

10.28.2013 Planning Board minutes,

**VILLAGE OF WESLEY CHAPEL
PLANNING BOARD MEETING MINUTES
October 28, 2013, 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 Stephen Keeney, Vice Chair Chuck Adams, Members Bill Bennett, Jeff Davis; Alternate David Boyce (sitting as regular member).

Absent: Member John Grexa; Alternate John Bowen

Others Present: Clerk Cheryl Bennett, Planning/Zoning Administrator Bill Duston, Mayor Brad Horvath

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

1. Pledge and Invocation

Chair Keeney led the pledge and Vice Chair Chuck Adams gave the invocation.

2. Public Comments - none

3. Additions, Deletions and Approval of Agenda

Vice Chair Chuck Adams said he agreed with John Grexa's email asking we re-visit the front yard setback. Bill Duston said a public hearing has been called for, but a new recommendation could be given. David Boyce made a motion to adopt the agenda, Jeff Davis seconded the motion.

The motion passed unanimously.

4. Approval of Minutes

Jeff Davis made a motion to approve the September 30, 2013 minutes. Bill Bennett seconded the motion.

The motion passed unanimously.

5. Rezoning RZ 13-3

Bill Duston pointed out the property on a map, and noted Mr. Espinosa gave a presentation last month. Things to address include spot zoning – this parcel is shown on the Land Use Plan map as low density and the surrounding Weddington and County land is low density; or the Land Use Plan can be changed. Mr. Duston said you do have to make a consistency statement, and the four factors about spot zoning need to be discussed, and then you can make a recommendation. You do not have to be consistent with the land use plan, but you should have good reasons not to be. Mr. Duston said your options are to recommend in favor of the re-zoning, recommend we not re-zone, recommend we re-zone a portion of the parcel, or recommend we go to a less intensive zoning use. Chairman Keeney read from David Owen's article about zoning being based

on a consideration of the entire jurisdiction and the full range of land use issues facing that jurisdiction. Mr. Duston said most of the range of uses in Wesley Chapel is residential, and the Land Use Plan is fairly specific on where commercial should be; you have to consider the full range of B-2 uses. Chair Keeney read from the article on spot zoning on the four factors to be considered. Chair Keeney said the property looks much better after being cleaned up; it was a gas station at one time and the tanks in the ground need to be addressed. Mr. Duston said with public water and sewer the tanks are probably not as much impact as with well and septic. Mr. Espinosa said he is working with an engineer, but it is costly; he said a 1984 law that went 10 years back to 1974 requires the land be cleaned up.

The board was polled. Bill Bennett said he didn't want to go against the Land Use Plan, it was declared loudly that commercial was to be at the intersection of Hwy. 84 and Waxhaw-Indian Trail Road; at a recent public hearing people were in favor of R40 and the site is on a busy piece of road so there are traffic accident concerns. The land south of this parcel is owned by an aircraft transportation company, and while it is zoned low density residential by the county, that could change. Mr. Espinosa said that land owner spoke to him and he approved Espinosa's plan; he said he could take the tanks out of the ground.

Jeff Davis was against spot zoning, and said it could create Pandora's box.

Chairman Keeney said it would be a spot zoning.

Vice Chair Chuck Adams said we do have a land use plan, it can be changed when it makes sense. The town does want R-40. Since 1952 the property has been a business, but because of a technicality that it was dormant, it loses its status. He suggested we consider re-zoning it to B-2 and change the Land Use Plan.

Chair Keeney said the church and school across the street are not residential, but there are no other commercial uses near this tract. What concerned him were the tanks in the ground, and that would have to be addressed regardless of what you do there.

Mr. Espinosa said he went to DOT and he would have to widen the road and put in a turn lane.

Chair Keeney said there are a lot of uses in B-2, and there may be a lot of opposition, so we need good justifications. Vice Chair Adams said we only have to be concerned with our next step; there is zero guarantee that Council will uphold our recommendation.

David Boyce asked Mr. Duston about grandfathering; the rules are that after 180 days being vacant, you lose the use. Mr. Boyce said the property looks much, much better; he also agreed with the comments of Bill Bennett and Jeff Davis. He heard the public support for R-40, and we have definite areas for commercial development, and investments at the shopping centers there were made within the rules; also he had traffic concerns, he would be open to a smaller part of the site, but opposed to spot zoning.

Bill Bennett motioned that we do not re-zone this property; we stay consistent with the Land Use Plan unless it is changed down the road, and this is consistent for the other reasons heard tonight. Chair Keeney asked if we deny the re-zoning, and adjust the Land Use Plan in the future, can the applicant re-apply. Mr. Duston said he would have to wait a year even if the acreage changed, but he didn't have a definitive answer if the Land Use Plan changes, he would have to research that. Jeff Davis seconded the motion.

Chuck Adams said this has been a business. Bill Bennett said the 2012 tax bill was \$1,447.95, with a tax value of \$120,640 and the 2013 tax bill is \$845.25, which is less than I pay on my house.

The motion passed 3-2, with Keeney and Adams voting nay.

Bill Bennett made a motion that the recommendation was consistent with the current Land Use Plan. Jeff Davis seconded the motion.

The motion passed 3-2, with Keeney and Adams voting nay.

Mr. Duston said Council asked him to do staff recommendations for statements of consistency in the future and he can do so for Planning Board if they would like them, Chair Keeney said that would be helpful.

This rezoning request will go to Council to call for a public hearing in December. Chair Keeney and Vice Chair Adams told Espinosa to bring as many people as you can to the public hearing and have them speak.

6. Summary of Weddington's conservation subdivision ordinance by Bill Duston.

Chuck Adams said this item has not been on the prioritization list, but senior living has moved up on the list and he would rather see that type of zoning than cluster R40. Bill Duston reported that when Weddington first adopted conservation subdivisions, it was a use by right, but a later Council made it a conditional use. The viewshed buffer refers to what you see when you drive down the road. An elected official in Weddington didn't want to see a lot of berms, so they put in 50 foot buffers; Wesley Chapel only requires ten to fifty foot buffers on thoroughfare roads. Our buffer doesn't count toward the 40,000 square foot lot size; in Weddington they waived the fifty foot buffer along major or minor thoroughfares if all lots in the subdivision are five plus acres, and it can be used as part of the required open space. Required open space is 1/35th acre per lot in Wesley Chapel, if less than two acres it is a fee, if more than two acres the Council can choose land. In Weddington's conventional subdivisions they require 10% of gross area and viewshed buffer areas, there is no fee-in-lieu. In their conservation subdivisions they require 50% of the gross area of the tract to be open space; all primary land is to be preserved; the remaining secondary areas to be preserved to come up with 50% set aside. They can say what land they want preserved; what the developer gets is smaller lot size. In their conservation subdivisions they can go as low as 12,000 square feet lots. Mr. Duston noted the conservation subdivisions were not an easy change; at Weddington's public hearing 375 of the 400 present were against it. It is density neutral.

Chair Keeney said Planning Board worked on Article 4 (fee-in-lieu) and asked if it went to Council. Mayor Horvath said the attorney was looking at the language of dedicated vs. reserved. Chair Keeney said conservation subdivisions are a good idea. Mr. Duston noted what Weddington passed is most probably not just what Wesley Chapel wants. Chuck Adams said citizens have said they want R40, but they also want senior living. Chair Keeney said he prefers the insulation of conservation subdivision. Chuck Adams said with R40 you have lots of open space, and citizens say they want that, rather than government telling you what you want. Meritage Homes came back with a plan to do R40 homes. It was decided to visit Weddington and see some of their conservation subdivisions.

Karen Schultz suggested second generation housing, such as what Lennar has. Mr. Duston noted when you have an accessory dwelling unit, you can't say it will just be used

for seniors. Planning Board asked Mr. Duston to look into senior living options. Mayor Horvath said conservation subdivisions were talked about in the Master Plan, which was not adopted. It is a very conflicted item. If it is density neutral, it doesn't create more traffic.

7. Proposed Zoning Ordinance Text Changes: Article 11 – Board of Adjustment
Bill Duston said he realized the text amendments need a consistency statement. David Boyce motioned to adopt the statement that these changes are consistent with the Village of Wesley Chapel Land Use Plan and with the Village's desire to be in compliance with all applicable general statutes of the State of North Carolina. Chuck Adams seconded the motion.

The motion passed unanimously.

8. Proposed Zoning Ordinance Text Changes: Section 5.3.3(b) – Front Yard Setback for Residential Dwellings in the R-40 District

Bill Duston said after looking at an old ordinance book, it made it clearer that the intent was to keep the setback fifty feet. Chuck Adams said he measured his front yard setback to the road and it was 81 feet; Jeff Davis' was 77 feet; John Grexa's was 36 feet. Mr. Duston said it should be measured to the right of way (telephone poles) so 77-15 feet would be 62 feet setback. The former zoning administrator had discussed using the edge of pavement; Mr. Duston said edge of pavement changes, but right of way doesn't. Mayor Horvath red the setback lengths for each zoning type, and it supported the 50 foot for R-40. Chuck Adams made a motion that the R40 and RA40 setbacks be 75 feet. Bill Bennett seconded the motion.

The motion passed 3-2 with Boyce and Keeney voting nay.

Chuck Adams motioned that this is consistent since the Land Use Plan clearly calls for low density and larger setbacks in front enhance the open feel of subdivisions and is more pleasing to citizens. Bill Bennett seconded the motion. David Boyce said the intent of the text seems fifty feet, but agreed 75 feet gives a more visual open look.

The motion passed unanimously.

9. Planning Board meeting schedule for November and December 2013

The November meeting will be on the normal date, November 25. The December date will be decided in November.

10. Other Business - none

11. Topics to Discuss at Next Meeting

Karen Schultz asked if developers are asked for impact fees; Mr. Duston said they are not allowed in North Carolina.

12. Adjournment

Bill Bennett made a motion to adjourn the meeting; Jeff Davis seconded the motion.

The motion was approved unanimously.

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The meeting adjourned at approximately 9:20 pm.

Respectfully submitted

Cheryl Bennett, Village Clerk

Chair Stephen Keeney