

**VILLAGE OF WESLEY CHAPEL
BOARD OF ADJUSTMENT MEETING
August 20, 2012, at 7 PM**

MINUTES

The Board of Adjustment of the Village of Wesley Chapel, North Carolina, met at Wesley Chapel United Methodist Church, 120 Potter Road, Monroe, NC 28110.

Present: Chairman Butch Byrum; Vice Chairman Bruce Ewing; Members Bill Rodriguez, Tonya VanWynsberg, Creig Williard

Absent: Alternates David Boyce and David Wright

Village Staff present: Mayor Brad Horvath, Council member Howard Brotton, Cheryl Bennett - Village Clerk; Joshua Langen – Planning and Zoning Administrator, Attorney Melanie Cox

Others Present: Architect John Fuller, Julie Brown, one unidentified woman

1. Pledge and Invocation

Chairman Byrum led the pledge and invocation. All regular members were present.

2. Additions, Deletions and Approval of Agenda

A motion was made to approve the agenda with the deletion of minutes approval and addition of formal approval of CUP 12-01. The motion was seconded by Ewing and approved unanimously.

3. Formal Approval of CUP 12-01

Ewing made a motion to approve the order approving CUP 12-01 (Dogwood Park), incorporated herein. The motion was seconded and approved unanimously.

Prepared by Perry, Bundy, Plyler, Long & Cox, LLP and return to The Village of Wesley Chapel 4107 New Town Road, Waxhaw, NC 28173

NORTH CAROLINA

CASE # CUP_12_01

UNION COUNTY

**THE VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA
CONDITIONAL USE PERMIT**

On March 19, 2012 the Board of Adjustment of the Village of Wesley Chapel met and held a public hearing to consider the following application:

Record Owner: Village of Wesley Chapel, NC
Property Location: 121 Lester Davis Road
Tax Parcel Number: 06-072-005/06-072-005A
Deed Reference: Book: 5498 Page: 551
Type of Use: Public Park
Property Size: 22.524 Acres
Meeting Date: March 19, 2012 **Approval Date:** March 19, 2012

SECTION 1 FINDINGS: Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, finds and determines that the application is complete, all notice requirements were complied with, the applicant produced competent material and substantial evidence establishing the existence of the facts and conditions required under the Wesley Chapel Zoning Ordinance, and subject to the conditions imposed below the following findings of fact are made:

1. The use will not materially endanger the public health, safety or welfare if located where proposed and developed according to the submitted plan and will not create dangerous traffic conflict points, noxious odors/sounds/glare, or environmental hazards.
2. The use meets all required conditions and specifications.
3. The Use will not substantially injure the value of adjoining or abutting property and will not hinder future development potential of adjacent properties by the introduction of incongruous land use or incompatible development scale/intensity.
4. 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 located, will not disrupt the integrity of existing land use districts, and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Use Development Plan.
5. Public water and sewer are available at the site and will be connected to as part of this development. The applicant has already confirmed with Union County Public Works that adequate sewer capacity is available for this project in the existing sewer line that runs through the project site. Gas is available. Storm water will be detained on site so that the post development run off rate will not exceed the pre-development runoff rate per Village ordinance.
6. Access to public streets and the adequacy of those streets to carry anticipated traffic has already been addressed by the Village with NCDOT and deemed adequate. On-site circulation patterns for pedestrians as well as onsite and off-site circulation patters for vehicular traffic are shown on the plans.
7. The site is designed to provide adequate access for safety and emergency services (police, fire, and EMS).
8. Proposed buffers and plantings of the adjacent and nearby properties will adequately minimize adverse impacts from the proposed park developments.
9. The proposed use will be compatible with the general characteristics of the area with respect to the location of structures and the location, designs and screening of off-street parking areas.

10. Any special advertised events that are expected to generate traffic above and beyond the parking provided on the plans will require a Temporary Use Permit.

SECTION 2. CONDITIONS. Now, therefore, the application to make use of the above described property for the purposed indicated is hereby approved and granted, subject to all the applicable conditions of the Village of Wesley Chapel Code of Ordinances, Section 3 of this permit, and the following conditions:

1. There shall be a walkway constructed at the intersection of Lester Davis Road and Highway 84 to enable pedestrians to walk safely between the overflow parking at Southbrook Community Church and the park.
2. There shall be a minimum of two portable restrooms facilities available at the park.

SECTION 3. VESTED RIGHTS Approval of this permit confers upon the property the right to develop with the type and intensity of uses as herein described and as shown on the approved site plan.

The Board of Adjustment Decision on this matter may appealed to the Superior Court of Union County within thirty (30) days from the date set forth below.

This the __27th__ day of __April__, 2012

Henry Byrum, Jr.
Chairman, Wesley Chapel Board of
Adjustments

I, Brad Horvath, Mayor of the Village of Wesley Chapel, do hereby acknowledge receipt of this Conditional Use Permit. The undersigned official does further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding on them and their successors in interest.

Mayor Horvath, on behalf of the
Village of Wesley Chapel

Attested by:

Cheryl Bennett, Village Clerk

4. Public Hearing for CUP_12_2

This CUP is to build a town hall between the Village Commons Shopping Center Phase II and Blackstone on Highway 84 in Wesley Chapel, NC on tax parcels 06-048-007F and 06-048-010B, comprising 6.31 acres.

Chairman Byrum asked if the applicant, Village of Wesley Chapel, felt any members of the Board of Adjustment had conflicts of interest; the Mayor replied no. Byrum asked the members if they had any conflict of interest, the reply was negative. Byrum asked if the proper application was completed, all rules complied with and notice given, and the fee paid; Joshua Langen replied yes it was filed properly, notice given and the fee was waived. Joshua Langen, Mayor Brad Horvath, Howard Brotton, and John Fuller were sworn in as witnesses.

Zoning Administrator Joshua Langen reported the parcel is zoned Institutional/Office which allows a government use by right, however since the building is more than 2,000 square feet it requires a CUP.

Mayor Horvath introduced the project; the Village is building a town hall on 6.31 acres. He noted the detention pond is not required but was put in to handle any storm water and some water from the driveway. The entrance drive was moved toward our property. It meets setbacks and buffer, the height is less than thirty-five feet, the lighting plan shows no light goes off our property, additions were made to the landscape plan based on Langen's review, and there are thirty-six parking spaces. Water will come in from Highway 84, and sewer comes in from the back of the property. Council and Planning Board both had public information sessions on the project. The future building and parking shown on the site plan is not on tonight's agenda; we have not identified what we might do with the rest of the land. Chairman Byrum asked where the front of the building is; Mayor Horvath replied the main entrance faces toward Highway 84, and the staff entrance is facing the southwest. Bill Rodriguez asked the building size; John Fuller replied about 6500 square feet. Rodriguez asked if there would be a traffic light; Mayor Horvath said no, there is a concrete median on Highway 84. Rodriguez asked about storm water; Mayor Horvath said we will get some from Village Commons – whatever would normally flow that way; they are channeling it in a pipe to the rip rap area and check dams. Aston agreed to update their detention from the twenty five year storm to the hundred year storm. Council Member Brotton noted the detention area is a dry pond; it is not designed for standing water. Rodriguez inquired about the cost of the pond; John Fuller said he thought it was required because the ordinance was stricter than they thought. Clerk Bennett said it was also evaluated including the future building and parking and only part of the land. Mayor Horvath said the back area of the parcel will be low impact; it provides a buffer between the homes and the shopping center so it shouldn't impact home values.

Joshua Langen, Planning and Zoning Administrator, went over the application and presented his staff review on the town hall CUP, incorporated herein.

TO: BOARD OF ADJUSTMENTS
FROM: JOSHUA LANGEN, ZONING ADMINISTRATOR
SUBJECT: CUP_12_02

DATE: 8/15/12

Staff has found that the Village of Wesley Chapel has submitted an application to construct and operate a Town Hall, Dogwood Acres public park, on property owned by the Village. The property, parcel #06048007F, is located along North Carolina Highway 84/Weddington Rd. The property is zoned Office/Institutional. Staff has considered the following criteria;

a) The use will not materially endanger the public health, safety or welfare if located where proposed and developed according to the submitted plan and not create dangerous traffic conflict points, noxious odors/sounds/glare, or environmental hazards.

The proposed Town Hall is located along NC 84/Weddington Rd., allowing access from a major thoroughfare and situated between a large shopping center, Village Commons Phase II and a residential neighborhood, Blackstone Subdivision. The Town Hall is proposed to have typical operating hours, regular business hours during the day and evening meetings, potentially multiple times per week. Weekend hours are not anticipated at this time, although special events could occur. The Town Hall IS NOT anticipated to create noxious odors, sounds, or glare. Access will be gained through a shared-drive with the neighboring shopping center. However, the drive will only be partially completed as the shopping center will not need access to this portion of the property until future buildings are constructed. Town Hall will use the proposed partial drive and will share traffic with shopping center users once the shopping center is complete. Access is limited to right-in, right-out access and, until the shopping center is complete and the drive is connected to the remainder of the shopping center road network, visitors will not have the ability to turn left once exiting the project or left entering the project. This IS NOT anticipated to create a traffic conflict point, although ingress/egress will be limited until the shopping center is completed.

b) The use meets all required conditions and specifications.

The Town Hall is considered to be a Governmental Use, Wesley Chap[el] Owned & Operated and, therefore, is allowed as-of-right in O/I zoning. However, as the facility is planned to be in excess of 2,000 sq. ft., a Conditional Use Permit is required. As the Village is the applicant, the Board of Adjustments is required to review the application, without input from the Planning Board, although a Public Comment session was held as part of the July Planning Board meeting.

As the proposed use is not required intended to generate more than one hundred (100) peak hour trips vehicular trips, a Transportation Impact Analysis is not required for the project. The size and existing vegetation are sufficient to require only minimal installation of buffer materials adjacent to paved parking, as shown on the proposed plan. Parking lot landscaping

could be enhanced near the spaces which access the staff/daily business entrance to the South-West. The provided parking spaces are considered to be adequate. Signage regulations do not apply to the Village of Wesley Chapel owned and operated facilities, however, samples of potential monument sign designs and handicap signs are included. The Lighting Plan submitted does show lighting fixtures to meet the distance to height ratios. In addition, the photometric study shows no light to escape beyond the property boundaries. Preliminary stormwater approval has been given by the Village Stormwater Engineer. Therefore, the use DOES appear to meet all required conditions and specifications.

c) The Use will not substantially injure the value of adjoining or abutting property and will not hinder future development potential of adjacent properties by the introduction of incongruous land use or incompatible development scale/intensity.

The adjoining lots consist of residential properties to the North, South and East with the Village Commons shopping center bordering the property to the West. Normal operating hour traffic is expected to be minimal and uniformly distributed throughout the day. Evening meetings are anticipated and weekend use is not anticipated at this time, although special weekend events could potentially occur on a limited basis. The Town Hall will be located on a large property with adequate existing buffering and is not anticipated to be a use incongruous with the surround properties. Therefore, the proposed use IS NOT anticipated to injure the value of adjoining properties or hinder future development.

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, will not disrupt the integrity of existing land use districts, and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan.

The proposed use is a Town Hall, commonly found in residential districts, and is located in an Institutional-Office land use district. The property is currently zoned Office/Institutional and located adjacent to a shopping center and major thoroughfare. The property is 6.31 acres in size, giving the facility adequate buffering from neighboring uses. The project will provide a transition from the more intense shopping center use to the less intense residential use and WILL NOT disrupt the integrity of existing land use districts and IS considered to be in general conformity with the zoning ordinance and the Village of Wesley Chapel Land Use Plan.

e) Availability of services including water, wastewater treatment, gas, stormwater as required by project.

Union County has given verbal commitment to serving the proposed facility with water and wastewater treatment capacity. However, Union County does

not issued written commitments without an approved CUP plan. Water and sewer lines currently service the shopping center and can be accessed and tapped into.

The stormwater plans for the proposed use have been given preliminary approval by our Stormwater Engineer, US Infrastructure of the Carolinas, Inc. Once granted approval, the applicant would then have final stormwater calculations prepared to account for any changes recommended as conditions for approval. These final calculations would have to be approved by the Stormwater Engineer before a Zoning Permit could be issued.

Therefore, public services ARE considered to be adequate and available for the proposed use.

f) Access to public streets and the adequacy of those streets to carry anticipated traffic; and on-site circulation for both pedestrian and onsite and off-site vehicular traffic circulation patterns.

The proposed use is located along NC 84/Weddington Rd. and Lester Davis Rd. Daily traffic counts along NC 84/Weddington Rd. measure approximately 8,300 trips per day. This number of trips per day would generally result in a Level of Service (LOS) of "B". The intersection at NC 84/Weddington Rd. and Waxhaw-Indian Trail is operating at Level of Service (LOS) "C" in the AM Peak and "D" in the PM Peak. An LOS of "A" is considered ideal, an LOS of "F" is generally considered gridlock. Therefore, NC 84/Weddington Rd. is considered to be adequate, although some traffic delays are anticipated at the Waxhaw-Indian Trail intersection in PM peak hours. However, the proposed development will generate minimal peak-hour trips and will not significantly contribute to intersection or thoroughfare congestion.

Ingress/Egress from the Town Hall will be temporarily limited to right-in/right-out along NC 84, however, future build-out of the shopping center will provide access as well as signalized turning movements in the future, between the proposed drive and the Waxhaw-Indian Trail intersection.

Parking is adequate for normal operations and is adequate for evening use. Pedestrian circulation within the site is limited as the remainder of the property is undeveloped and the shopping center has not been completed. Therefore, internal pedestrian circulation is considered adequate for facility visitors. However, once the shopping center is complete, the proposed development, as presented will not have sidewalks or pedestrian crosswalks to allow for pedestrian access to the completed shopping center.

Therefore, access to the site, public road capacity and internal circulation for vehicles and pedestrians ARE considered adequate.

g) Adequate safety and emergency services (police, fire and EMS).

The site is serviced by the Wesley Chapel Volunteer Fire Department and the Union County Sheriff Department. The driveway and parking lot are designed for fire/police access. No known problems are evident regarding servicing this site, therefore, adequate safety and emergency services ARE considered adequate.

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

There are no additional review criteria to be considered.

As the proposed use and submitted plan IS considered to meet the above criteria, staff recommends APPROVAL of the conditional use request.

Chairman Byrum noted in the first paragraph “Dogwood Acres public park” should be deleted; also in item “f”, the town hall is not at Lester Davis Road. He asked if this CUP is just for the town hall; Langen replied yes, it is not for a park because we would need signage and parking. The areas graded will be seeded. Chairman Byrum asked how we will keep people out of the rest of the area; we will have to put up a sign and address that. Creig Williard asked about the monument sign; Langen replied it is about 120 feet from Highway 84; the driveway is private, not a public road. The sketch of the sign was included to give a general idea how it would look, it may change a little. Mayor Horvath said Council wants the signs at the park and town hall to be similar and to have a municipal look. Langen said there are no sidewalks to cross the driveway; it might want to be considered as a condition.

There being no more questions to the Zoning Administrator or the Village; the public hearing was closed.

5. Consideration of CUP_12_2

The Board considered the findings of fact, normally made by the Village Council, but in this case made by the Board of Adjustment since the Village Council is the applicant.

6.4.1 Findings to be Made by Village Council (Revised 09.22.09)

The Village Council shall issue a CUP only after having conclusively confirmed each of the following findings:

- a) The use will not materially endanger the public health, safety or welfare if located where proposed and developed according to the submitted plan and not create dangerous traffic conflict points, noxious odors/sounds/glare, or environmental hazards.

The Board voted that the Village had met the burden of proof that this finding had been met by unanimous vote.

- b) The use meets all required conditions and specifications.

The Board voted this finding had been met by unanimous vote.

- c) The Use will not substantially injure the value of adjoining or abutting property and will not hinder future development potential of adjacent properties by the introduction of incongruous land use or incompatible development scale/intensity.

The Board found this finding had been met by unanimous vote.

- 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, will not disrupt the integrity of existing land use districts, and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan.

The Board found this finding had been met by unanimous vote.

- e) Availability of services including water, wastewater treatment, gas, stormwater as required by project.

The Board found that this finding had been met by unanimous vote.

- f) Access to public streets and the adequacy of those streets to carry anticipated traffic; and on-site circulation for both pedestrian and on-site and off-site vehicular traffic circulation patterns.

The Board found this finding had been met by unanimous vote.

- g) Adequate safety and emergency services (police, fire and EMS).

The Board found this finding had been met by unanimous vote.

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

The Zoning Administrator said there were no additional review criteria; the Board agreed.

Potential conditions on the CUP were discussed. Bill Rodriguez said the open field will take away from the building. John Fuller replied that there will be grass where the future parking lot is shown; trees are shown on the site plan and he expects the landscape plan will improve as we get further along in the project. Creig Williard asked if there was any consideration to the neighbors; Mayor Horvath replied that they can certainly call the town, and we can invest in no trespassing signs. The driveway road ends just beyond the town hall, and we now have a deputy. Creig Williard asked about environmental concerns; Mayor Horvath said normal procedures would be followed; we have considered the neighbors all along; they are mostly not in Wesley Chapel but we are being a good neighbor. Howard Brotton said we included a Blackstone resident on the committee until the rules changed on non-residents on committees, and he contacted their HOA. The Mayor noted there was about a six month delay due to the road and storm water concerns, and we held two public forums. Chairman Byrum asked if there was direct access by sidewalks from Blackstone to the town hall property; Mayor Horvath replied no. Bill Rodriguez asked if they would remove the stub driveway; Mayor Horvath said yes, and we undertook an agreement with Aston for the driveway. Tonya VanWynsberg asked about the lighting; Mayor Horvath replied the light does not go beyond the town hall property. Bruce Ewing asked if there would be sidewalks to the shopping center in the future; Mayor Horvath replied yes in the future when there was

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something to connect to. Chairman Byrum asked if there will be a barricade at the end of the driveway road; the Mayor replied that is Aston property and we can ask them. Chairman Byrum noted the concern of the Board of Adjustment is people using the property and causing trespassing or liability concerns. Bruce Ewing asked about the grading; Mayor Horvath noted we got some dirt from the Fire Department project and it improved the property. A vote was taken on there being no conditions to the CUP, and the vote was unanimous. A vote was taken on approving the CUP as submitted; and the vote was unanimous.

6. Other Business - none

7. Adjournment

Bruce Ewing made a motion to adjourn, and Tonya Van Wynsberg seconded it.

The motion passed unanimously.

Respectfully submitted,

Cheryl Bennett, Clerk

Henry C. Byrum, Chairman