

**VILLAGE OF WESLEY CHAPEL
PLANNING BOARD MEETING MINUTES
December 17, 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 (arrived late), Vice Chair Stephen Keeney, Chuck Adams, Jeff Davis, John Grexa, Alternate Bill Bennett

Others Present: Cheryl Bennett, Clerk; Joshua Langen, Planning/Zoning Administrator, Carol Mullis, Brian Fennell

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

1. Pledge and Invocation

Vice Chair Keeney led the pledge and gave the invocation.

2. Public Comments

Brian Fennell, a member of the Youth Council Committee was present. Carol Mullis suggested that item 6 be postponed to the next meeting, and said it would be beneficial to get the history on this item from Jim Mullis.

3. Additions, Deletions and Approval of Agenda

Chuck Adams made a motion to adopt the agenda; Jeff Davis seconded the motion.

The motion passed unanimously.

4. Approval of Minutes

In the November 26, 2012 minutes, a correction was made to the second paragraph of the item on Article 2 and 4 to show Stephen Keeney made the motion, and Jeff Davis seconded it. On page 69 of the minutes, item 6, wording was added to Stephen Keeney's remarks "if common open space is a goal or policy", and to take out the portion regarding fee-in-lieu. Chuck Adams made a motion to approve the November 26, 2012 minutes with these changes; Jeff Davis seconded the motion.

The motion passed unanimously.

5. Adopt Schedule of Meetings 2013

Chuck Adams made a motion to approve the 2013 meeting schedule. Joshua Langen said he had a conflict with the November 25 meeting; John Grexa said he could not attend the August 26 meeting. Sandi Bush arrived at this time. Jeff Davis seconded the motion.

The motion passed unanimously.

There was a question on who would run the meeting since the Vice Chair had started the meeting. Chuck Adams moved that Sandi Bush chair the rest of the meeting, and Stephen Keeney resume as a voting member. Jeff Davis seconded the motion.

The motion passed unanimously.

6. Article 4 – Subdivision – Section 408 Fees-in-Lieu

Joshua Langen reported that Council met and discussed fees-in-lieu, but tabled any decisions on it until January. Stephen Keeney was at the Council meeting, and capsuled some of the ideas, such as buffers could replace common open space. There was discussion that the language was contradictory, and Council needed some time to explore it. Joshua Langen came up with two versions of a text amendment to address some of the concerns he heard, such as taking out the two acre minimum. Version two is a greatly stripped down and simplified version. Langen's memo of December 12, 2012 showed what other towns are doing regarding open space requirements. Waxhaw and Weddington do not require it; Indian Trail, Marvin, and Mineral Springs have the same requirements we do. Stallings has a sliding scale with no fee option; and Monroe has a 5% requirement if within a greenway or park designation on the Land Use Plan. John Grexa asked what zoning Waxhaw has (some of their developments are a higher density than we allow).

Version 2 only requires buffers for thoroughfares for major subdivisions. Langen left a choice for separately platted buffers maintained by an HOA, or buffers that are part of private lots, which would cause the lots to be a little larger. Langen said the setback would be measured from the buffer. Administrator Bennett referenced a permit she issued last week when Langen was out of the office, and asked how we would know whether we are measuring the setback from the buffer or from the lot line, since we don't always receive a survey. Chair Bush suggested you could pull the plat when moving forward and doing permits.

John Grexa asked about NC G.S 160A-372 that was referenced in the introduction to the ordinance amendment. Langen said this is verbatim from the General Statutes; this won't go in the ordinance, just in the resolution. It doesn't tell you what to do, it just grants the town powers. Stephen Keeney said the operative word in the statute is "may"; the only directive is regarding how to determine the formula.

The amendment does not allow the buffer to be substituted by the fee in lieu. Stephen Keeney said the general statutes enables us to do this, as historically proven that we have never accepted land, it is the fee we are after, you thereby raise the cost of the development, because the developer passes it on to residents; he thought an alternative would be to allow the open space to be the buffer. John Grexa said he thought it had to be usable land. Keeney said he had a problem with that, why not include wetlands; open area is open area. Langen said he took out the restrictions except for the floodway restriction. Keeney noted that Council Member Ormiston noted her development had open space that was flood areas and it worked well; Grexa said they have ten acres in the center of the development and the pathways are seldom used. He likes the flood area that sets them off from the road and makes it quieter. Keeney noted when you drive by you don't know how many homes are there, and makes an effective use of unusable land. Langen said he left it in to provide a variety of open space, to require reasonably flat land provides for some variety since developers would normally offer flood land. The object is to give the developer the opportunity to convince Council to accept land instead of the funds. Grexa said he thinks Council wants the funds for park lands. Keeney said using the unusable land for the requirement allows green space and insulation to separate traffic from houses. Langen said this is for major and minor subdivisions, and for the buffers only for major subdivisions. Langen noted he took out common open space, the word

recreation, unity and dialed it back to land; it could be covered with trees. He noted an R-40 lot would have to be a little bigger to accommodate this. Adams asked if it was the homeowner's land, and what can they do on the buffer space on their own land. Grexa said it couldn't be R-20; Langen said it could be if they made the lots a little bigger. Langen said he made it be developable land, since they already can't use the undevelopable land. Langen said you can cut down trees, but can't build a playground or accessory building on the buffer. Adams said that is ridiculous. Langen said most people won't cut down the trees in the backyard, they like the privacy. Langen said the compromise is to avoid requiring an HOA. Langen said if you request a fee instead, it goes to Village Council to either accept or deny the request. If the developer doesn't choose to submit the request, Council doesn't get to choose and the open space on the plans stands. Keeney said the fee contradicts the Master Plan that people want open space, but you can buy your way out of it. He said the tendency is to go to cluster housing to create open space. Langen said he doesn't think this does that, it encourages bigger lots. Keeney had a question on Section 408.2(c) 2; Langen said this creates a realistic assessment; every time you show something on the plat it increases the value, but this doesn't include the value of the structures. Keeney suggested we insulate the development from the town and we assess the fee based on the number of lots that we will dedicate to parks or recreational area. Grexa asked is it for the residents of the subdivision or all the residents of the village, and whether it is for parks or other needs. Adams said he didn't think people in subdivisions use open space land a lot; to take the money and give it to parks is not what we should do; the park bid came in over budget; he thought the money coming in should go to the village for things that enhance the village; while only a select group will use the park. Langen said you can't do that, because of the statute wording; we are restricted to the powers enumerated there, and you can only use the money for parks. Chair Bush said it sounds like Adams and Grexa are agreeing with Keeney, to encourage the buffer and the fee second, and if there is a way to circumvent the state law, it may go to another use. Jeff Davis said he had no opinion on this; Bill Bennett said he leans to the buffer, and the fee only if Council and the developer can't reach agreement and then use the fee. Chair Bush said she thinks Keeney is saying we should use both the buffer and the fee. Langen said at Section 408.1(c) you can change it to make the land a buffer; if the land doesn't create a buffer, then Council can take a fee. Langen said you can say that any funds will be used within a half mile of the development. Adams said we didn't mention proximity; if it increases the cost of a subdivision, then it should go to the benefit of those owners. He said he didn't think we need buffers or 1/35th fee. Keeney said we could just require R-100 lots. Langen said banks don't like R-100 lots. Keeney said in Aero Plantation and Walden, the lots get sold privately, they don't even get to the market. Langen said you can't up zone the property, only the property owner can do that; we will get sued. Adams said if it makes sense, we should address it with the State. Chair Bush asked if the Board wants the fee removed; but noted Council probably doesn't want that; and we need to give Langen direction. Bill Bennett noted the fee in lieu has saved him higher taxes since the fee has paid for some of the park land. Langen will re-write paragraph c on the nature of land to be dedicated, keep the fee, and make it difficult for Council to refuse land and accept the fee. Adams said if we don't take the fee, it leads to

an increase in taxes, so take the fee. Langen said he will work on an approach with choice, people are interested in parks.

Carol Mullis noted we have had only a handful of developments built here; the others were built under the County. The choice was common area or fee-in-lieu. Those developments didn't want common land or parks used by outsiders coming in to their development. Grexa said they do have outsiders coming into their development. Cheryl Bennett said there are two different issues here; buffers and fee-in-lieu; they are not interchangeable. The fee-in-lieu is for land dedicated to the land, i.e. the title to the land goes to the town. The reason some subdivisions have walking trails etc., is they were built under "smart growth" rules in the County. The Village only allows lots with 40,000 square feet of usable feet; but the County allowed the developer to include that unusable space, ending up with smaller lots and more common open space.

7. Wesley Chapel Land Use Plan

Added to Goal 2, Policy 3 is a traffic impact analysis requirement, and "low impact" was deleted before medical offices. Discussion continued on Goal 3. Langen said he was not sure the Zoning Ordinance was ever amended to implement this policy. Chuck Adams asked regarding appearance rules, Langen said we have none except for height. Chuck Adams said today we don't want shopping centers, but in the future he could see more on Highway 84. Chair Bush said we are looking three to five years out. John Grexa noted we have an obligation to guide growth. Langen said we might want to have some guidelines for design standards, he will put it in the ordinance prioritization list; he suggested we keep policies 1-6, and take out shopping centers. We will limit it to office/institutional. John Grexa suggested keeping shopping centers in the policy since we don't know what could happen in the future. Langen noted you control zoning by what is in your Land Use Plan. Policy 7 was questioned. John Grexa asked about form based codes, and would that give us control over the looks of buildings. Langen said we can have design standards without form based codes. John Grexa said we have to do what the people want, he has been opposed to this document, and thought plans are out there to re-zone and it should be taken to the people. Chair Bush said the Land Use Plan is a high level guide for the community. John Grexa said he felt Council is providing so much input that they will just be rubber stamping this; maybe we should be getting input from the citizens on how they feel about development. Stephen Keeney said he agreed with John, the Land Use Plan at its origin had an agenda, but it does change; he said John brings great input to Planning Board, and Keeney said the Land Use Plan is worthy and should be conceptual in nature. Jeff Davis said the Land Use Plan has always been a guide, and just that, and has changed according to conditions. Bill Bennett said he was here when heated debates were held on the Land Use Plan, if you don't do anything at all it unravels; you don't want to see a mini-mart on this corner. Chuck Adams agreed the Land Use Plan is worth working on. Langen pointed out there has been a lot the Planning Board has done that has been successful such as the tree ordinance, traffic impact analysis requirement, requiring sidewalks and turn lanes. Chair Bush said since the Mayor has attended the Planning Board meetings we have had less conflict. Chair Bush asked Langen to take the comments from tonight, and give a ten minute overview on form based codes in January. Langen said there is a whole spectrum of zoning choices;

we could have a “D” in the Table of Uses to say who has to comply with design standards.

8. Other Business - none

9. Topics to Discuss at Next Meeting

Topics include Article 4 with the changes made tonight, Land Use Plan goal 3, and the next item is flood plain development. Langen noted when we changed the flood ordinance we allowed building a house on stilts and he had an application that he had to approve. The County doesn't allow building in the floodway. Chair Bush asked him to put information on that in next month's backup.

10. Adjournment

Adams made a motion to adjourn the meeting; Keeney seconded the motion.

The motion was approved unanimously.

The meeting adjourned.

Respectfully submitted

Cheryl Bennett, Village Clerk

Chairman Sandi Bush