a motion has been made, seconded, and called for discussion.
- c.** The Chairman shall not be able to make or second a motion but may otherwise vote on all other issues.
- d.** Voting, at the discretion of the Chairman, shall be by voice or show of hands. All matters to be voted on by the Planning Board shall be by a duly made motion and second.
- e.** It is the duty of all Planning Board members present at a meeting to vote on all issues coming before the Planning Board unless such member has been specifically excused from voting on an issue. Any non-excused member who abstains from voting shall be counted as having cast a “yea” vote.
- f.** All meetings shall be open to the public. The order of business at meetings shall generally be as follows:
  - (1) Open Meeting
  - (2) Determination of Quorum (need 3 present to make decisions and vote)
  - (3) Approval Of Minutes Of Previous Meetings
  - (4) Unfinished Business
  - (5) New Business
  - (6) Other Business
  - (7) Adjournment

The Chairman shall have the authority to amend the order of business at any meeting.

- g.** Items of business for discussion at the meeting shall appear on the agenda. Business which is not identified on the agenda may be

considered only after approval by a majority vote of the Planning Board.

### **Section 15.2 Staff**

The Zoning Administrator shall serve as staff to the Planning Board and shall provide technical assistance to the Planning Board as requested.

### **Section 15.3 Amendments to Zoning Text and Map**

Amendments to the Zoning Text and Maps shall follow the procedures listed in Article 12 of this Zoning Ordinance.

### **Section 15.4 Conditional Uses**

Application and ruling process for a Conditional Use permits shall follow the procedures listed in Article 6 of this Zoning Ordinance.

6. Review of proposed Concession Stand Amendment to Zoning Ordinance. Fairman asked about the neon sign on Highway 84 at the pizza business, and Adams asked if this amendment would grandfather in the pizza business. Langen explained he had cited the business, the BOA overturned the violations, the business submitted a zoning permit, and Langen determined the zoning permit was not the appropriate permit. A temporary use is not allowed in our ordinance, and Langen said he would put forth a text amendment, and asked the pizza business owner if he would like to co-sponsor the amendment, and the owner agreed. Since he has a pending text amendment, he is temporarily relieved from any violation action. This amendment does not give him grandfathered status. His application would have to be reviewed, staff could approve a temporary use; he appears to meet these criteria but the official application would have to be reviewed for Langen to give an official answer.

Grexa asked Keeney about form based codes. Keeney said the ordinance would have a form based code, and would be involved in the final aesthetic build out. Grexa noted the property is zoned B-1, and while there could be a restaurant there, he felt a business like that should not be allowed there. Bennett noted he could not meet setbacks for a restaurant there, it is one parcel that in years past had the existing gas station at one end, and this end was where the owners lived. Although it was all zoned B-1, the house was never used as a business. Bennett added he also does not meet sewer requirements, and the pizza business does not have a privilege license.

Adams asked for the definition of what a temporary concession is. Langen said that should be added. Adams asked where six months came from in Section 4.7.1, regarding allowing six months for occupancy of a manufactured home while rebuilding a dwelling in the event of a disaster. This is existing text. Adams asked about Section 4.7.5 (a), which allows a day to day use but requires all equipment to be removed at the end of each

sales day; what if there was an eight day fair. Adams noted on Section 4.7.5(c) that there could possibly be a fair on public property; also the requirement that parking areas be dust free; do we require all parking areas to be paved, because if not, it would be difficult to keep it dust free. Adams asked on Section 4.7.5(d) where “twelve and one half feet” setback came from, Langen got it from other jurisdictions. Adams asked about Section 4.7.5(f), requiring signs to be parallel to the road, but you can’t read them if they are parallel. Langen said they are probably meant to be flat against the table. On Section 4.7.5(j) Adams asked about the restroom facilities being within 1,000 feet, how 1,000 feet was selected. Adams made a motion to table this item until we get definitions and more information on the items questioned. Fairman seconded the motion.

The motion passed unanimously.

7. Review of proposed amendment to Zoning Table to allow for “Recreation Facilities, Outdoor, (Parks, Playground,)” as a conditional use in B-1, B-2 and L-1 districts.

This item came up because it may be possible that we want to do a public park on B-1 or B-2 land. Fairman made a motion to allow “Recreation Facilities, Outdoor, (Parks, Playground,)” as a conditional use in B-1, B-2 and L-1 districts. Adams seconded the motion.

The motion passed unanimously.

8. Topics to Discuss at Next Meeting

Adams suggested we continue work on temporary concessions. Keeney brought up HOA’s; Bennett noted she had asked attorney Sistrunk about this, and received a reply from him today; he suggested we not address it in our ordinance since the legislature has set out its statutory rules concerning assessment liens and foreclosure. Copies of the e-mail will be sent to Planning Board and it will be discussed next month; Adams wants to address dues, and how many votes are necessary to overturn the HOA. Bennett asked Adams to send specific HOA concerns to her by e-mail.

The next meeting will begin as a joint meeting with the Parks and Rec Committee; they have a speaker coming from the Conservancy; and we can continue with other planning board business. Langen brought up the Ordinance Review Committee; Bennett noted she had asked Planning Board members if they were interested in being on the committee, and Jimmy Allison was the only volunteer. Concern was expressed that the Parks and Rec committee meets at the same time as the Planning Board; it was difficult to find a night during the week when all the Park and Rec members could attend. Wilson will give her e-mail address to Langen to ensure he has her correct address.

9. Other Business

Grexa brought up the new bridge on Cuthbertson Road; Plyler noted the Wesley Chapel Volunteer Fire Department does run mutual aid with Waxhaw, and if central communications knows about it they can dispatch them to areas north of the bridge.

9. Adjournment

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

The motion was approved unanimously.

01.26.09 Planning Board minutes, approved 02.23.09

The meeting was adjourned at 9:00 pm.

Respectfully submitted

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Cheryl Bennett, Village Clerk

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Chairman John Grexa