

VILLAGE OF WESLEY CHAPEL  
PLANNING BOARD MEETING MINUTES  
February 22, 2010, 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, with Chairman Chuck Adams presiding.

**Present:** Chairman Chuck Adams, Vice Chairman Sandi Bush; Members- Ray Davis, John Grexa, Stephen Keeney and Alternate Shirley Wilson (seated as regular member);

**Absent:** Alternate Bill Fairman

**Others Present:** Cheryl Bennett, Clerk; Joshua Langen, Planning/Zoning Administrator

**Citizens:** Carol Mullis, Mayor Brad Horvath

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

1. Pledge and Invocation

Chairman Adams led the pledge; Keeney gave the invocation.

2. Public Comments - none

3. Additions, Deletions and Approval of Agenda

Item 4B "Set Time for Meeting to Review Fire Station CUP" was added; Davis made a motion to approve the agenda with this change; Bush seconded the motion.

The motion passed unanimously.

4. Approval of Minutes

Bush made a motion to approve the January 25, 2010 minutes, Davis seconded the motion.

The motion passed unanimously.

4B. Set Time for Meeting to Review Fire Station CUP

The Fire Department request for variances will be considered by the Board of Adjustment on March 10, 2010. Bush made a motion to have a meeting of the Planning Board to review the Fire Station CUP on March 11, 2010 at 6:30 pm. Keeney seconded the motion.

The motion passed unanimously.

5. Planning Board Rules of Procedure

Rules 1-6 are unchanged since the last meeting. Public Comments and Approval of Agenda were added to Rule 7 Langen reported. Rule 32 of the Council Rules of Procedure has added sub-section(c) on the Planning Board. Langen asked the attorney if a Planning Board member voted and had an interest on the matter, would it be cause for a

lawsuit from the applicant or neighbor and that is possible. If you have an interest you should not participate in the discussion; but you may speak as a citizen. Bill Fairman asked to be recused from consideration of the Fire Department CUP because his company is bidding on work at the station. Bush made a motion to approve the revised Rules of Procedure; Davis seconded the motion.

The motion passed unanimously.

The recommended revised Rules of Procedure are:

## **Rules of Procedure for the Planning Board, Village of Wesley Chapel**

### **Rule 1. Powers and Duties**

The duties and powers of Planning Board are as listed in Section 15.2 of the Village of Wesley Chapel Zoning Ordinance.

### **Rule 2. Appointment and Terms**

The appointment and terms of the Planning Board are as listed in the Village Council Rules of Procedure.

### **Rule 3. Election of Officers**

The appointment and terms of the Chairman are as listed in the Village Council Rules of Procedure.

A Vice-Chairman shall be elected by the regular Planning Board members and shall serve for a one (1) year term but may be elected by the Planning Board membership for successive terms to the same office. Annually, at the meeting of the Planning Board held in the month of July, a Vice-Chairman shall be elected. Each officer shall serve until relieved of his duties as herein provided.

The Chairman shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Planning Board in session at the time. The Chairman shall appoint any committees found necessary to investigate any matters before the Planning Board. The Vice-Chairman shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman.

### **Rule 4. Secretarial Services**

The Village Council shall arrange to have secretarial duties performed for the Planning Board. Said persons (hereafter referred to as the "Secretary"), subject to the direction of the Chairman, shall take minutes and keep all records. The Secretary shall keep in a permanent volume the minutes of every meeting of the Planning Board. These shall

show the record of all important facts pertaining to each meeting, every resolution acted upon by the Planning Board, and all votes of members of the Planning Board upon any resolution or upon the final determination of any question, indicating the names of members absent. The Planning Board minutes and records shall be kept at the office of the Village Clerk.

**Rule 5 . Rules of Conduct for Members**

Members of the Planning Board may be removed by the Village Council for cause, including violation of the rules stated below herein.

In order for the Planning Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any member is absent for two (2) consecutive regular meetings, the Chairman may direct the Secretary to notify such member in writing of his absences and if such member fails to attend the next meeting, the Planning Board, by majority vote of the remaining members, may request that the position be vacated and also request that a replacement be made by the Village Council.

No member of the Planning Board shall seek to influence a decision, participate in any action or cast a vote involving any matter that is before the Planning Board which may result in a private benefit to themselves, their immediate relatives or their business interest. A member may be excused from voting on a particular issue under the following circumstances:

- a. If the matter at hand involves the member's own official conduct; or
- b. If the member has such close personal ties to the applicant that he cannot reasonably be expected to exercise sound and impartial judgment on behalf of the public's interest.

For zoning map and text amendments, Section 12.1.4 of the Zoning Ordinance Specifically regulates voting by Planning Board members who may have a conflict of interest: 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 financial impact on the member.

If a Planning Board member determines that he may have a conflict of interest on a particular issue, either according to these Rules of Procedure or according to Section 12.1.4 of the Zoning Ordinance, he shall declare the nature of such conflict and ask to be excused from voting on the issue related to such conflict. The remaining Planning Board members, by majority vote, shall determine whether such conflict exists and whether said member may excuse himself from further deliberations on said matter. If a member is excused from voting, he shall

seat himself in the audience and not participate in any further discussion on said matter or (at his discretion) he shall remove himself from the meeting room during all deliberations pertaining to such matter. In no instance may a member be excused from voting merely due to an unwillingness to vote on the issue at hand and where no conflict of interest is found to exist.

A challenge to the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Planning Board. Such a challenge may be an appeal for a review of the findings of the Planning Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Planning Board shall be supported by competent evidence and shall be submitted at a properly convened meeting of the Planning Board. The Planning Board shall hear all evidence. In order to find that a member does have a conflict of interest, a majority vote of the remaining members shall be required.

Prior to a Planning Board meeting, Planning Board members are ~~not~~ permitted to listen to comments regarding a pending case but shall refrain from responding with opinions or views; provided, however, that members may receive and/or seek general technical information pertaining to the case from the Secretary, Zoning Administrator, Subdivision Administrator, or Village Attorney prior to the Planning Board meeting at which the case is to be heard.

**Rule 6 . Meetings**

Regular meetings of the Planning Board shall be held each 4th Monday of the month at 7:00 p.m. at Wesley Chapel Village Hall (WCUMC, Fellowship Hall); provided that meeting may be held at any other convenient place in the Wesley Chapel area if directed by the Chairman in advance of the meeting. Each member shall be notified of each regular meeting and provided with all necessary materials at least fifteen (15) days in advance of the meeting by the Secretary or other person so designated by the Chairman.

Special meetings of the Planning Board shall be held on an as-needed basis at any convenient time and place in the Wesley Chapel area, as directed by the Chairman. Each member shall be notified of each special meeting and provided with all necessary materials at least forty eight (48) hours in advance of the meeting by the Secretary or other person so designated by the Chairman.

A quorum of the Planning Board shall be required to open any meeting and to conduct business. A quorum shall consist of at least three (3) Planning Board members.

**Rule 7 . Voting; Conduct of Meetings**

- a. Only unexcused Planning Board members present at a duly convened meeting shall be eligible to vote.

- b.** A vote may be taken on a matter once a motion has been made, seconded, and called for discussion.
- c.** The Chairman shall not be able to make or second a motion but may otherwise vote on all other issues.
- d.** Voting, at the discretion of the Chairman, shall be by voice or show of hands. All matters to be voted on by the Planning Board shall be by a duly made motion and second.
- e.** It is the duty of all Planning Board members present at a meeting to vote on all issues coming before the Planning Board unless such member has been specifically excused from voting on an issue. Any non-excused member who abstains from voting shall be counted as having cast a “yea” vote.
- f.** All meetings shall be open to the public. The order of business at meetings shall generally be as follows:
  - (1) Open Meeting
  - (2) Determination of Quorum (need 3 present to make decisions and vote)
  - (3) Public Comment
  - (4) Approval of Agenda
  - (5) Approval of Minutes of Previous Meetings
  - (6) Unfinished Business
  - (7) New Business
  - (8) Other Business
  - (9) Adjournment

The Chairman shall have the authority to amend the order of business at any meeting.

- g.** Items of business for discussion at the meeting shall appear on the agenda. Business which is not identified on the agenda may be considered only after approval by a majority vote of the Planning Board.

**Rule 8. Staff**

The Zoning Administrator shall serve as staff to the Planning Board and shall provide technical assistance to the Planning Board as requested.

**Rule 9. Amendments to Zoning Text and Map**

Amendments to the Zoning Text and Maps shall follow the procedures listed in Article 12 of this Zoning Ordinance.

**Rule 10. Conditional Uses**

Application and ruling process for a Conditional Use permits shall follow the procedures listed in Article 6 of this Zoning Ordinance.

Bush made a motion to approve the new Article 15 of the Zoning Ordinance; Davis seconded the motion. Article 15, section 15.3 was discussed; a reference to the Ethics Policy was added there. Keeney noted that Planning Board and Council vote for all kinds of things to improve the Village; Langen pointed out members can not vote only when there is a direct, identifiable interest. The reference to GS 160A-381 will be deleted from Article 15.3. Grexa made a motion that Sandi Bush would provide the document of supporting information when recommendations are made; Keeney seconded the motion. The motion passed unanimously.

Further concerns were discussed on Article 15.3; for what reasons members could be removed from office, and when members should recuse themselves. Rule 5 of the Rules of Procedure was discussed, specifically whether any challenges to the existence of a conflict of interest had occurred; there have been no such challenges in Wesley Chapel.

A vote was taken on Bush's motion to approve the new Article 15 of the Zoning Ordinance; the motion passed unanimously.

The recommended new Article 15 is as follows:

**ARTICLE 15**

**PLANNING BOARD**

**Section 15.1 Establishment**

The Wesley Chapel Planning Board, having been created by the Wesley Chapel Village Council, shall be hereafter referred to as the "Planning Board". The Planning Board shall be considered a "public body" and is subject to all rules and regulations for public bodies contained in North Carolina's Open Meetings regulations.

The primary objective of the Planning Board is to develop and maintain a continuing, cooperative planning program to benefit the residents of the Village of Wesley Chapel.

### **Section 15.2 Planning Board Powers and Duties**

The Planning Board may perform the following duties:

- (1) Make studies of the area within its jurisdiction and surrounding areas and provide supporting research and documentation;
- (2) Determine objectives to be sought in the development of the study area, in accordance with any applicable officially adopted plan;
- (3) Prepare and adopt plans for achieving these objectives and provide written recommendations for Village Council with supporting research and documentation;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner, with supporting research and documentation;
- (5) Advise the council concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct;
- (7) Provide recommendations regarding vested rights, in accordance with Section 10.8.3;
- (8) Provide recommendations regarding conditional uses, in accordance with Section 6.1.3.d;
- (9) Provide recommendations regarding zoning text and map amendments, in accordance with Sections 12.1.4, 12.1.5 and 12.1.6;
- (10) Review and comment on subdivision plats;
- (11) Perform any other related duties that the council may direct.

### **Section 15.3 Direct, Substantial, and Readily Identifiable Financial Impact**

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. Members of appointed boards providing advice to the Village council shall not vote on recommendations regarding 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. Members shall also abide by the Village of Wesley Chapel Ethics Policy for Officials.

**Section 15.4 Rules of Procedure**

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and supplemental Planning Board rules of procedure adopted by the Village Council. Meetings shall have an item for public comment. Such rules of procedures may be amended by the Village Council at any time. The rules of procedure shall be kept on file at the offices of the Zoning Administrator and the Village Clerk, and shall be made available to the public at any meeting of the Planning Board.

**Section 15.5 Staff**

The Zoning Administrator shall serve as staff to the Planning Board and shall provide technical assistance to the Planning Board as requested.

6. Discussion of Template for Written Recommendations to Council  
Bush noted this will be a way to summarize since discussions may go on for several meetings and Council will have a clearer understanding of their thought process. A similar template can be used by the Ordinance Review Committee; it can also convey any dissenting voted and why. Langen suggested adding the findings of fact; Planning Board said they could be an Addendum. The template will be used for items going to Council. Grexa made a motion to adopt the template to be used whenever recommendations go to council and it can apply to Ordinance Review Committee too. The motion was withdrawn.  
Bush made a motion to adopt the template for decisions sent to Council. Davis seconded the motion.

The motion passed unanimously.

The template is as follows:

**Wesley Chapel Planning Board  
General Recommendation**

Project Name:	
Date of Hearing (s):	
Yes Votes:	
No Votes:	
Highlights of Discussion:	

7. Discussion of Minimum Housing Standards

Discussion was held of whether this was an item Council wanted us to pursue; it is not on the Ordinance Review Committee list of priorities. Langen sent out both a simple ordinance example (Elkin) and a more complicated one (Duplin County). Board members were asked to spend some time thinking what direction the Village should go on this subject.

8. Discussion of Ordinance Review Procedure

Langen provided the form that the Ordinance Review Committee (ORC) used to present to Council. Roles of ORC and Planning Board were discussed. Mayor Horvath noted initially ORC was taking up sections of the Ordinance that had flaws and then evolved to some other things like ethics that is more procedural. Recommended changes do flow back to the Planning Board, and they can also make changes. Concern was expressed that ORC was making recommendations to themselves since the members were also on Council. This subject can also be discussed at the Advance on Saturday morning. Since Bush is also on the ORC, she can provide an update to the Planning Board each month. Planning Board would like a similar template to the one they adopted to be used when items come from ORC, so that they receive in writing the reason for addressing the area, and include highlights, and where in general the wording came from.

9. Rezoning Case RZ-10-1 Village of Wesley Chapel

Langen assigned this case number to the zoning of the parcels annexed from 2007-09 and without zoning. One lot on Highway 84 will be zoned R-20 (which is its county zoning), two on Underwood Road are R-40, one on Waxhaw-Indian Trail Road is R-40, and the lots shown in a khaki color will be zoned RUC, so if less than 40,000 square feet they will be R-40, and if less than 40,000 square feet they will be R-20. Procedures for zoning map amendments are under Article 10. Bush recommended approval with the one lot on Highway 84 being zoned R-20, and that the details on signs and letters for notification be worked out. Davis seconded the motion.

The motion passed unanimously.

10. Other Business – none

11. Topics to Discuss at Next Meeting

HOA's, minimum housing standards, assignments of zoning sections for review, graffiti, the results of the Advance and presentation of Ordinance Review Committee topics will be the topics at the next meeting.

12. Adjournment

Bush made a motion to adjourn the meeting; Davis seconded the motion.

The motion was approved unanimously.

The meeting adjourned at approximately 9:15 pm.

02.22.2010 Planning Board minutes

Respectfully submitted

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Cheryl Bennett, Village Clerk

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Chairman Chuck Adams