

**VILLAGE OF WESLEY CHAPEL  
PLANNING BOARD MEETING MINUTES  
June 24, 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, Jeff Davis, John Grexa; Alternates John Bowen (seated as regular member) and David Boyce

**Absent:** Member Bill Bennett

**Others Present:** Clerk Cheryl Bennett, Planning/Zoning Administrator Joshua Langen, Council Member Becky Plyler, Carol Mullis, Mildred and Bill Gwinn, Sandra Fenn, John Stone and family, Robert E. Henderson, Vickie Oldham

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 commented on the changes to the Existing Vegetation ordinance; she said she heard one council member stand up for property rights. She said regarding the conversation with the arborist, the only benefit of the large trees is shade. She spoke to two members of the master gardeners club, and they suggested replacing the large old trees with flowering trees. Seniors are afraid of the large trees but can't afford the expense of cutting them down. She noted she had seen many fallen trees in her travels in the County, as the drought has affected them. She added that liability was discussed at the council meeting, and the attorney said we did not have liability, but the insurance covers us.

Mildred Gwinn spoke and agreed large trees are a hazard, she suggested getting rid of them and planting new trees when you build a subdivision. If she would be required to keep the trees and as a result receive a lower price for her land, she expected reimbursement from the town.

Sandra Fenn commented that the trees on property she and her siblings own were an enhancement thirty-five years ago, have now grown to be a problem.

Bill Gwinn commented that the trees on Queens Road in Charlotte were not random, they were purposely planted; millions of damage was done by Hurricane Hugo.

Chair Stephen Keeney noted Planning Board is appointed by Council, their task is to craft an ordinance to recommend to Council, who has the ultimate decision; we have none.

Bill Gwinn said this is a tax on developers; they develop and leave, but this will raise the cost of doing business.

John Stone introduced his family; they are new residents and here for the re-zoning item.

Bob Henderson, a real estate attorney representing Vickie Oldham said he is interested in changes to the ordinance; the tax is not on the developer, he said the exaction comes from the landowner.

3. Oath of Office

The Clerk administered the oath of office to John Bowen and David Boyce. Mr. Bowen was then seated as a regular member for the meeting.

4. Additions, Deletions and Approval of Agenda

Item 6B. "Extension of Violation" was added to the agenda. Items 9 and 10 were switched in order.

Chuck Adams made a motion to adopt the amended agenda; John Grexa seconded the motion.

The motion passed unanimously.

5. Approval of Minutes

John Grexa asked that on page 28 the minutes be amended to ask that visitors were asked to treat the property as if it were their own; some had gotten upset when asked to respect rules. John Grexa made a motion to approve the May 20, 2013 minutes with this change. Chuck Adams seconded the motion.

The motion passed unanimously.

6. A. Rezoning RZ\_13\_1

Joshua Langen pointed out this parcel at 205 Airport Road, it is R-20 on the Land Use Map and also zoned R-20. The applicant wanted agricultural uses, which are not allowed in R-20, so Langen suggested RA-20 or R-40. This is less dense, so Langen did not see traffic or compatibility issues. He did receive on call in opposition, a neighbor said there were some agricultural uses on the parcel, and he found them offensive. Access is via a ten foot access easement from Airport Road. There is a house on the land, and the family is living there. Chuck Adams said Wesley Chapel wants to be R-40, and asked if it were re-zoned what rules would apply. Langen said there are rules on how close a chicken coop can be to the lot line. John Stone the property owner said they have an old chicken and turkey coop; both usable. Chuck Adams asked if the re-zoning is approved, does the violation go away; Langen said yes, and there is a fencing issue as well, with chickens supposedly crossing the road. John Stone said when Langen came out he was putting up fence, the chickens wings are clipped; there is also a goat and three sheep, all family pets. He intends to fence around the perimeter. All structures meet the rules, he purchase the land March 28, 2013. Langen said the neighbor did not want to hear and smell chickens; they are within a couple hundred feet. John Grexa said there must have been an agricultural use there at some time; Langen said the structures are grandfathered, but not the uses. John Bowen said one property owner is in Utah, was that the one who complained? Langen said he was not sure who complained. Chuck Adams made a motion that we recommend re-zoning to R-40. John Bowen seconded the motion.

The motion passed unanimously.

6. B. Zoning Violation

Langen said he sent a letter on this violation and asked for an extension. John Grexa motioned to recommend this violation be extended until Council decides, with a maximum of 90 days. Chuck Adams asked we not charge the landowner anything. Grexa asked what if Council doesn't approve this; Langen said he thought the appeal would be to the Board of Adjustment. John Stone said he went to the contiguous landowners, and heard no complaints. Council Member Plyler said she thought we should get a name, and if no name, then ignore the complaint. Chair Keeney said Planning Board made some recommendations regarding fleshing out valid complaints. Council Member Plyler said Council never heard that. Langen said per the attorney, whether you get a name or not, we are obligated to investigate. John Bowen seconded the motion.

The motion passed unanimously.

#### 7. Article 4 – Subdivision – Fees-in-Lieu

Joshua Langen said he checked with the attorney, Grexa is correct in that dedication is to the town; reservation can be used more loosely; the title of Section 408 was changed to "Reservation". At Section 408.1(c) "cement" was added, and wording added regarding a limited access easement which Langen said would limit the property owner's liability. At Section 408.2 (c) (2) (a) (1) Langen said a list of appraisers sounded like favoritism, so he changed it allow the Zoning Administrator to choose from a list of three appraisers the developer submitted. John Grexa asked why at 408.1(c) reserved land would be open to outsiders. Langen said there would be a limited access easement, like at the Hunter's Pointe trail. There was a list of appraisers, but it was not maintained, and Langen felt it should be up to the private enterprise, not for us to choose the appraisers. An appraiser might be biased, so that is why he had them have a list of three. Carol Mullis asked why he would be qualified to choose an appraiser. Langen said he could ask the attorney, he would like to adopt this as he has two sketch plans on his desk. The question was asked would this affect those two; Langen said an approved preliminary plat would give them vested rights, and then it would not apply to them. John Bowen asked if they get an appraiser, who has the power to approve the appraiser. Langen said we could give the choice of using the assessed value or if it doesn't look right, request an appraisal. Administrator Bennett said with the case of Quintessa they used an appraiser from the list. Langen said he will make changes to this section; there are two options, use an appraisal list or assessed values. Council Member Plyler asked what other towns do; Langen said COG provided this language to several towns, and three others had the exact same wording. Langen will re-word Section 408.2 (c) (2) and let the developer pick their own appraisers.

#### 8. Article 4 – Subdivision – Existing Vegetation

Langen said he was trying to get away from requirements on 10" diameter trees. Chuck Adams said Section 404.3 (3) (e) applies to utility companies, and they do the tree work for safety, if they had to remove a tree, why would we want them to replace it with another tree to interfere with the lines. Carol Mullis said they just cleared under the lines at the park; did they have to replace the trees? Chair Keeney noted at the top of Section 404.3 it says these are exemptions, but then at 3E we have rules for replacement. Langen

said he got this ordinance from a neighboring town, but he forgot which town. Chuck Adams asked why we have this ordinance. Langen said it was from the ordinance review committee. John Bowen said the intent is to prevent clear cutting. Chairman Keeney noted clusters of trees (as at Section 408.3(4) are not healthy, healthy trees need at least a dripline separation. Carol Mullis said this ordinance was brought up by John Lepke, principally for the park. Chair Keeney said this requires a lot of work for the developer and Joshua Langen to check the inventory, and felt we were overstepping our bounds. Langen said he does receive a lot of calls when land is clear cut. He said most towns have a grading or clear cut permit; this almost encourages owners to clear cut before selling their land. Chairman Keeney suggested having one line – that we strongly encourage the retention of trees and green space. John Grexa said the first paragraph of Section 404.3 includes language about “enhancing the approval process”. Langen said if a development meets all the rules, there are no grounds to not approve. Chuck Adams made a motion to take Langen’s recommendation to strike this ordinance. Jeff Davis seconded the motion. John Bowen said what about environmental issues, and protection of animal habitat. Carol Mullis said the developments here have re-planted trees. John Bowen said at Sheridan there are hardwoods, and they take a 50 to 150 year cycle to re-grow. Chuck Adams said he is not in favor of clear cutting. Chuck Adams and Jeff Davis withdrew their motion and second. Chair Keeney said this ordinance makes no sense and is unenforceable. David Boyce said he could see both sides. Langen will research and bring back examples. Attorney Bob Henderson said Langen conceded this law on the books is terrible, so don’t bind people up with this ordinance; he suggested striking this ordinance while researching a new one. John Grexa said he was not so sure this is that bad, what is the problem is with heritage trees. Langen said size doesn’t necessarily equal quality. Grexa said a heritage tree should have historic significance. Attorney Henderson said folks came in at great expense for the subdivision modification request; he didn’t see this until tonight, and he and they would have liked the chance to provide input. Langen said they received a subdivision modification and have to only do a minimal tree survey. Henderson asked for the status of the Oldham property. Langen said he didn’t have it in front of him. John Grexa advised that this was improper and he is their counsel. Chuck Adams made a motion to recommend that we take Langen’s recommendation and strike the existing ordinance Section 404.3 and work to re-craft an ordinance that is better for the Village. Langen said if we delete this, we will just be back where we were one and a half years ago. John Grexa said this keeps happening – an ordinance doesn’t work for some person or group, and then we have to change it. Jeff Davis seconded the motion.

The motion was voted on with Adams and Davis voting Yea, and Grexa and Bowen voting nay. Chairman Keeney voted yea, so the motion passed 3-2.

#### 9. Article 4 – Zoning – Fireworks Display

Langen said he made changes as requested. The size of the sign was questioned as it seemed small. Langen said they also usually submit a sign permit. Chuck Adams made a motion to recommend this to Council (Sections 4.7.3 and 4.7.7). John Grexa seconded the motion.

The motion passed unanimously.  
The recommended text is as follows.

VILLAGE OF WESLEY CHAPEL  
TO ADOPT ZONING ORDINANCE TEXT AMENDMENT

ARTICLE 4 SECTIONS 4.7.3

THAT WHEREAS the Village of Wesley Chapel would like to preserve a satisfactory environment through the regulation of firework displays, and

WHEREAS the following text amendments address fireworks display;

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

**ARTICLE 4**

**GENERAL PROVISIONS**

....

**Section 4.7 Temporary Structures and Uses**

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4.7.3 Turkey shoots not prohibited by the Firearms Ordinance, sales of agricultural plant products (as defined in Article 2), 4-H shows, charitable uses, Federal, State or Local Government-sponsored public events and/or non-profit organization-sponsored events of a limited nature and for a limited time may be allowed, but shall be specifically permitted. No ~~V~~vehicles and trailers may remain on the property overnight with written permission from the event organizer, with the exception of vehicles or trailers containing hazardous materials, such as explosives, fireworks, or fuel, which shall not be left overnight. and no trailers shall be used for storage or other purposes other than the delivery of product. One (1) On-Premises sign, limited to twelve (12) square feet and not in violation of Section 8.4, shall be permitted for the duration of the use, as specified in an approved application. Parking, ingress and egress shall be adequate and not represent a safety hazard. The use shall not disturb neighboring properties with respect to noise, vibration, lighting or odor. ~~Applications for fireworks displays shall provide proof of compliance with all applicable Federal, State, and Local regulations.~~ Each such permit shall be issued for a period of forty-five (45) days. A waiting period of forty five (45) days shall be required between temporary permit applications by the same applicant. A Temporary use permit shall not be issued for any single property more than three (3) times per calendar year.

Temporary use permits shall not be approved and can be revoked should the Zoning Administrator determine the required criteria have not been met, or no acceptable remedy proposed/implemented, at any point during the application or operation of the temporary use. (Rev. 02.08.2010, 12.13.2010, 10.18.2011)

....

4.7.7 Fireworks displays shall be required to have an application submitted to the Zoning Administrator sixty (60) days in advance of the event. The application shall be required to gain initial approval from Village Council and shall be contingent upon approval of the Union County Fire Marshall. Village Council shall issue approval of fireworks display applications which include proof of qualified operator and insurance. Minutes of the meeting at which any approval is given shall be supplied by the Village to the Fire Marshall for review.

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

10. Article 8 – Zoning – Signs

Chairman Keeney read an email from Mayor Horvath regarding the Council decision to use Langen’s wording. Chairman Keeney said Planning Board worked hard and long on Article 8. At the March 25, 2013 Planning Board meeting they voted affirmatively by unanimous agreement to recommend eliminating the sandwich board signs from Article 8 Section 8.3 The board again agreed the following reasons for excluding this type of signs: 1. Most pedestrian sidewalks require a minimum of five feet in width for ease and safety of passage, both Wesley Chapel shopping centers have five foot wide sidewalks, and there is not comfortable room for sandwich boards. 2. They add to congestion – both visual and cluttering and create obstacles in sidewalks from parking spaces at store fronts. 3. There are plenty of other options for businesses to advertise within storefronts. 4. Centralina’s Bill Duston advised us to be reasonable and consistent. A 10,000 square foot store would be allowed one sandwich board while 10,002 square feet store can have two sandwich boards. Currently some stores have several signs outside and some (Wells Fargo) has signs 35 feet from their office building, all vying for attention. 5. Planning

06.24.2013 Planning Board minutes,

board understands the need to encourage business within the Village. There are adequate provisions in our sign ordinances, without creating more congestion and eyesores. John Grexa motioned to send this back to council with the above reasons why. John Bowen seconded the motion. Chuck Adams said he was not sure the statement on sidewalks being five feet wide was correct. He thought it may be wider outside Harris Teeter. Stephen Keeney said the March 25 minutes stated five feet; Langen said he may have been mistaken when he said that.

The motion passed unanimously.

11. Other Business - none

12. Topics to Discuss at Next Meeting  
Topics include Article 4 – vegetation 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 8:15 pm.

Respectfully submitted

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Cheryl Bennett, Village Clerk

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Chair Stephen Keeney