VILLAGE OF WESLEY CHAPEL
PLANNING BOARD MEETING MINUTES
April 22, 2013, 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.

Present: Chair Stephen Keeney, Vice Chair Chuck Adams, Bill Bennett, Jeff Davis, John Grexa, Alternate Jim Mullis

Others Present: Mayor Brad Horvath, Council Member Becky Plyler, Clerk Cheryl Bennett, Planning/Zoning Administrator Joshua Langen, Attorney George Sistrunk, Carol Mullis

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

1. Pledge and Invocation
Chair Keeney led the pledge and Vice Chair Adams gave the invocation.

2. Public Comments – Carol Mullis asked Joshua Langen to clarify the original language, and why the text is being changed.

3. Additions, Deletions and Approval of Agenda
Item 4B. "Attorney Visit for Clarification of Article 4, Section 408" was added. Chuck Adams made a motion to adopt the amended agenda; Jeff Davis seconded the motion.
The motion passed unanimously.

4. A. Approval of Minutes
Chuck Adams made a motion to approve the February 25, 2013 and March 25, 2013 minutes. Jeff Davis seconded the motion.
The motion passed unanimously.

4B. Attorney Visit for Clarification of Article 4, Section 408
At the April 8, 2013 Council meeting, questions were raised on the legality of the proposed text amendment. Chair Keeney asked if the attorney saw the amendment before March 25; Sistrunk replied he saw it with the agenda back-up for the April 8 meeting. Langen had emailed general questions regarding fee in lieu, but he hadn't seen the form of the amendment. Mayor Horvath noted we need to have the attorney review the amendments before we call for a public hearing. John Grexa said we did ask for a legal review. Langen said early on Chuck asked about the legality of fees in lieu, he called George regarding the legal foundation and he suggested adding the general statute language. At later meetings suggestions were made and not sent to George. Chair Keeney noted we got some clarification from the attorney in the April 16, 2013 memo. He noted Planning Board depends heavily on the Zoning Administrator and in turn on the attorney. The memo had some clarification on the terms dedication and reservation.

George Sistrunk said the fee has to be for a recreation area; the language used could easily be challenged, but you can accomplish what you want. John Grexa asked if you can say the subdivision has to do a reservation of land for recreation use; Sistrunk replied yes. Grexa asked if we can do a fee in lieu or reservation of land; Sistrunk said you can do a dedication or reservation of land or a fee in lieu, or some combination. It has to be rationally related, i.e. you can't require 9 of the 10 acres in a subdivision.
John Grexa said one concern was donating land and the town later selling it or people would come in and use it from outside the subdivision. Sistrunk said dedication is giving the land to the municipality. The fee in lieu has a little broader use than the land, for example you can use the fee off-site.
Reservation is a) shown on the plat, b) recorded in the declaration of covenants, and c) conveyed to the HOA. Even without an HOA you can have common area that is an easement that all homes in the subdivision have use of.
Chuck Adams said without an HOA you get into an upkeep situation, in his subdivision about 60% contribute $50 every two years for the upkeep, someone has to do the upkeep; which made him think, why do we want to have that.
John Grexa asked about the fee; if we have a fee does it go to the subdivision? Sistrunk said no, it goes to the Village.
Chuck Adams asked if we can write an amendment that only allows a fee, since we already have a park. Sistrunk said no, that would be an impact fee, the fee has to be an alternate.
Clerk Bennett asked if you could increase the minimum land from two acres to five or ten acres.
Joshua Langen asked if it could be dedication or reservation or land given to a land conservancy? Sistrunk said he supposed you could under reservation make it a conservation easement.
Langen asked if you could reserve land between the subdivision and road and require a path? Sistrunk said you could change the requirements of the zoning ordinance; subdivision ordinances are typically very simple in scope while zoning ordinances control setbacks, etc.; this might be an easier way to accomplish that. Langen said he was trying to come up with a greenway and not require an HOA. Langen asked if we could a) have land dedicated to Carolina Thread Trail, b) have a walking trail portion in DOT right-of-way and the rest be on private land;, or c) if a walkway is through private land have a ten foot walkway dedicated easement to prevent having an HOA. Langen said there is not a big liability for an access easement, unless you do something malicious and harmful like putting in a bear trap.
John Grexa said he was thinking of a reservation of land for the homeowners; his subdivision has land reserved but people can come in and they leave a mess, he prefers not to invite people in. George Sistrunk suggest you leave the options, if it were dedicated for public use it would be hard to convey; the funds would probably still be limited for recreation use; you would have a mess if you sold the land for a fast food business.
Langen said if it is reserved, the subdivision still has the option to enforce no trespassing.
Chuck Adams said if we don't reserve the land for that subdivision, we could end up with little pockets of land that don't connect and won't help a greenway. Grexa said but then you could turn down the land and take the fee. Adams asked if we can say we don't want

the reservation or the dedication, we want the money, on a case by case basis; Sistrunk agreed. Langen noted it is up to the developer to make their best case; they come to Planning Board for major or minor subdivisions. Jim Mullis said the property behind his house in Lawson has lots at $59,000, so 1/35th of a lot is $1,500, so it's not small change. Bennett noted it is 1/35th of the raw land value, not the retail value.

Chuck Adams asked if buffers have to be treated completely separate; land along the road that shields the view of the residents from the traffic, and the motoring public from the subdivision. Chair Keeney said this is in addition to the buffer. Langen said if you want to visually conceal, it should be somewhere else in the ordinance, but if you want open strips of land suitable for a walkway, you can do that. Chair Keeney said Potter Trace has definite separation from the road and also there is a subdivision on New Town Road where it is set back from the road with a fountain and pond in front, unlike Stonegate where the back of the houses is right on the road. Mayor Horvath said you have to add in the recreation aspect. Langen said you can say this satisfies the requirement for a sidewalk. Keeney said it also makes available things like a greenway. Mayor Horvath said we still have the option to choose a fee. Keeney said with the sidewalk we don't have the connection. Langen said there is a sidewalk at Wesley Oaks to the Target shopping center through the trees. Carol Mullis said it was a requirement of the part of Wesley Oaks that was in Wesley Chapel. She said it has been in the ordinance that the developer has a choice of land or fee, and we have had four or five developments and all have paid the fee that amounted to about $200,000 that went to the park. When Joshua presented this with the buffer, it appeared to be a third choice of a buffer, which went along the road. With some of the recently built Wesley Chapel subdivisions it has been a condition, but this appeared to be a third choice. She asked George about the fee in lieu; he said it has to be a choice. She asked what we are trying to do, and asked if this was to do greenways, noting some people who have said they don't want a greenway in their backyard.

Chair Keeney noted we are here to make a recommendation to council, and this ordinance is on the table. If open space is a priority, and if it comes with an option for fee in lieu, then that is the two options. He asked George if they cannot require a fee, how can they have an option to require a fee. George Sistrunk said it is what is statutorily written. We are not required to do any of this, but it is something we may do. Chair Keeney said we are trying to craft an ordinance beneficial, effective, and logical to everyone in the Village through a fee, land, or open space reserved around the outside of the development. It would be inside the buffer.

Langen said we will look at this green strip and make it legal, whether we want a greenway thing. Grexa said we should get rid of buffers and greenway, and make it reservation of open space; the town has an option for the fee in lieu. Keeney added greenways and thread trails should be considered in and of themselves. Mayor Horvath said you may want to add a definition of open space and recreation and what is included in that. Langen said we could get really simple and say open space that can be used for recreation. George Sistrunk suggested we track the statutory language of "recreation areas" for dedicated or reserved land. This can be broad. Mayor Horvath said in the future, after you have crafted the language, and before it goes to council to call for a public hearing, the amendment will go to George for legal review.

George Sistrunk suggested we take a look at the zoning ordinance regarding subdivisions that sit back from the road, and see if you can do something there to accomplish what you want. Jim Mullis said the recreation definition in the zoning ordinance – one shows the golf course is not included. Chair Keeney thanked George Sistrunk for his time.
Carol Mullis asked the Mayor for clarification of the approval process. He said that Cheryl Bennett had suggested it coincidentally about the same time; once the Board writes the ordinance, then the attorney will see it before the change comes to Council for a call for a public hearing.

5. Wesley Chapel Land Use Plan Map
Joshua Langen said he changed the three corners here to yellow (residential), the church was shown as blue. Mayor Horvath asked if he was going to be consistent about labeling the schools. Langen noted you can have a school in a residential district, if it changes use from not being a church, then you have an O-I in a residential area. On the Land Use Map, the three corners were blue but in a vague circle, it doesn't follow parcel lines. If someone calls he goes to the zoning map, not the land use map. He thought it makes more sense to make public schools blue, since they won't change use. Adams said in thirty years a school can change use, it may be knocked down. Langen said he thought it made sense to keep the public schools blue, and the others yellow. Carol Mullis asked if we have contacted the owner of the three corners. Langen said there probably will be a public hearing. The zoning never changed. Carol asked if it would change their tax value; Joshua said no. Langen said he wanted to keep the blue next to the major intersections; churches can change to a business and if you give them O-I on the Land Use Map, they have a better chance of a re-zoning.
Langen said Siler Church is now zoned R-40. The Town Hall is zoned O-I. This church is zoned R-40. Chuck Adams said it would be better to leave Siler Church R-40. Chair Keeney said given the surrounding area, it makes sense to make Siler O-I, make this corner O-I, leave New Town School residential, because it is larger and could be turned into a subdivision.
Grexa asked what the plans are for this intersection. Langen said it would be hard to consolidate the parcels to make it residential.
Chuck Adams made a motion to recommend adoption of the map as presented. Jeff Davis seconded the motion.

The motion passed 4-1, with John Grexa voting nay.

John Grexa said Wesley Chapel elementary school and this church should be R-40, and Siler, if zoned R-40 should remain R40.
The map is incorporated in these minutes as Attachment A.
Langen said this is why he hesitates to call property owners before; Council will get word out and will have public workshops. Council Member Plyler said we haven't talked about this. Mayor Horvath said it hasn't gone to council yet.
Council Member Plyler left at this point.

6. Article 8 – Section 8.3 Signs
Langen said he did as requested and made sandwich signs as prohibited; he asked if you would want them to be allowed on a temporary basis. The board did not want them at all. Mayor Horvath said this applies to all B1 and B2; one concern is at the Advance there

was talk of encouraging business and completion of the shopping center, and this doesn't do that. He understood they can be an obstruction or danger, but asked if we could look at options such as if a sidewalk is x feet wide, or if it could be x feet from the building. John Grexa said we looked at ways, and each had a problem, you can still have signs in windows. Chair Keeney said you can't change sidewalk widths; you can't obstruct parking spaces' access.

John Grexa made a motion to approve this change to Article 8; Jeff Davis seconded the motion.

The motion passed unanimously.

The recommended text amendment is:

VILLAGE OF WESLEY CHAPEL
TO ADOPT ZONING ORDINANCE TEXT AMENDMENT

ARTICLE 8 SECTIONS 8.3 & 8.4

THAT WHEREAS the Village of Wesley Chapel would like to preserve a satisfactory environment through the regulation of signs and sign placement, and

WHEREAS the following text amendments address signs and sign placement;

WHEREAS the following text amendments are found to be compatible with the 2003 Village of Wesley Chapel Land Use Plan;

ARTICLE 8

SIGNS

Section 8.3 Signs Permitted Without Permit

The following signs shall not require a permit:

…..

L. Free-standing Sandwich Board signs, as defined in Article 2, limited to one (1) sign per establishment. For B-2 and O-I zoning districts, such signs shall be located within five feet (5') of the principal entrance and not located greater than one foot (1') from the relevant building façade. For B-1 and L-1 zoning districts, such signs shall be located within thirty-five (35) feet of the principal entrance.

…..

Section 8.4 Prohibited Signs

Any unauthorized signs placed in a public right-of-way may be taken down and destroyed without prior notification to the sign owner.

The following signs are expressly prohibited within all zoning districts, unless as otherwise specified in this Ordinance.

…..

O. Sandwich Board Signs

NOW, THEREFORE, BE IT RESOLVED that the Village of Wesley Chapel Council hereby adopts the above listed Zoning Ordinance text amendments.

Adopted this ____ day of _____, 2013.

Attest:

_____
Cheryl Bennett, Clerk

_____
Mayor Brad Horvath

7. Article 3 – Section 310 Information to be Contained in or Depicted on Preliminary and Final Plats

Joshua Langen said he did exactly what our engineer recommended. John Grexa noted it has the Army Corps of engineer permit twice, once with final and once with preliminary. Langen will fix it and bring it back. He is still waiting for final word from the State.

8. Article 4 – Fireworks Display

Langen reported every year we have a fireworks request. Clerk Bennett said she brought this up because our ordinance says the applicant has to provide proof of compliance with all applicable Federal, State and Local regulations, we don't know what those regulations are; also it is a catch 22 since the Fire Marshall approves it after receiving our approved minutes. Jeff Davis asked if we should have a requirement they apply a certain time in advance; one time Council had to call an emergency meeting. Sixty days seems an appropriate time. Mayor Horvath said we want them to comply with all regulations, so we could just say they must be in compliance with all regulations.

Chuck Adams why turkey shoots is in the ordinance in conjunction with fireworks; should it be separated. Chair Keeney asked if you could add that this should be in conjunction with a special holiday. Jim Mullis noted fireworks can be a problem for horses.

Langen said he also looks at parking and other factors.

Clerk Bennett said this would be the type of permit for the festival, and it says no vehicles or trailer for storage can be left overnight; with a Friday and Saturday festival you might want to allow that; on the other hand you might not want 40 or 50 vehicles overnight. Langen said he can require permission from the property owner. He has taken their word for it, but the ordinance will be changed to require written permission for overnight parking.

This will come back next month.

9. Other Business

Mayor Horvath said there will be a park fundraising event by Wesley Chapel Friends of Parks, JDH and Aston at the shopping center; there is also spirit days at a couple of restaurants.

John Grexa said some people have been approached by developers to re-zone, and asked about the process and if we have to accept the application. Langen said they have the

legal right to apply and we accept all applications; it goes to him, Planning Board and then Council.

10. Topics to Discuss at Next Meeting
Topics include the Article 4, Article 3 and Fees in Lieu.

11. Adjournment
Chuck Adams made a motion to adjourn the meeting; John Grexa seconded the motion. The motion was approved unanimously.

The meeting adjourned at approximately 8:45 pm.

Respectfully submitted

_____ _____

Cheryl Bennett, Village Clerk Chair Stephen Keeney