

**VILLAGE OF WESLEY CHAPEL
PLANNING BOARD MEETING MINUTES
April 23, 2012, 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 Sandi Bush, Vice Chair Stephen Keeney, Chuck Adams, Ray Davis; Alternates Jeff Davis and Dan DeMattos (sitting as regular member)

Absent: Member John Grexa and Alternate Ashleigh Mock

Others Present: Mayor Brad Horvath; Cheryl Bennett, Clerk; Joshua Langen, Planning/Zoning Administrator

Citizens who signed in: Carol Mullis

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

1. Pledge and Invocation

Chair Bush led the pledge; Vice-Chair Keeney gave the invocation.

2. Public Comments - none

3. Additions, Deletions and Approval of Agenda

Chuck Adams made a motion to adopt the agenda, Ray Davis seconded the motion.

The motion passed unanimously.

4. Approval of Minutes

In item 5 of the March 26, 2012 minutes the last sentence was changed to say “DeMattos said the definition of vehicle operable and vehicle inoperable seems too hairsplitting.” Chuck Adams made a motion to approve the minutes from March 26, 2012 with this change; Dan DeMattos seconded the motion.

The motion passed unanimously.

5. Residential Parking

Langen presented two versions of proposed changes, including one with minimal requirements as had been suggested. In Section 9.1.4 (f) Langen used a cutoff of 10% of impervious surface coverage, since he said most properties have less than 10% impervious coverage; he added that that figure could be adjusted. Keeney commented let’s make sure the suggestion was properly understood, we were at an impasse, and a home designed for a house and driveway that is now overtaken by storing vehicles, with an acre lot and a 3,000 square foot house and driveway, you are approaching 10%. Langen said with 15% you would capture only the seriously cluttered lots. A deck is not impervious surface. Ray Davis agreed with the idea if the clutter is very bad. Dan DeMattos asked if you are less than that percentage, you can park an RV in the road and it is okay? Langen noted we got rid of the paving requirement, and you don’t have to

put it in the backyard. Keeney said he liked the percentage idea if it can be applied with logic, and he thought we should use at least 15%. Ray Davis agreed. Dan DeMattos said let's go with 15%.

Langen said the definition of "vehicle – inoperable" changed the "and" to "or".

Consensus was to agree with this.

Jeff Davis noted we have talked about this amendment a lot, and he didn't think there was a difference between using 10% or 15%; he was in agreement with the definitions.

Ray Davis made a motion to recommend approval of the regular version of the amendments to the zoning ordinance for residential parking, and change the percentage to 15% and use "or" in the definition of vehicle inoperable. Stephen Keeney seconded the motion.

The motion passed 4-1, with Chuck Adams voting nay.

This will now move to Council. The recommended amendment is as follows:

**VILLAGE OF WESLEY CHAPEL
TO ADOPT ZONING ORDINANCE TEXT AMENDMENT**

THAT WHEREAS the Village of Wesley Chapel would like to preserve a satisfactory environment through the regulation of residential and non-residential parking, driveway access and storage of inoperative vehicles, and

WHEREAS the following text amendments address residential and non-residential parking, driveway access and storage of inoperable vehicles, and

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

ARTICLE 2

DEFINITIONS

Agricultural Equipment

Specialized vehicles and/or mechanical equipment used in the conduct of Agricultural Uses, not including simple non-motorized hand-tools.

All-Terrain Vehicle

A motorized off-highway vehicle designed to travel on three or four low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control.

Inoperable

The state in which a mechanical object that for a period of more than ninety (90) days is substantially disassembled, is mechanically unfit or unsafe to be operated or moved, yet is more than fifty percent (50%) intact. Mechanical objects less

than fifty percent (50%) intact are to be considered junk or scrap materials for purposes of meeting the Junk Yard definition in this Ordinance.

Manufactured Home

~~A residential unit that is not constructed in accordance with the standards set forth in the North Carolina State Code and is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to a home site on its own chassis and exceeds forty (40) feet in length and eight (8) feet in width. Such~~

A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD, complies with the standards established under the Act, and built on or after June 15, 1976.

The term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. Within the text of this Ordinance, when the term single family dwelling is used it shall not include a manufactured home. A structure that would otherwise be characterized as a manufactured home except that it is not used or held ready for use as a dwelling unit (e.g. is used as an office or some other business use) shall not be regarded as a manufactured home.

Manufactured homes are distinguished from modular homes because a modular home meets the standards set forth in the North Carolina Building Code.

Mobile Home

Portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation and built before June 15, 1976. This term shall also include park trailers.

Modular Home

A dwelling unit constructed in accordance with North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent, completely enclosed foundation. This unit may consist of two (2) or more sections transported to the site in a manner similar to a manufactured home (except that a

modular home meets the North Carolina State Building Code) or a series of panels or room sections transported on a truck and erected or joined together on the site

Motorcycle

A vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters, mopeds and motor-driven bicycles.

Operable

The state in which a mechanical object that is mechanically fit and safe to be operated or moved or for a period of more than ninety (90) days is substantially disassembled, is mechanically unfit or unsafe to be operated or moved, yet is more than fifty percent (50%) intact.

Recreational Vehicle

~~A vehicular type unit without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.~~

A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. A recreation vehicle shall not be considered as being a single-family dwelling.

A. Motor home.

A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, separate 110-125 volt electrical power supply, or an LP gas supply.

B. Travel trailer.

A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use.

and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

C. Fifth-wheel trailer.

A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

D. Camping trailer.

A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

E. Truck camper.

A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.

Trailer

Vehicles used for the transportation of property or persons, and not considered Recreational Vehicles, without motive power and designed for being drawn by a motor vehicle, and so constructed that either none or only part of their weight or their load rests upon or is carried by the pulling vehicle.

Vehicle, Inoperable

A vehicle that for a period of more than ~~seventy-two (72) hours~~ ninety (90) days has been in a state of disrepair and is incapable of being moved under its own power is substantially disassembled and for any reason is mechanically unfit or unsafe to be operated or moved upon a public street, highway, or public vehicular area, yet is more than fifty percent (50%) intact. Vehicles less than fifty percent (50%) intact are to be considered junk or scrap materials for purposes of meeting the Junk Yard definition in this Ordinance.

Vehicle, Operable

A vehicle that is mechanically fit and safe to be operated or moved upon a public street, highway or public vehicular area and has not for a period of more than

ninety (90) days been substantially disassembled or for any reason mechanically unfit or unsafe to be operated or moved upon a public street, highway, or public vehicular area, yet was more than fifty percent (50%) intact.

Vehicle, Motor

Any operable commercial or passenger vehicle. Does not include recreational vehicles, farm equipment, motorcycles or all-terrain vehicles.

ARTICLE 5

SECTION 5 TABLE OF USES

Change Uses;

Manufactured Home, Class A, one unit per lot and Manufactured Home, Class B, one unit per lot

to;

Manufactured Home

Add Use;

Mobile Home *as* “Not allowed in any zoning district”

ARTICLE 9

OFF-STREET PARKING AND LOADING

Section 9.1 Off-Street Parking

9.1.4 Off-street parking for residential uses shall be located as follows:

.....

- e. In residential areas, the temporary parking or storage of manufactured homes shall be prohibited. ~~Boats, motor homes and camping trailers~~ The parking of operable boats, motorcycles, all-terrain vehicles, and trailers not required to be registered or have certificate of title by North Carolina state law shall not be regulated by this ordinance.

- f. For properties with more than 15% impervious surface coverage and located within platted subdivisions which include platted streets, recreational vehicles may, however, be stored, if inoperable, or temporarily parked, if operable, in residential districts those subdivisions; Such storage or parking shall be consistent with the following regulations and with any more restrictive subdivision covenants. No more than two (2) inoperative Inoperable motor vehicles per dwelling unit, recreational vehicles, boats, motorcycles, all-terrain vehicles and property hauling trailers required to be registered may be stored outdoors, and shall be parked behind the residence, and screened from public Right-of-Way (ROW) by year-around fencing or plant materials or combination thereof, providing at least seventy five percent (75%) opaque coverage from the public right-of-way, and shall also satisfy any more restrictive subdivision covenants that may exist.
- g. The parking of commercial vehicles shall be subject to Article 4.1, Customary Home Occupations.
- h. Motor vehicles, recreational vehicles, boats, motorcycles, all-terrain vehicles, agricultural equipment and trailers, required to be registered or otherwise, that are deteriorated beyond the definition of inoperable, as defined in Articles 2, shall be considered junk and subject to the regulation of Junk Yards, as defined in Article 2 of this Ordinance.
- i. Parking areas, including driveways, for residential uses shall be allowed to be extended into side and rear yard setbacks. Parking areas, including driveways, for residential uses shall be allowed to be extended into rear yard setbacks provided they are screened from neighboring properties by year-around fencing or plant materials or combination thereof, providing at least seventy five percent (75%) opaque coverage.
- f. ~~Parking areas shall not be extended into the required rear yard and side yard setbacks.~~

9.1.5 Design standards for non-residential use parking areas are as follows:

- a. All parking areas, including required driveways for access to public roads and off-street loading areas, if any, shall be paved. Paving requirements for parking areas for places of worship, Village of Wesley Chapel owned and operated government uses and community indoor or outdoor public or private recreation centers facilities are encouraged, but not required to be paved, but relief from this design standard requires specific Village Council approval are to be determined via the CUP process.

Nonconforming use parking areas in compliance with Article 7 shall be clearly delineated with a gravel bed and maintained border.

- k. Parking areas, including parking aisles, for non-residential uses shall not be extended into the required rear yard and side yard setbacks. Parking lot access, excluding parking aisles, may be located within a side or rear yard setback. However, such access shall be located perpendicular to the setback line to the greatest extent possible.
- l. Storage of inoperable vehicles, boats, motorcycles, all-terrain vehicles, trailers requiring registration, and equipment for non-residential uses shall be in conformance with the screening requirements of section 4.2.1 of this ordinance.

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 _____, 2012.

Attest:

Cheryl Bennett, Clerk

Mayor Brad Horvath

Chairman Bush summarized the Planning Board comments for Council; the area was reviewed because the ordinance was too restrictive, and they tried to make it fairer and provide guidelines for Joshua to use. They minimalized the requirements by using a percentage of impervious surface to see if the property would come under the rules, and if not in a platted subdivision, this doesn't apply. Planning Board felt we needed some version to meet the majority of complaints.

Chuck Adams had no comments.

Keeney asked Langen if there is full disclosure of who made the complaint. Langen said the complaint has to be in writing, but it can be anonymous. Chuck Adams said we shouldn't accept anonymous complaints. Keeney thought there should be a form to fill out. DeMattos said he did not like to restrict freedom to speak out. Chairman Bush asked Langen to find out where in the ordinance this is required, and add the matter to the ordinance prioritization list.

6. Accessory Building Permitting

Langen spoke with the attorney and he said it was up to us if we want to strike the last paragraph, he did not have a strong opinion on it. Adams made a motion to approve the text amendment for accessory building permitting. Ray Davis seconded the motion.

The motion passed unanimously.

VILLAGE OF WESLEY CHAPEL
TO ADOPT ZONING ORDINANCE TEXT AMENDMENT

THAT WHEREAS the Village of Wesley Chapel would like to preserve a satisfactory environment through the regulation of setbacks and permitting of accessory use buildings, and

WHEREAS the following text amendments address setbacks and permitting of accessory use buildings;

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

ARTICLE 2

DEFINITIONS

Accessory Use or Structure

A use or structure that exists on the same lot with the principal use or structure and is customarily subordinate to or incidental to the principal use. Porches, patios and decks shall be considered accessory structures unless they are to be considered an increase in heated space of the attached structure. An increase in heated space shall be considered an addition. Separate accessory structures shall not have heated space, kitchens and bathroom facilities as part of the same building, these are to be considered separate dwelling units. In-ground pools shall be considered accessory structures.

ARTICLE 10

ZONING ADMINISTRATION

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Section 10.3 Zoning and Foundation Permits

It shall be unlawful to commence the excavation or filling of any lot for the construction of a building or structure, or to begin the construction of any building or structure or part thereof, or to erect or replace a sign (except as permitted in Section 8.2) or to move, alter or add to any structure, or to begin the development

of land, until the Zoning Administrator has issued a Zoning Permit for such work. No zoning permit shall be issued except in conformity with the provisions of this Ordinance unless after written order from the Board of Adjustment.

10.3.1 Application for Zoning Permit

A zoning permit as well as a foundation permit is required for all residential, institutional, commercial and light industrial uses, excepting those uses delineated in Section 10.7 of this Ordinance.

A zoning permit application form can be obtained from the Village Clerk, and shall contain the following information:

- a. Non-Residential Uses - Two (2) copies of a scaled dimensional plan drawn by and certified as true and correct by a surveyor or engineer registered with the State of North Carolina which show: (a) the exact shape, dimensions and location of the lot to be built upon, (b) the exact shape, dimensions, use and location of existing structures on the lot, (c) the exact shape, dimensions and location of the structure(s) to be developed upon the lot, (d) all set back lines on the lot once the proposed construction is completed, (e) proposed parking facilities (if required), (f) landscaping and buffering plans (if required) and (g) any other information that may be needed to insure that the proposed construction is in compliance with all applicable provisions of this Ordinance. In the event the subject property is a corner lot as defined in Section 2.2 Sub-section 2.2.41.b, the applicant shall designate which intersecting street shall be the front of the lot.
- b. Single-Family Residences - Two (2) copies of a scaled dimensional survey drawn by and certified as true and correct by a surveyor or engineer registered with the State of North Carolina which show (a) the exact shape, dimensions and location of the lot to be built upon, and (b) the exact shape, dimensions, use and location of existing structures on the lot. Upon this survey shall be sketched the following: (a) the exact shape, dimensions and area of proposed location of the proposed structure(s) to be placed upon the lot; (b) all setback lines on the lot once the proposed residence is completed, affirmatively showing that the area of proposed location will meet all set back requirements; and (c) any other information that may be needed to insure that the proposed structure is in compliance with

all applicable provisions of this Ordinance. Provided, however, that if the tract that the residence is being constructed contains ten (10) acres or more, then the person applying for the zoning permit shall not be required to provide a drawing certified by an engineer or surveyor, but shall be allowed to present a non-certified sketch in lieu thereof; provided that the residence is not to be located closer than 200 feet from any of the boundaries of the tract. In the event that the proposed residence is to be located closer than 200 feet from any of the boundaries of the tract, then the applicant shall submit a certified survey with respect to those boundaries only. The sketch submitted shall in all other respects comply ~~to~~ with the requirements set forth above. In the event the subject property is a corner lot as defined in Section 2.2 Sub-section 2.2.41.b, the applicant shall designate which intersecting street shall be the front of the lot.

- c. Accessory Buildings on Residential Property and Buildings for Agricultural Purposes - Two (2) copies of a sketch which show: (a) the shape, dimensions and location of the lot to be built upon; (b) the shape, dimensions, use and location of existing structures on the lot; (c) the shape, dimensions, use and location of the accessory or agricultural structure(s) to be placed upon the lot; (d) all setback lines on the lot once the proposed accessory building is completed; and (e) any other information that may be needed to insure that the proposed accessory structure(s) will be in compliance with all applicable provisions of this Ordinance.
- d. A fee for processing each application for ~~a zoning permits~~ as well as foundation permits shall be charged by the Village in accordance with an adopted fee schedule. Each structure requires a separate zoning permit and foundation permit application and, therefore, a separate fee. The fee shall be as established from time to time by resolution of the Village Council, and must be paid by ~~certified check,~~ or cash at the time an application for a zoning permit is received by the Village. If processing of a zoning permit application necessitates plan review by the Village Engineer, all costs incurred associated with said review shall be reimbursed by the applicant. **(Revised 10.11.04)**

10.3.2 Approval Process

The Zoning Administrator shall promptly review each Zoning Permit application, examine the accompanying plans and specifications, and may inspect the premises upon which the proposed structure is to be built. A permit shall be issued or denied within thirty (30) calendar days of receipt of application. Failure to issue a zoning permit shall constitute denial. After obtaining a zoning permit

from the Zoning Administrator, the applicant shall apply to Union County for a building permit. All building inspections in the Village of Wesley Chapel shall continue to be done by Union County. Zoning permits for conditional uses shall be issued only after the final plans have been approved by the Village Council, as set forth in Section 6.3. (*Revised 03.31.01*)

10.3.3 Conditions for Approval

Zoning permits issued on the basis of dimensional plans approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction that differs from that authorized shall be deemed a violation of this Ordinance and shall be subject to any and all sanctions as indicated under Section 1.5.

10.3.4 Denial of Permit

If a zoning permit is denied, the Zoning Administrator shall specify the reasons for denial in writing and transmit the written denial within five (5) days of his decision to the applicant by first class mail.

10.3.5 Expiration of Zoning Permit

Any zoning permit shall become invalid unless the work authorized by it shall have been substantially begun within a period of six (6) months of the date of issue of the permit. Once a zoning permit has expired, construction work on the lot(s) in question cannot proceed until a new zoning permit is issued.

10.3.6 Right of Appeal

The applicant may appeal the Zoning Administrator's denial of any such zoning permit to the Board of Adjustments. Appeal of denial of a zoning permit must be made in writing and must specify the grounds thereof and said appeal must be received by the Zoning Administrator and the Village Clerk within ten (10) days of receipt by the applicant of the written notice of denial of a zoning permit application, or the passage of the time period specified in Section 10.3.2 which constitutes denial has occurred.

10.3.7 Records

The Zoning Administrator shall maintain a record of all zoning permits on file, and copies shall be made available upon written request by interested parties. A fee for these copies may be assessed.

10.3.8 Foundation Permit and Survey

A foundation permit application form can be obtained from the Village Clerk, and shall contain the following information:

Upon construction of a building foundation (subsequent to the issuance of a zoning permit for that building or structure) the applicant shall be required to submit a foundation permit application and a copy of the foundation survey of that building or structure to the Zoning Administrator in order to ensure that the foundation is in accordance with all applicable setback and bulk requirements. The foundation survey, in scaled form and certified as being accurate by a surveyor or engineer registered with the State of North Carolina, shall show the location of the foundation on the lot and all applicable front, side, and rear yard setbacks. Failure to submit this foundation survey may result in the denial of a Certificate of Compliance.

Accessory Buildings other than detached garages or pool houses on Residential Property as well as Buildings for Agricultural Purposes shall be required to submit two (2) copies of a non-certified foundation sketch which show: (a) the shape, dimensions and location of the lot as built upon; (b) the shape, dimensions, use and location of existing structures on the lot; (c) the shape, dimensions, use and location of the accessory or agricultural structure(s) foundations as placed upon the lot; (d) all setback lines on the lot once the proposed accessory building is completed; and (e) any other information that may be needed to insure that the proposed accessory structure(s) will be in compliance with all applicable provisions of this Ordinance. Detached garages, in-ground pools and pool house accessory structures shall be required to submit a certified foundation survey if they are to be located within five feet (5') of any setback line.

Should the Zoning Administrator find that such foundation survey is not in compliance with the applicable provisions of this Ordinance; the applicant shall be so advised in writing within five (5) days of receipt of such foundation survey. If corrective action is not taken by the applicant within five (5) days of receipt of such notice, the Zoning Administrator may revoke the Zoning Permit; in which instance he shall so notify the Union County Office that issued the Building Permit, and a violation of this Ordinance shall be deemed to exist, and any and all sanctions under Section 1.5 shall apply.

The requirements for foundation survey submittal shall be waived if the structure is a single-family dwelling or manufactured home located on a tract of at least ten (10) acres in area and the proposed dwelling is also at least two-hundred (200) feet from the boundaries of the tract.

Section 10.4 Certificate of Compliance

No building hereafter erected or structurally altered or changed in use shall be used or occupied until a Certificate of Compliance has been issued by the Zoning

Administrator. Such certificate of compliance shall state that the building or portion of a building is in compliance with the provisions of this Ordinance, with the information stated on the zoning permit, and with the Foundation Survey

10.4.1 Application for a Certificate of Compliance

~~A Certificate of Compliance may only be issued after a fee has been paid in accordance with an adopted fee schedule and written application for same has been made in which the applicant must state that the building or structure erected or altered or changed complies in all respects with this Ordinance, or the zoning permit previously issued and/or (in the case of any building) the and an approved zoning permit, and Foundation Permit and Survey (if applicable) has been previously submitted and accepted approved. If the application for certificate of compliance is for any building, the application shall include a scaled, dimensional plat drawn by and certified as accurate by a surveyor or engineer registered with the State of North Carolina which affirmatively shown that the building or structure was erected in compliance with this Ordinance and the zoning permit previously issued. Provided, however, for residential properties only, that the tract that the residence is constructed contains ten (10) acres or more, then the person applying for the certificate of compliance shall be allowed to present a non-certified sketch in lieu thereof, provided that the residence is not to be located closer than 200 feet from any of the boundaries of the tract. In the event that the proposed residence is to be located closer than 200 feet from any of the boundaries of the tract, then the applicant shall submit a certified survey of the improvements with respect to those boundaries only. The sketch submitted shall in all other respects comply to the requirements set forth above.~~

The requirements for a compliance certificate shall be waived for accessory buildings.

10.4.2 Review of Certificate of Compliance (Revised 10.11.04)

The Zoning Administrator shall take all necessary action to assure applicant's compliance with this Ordinance, or the zoning permit and/or the foundation survey (if any) prior to issuing a Certificate of Compliance and shall make written findings that applicant has complied with the zoning permit. After making such findings, the Zoning Administrator may issue a certificate of compliance. If review of an application for a Certificate of Compliance necessitates review by the Village Engineer, all costs incurred associated with said review shall be reimbursed by the applicant.

10.4.3 Denial of Certificate of Compliance

In the event the Zoning Administrator finds that the applicant has not complied with this Ordinance, or the zoning permit previously issued, and/or the foundation survey

(if any) previously submitted and accepted, he shall notify the applicant of same stating in writing the reasons, therefore, by first class mail.

10.4.4 Appeal

The applicant may appeal the Zoning Administrator's denial of any such certificate of compliance to the Board of Adjustment. Appeal of denial of a certificate of compliance must be made in duplicate written form, state the grounds thereof, and be received by the Zoning Administrator and the Village Clerk within ten (10) days of applicant's

Section 10.5 Fees

A fee for processing each application for a zoning, foundation or compliance certificate permit shall be charged by the Village and shall be in accordance with an adopted fee schedule. In the event of construction of multiple structures on a single lot at the same time, each structure is required to be permitted, approved and charged a separate fee for zoning, foundation and compliance permit applications. The fee shall be as established from time to time by resolution of the Village Council, and must be paid by check or cash at the time an application for a zoning permit is received by the Village. If processing of a zoning permit application necessitates plan review by the Village Engineer, all costs incurred associated with said review shall be reimbursed by the applicant.

Section 10.56 Remedies

Violation of this Article shall subject the violator to those enforcement and penalty provisions as set out in Section 1.5 of this Ordinance.

Section 10.67 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. Such complaint shall state fully the precise nature of the violation and shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action as provided by this Ordinance.

Section 10.78 Zoning Permit Not Required

Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:

- (1) Street construction or repair.
- (2) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or

structures, located within a public right-of-way.

(2) Specific signs exempted in Section 8.2 of this Ordinance.

(4) Mailboxes, newspaper boxes, walls, fences, birdhouses, flag poles, pump covers, and doghouses under fifteen (15) square feet of gross floor area.
(Added 09.09.02)

Section 10.82 Early Vesting Of Development Rights Upon Approval Of Site Plan

Pursuant to G.S. 160A-385.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development plan approval which shall entitle said landowner to develop property in accordance with said site specific development plan. The procedure for establishing a vested right is set forth in this Section 10.82.

10.82.1 Definitions

For the purpose of this Section only, the following definitions shall apply:

1. Landowner
Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site specific development plan in the manner allowed by this Ordinance.
2. Property
All real property subject to zoning regulations and restrictions and within the jurisdiction of Wesley Chapel.
3. Vested Right
The right to undertake and complete the development and use of property under the terms and conditions of an approved sitespecific development plan.

10.82.2 Submission Of A Site Specific Development Plan

To apply for a vested right, a landowner shall first submit to the Zoning Administrator a site specific development plan. The plan shall be submitted in completed form (i.e., contain all information as herein prescribed) with a fee (in accordance with a fee schedule adopted by the Village Council) and an accompanying application which, at a minimum, shall contain the following information:

- A. All information listed in Section 6.3 of this Ordinance.

Once the Zoning Administrator deems the site specific development plan to be complete, he shall schedule it to be reviewed by the Planning Board at their next regularly scheduled meeting. The Zoning Administrator must receive the complete plan at least ten (10) days prior to the Planning Board's next meeting date to place it on their agenda.

10.82.3 Planning Board Review And Recommendation

Once the site specific development plan is forwarded, the Planning Board shall review the application and make a recommendation to the Village Council. The Planning Board shall have up to forty-five (45) days from their first meeting date to make such recommendation. Alternatively, the Planning Board may request additional information of the applicant in order to aid them in their review of the application. Such request may include additional data in addition to that listed in Section 6.3 of this Ordinance as deemed necessary. If no recommendation is made during said forty-five (45) day period (except as herein provided) the application shall forthwith be forwarded to the Village Council without a recommendation.

10.82.4 Public Hearing

Upon receipt of the plan and the recommendation from the Planning Board, if one is forthcoming, the Village Council shall schedule a public hearing.

Notice of the Village Council public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in Wesley Chapel once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. At least one (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the public hearing. Such notice shall state the nature of the public hearing and the date, time and location at which it is to be held. The notice shall be removed only after the public hearing has been held
- C. A notice of the public hearing shall be sent by first class mail by the Zoning Administrator to all contiguous property owners at least ten (10) days prior to the public hearing.

10.82.5 Village Council Action

Once the public hearing has been conducted and concluded, the Village Council shall determine whether or not to approve the site-specific development plan and accord the vested right. In approving an application for vested rights of a site specific development plan, the Village Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed.

The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Village Council.

The Village Council may not require the landowner to waive his vested right as a condition of developmental approval.

The Village Council may approve the site specific development plan if it has evaluated an application and determined that:

- A. The use meets all required specifications of the Zoning Ordinance, and
- B. The use will not materially endanger the public health, safety or general welfare, and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site specific development plan by the Village Council shall be adequate to fully satisfy this requirement.
- C. If the site specific development plan is vested for a period of greater than two (2) years, this decision shall be based on one or more factors so described in Sub-section 10.8.6 of this Ordinance.

The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.

If the use or development for which the site specific development plan is submitted is a conditional use, the Village Council may approve the site specific development plan contemporaneously with the approval of the conditional use permit. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a conditional use permit without the conditional use permit having first been issued.

10.82.6 Effect Of Approval

The effect of the Village Council approving a site-specific development plan shall be to vest such site plan for a period of two (2) years from the date of approval.

If the landowner requests, however, the Village Council may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period may only be authorized by the Village

Council where it is found that due to **(i)** the sizing and phasing of the development; or **(ii)** the level of investment; or **(iii)** the need for the development; or **(iv)** economic cycles; or **(v)** market conditions, building permits for all phases of the development cannot be secured within two (2) years.

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.

A vested right, once established as herein provided, shall preclude any zoning action by the Village which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development except under the following conditions:

1. The affected landowner provides written consent to the Village of his desire to terminate the vested right; or,
2. The Village determines, after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site specific development plan; or,
3. Compensation is made by the Village to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,

4. The Village determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Village of the site specific development plan; or,
5. Upon the enactment or promulgation of a State or Federal law or regulations which precludes development as contemplated in the site specific development plan. In such case the Village may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.

Any public hearing called for in Sub-sections 10.89.6 (4 and 5) herein shall be conducted by the Village Council and advertised as indicated in Sub-section 10.89.4. Recommendation by the Planning Board and final action by the Village Council shall be undertaken provided in Sub-sections 10.89.3 and 10.89.5, respectively.

Once a vested right is granted to a particular site-specific development plan, nothing in this Section shall preclude the Village from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

10.89.7 Revocation Or Expiration Of A Vested Right

The vested right resulting from the approval of a site-specific development plan may be revoked by the Village Council as provided for in Sub-section 10.89.6. In addition, a revocation may occur if the Village Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Village Council.

10.89.8 Revocation Of Building Permit

A building permit issued by the Union County Building Inspector pursuant to G.S. 160A-417 may not be revoked because of the passage of time regarding a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.

~~10.82.9 Amendments To The Zoning Ordinance~~

~~The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the Village from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.~~

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 _____, 2012.

Attest:

Cheryl Bennett, Clerk

Mayor Brad Horvath

7. Wesley Chapel Land Use Plan

Chuck Adams asked what Sandy Ridge, Vance and Monroe townships are; Mayor Horvath said they are deed related. Chair Bush asked if we want to go thru the Land Use Plan a section at a time. Mayor Horvath noted we haven't looked at it in nine years, and it is recommended to review it at least every five years. Chuck Adams said we need to update the date, i.e. population, non-residential uses, etc.; Langen will do that. Chairman Bush asked if the members agreed on goal 1; Adams strongly agreed. Langen asked members to send him input on the plan by email. Dan DeMattos asked if we have considered paths, not sidewalks; there are also maintenance, liability and ADA issues involved. Langen brought up senior living; we can start with policies, and write some general language, then it is up to the landowners to use the tools to develop property with more options. Adams said we can try to decide on a distance away from the shopping center due to traffic and congestion. Sandi Bush said we could add a bullet that we encourage application for senior living. Langen said we could encourage it near the intersections that have a traffic level of service of C or better. We probably can't use the term senior housing; but we know they generate less traffic so we can use that as a criteria or traffic neutral to one acre development.

8. Other Business

Mayor Horvath noted the unpaved trail at Dogwood Park is largely completed.

9. Topics to Discuss at Next Meeting

Topics include the Land Use Plan; and priorities are needed on the ordinance prioritization list.

10. Adjournment

Adams made a motion to adjourn the meeting; Ray Davis seconded the motion.

The motion was approved unanimously.

The meeting adjourned.

Respectfully submitted

Cheryl Bennett, Village Clerk

Chairman Sandi Bush