

ARTICLE 12

AMENDMENTS

Section 12.1 Amendments to Text and Map (Rev. 04.11.2016)

Zoning regulations and restrictions and district boundaries may from time to time be amended, supplemented, changed, modified or repealed in the following manner:

- a. The Planning Board, the Council of the Village of Wesley Chapel or any person may institute an application for a change in the text of the Zoning Ordinance;
- b. The Planning Board, Council of the Village of Wesley Chapel or owner(s) of the subject property and/or their authorized agent, may petition for a Zoning Map change.

Note: Additional requirements for submittal of petitions for a conditional zoning (CD) district are found in Section 12.3 (*Added 04.13.2015*)

12.1.2 The application for a rezoning of a particular piece(s) of property and change in the zoning map shall be made in duplicate on a form provided by the Zoning Administrator. All expenses incurred by the Village for the processing of a rezoning application shall be paid by the applicant prior to the issuance of a final notification of action taken.

Each non-contiguous parcel of land for which rezoning is requested shall be considered as a separate application, and a fee (as established by the Village Council) shall accompany each such application. There shall be no fee for applications initiated by any Village of Wesley Chapel governmental agency. For the purpose of this section, land traversed, and/or adjoining property shall be construed to mean and include property on the opposite side of any street, stream, railroad, road or highway from the property sought to be rezoned. In the event the owner of the property, sought to be rezoned owns additional property or properties adjoining the property in question said additional property shall also be construed to mean and be included in the property of the owner sought to be rezoned. Said additional property may or may not be included in the rezoning application, at applicant's discretion.

12.1.3 The application for a change in the text shall be made in duplicate, on a form provided by the Zoning Administrator and the filing fee and the disposition of associated expenses shall be the same as stated in Section 12.1.2. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as exact wording of the proposed change and the reasons therefore.

12.1.4 Once a completed application has been received by the Zoning

Administrator, he shall promptly review it, and if complete, he shall refer the application to the Planning Board for consideration at its next regularly scheduled meeting occurring at least fifteen (15) days after the application has been filed.

The Planning Board shall have thirty (30) calendar days from the date of referral by the Zoning Administrator to review the application and to submit its recommendation to the Village Council. If a recommendation is not made during said time period, the application shall be forwarded to the Village Council without a recommendation.

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 impact on the member. *(Amended 1.05.06)*

12.1.5 The Planning Board may make one of the following recommendations to the Village Council. If the petition is for rezoning and change in the zoning map, then the Planning Board may make one of the following recommendations:

- a. Grant the rezoning as requested, or
- b. Grant the rezoning with a reduction of the area requested, or
- c. Grant the rezoning to a more restricted district or districts, or (For the purposes of this Article the zoning districts of this Ordinance are listed in the following order from most restrictive to least restrictive: R-80, R-60, R-40, R-A40, R-20, R-A20, B-1, B-2, L-1), or
- d. Deny the application.

Upon making a recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Village Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. *(Amended 1.05.06)*

12.1.6 If the petition is to amend the text of this Ordinance, the Planning Board may make one of the following recommendations to the Village Council.

- a. Adopt the proposed amendment as written, or

- b. Adopt the amendment as revised by the Planning Board, or
- c. Reject the amendment.

12.1.7

The Zoning Administrator shall transmit any decision of the Planning Board to the Village Council. Once action has been taken by the Planning Board or the time for action by the Planning Board has expired, the Village Council shall, no later than their next regular scheduled meeting, consider calling for a public hearing on a requested conditional use permit, zoning change, or other matter requiring a public hearing under this Ordinance. Notification of the public hearing shall be made in the following manner:

- a. A notice shall be published in at least one (1) newspaper having general circulation in the area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) calendar days nor more than twenty-five (25) calendar days prior to the date established for the hearing. In computing such time the date of publication is not to be included but the date of the hearing shall be included.
- b. A notice shall be placed at a conspicuous public place within the corporate limits of the Village not less than ten (10) calendar days nor more than twenty-five (25) calendar days before the date established for the public hearing.
- c. A notice shall be posted in a conspicuous place on the subject property or on an adjacent street or highway right-of-way at least ten (10) calendar days prior to the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Village shall post sufficient notices to provide reasonable notice to interested parties. *(Amended 1.05.06)*
- d. At least ten (10) calendar days prior to the public hearing, a notice of the proposed zoning change shall be sent by first class mail to all adjacent and abutting property owners. In the case of large-scale rezonings (more than fifty (50) properties owned by a total of at least fifty (50) different property owners), the Village may elect to publish notice of the hearing per 12.1.7(a), provided that each of the advertisements shall not be less than one-half of a newspaper

page in size. The advertisement shall only be effective for property owners who reside in the area of general circulations of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail. *(Amended 1.05.06)*

- e. The Zoning Administrator shall certify that the requirements of Sub-sections 12.1.7 (b), (c) and (d) have been met. The Village shall charge the petitioner a separate fee to cover costs incurred. *(Amended 03.12.01)*
(Sub-section f. removed 1.05.06)

12.1.8 Reserved. *(Rev. 06.13.2016)*

12.1.9 After the public hearing has been conducted and officially closed, the Village Council shall render a decision concerning the proposal. The Village Council reserves the right to render such decision immediately following the closing of the public hearing or at a meeting held at a later date. The decision shall be made in any one of the methods provided in Sections 12.1.5 or 12.1.6. A Village Council 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. *(Amended 1.05.06)*

The Zoning Administrator shall transmit to the applicant(s) by first class mail, the decision of the Village Council within five (5) days of the Council's decision. *(Amended 01.05.06)*

12.1.10 Prior to adopting or rejecting any zoning amendment, the Village Council shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Village Council considers the action taken to be reasonable and in the public interest. *(Amended 1.05.06)*

12.1.11 If the Village Council has denied an application for the change of any zoning district or change in zoning text, it shall not thereafter accept any

application for the same property or any portion thereof or similar change in the zoning text until the expiration on one (1) year from the date of such previous denial (except as permitted in Section 6.7). *(Amended 01.05.06)*

12.1.12 Following adoption of rezoning and change to the Zoning Map, and/or amendment to this Ordinance; the Town Clerk shall modify all affected documents, record said modifications on the appropriate record(s) of change, and issue replacement pages to all holders of record. The Zoning Administrator shall, from time to time, audit record copies to assure compliance.

(Section 12.2 was adopted on 03.08.04)

Section 12.2 Additional Provisions Pertaining To Parallel Conditional Use Zoning Amendments

The procedures in this section exist to supplement the procedures set forth in Section 12.1 of this Ordinance, to clarify special requirements for parallel conditional use rezonings and to relate the issuance of the conditional use permit to the zoning map amendment process.

12.2.1 Purpose

The conditional rezoning process allows particular uses to be established, but only in accordance with a specific development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and/or on the entire community which cannot be predetermined and controlled by general district standards or the criteria governing planned developments. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property and be consistent with the objectives of these regulations, the adopted Land Use Plan, and other plans for the physical development of the Village as adopted by the Village Council. The review process established herein

provides for the accommodation of such uses by a reclassification of property into a “parallel conditional use” district approval process is also established to address those situations when a particular use may be acceptable but the general zoning districts which would allow that use would not be acceptable.

12.2.2 Reclassification and Conditional Use Permit Required Prior to Development

In order for a property owner to secure privileges for developing property under the parallel conditional use process, the property must first be rezoned by the Village Council to a parallel conditional use district, and secondly the owner must secure a conditional use permit in accordance with Section 6 of this Ordinance from the Village Council. Specific conditions applicable to the conditional use permit may be proposed by the petitioner or the Village or its agencies, but only those conditions mutually approved by the Village and the petitioner may be incorporated into the permit requirements. Conditions and site-specific standards imposed in the conditional use permit subsequent to a conditional use district rezoning shall be limited to those that address the conformance of the development and use of the site to Village ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district, unless as otherwise approved by the Village Council under Section 6.4.2 (f)-(g). Thus, if a property were rezoned to a CU-B-1 District and a conditional use permit authorized the development of a particular use, that use must (i) be a use allowed in the B-1 District and (ii) meet all dimensional, screening and related requirements of the B-1 District. Rezoning of property to a parallel conditional use district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time. No parallel conditional use district shall be established until the owner(s) of the property(ies) in question (or his authorized agent) proposing the district has submitted an application for the rezoning of the property and issuance of a conditional use permit and the Village Council has approved such application in accordance with the procedures stated herein. (Amended 1.05.06)

12.2.3 Plans and Other Information to Accompany Petition

Every application for the rezoning of property to a parallel conditional use district and issuance of a conditional use permit shall be accompanied by a site plan, drawn to scale, and any necessary supporting information together which conform to all the requirements set forth in Section 6.3.2 of this Ordinance.

12.2.4 Submittal to the Zoning Administrator

Submittal to the Zoning Administrator of an application for a parallel conditional use rezoning shall be in accordance with the schedule set forth in Section 6.3.2 of this Ordinance. Normally, an application for a conditional use permit is submitted at the same time and is reviewed by the Zoning Administrator, Planning Board, and Village Council, and is approved by the Village Council contemporaneously with review and approval of the rezoning application.

12.2.5 Village Council Decision

A rezoning, under the parallel conditional use rezoning process, does not confer upon the applicant any privileges for development under that zoning district unless and until a conditional use permit is approved for the property in question by the Village Council.

Prior to issuance of a conditional use permit, the application shall be subject to all of the procedures, hearing, and findings as set forth in Sections 6.3, 6.4 (and 6.10 if applicable) and 12.1.7 of this Ordinance.

12.2.6 Effect of Approval

- a. If a petition for a parallel conditional district rezoning and conditional use permit are both approved under this Part, the district that is established, the approved conditional use permit, and all conditions which may have been attached to the approval

are binding on the property as an amendment to these regulations and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional use district, the conditional use permit, and all conditions attached to the approval.

- b.** If a petition is approved subject to conditions, the Zoning Administrator shall record with the register of deeds a notice that development of the subject property is subject to conditions and that such conditions are on file at the Zoning Administrator's Office.
- c.** Following the approval of the petition for a parallel conditional use district, the subject property shall be identified on the Zoning Map by the appropriate district designation. A parallel conditional use district shall be identified by the same designation as the underlying general zoning district preceded by the letters CU (For Example, "CU-B-1").
- d.** Any conditional use permit issued in relation to a parallel conditional use rezoning shall be subject to the same requirements as any other conditional use permit as set forth in Section 6 of this Ordinance.

12.2.7 **Alterations to Approval**

- a.** Except as provided in Paragraph (b) of Section 12.2.7, changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures in this Part.
- b.** Minor changes in the detail of the approved application, which

are in accordance with Section 6.5 of this Ordinance, may be made with the approval of the Zoning Administrator.

12.2.8 Change in Parallel Conditional Use Zoning

Once a petition for rezoning to a parallel conditional use district and issuance of a conditional use permit has been approved by the Village Council, any request to materially change (any change not authorized by 12.2.7(b) of this Ordinance) the parallel conditional use district or conditional use permit for a property may only be made by the property owner or his authorized agent only after a public hearing has been duly advertised and held in accordance with Section 12.1.7 of this Ordinance. Any amendment to the conditional use permit shall also be subject to the same considerations as set forth in Section 6.8 of this Ordinance.

12.2.9 Revocation of Approval of a Parallel Conditional Use District

It is intended that property shall be reclassified to a parallel conditional use district and conditional use permit issued only in light of firm plans to develop the property. Therefore, after the date of approval of the conditional use permit, the Zoning Administrator shall periodically examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Zoning Administrator determines that a building permit has not been secured within one (1) year (unless a greater time period was listed as one of the conditions contained in the Village Council's approval) following the date of the approval of the conditional use permit, the Zoning Administrator shall notify the applicant of such a finding, and within sixty (60) days of said notification, the Planning Board shall make a recommendation to the City Council concerning the recession of the conditional use permit and rezoning of the property to a general zoning district classification. The Planning Board shall recommend to allow the applicant to extend the life of the conditional use permit or have it rescinded. The Village Council may then vote to rezone the property to a general zoning district. Notice of said public hearing shall be per Section 12.1.7 of this Ordinance.

Section 12.3 Conditional Zoning District Map Amendments *(Added 04.13.2015)*

12.3.1 Application Procedures

The procedures for submittal of a conditional zoning district application shall be as found in Section 3.5.1 of this Ordinance.

12.3.2 Planning Board Review

A. The Planning Board will review the application for consistency with this Ordinance and all adopted Village plans.

B. The Planning Board will consider applications in a timely fashion and will forward a written recommendation to the Village council for its consideration within the time frame authorized. Prior to making a recommendation, the Planning Board may request additional information from the applicant.

C. In response to suggestions made by the Planning Board, the applicant may revise the application before it is submitted to the Village Council.

D. The Planning Board shall have up to sixty-two (62) days from the date it first heard the application to make a recommendation to the Village council. Unless mutually agreed by the applicant and the Planning Board for an extended review period, if a recommendation is not made by the Planning Board during this period, the application shall be forwarded to the Village council without a recommendation.

E. Any recommendation made by the Planning Board shall be accompanied by a statement that outlines the consistency of the petition with the Village's comprehensive plan and other related and adopted plans that affect growth and development in the Village.

12.3.3 Village Council Public Hearing and Decision

A. A public hearing shall be called for and held by the Village Council. Said public hearing shall be advertised per Section 12.1.7 of the Wesley Chapel Zoning Ordinance except that public hearing notices shall be mailed to all property owners within a 1,320 foot (i.e., ¼ mile) radius of the subject property. Once the public hearing has been concluded, the Village Council shall take action on the petition. The Village council shall have the authority to:

1. Approve the application as submitted.
 2. Deny approval of the application.
 3. Approve the application with modifications that are agreed to by the applicant.
 4. Submit the application to the Planning Board for further study.
- The Planning Board shall have up to thirty (30) days from the date of such

submission to make a report to the Village Council. Once the Planning Board issues its report, or if no report is issued within that time period, the Village council may take action on the application.

B. The Village Council shall also follow the procedures contained in Sections 12.1.10 through 12.1.12 of the Wesley Chapel Zoning Ordinance.

C. In approving a petition for the reclassification of a piece of property to a conditional zoning district, the Planning Board may recommend, and the Village Council may request that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall relate to the relationship of the proposed use to the surrounding property, proposed support facilities (e.g., parking areas, pedestrian circulation systems), screening and landscaping, timing of development, street and right-of-way improvements, water and sewer improvements, provision of open space, and other matters that the Planning Board or Village Council may find appropriate or the applicant may propose. In no instance shall any of these conditions be less restrictive than any requirements of the Village's Zoning and/or Subdivision Ordinances.. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this Ordinance that apply to that development. The applicant shall have notice of and a reasonable opportunity to consider and respond to any such conditions prior to final action being taken by the Village Council.

D. An order of the Village Council's decision shall be prepared by the Planning Director and sent to the applicant per Section 12.19 of the Zoning Ordinance. The applicant shall record the decision (including all applicable site plans approved as part of the Village Council's decision) with the Union County Register of Deeds. No zoning permit shall be issued by the Village for any development subject to conditional zoning without evidence that such recordation has occurred.

12.3.4 Effect of Approval; Zoning Map Designation

If a petition for a conditional zoning district is approved, the development and use of the property shall be governed by the ordinance requirements applicable to the district's zoning classification, the approved conceptual plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map.

12.3.5 Changes to an Approved Conditional Zoning District

Except as provided in this section, a request to change the conceptual plan or the conditions governing an approved conditional zoning district shall be processed in accordance with this Ordinance as a new application to rezone property to a conditional zoning district. The Planning Director shall have the authority to approve an administrative amendment to an approved conditional zoning district conceptual plan or to the governing conditions without the requested change having to be approved as a new application in accordance with this Ordinance. Such administrative amendments shall include only those minor changes that:

- A. Do not significantly alter the conceptual plan or its conditions;
- B. Do not significantly impact abutting properties; and
- C. Do not increase the amount of development or impervious surface coverage.

Any request for an administrative amendment shall be in writing, signed by the property owner(s), and it shall detail the requested change. The applicant must provide any additional information requested by the Planning Director. Accompanying the written request must be the applicable fee for administrative review that is required by the Village of Wesley Chapel fee schedule. Any decision by the Planning Director to approve or deny a request for an administrative amendment must be in writing and must state the grounds for approval or denial. The Planning director shall always have the discretion to decline to exercise the authority delegated by this section if he or she is uncertain if the requested change would qualify as an administrative amendment or because the Planning Director determines that a public hearing and Village Council consideration is appropriate under the circumstances. If the Planning Director declines to exercise the authority delegated by this section, the applicant can only apply for such changes through a new rezoning petition.

12.3.6 Revocation of Conditional Zoning District

The purpose of this section is to put a time limit on the approval if the project does not move forward in a timely manner. The Village Council may act to revoke the conditional zoning district designation, with Planning Board review and a public hearing being held by the Village Council, if a building permit has not been applied for within two (2) years of the rezoning approval date.