

**VILLAGE OF WESLEY CHAPEL  
JOINT COUNCIL/PLANNING BOARD MEETING MINUTES  
February 23, 2015, 7:00 PM**

**MINUTES**

The Council of the Village of Wesley Chapel met with Planning Board, North Carolina, met at Town Hall, 6490 Weddington Road, Wesley Chapel NC 28104.

**Present:** Mayor Brad Horvath, Mayor Pro Tem Mike Como, Council Members Kenary (arrived at 7:37 pm), Plyler and Rosoff

**Present from Planning Board:** Chairman Stephen Keeney, Members Jeff Davis, John Grexa and John Bowen, Alternates David Boyce (sitting as a regular member), Sandra Ells and John Souza

**Absent:** Vice Chairman Chuck Adams

**Council Members Present:** Mayor Brad Horvath, Mayor Pro Tem Mike Como, Council Member Becky Plyler, Council Member Jeannine Kenary (arrived at 7:15 pm)

**Council Members Absent:** Council Member Rosoff

**Village Staff present:** Cheryl Bennett, Village Clerk; Bill Duston, Planning/Zoning Administrator

**Others Present:** Carol Mullis, David Hunter, William Rodriguez, Rich Hearth, Butch Plyler

1. Joint Meeting with Village Council to Discuss the Wesley Chapel Future Land Use Plan and Conditional Zoning

Gayla Adams read comments from Chuck Adams, who was out of town, as follows.

*From Chuck Adams (read by Gayla Adams)*

*February 23, 2015*

*Planning Board, Council and Mayor:*

*I am sorry that I cannot attend this meeting but my business responsibilities have taken me to Tennessee this week.*

*I'll start with Conditional Zoning. This Planning Board deliberated on conditional zoning for 3 months. After much thought, discussion and debate it was voted to recommend to council that you not adopt Conditional Zoning. We voted to not approve Conditional Zoning. You as council either accept our recommendation or not. To spend any time on this is just to make you feel good before you vote on it. It really is that simple.*

*Land Use Plan questions;*

*I will address a few.*

*#3. I would not consider conservation subdivision as a compromise between straight and conditional zoning. The citizens have said R-40.*

*#7. I would be willing to identify additional zoning changes. For example, a parcel that makes sense to rezone commercial is the land across from the substation on New Town Road. Several years ago Hillbillies wanted to relocate there and the council seated at that time turned them down. That is a perfect place for a farmers market. If they still want to build a farmers market there, let them. Additionally, if any land owner is interested in rezoning his property he should apply with the village.*

*#10. We do not need a master plan! We spent something like \$35,000 to develop a master plan under the Clinton administration. Lots of time and money was spent on the original Master Plan and it was never adopted.*

*#12. I'm not clear on this question so I'll respond to it as written. I'd love a subdivision where each of the home lots is 40,000 SF. Then, in addition to that, open or wooded, undeveloped space is desirable. However, if this writer is talking about putting homes on a lot that is less than 40,000 sq. feet then my opinion is no.*

*Additional Thoughts:*

*√ The Aston property land between Town Hall and Hickory Tavern is not being developed because Aston is not trying to build it out. Not because of our zoning.*

*√ Our current zoning does not keep developers from wanting to come into Wesley Chapel. We have lots of subdivisions and more coming. People are buying an acre of land in our R-40 subdivisions and they sell out.*

*√ We don't have to have conservation subdivisions. If you want it go to another town.*

*√ On 8 different occasions the citizens of Wesley Chapel have publically expressed their desire to be R-40.*

*√ When Meritage was going to build as Pine Tops, they wanted R-20. They advised the planning board and you, the council, that unless they got R-20 they could not build. We said no. They are building their Candella subdivision on R-40 lots. They will sell every lot, fill the subdivision and it will be very nice.*

*√ We are Wesley Chapel not Everything to Everybody.*

John Grexa said we sent recommendations to Council, and need to stand behind what we said. Mayor Horvath commented that one issue is communication, and Council is coming to you to get more information. John Grexa said Planning Board made recommendations, Council doesn't have to take them, but he did not see the benefit of Conditional Zoning (CZ). Council Member Plyler said Council was split, but the Mayor broke the tie to send this back to you. Mayor Pro Tem Como noted this is a big decision and they want everyone's input before the decision. John Grexa said we spent a lot of time on it, and two hours won't do it; he thought they would take the Planning Board recommendation. Mayor Pro Tem Como noted as of Friday we were labeled as "hard to deal with", and he wanted to show we don't make hasty decisions. John Grexa said on the last couple subdivisions you have made modifications, and the subdivisions are selling out. Council Member Plyler asked if he lived on a one acre lot; Mr. Grexa replied he wish he did, the developer bought 88 acres so he could build 88 homes under county zoning, but included swamp and wetlands.

Council Member Kenary asked if the concept of CZ was unfavorable, or the documentation unfavorable. Mr. Duston noted as long as the text is legal, it can be written as we want it. John Bowen suggested Bill Duston state what CZ is so we all hear the same definition. Mayor Pro Tem Como said he heard CZ is another tool besides a CUP, a tool for a developer to use, that seems to have less hoops and shows our flexibility. Bill Duston gave an example of a parcel to be re-zoned; with conventional

zoning you can do any use in the zoning district; the other option is re-zoning with a CUP as we did with the JDH shopping center. With CZ the process is legislative; Council can talk to anyone about it and what is agreed on is the only thing you can do on the property. One of the ways to individualize it is to have one or two public input meetings; the developer doesn't have to change their plans from citizen input. Another question is who gets notified; he started with properties within 500 feet; other towns use 1,320 feet; this reaches more than just the adjacent homeowners that we notify for a CUP. The same people would be notified for the public hearing. Another feature is you can't go under the standards of the ordinance; a couple of other towns give a specified leeway to go below the standards. With a CUP, if you want a change, you need a new CUP. Some towns give the Zoning Administrator power to approve some changes to CZ. John Grexa said Council gave some modifications to some subdivisions; Bill Duston noted now the changes would go to Planning Board before Council. Mr. Duston said with a CUP the applicant can't talk to Council before the meeting; with CZ they can have discussions beforehand. The difference is between the quasi-judicial process and legislative process. Council now makes findings; that would go away with CZ. Marvin has a policy that the developer has to talk to two council members, not just one; this is not addressed in the text he wrote. CZ started after Charlotte was doing it and got sued; then authority was given in the statutes. The storm water materials request for CZ would cost less than under a CUP, about \$1,000 less per pond. Mayor Horvath noted it is not an avoidance of cost, in the end the same documentation has to be provided. Mayor Pro Tem Como noted under the current process the developer does a lot of work up front, and there is no guaranty of approval. If they get re-zoned, they can sell the land to anyone else to do any use by right; with CZ they can only do what was approved. Bill Duston noted an example is Five Stone Church; they did not get re-zoned, so can still do anything in R-40; with CZ they could only do a church.

An R-40 parcel that you want to go to B-2; you could have a straight re-zoning and any use by right in B-2 can go in; or you can do a re-zoning with a CUP and they can do whatever is allowed in the CUP or any use by right in the zone, or with CZ they can only do what is approved in the CZ application, and it is recorded at the Register of Deeds. Council Member Kenary asked if you can use specific districts, like Restaurant 1, 2, 3 or 4; and identify more zoning districts. Bill Duston said the process is different; with a straight re-zoning you can do any use by right in that district; you might ask where the dumpsters are, when they are emptied, etc., you can't think of everything in the code. With a CUP you can have fair and reasonable conditions; the end result is the same, how you get there is different.

Chairman Keeney stated you are encouraging and participating in development. Mayor Horvath said they don't have to listen to the input, but we don't have to approve the CZ request either.

Council Member Kenary noted people reference the Land Use Plan (LUP) in their requests; most are R-40 properties, that will change; how do you avoid pockets of commercial. Bill Duston replied that is why the LUP is key to future growth; the statement of consistency shows if it is consistent with the LUP; also there is an issue of spot zoning; if the LUP shows it as commercial, it makes sense; on the flip side if the LUP shows it as residential, that is a hurdle. Council Member Kenary asked how often do you change the LUP; when is it a document you stick to, and also what about bias, approving for one, but not for another. Bill Duston said the verbiage that goes along with it carries a lot of weight; you do need to review it about every five years.

Mayor Pro Tem Como stated Wesley Chapel needs to grow, but in a controlled way; we will need more than one gas station, or grocery store. The Espinosa parcel was a good example, it was always commercial though it was zoned residential.

John Grexa stated not everyone has to agree with that.

Mayor Pro Tem Como said we don't need commercial all over, but we can enlarge the bubble we have; with the Espinosa property he can sell it and do anything that is a use by right in the zoning district. John Grexa suggested you should have waited until you had CZ if you thought that was important.

Chairman Keeney noted the CZ recommendation was not unanimous; it was voted important at the Advance. John Grexa noted as Chuck stated, eight times citizens said they wanted R-40. Chairman Keeney said Matthews uses it 85% of the time, Weddington and Mineral Springs uses it. Bill Duston wrote the text for many of the towns. The Weddington planner said they use it for 85% of developments. In October, by a narrow margin, Planning Board recommended against it. Chair Keeney thought it was to Wesley Chapel's detriment that we ignore the tool; an example is Candella, they wanted re-zoning to R-20, and it would have left it as an interesting parcel to see to collect the homes in the center of the parcel; our LUP didn't allow it. CZ would have let us explore it, there would be large buffers, three times our minimum. Instead you have one acre lots and you stare at the back of houses.

Council Member Kenary said Weddington uses RCD 40 only with a hundred acre parcel that you can put 80 homes on, you can only do 80 homes. The ICD district in Marvin only allows 1.25 to 1.5 acres per home.

Mayor Pro Tem Como said he spoke to Chuck at length on his reasons against CZ, and asked Mr. Grexa his reasons. John Grexa said he already explained it; we formed to break away from Indian Trail, which is a hodgepodge.

Conversation moved to the LUP. Bill Duston said the biggest change is the corner of Potter and Hwy. 84, there was an arc around the corner as at the northwest corner of 84 and Waxhaw Indian Trail Road. In 2013 the three arcs at 84 and Potter came off, and Siler Presbyterian was changed to office institutional. John Grexa said New Town Elementary is another school; Mayor Horvath said Wesley Chapel Elementary is at a hub, not New Town; you could take down the school and put up a development. Bill Duston said there was an arc at Harris Teeter and the NW corner; now we have the 201 Central shopping center, and Planning Board recommended Siler as office institutional, and go as far as McDonalds for commercial, and take the arcs away. There are other churches and schools in Wesley Chapel that are not shown as office institutional. Chair Keeney said size was a delineating factor. Bill Duston said the town had developed in ten years, and now knew where the commercial had developed. The official map is the old LUP map; the text is very clear, one lot per 40,000 square feet. John Grexa said at the last three meetings he asked the Mayor to do a survey to see if the citizens still want R-40. Bill Duston said the text is very clear, and strengthened in the proposed LUP. If Council wants changes, you need to change the LUP. John Grexa said the planner at the time made some recommendations to look at more R-20, and Planning Board decided against it. Council Member Plyler asked if they considered what landowners want to do with their land. John Grexa said they want to see what the majority of people would want. Council Member Plyler said when we interviewed planners, they said you should interview land owners on what they want to do. John Grexa agreed you should ask everyone, but not only large landowners. Council Member Plyler asked if we should

even ask those with a quarter acre. John Grexa said we should ask everyone. Council Member Plyler said we have a big problem in Wesley Chapel.

Council Member Kenary we don't have on the LUP map what is currently here, like the park, why change a church and school; the school won't be going anytime soon, and you would adjust the plan every five years. Bill Duston replied the school is shown as OI, and zoned R-40; if the Board of Ed wanted to knock it down and the LUP says OI, it would be a potential candidate for a future transfer. Siler church has been there a long time, but churches do move on; with OI they have one leg up to do an office building. You don't change the LUP on a whim, but when it makes sense. John Grexa said they felt until the downtown was built out, we would only keep one corner as Office Institutional. Bill Duston said New Town Elementary is zoned as R-40 and is a conditional use. Mayor Horvath said owners of property can do a use by right for how they are zoned, they still have to go through a re-zoning process, but it does give a leg up. The park is a CUP, and was finished in 2014; the LUP left Planning Board in 2013; now it is in Council's hands.

Bill Duston said the RUC district was created for subdivisions developed under Union County; the problem is many subdivisions have smaller lots, and should be zoned RUC. If a property owner is zoned R-40, you would have to follow R-40 rules. Cheryl Bennett noted RUC was applied to the newly annexed properties. Bill Duston said we would have to re-zone to RUC, or create an escape clause that respects the original lot setbacks. If council wants to consider alternatives to R-40, we need to address it in the LUP map and text.

Mayor Horvath said senior housing came up at the Advance a couple of years ago, and wasn't the highest priority. Bill Duston said if the LUP wants to include senior housing, we need to know how we allow it and where. If the LUP is silent, you can put it anywhere. Chair Keeney said could we say we would consider senior housing and only through a CUP or CZ, as opposed to specifying where on the map. John Bowen said the market has to decide where it should be as opposed to Planning Board picking where. Council Member Kenary asked if that was not part of the planning process? John Bowen thought we should be open to the idea, and let ideas come to us. Chair Keeney said the 2012 Advance showed senior living/mixed use ordinances; John Grexa asked how many people were at the Advance, vs. a survey.

Planning Board Members were polled for input. Jeff Davis David Boyce said we need to note on the map if the property is RUC; he felt senior housing was not far enough along to pinpoint where. Bill Duston said any map text change has to leave Planning Board before it goes to Council. Council Member Plyler asked what if you want senior housing in one place, but the landowners don't want it there; we should talk to the landowners. Chair Keeney noted there is the Advance this weekend; it will be a primary element of mash it out. Council Member Kenary asked if they did senior housing research due to a directive from council. Bill Duston said at the last Advance the directive came from council. Council Member Kenary said there was discussion of a survey, and it has gone nowhere. Mayor Horvath said at the last meeting we said pull together questions for a survey; the master plan was never adopted, but one acre per house, even two acres per house was strong; but of other items such as multi-family apartments, patio homes, the only ones that were favorable were retirement patio homes 55%, and assisted living units 53%. Chair Keeney said the problem is a survey designed to generate answers you want. With CZ you get reactions from around the parcel, and if 100% negative, it won't get approved.

(Jeff Davis left at this point.)

Bill Duston said the staff report will include comments from the PIM, so you know what was requested and if the developer responded. John Bowen said if we have another tool that will give us openness and opportunities for the developer to come and present, the board still has to approve and also council, and hopefully the boards would not just rubber stamp it.

Planning Board was polled on whether they could work further on CZ objectively; John Grexa said no. Mayor Pro Tem Como said he hated to go against the recommendation of a committee or board, so he wanted to hear both sides. Council Member Kenary said she preferred a Planning Board that passionately debates something, than rubber stamps it.

Bill Duston said CZ is now officially in Council's hands; senior housing is in planning Board hand's, and will be on the next agenda. The LUP is in council's hands. At the last joint meeting Chair Keeney asked to revisit the LUP; Grexa noted we voted to send it up to council, one person can't override it. Council however sent it back to Planning board; it can be discussed at the Advance. We need to call for a special meeting to evaluate and make decisions on the LUP.

Dennis Moser asked about public comments, and said the LUP affects him, his land is at a corner with a light, there is a lot of demand for commercial on that piece, and a grocery store that later went to Indian Trail and \$1 million in improvements are going there.

Mayor Horvath noted we will get input from landowners for the LUP.

(Sandra Ells left at this point).

Mayor Pro Tem Como asked what we can do to help you with senior housing. John Grexa said you see it everywhere, he feels it will be saturated. Council Member Plyler asked if we don't want it here. Mayor Horvath said the market will determine if it is over saturated. John Grexa asked what if only half a projects gets built. Bill Duston said if you approve it as a senior community, younger people cannot move in it. Council Member Kenary asked if age 55 plus you can mandate no children; Rich Heareth said no, she gave an example of a 55 year old man and a 28 year old wife, who could then have a family there. Bill Duston said they don't build senior housing for kids; at Epcon the outside is a common area and you can't put up swing sets; the other definition is age 62 plus. They also have to report back to HUD who is living there. You can rent it out to a person younger than 55, and EPCON allows only five per cent rental units.

Mayor Horvath gave a summary of what is going on; originally 8-10 landowners petitioned Senator Tucker to de-annex. He will file a local bill by March 6, and if the four local reps approve, it will generally be heard and approved. Council had two meetings, the first with the de-annexers and Friday night with the State reps and Board of County Commissioners chair. Now additional folks have joined, he said about 35 additional parcels. The primary reasons cited are lack of flexibility in selling their land to developers because Wesley Chapel is a difficult place to do business. The legislators asked us as a village to consider other options like senior housing, and conservation subdivisions. Depending on what the Village does, they will move the bill forward by the end of June.

## 2. Adjourn

Mayor Pro Tem Como motioned to adjourn the Council meeting; Council Member Kenary seconded the motion.

The motion passed unanimously.

The meeting adjourned at 10:06 pm.

Respectfully submitted,

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Cheryl Bennett, Village Clerk

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Mayor Brad Horvath