

**VILLAGE OF WESLEY CHAPEL  
BOARD OF ADJUSTMENT MEETING  
March 19, 2012, 7 PM**

**MINUTES**

The Board of Adjustment of the Village of Wesley Chapel, North Carolina, met at the Wesley Chapel United Methodist Church, 120 Potter Road, Monroe, NC 28110.

**Present:** Chairman Butch Byrum; Vice Chairman Bruce Ewing; Members Bill Rodriguez, Tonya VanWynsberg, Creig Williard; Alternate David Boyce

**Absent:** Alternate David Wright

**Village Staff present:** Mayor Brad Horvath, Mayor Pro-tem Kim Ormiston, Council members Becky Plyler and Elaine Rosoff, Cheryl Bennett - Village Clerk; Joshua Langen – Planning and Zoning Administrator, Attorney Melanie Cox

**Others Present:** Gary Wirth – President Wirth & Associates; John Lepke - Chairman Parks and Rec Committee, Parks and Rec Committee members Marnie Holland, Julie Brown, Pat Utley; Carol Mullis, Josh Whitener,

1. Pledge and Invocation

Chairman Byrum led the pledge and invocation. All regular members were present.

2. Additions, Deletions and Approval of Agenda

A motion was made to approve the agenda, seconded and approved unanimously.

3. Approval of Minutes

A motion was made to approve the minutes from the September 19, 2011 meeting, seconded and approved unanimously. A motion was made to approve the minutes from the October 17, 2011 meeting, seconded and approved unanimously.

4. Public Hearing for CUP\_12\_1

This CUP is to create a park at 121 Lester Davis Road, Waxhaw, NC on tax parcels 06-072-005 and 06-072-005A, comprising 22.5 acres.

Chairman Byrum asked if the applicant, Village of Wesley Chapel, had filed the proper application and paid the fee; Joshua Langen replied yes it was filed properly and the fee was waived. Byrum asked if proper notice had been given; Langen replied yes. Chairman Byrum noted the applicant has the burden of proof in producing competent evidence.

Joshua Langen, Mayor Brad Horvath, Gary Wirth and John Lepke were sworn in as witnesses.

Mayor Horvath introduced the project; the Village pursuant to a survey of residents is creating a passive park to provide desired amenities. Gary Wirth, President of Wirth and

Associates, was hired by the Village as the landscape architect to plan the park. He reviewed the plans for the park on 22 acres at 121 Lester Davis Road, Waxhaw, which include paved and unpaved trails, a fishing pier, and amphitheater as well as future playground, dog park, mountain bike trails. Wirth was asked about the impact of the park on neighboring property values, and he did not have any evidence on this, but thought in similar projects that property values are enhanced by the presence of a park.

Joshua Langen, Planning and Zoning Administrator, presented his report on the park, incorporated herein.

**TO:** BOARD OF ADJUSTMENTS  
**FROM:** JOSHUA LANGEN, ZONING ADMINISTRATOR  
**SUBJECT:** CUP\_12\_01  
**DATE:** 2/29/12

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Staff has found that the Village of Wesley Chapel has submitted an application to construct and operate an outdoor recreational facility, Dogwood Acres public park, on property owned by the Village. The property is located at the corner of Lester Davis Rd. and North Carolina Highway 84/Weddington Rd. Staff has considered the following criteria;

**a) The use will not materially endanger the public health, safety or welfare if located where proposed and developed according to the submitted plan and not create dangerous traffic conflict points, noxious odors/sounds/glare, or environmental hazards.**

The proposed Dogwood Acres park is located at the corner of Lester Davis Rd. and North Carolina Highway 84/Weddington Rd, allowing access from a major thoroughfare as well as a local road. The site can be accessed without the need to cut through residential neighborhoods. No traffic signals are available for automobiles or pedestrians at this intersection. In addition, only one vehicular entrance is available for the site. However, day-to-day operations for parks generate traffic at a uniform level through the day and do not generate significantly more traffic during peak hours. Therefore, the lack of signalization and an alternate entrance should NOT create traffic conflict points during regular park operation.

However, for advertised events or special events expected to exceed on-site parking capacity, traffic control at the intersection as well as the park entrance shall be needed in order to minimize traffic conflicts and to ensure safe operation of the event. The proposal includes restrictions requiring a Temporary Use Permit to be approved before operation of any special events expected to generate above and beyond the parking capacity of the park as well as any advertised events. Any application for a Temporary Use Permit would have to address the manner by which traffic and access will be controlled, including hire of traffic control deputies.

As the park is primarily a passive park with walking trails, open fields and fishing; normal park operation is NOT expected to generate noxious odors, sound or glare. No formal play fields are to be constructed capable of hosting spectator or high-traffic sporting events. In addition, the normal park hours are proposed to extend from dawn until dusk, minimizing the effect of noise. However, an amphitheater is to be constructed which is intended to host special events. This facility could generate noise, although the operation and use of the amphitheater will require a Temporary Use Permit for any advertised events or events operating beyond regular operating hours. This would allow the intensity and frequency of events to be regulated by permit.

The proposed use is NOT expected to generate any environmental hazards as professional permitting, site construction and stormwater facility installation is to be provided by the applicant. The construction of the park will include professional planning and mitigation for any potential environmental hazards. As there are currently no active monitoring of environmental conditions on the site, public operation will provide monitoring and mitigation not otherwise available.

**b) The use meets all required conditions and specifications.**

As the proposed use is not required intended to generate more than one hundred (100) peak hour trips vehicular trips, a Transportation Impact Analysis is not required for the project. The size and existing vegetation are sufficient to require only minimal installation of buffer materials along properties adjacent to paved parking, as shown on the proposed plan. Parking is to be provided to accommodate the most intensive use the facility. Signage regulations do not apply to the Village of Wesley Chapel owned and operated facilities. The Lighting Plan submitted does show lighting fixtures to meet the distance to height ratios. However, the proposal does include pedestrian lantern-type light fixtures which do appear to “direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire”, however, the photometric study shows no light to escape beyond the property boundaries. In addition, the pedestrian lanterns are located down-slope from property boundaries and out-of-view from neighboring properties. Also, the lanterns can be considered “period” fixtures and, as they emit less than 9,500 lumens, they would qualify as exceptions under Section 4.10.3 of the zoning regulations. Therefore, the use DOES appear to meet all required conditions and specifications.

**c) The Use will not substantially injure the value of adjoining or abutting property and will not hinder future development potential of adjacent properties by the introduction of incongruous land use or incompatible development scale/intensity.**

The adjoining lots consist of residential properties to the South, East and West, with a Church use to the North. The park is proposed to be a passive park with special events allowed by Temporary Use Permit. Normal operating hour traffic is expected to be minimal and uniformly distributed throughout the day. Spectator sporting events are not planned. Minimal disturbance to the existing vegetation is anticipated. Therefore, the proposed use IS NOT anticipated to injure the value of adjoining properties or hinder future development.

**d) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located, will not disrupt the integrity of existing land use districts, and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan.**

The proposed use is a passive public park, commonly found in residential districts. The park has access to a major thoroughfare and is located in a large single family use land use district. Activities will be limited to public activities and will not sponsor organized athletic or commercial events. Special events could generate significant traffic and parking demands in the surrounding area, however, such events will be required to be planned and executed in accordance with a Temporary Use Permit. The Temporary Use Permit will require proper accommodations be made. Given the requirement for Temporary Use Permitting, the proposed use will NOT disrupt the integrity of the existing land use district and IS in general conformity with the zoning ordinance and the Village of Wesley Chapel Land Use Plan.

**e) Availability of services including water, wastewater treatment, gas, stormwater as required by project.**

Union County has given verbal commitment to serving the proposed facility with water and wastewater treatment capacity. However, Union County does not issue written commitments without an approved CUP plan. Water and sewer lines are located along Lester Davis and can be accessed and tapped into. A sewer line will be run to the bathroom site, however, bathrooms may or may not be built during the initial phase, depending upon funds available. A water line will also be run to the bathroom site, however, either a larger capacity or smaller capacity one will be installed, depending upon funding. Should a smaller capacity water line be installed, commercial-grade toilets may not be possible for the restrooms until the line can be upgraded at a future date. Therefore, bathroom facilities will range from portable units to minimally outfitted restrooms to full commercial-grade restrooms, depending upon funding available during the initial phase.

The stormwater plans for the proposed use have been given preliminary approval by our Stormwater Engineer, US Infrastructure of the Carolinas, Inc. Once granted approval, the applicant would then have final stormwater calculations prepared to account for any changes recommended as

conditions for approval. These final calculations would have to be approved by the Stormwater Engineer before a Zoning Permit could be issued.

Therefore, public services ARE adequate and available for the proposed use.

**f) Access to public streets and the adequacy of those streets to carry anticipated traffic; and on-site circulation for both pedestrian and onsite and off-site vehicular traffic circulation patterns.**

The proposed use is located along NC 84/Weddington Rd. and Lester Davis Rd. Daily traffic counts along NC 84/Weddington Rd. measure approximately 8,200 trips per day. This number of trips per day would generally result in a Level of Service (LOS) of "B". Counts along Lester Davis Rd. are unmeasured. The intersection at NC 84/Weddington Rd. and Waxhaw-Indian Trail is operating at Level of Service (LOS) "D" and the intersection at Deal Rd. is operating at Level of Service (LOS) "F" at peak hours. An LOS of "A" is considered ideal, an LOS of "F" is generally considered gridlock. An LOS has not been calculated for the Lester Davis intersection, however, as the park will not see significant peak hour traffic, very little impact is expected during peak hours.

The park will provide access from Lester Davis Rd by private driveway. The existing driveway will be upgraded to a full two-lane paved asphalt driveway with a one-way loop at the terminus. The driveway is located far enough, over 1000', from the intersection with NC 84/Weddington Rd. to keep any stacking from interfering with this intersection during normal operating hours. However, visibility is limited when exiting the site and stacking within the park during egress could create internal circulation delays during peak capacity or special events. Entering the site could also be problematic during high-volume event at peak capacity or for special events. Ingress and egress for special events would have to be actively managed through provisions defined in a Temporary Use Permit. Vegetation along the eastern side of Lester Davis, south of the driveway, should be regularly trimmed to maintain adequate visibility when exiting the site, however, adjustment of the vertical curve, or hill, to the south would be prohibitively expensive to modify. Also, neighborhood input suggested a double-exit from the site to allow right-turning traffic movement without waiting on left-turning traffic. However, the plans currently do not include this provision and the addition may be a matter of funding for the initial phase.

Parking is adequate for normal operations and is adequate for use of the amphitheater, the most intensive facility. However, special events could generate additional need for parking. The additional parking demand could be accommodated through use of the neighboring church property, shopping center parking or other remote parking options. Traffic control deputies and the use of shuttles would most likely be required and would have to be outlined in a Temporary Use Permit. Management of entry and exit to neighboring subdivisions for remote parking is a concern as these

subdivisions are accessed through public roads and may not be able to be legally restricted.

Pedestrian circulation within the site would be adequate as sidewalks and trails are proposed along the lake/pond shore and throughout park site. Sidewalk do not currently exist along Lester Davis Rd. or along NC 84/Weddington Rd. However, grant funds for a sidewalk connection from the Village Commons shopping center to the site have been applied for. Access from any remote parking provisions at the neighboring church parking facility will not have crosswalks or sidewalks, although traffic control deputies could be hired to manage pedestrian access during special events. In addition, the asphalt path connecting this corner of the property to the remainder of the site would be required in order to safely allow for remote parking visitors to access the park without blocking Lester Davis Rd. for pedestrian access. However, this asphalt path is not proposed for the initial phase, requiring shuttle-only access or blocking Lester Davis Rd. to two-way vehicular traffic during special events which utilize remote parking. Alternately, a gravel path could be provided from the intersecting corner to the asphalt path along the pond/lake until funding for a paved path becomes available.

Therefore, access to the site, public road capacity and internal circulation for vehicles and pedestrians ARE considered adequate, provided proper vehicular and pedestrian access management provisions are made through the Temporary Use Permitting process for special events. In addition, a two-way exit from the site and a path from the intersection corner to the pond/lake pathway would greatly improve vehicular and pedestrian circulation during peak capacity and special events.

**g) Adequate safety and emergency services (police, fire and EMS).**

The site is serviced by the Wesley Chapel Volunteer Fire Department and the Union County Sheriff Department. The driveway, turn-around are designed for fire/police access. No known problems are evident regarding servicing this site, therefore, adequate safety and emergency services ARE considered adequate.

**h) Additional review criteria, as stated in the Ordinance, shall also be considered and addressed where required.**

Additional review criteria are listed in Section 6.10.8 Public Parks and Recreational Facilities;

- a) Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.*

The proposed park has passive recreation facilities and will be required to obtain a Temporary Use Permit for any advertised events. The proposed plan has adequate parking for normal day-to-day operations and for

amphitheater use, however, attendance for special events could exceed provided parking and the logistics of ingress and egress could create potential traffic conflict points if not formally managed. Adequate pedestrian access as well as traffic control and a remote parking scheme will need to be approved as part of any Temporary Use Permit for advertised events expected to generate significant traffic.

- b) *That the proposed use will be compatible with the general characteristics of the area with respect to the location of structures and the location, design and screening of off-street parking.*

The site is a large wooded property with minimal structures and significant existing vegetative screening. Off-street parking will be screened through planting of additional shrubs and trees. Half of the parking will be temporary grass parking located away from neighboring properties.

Therefore, additional review criteria ARE considered adequately addressed.

**As the proposed use and submitted plan IS considered to meet the above criteria, staff recommends APPROVAL of the conditional use request.**

Chris Appleton who lives at 200 Prairie Rose Ct., Waxhaw on the road behind the park offered comments and concerns on the park. He asked about the noise from the amphitheater and expressed some concerns about vehicles parking in the neighborhood and walking to the park. He also noted that traffic is a concern leaving the neighborhood onto Lester Davis Road and also exiting Lester Davis Road onto Highway 84.

John Lepke, Parks and Rec Committee Chairman, spoke in favor of the park. He described the process that led to choosing this land as a park, and how it met the needs of the Village.

The record was closed and deliberations began.

#### 5. Consideration of CUP\_12\_1

The use of temporary use permits to regulate events at the amphitheater, and traffic considerations were discussed.

The Board considered the findings of fact, normally made by the Village Council, but in this case made by the Board of Adjustment since the Village Council is the applicant.

#### **6.4.1 Findings to be Made by Village Council (Revised 09.22.09)**

The Village Council shall issue a CUP only after having conclusively confirmed each of the following findings:

- a) The use will not materially endanger the public health, safety or welfare if located where proposed and developed according to the

submitted plan and not create dangerous traffic conflict points, noxious odors/sounds/glare, or environmental hazards.

The Board requested the pathway from the trail around the lake to the northwest corner of the property be included. Mayor Horvath agreed to this condition. Board found that with this condition that this finding had been met by unanimous vote.

b) The use meets all required conditions and specifications.

The Board found this finding had been met by unanimous vote.

c) The Use will not substantially injure the value of adjoining or abutting property and will not hinder future development potential of adjacent properties by the introduction of incongruous land use or incompatible development scale/intensity.

The Board found this finding had been met by unanimous vote.

d) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located, will not disrupt the integrity of existing land use districts, and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan.

The Board found this finding had been met by unanimous vote.

e) Availability of services including water, wastewater treatment, gas, stormwater as required by project.

Discussion was held on the need for bathrooms to be available on site. A condition was proposed that at least two bathrooms be created, at the minimum porta-johns, and Mayor Horvath agreed to this condition. The Board found that with this condition that this finding had been met by unanimous vote.

f) Access to public streets and the adequacy of those streets to carry anticipated traffic; and on-site circulation for both pedestrian and on-site and off-site vehicular traffic circulation patterns.

Discussion was held on whether a requirement should be added for a left turn lane out of the property, or whether that would create more problems of visibility for persons turning right. Concerns on the traffic at the intersection with Highway 84 were discussed. It was decided that NC DOT will decide on whatever improvements they think are necessary. The Board found this finding had been met by a yes vote of four members; Williard abstained from voting.

g) Adequate safety and emergency services (police, fire and EMS).

The Board found this finding had been met by unanimous vote.

h) Additional review criteria, as stated in the Ordinance, shall also be considered and addressed where required.

a) Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.

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- b) That the proposed use will be compatible with the general characteristics of the area with respect to the location of structures and the location, design and screening of off-street parking.

The Board found this finding had been met by unanimous vote.

6. Other Business - none

7. Adjournment

A motion was made to adjourn, and seconded.

The motion passed unanimously.

Respectfully submitted,

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Cheryl Bennett, Clerk

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Henry C. Byrum, Chairman