

**VILLAGE OF WESLEY CHAPEL
PLANNING BOARD SPECIAL MEETING MINUTES
September 8, 2015, 7:00 PM**

MINUTES

The Planning Board of the Village of Wesley Chapel, North Carolina, met at Town Hall, 6490 Weddington Road, Wesley Chapel, NC 28104.

Present: Chair John Grexa, Members Chuck Adams, David Boyce, Sandra Ells and John Souza

Village Staff present: Cheryl Bennett, Village Clerk; Bill Duston, Planning/Zoning Administrator

Others Present: Carol Mullis, Sandy Fenn, Mayor Brad Horvath, Mayor Pro Tem Mike Como

1. Pledge and Invocation

The pledge of allegiance and invocation were said.

2. Conservation Zoning

Bill Duston reviewed the proposed text for conservation subdivisions. Salient points are: minimum acreage is fifteen acres; allowed in R-40 and R-A40 districts only, subject to CUP or conditional zoning approval; a yield plan is first submitted showing how many lots could be developed if it were a conventional subdivision; minimum amount of conservation land is fifteen percent of gross area of tract; private ownership of conservation land is not allowed; allowable conservation lands are tiered, from A (forestlands and lands adjacent to parks, B farmlands and historic sites, and C steep slopes, and rock formations).

Conservation land shall be in addition to required landscaped buffers; up to thirty percent of the lots can be reduced to 30,000 square feet, otherwise lots are a minimum of 40,000 square feet. Smaller sized lots must abut conservation land on at least one side that is at least 75 feet wide (to give the illusion of larger lots). Minimum lot widths are reduced by 20 feet from current R-40 standards; increased rear yard setbacks for smaller lots unless rear lots abut conservation land. Allowed uses within conservation land are a variety of open space, common and passive recreational uses. Golf courses and storm water detention ponds are not allowed. A conservation plan on how lands will be maintained is to be provided; a conservation easement held by at least two separate parties is preferred, but not mandated. An HOA can be the easement holder. These standards are generally similar to Marvin or Weddington's.

Lot width was discussed. For lots down to 30,000 square feet it was proposed to be eighty feet wide. Side setbacks are fifteen feet for all lots as currently done with R-40. Mr. Duston noted that currently 120 feet width is required in R-40, so if you go twenty feet less for the 30,000 square foot lots, their width would be one hundred feet.

Minimum lot width was corrected to one hundred twenty feet for 40,000 square foot lots, and one hundred feet for smaller lots. Chuck Adams noted a 30,000 square foot lot at

120 foot width, would be 250 long, so lots would be long and skinny. On a cul-de-sac the front can be just thirty five feet, a panhandle lot can have a handle less than two hundred feet, but fifty feet back it has to be one hundred twenty feet wide. It was noted we don't have many steep slopes.

David Boyce motioned to accept the text changes with one change on item 5 to make lot width one hundred twenty feet wide for 40,000 square feet lots, and include the statement of consistency. The motion died for lack of a second.

Chuck Adams suggested both size lots have a width of one hundred twenty feet. David Boyce motioned that we accept the text with the minimum lot width being one hundred twenty feet for both size lots and include the statement of consistency that the proposed text is consistent with the Village's current Land Use Plan which calls for all new residential developments to have a "gross density of approximately one (1) house per acre." Sandy Ells seconded the motion.

The motion passed 4-1 with John Grexa voting nay.

3. Planning Board Training

Bill Duston conducted training. Topics included issues to consider – discussion based on NC General Statutes, applicable case law and Wesley Chapel's Zoning Ordinance. If NC General Statutes do not work for Wesley Chapel, consider appropriate local legislation. Planning Board (PB) always makes recommendations on zoning amendment cases, and Village Council always makes the final decision. The Board of Adjustment never gets involved with zoning amendment cases.

Role of Village Council was reviewed; they adopt and amend the Zoning Ordinance and Land Use Plan, appoint members to PB and Board of Adjustment, and approve conditional use permits. They never administer the zoning ordinance, decide appeals of the administrator's decisions, nor issue variances.

GS 160A-361 requires a PB, and GS 160A-387 requires that all zoning ordinance text amendments be submitted to PB for review and they have 30 days for a recommendation. If no recommendation, the case goes to the governing board. PB serves as an advisor to village council, and makes recommendations on all text changes and map rezonings, conditional use permits, and major subdivision plats, and can initiate zoning changes.

The role of staff is to administer and enforce ordinances, inform public and answer questions, issue permits, give staff reports, give staff recommendations, and monitor regulations on a day to day basis. Administrative decisions are made by staff, normally based on written standards, such as signing off on a zoning permit. Occasionally judgment calls may have to be made if standards are not precise or allow for discretion by staff, i.e. mandated landscaping or screening standards can be varied.

Legislative decisions are made by Village Council, and can include rezoning property and text changes, (PB must be given an opportunity to advise the Village Council on zoning changes), with the exception of conditional zoning no conditions can be attached to a PB recommendation.

Wesley Chapel has two types of zoning – a straight (general) rezoning, and a conditional district (CD) rezoning.

Straight (general) zoning is the oldest form of zoning in NC, always been available to property, property owner can request a zoning change from one general district to another; if approved, any use allowed in the underlying district can be built according to the standards for that district and use. No conditions can be placed on such rezoning; it either is approved or disapproved. Third party rezonings (i.e. request made by someone other than property owner) are allowed in Wesley Chapel. Property owners, neighbors, and PB members can speak to anyone they want to prior to the PB meeting or council public hearing. Advantages of straight zoning is PB members can talk with others prior to their meeting; no findings of fact; no quasi-judicial proceedings; property owner has full latitude to develop property per what is allowed in the underlying district; and relatively inexpensive to apply for – no site plans needed. Disadvantages of straight zoning include no certainty for village or neighbors as to what will be built; Chair must enforce “Don’t ask, don’t tell” on proposed future uses on subject property when considering rezoning, current property owner may sell property to another with totally different ideas for what is to be built; and may be embarrassing for Village if something awkward gets built on the property.

Conditional zoning (CD) is the newest form of zoning in NC and Wesley Chapel, is legislative in nature, rather than quasi-judicial; fair and reasonable conditions allowed; offered by the applicant, or suggested by PB or Council; conditions must be mutually agreed upon by applicant and Council, and CD can only be initiated by affected property owner. The applicant can speak with neighbors, PB members, elected officials. Applicant holds a public information meeting prior to PB and Council meetings to get neighbors’ input; application can change based on input. Conditions offered by applicant or requested by Council may only exceed those that are normally required. No ability to reduce standards (except through separate BOA variance). CD Zoning advantages are you can talk with applicant, neighbors, other PB or elected officials; neighbors’ input required; no findings of fact; no quasi-judicial proceedings; one-step rezoning; certainty over the final product; and helps alleviate unnecessary concerns on what will get built. CD Zoning disadvantages are each amendment stands on its own two feet; staff must keep track of each amendment; zoning runs with land until changed; potential for “back-room deals”; potential for spot zoning; really needs coordination with all adopted and applicable plans; can be costly to applicant: site plan, survey, architect, etc., and city may ask for too many conditions.

Zoning Statements for all zoning cases (map and text) are the statement of consistency (with land use plan and all other applicable/adopted plans); and statement of reasonableness (for Village council only); neither statement is subject to judicial review.

Spot zoning – four things you must consider are size of tract; compatibility of zoning with adopted plans; benefits/detriments of rezoning re: applicant, surrounding properties and community; and relationship of uses allowed under proposed zoning and uses currently allowed on adjacent tracts.

The Land Use Plan (LUP) serves as a guide for how the city should develop, the Zoning Map and Zoning Ordinance text implement the LUP. All zoning decisions must reference consistency with the LUP and other officially adopted plans that are relevant. Other relevant plans are the Comprehensive Transportation Plan (CTP), and Carolina Thread Trail.

Imposing conditions on approval – always give applicant opportunity to discuss conditions that PB might want to add... for conditional zoning and CUP's: substantial evidence in the record must support conditions imposed by Village council; conditions that impose an exaction must be reasonably related and proportionate to impact of development.

What factors should PB take into consideration when making recommendations – staff recommendations; current Land Use and Future Land Use Plan; availability of utilities; thoroughfare plans; citizen concerns; statements of consistency; zoning and plans of neighboring jurisdictions; and what makes the most sense for Wesley Chapel in the long run.

Conflicts of interest – elected officials/PB – NC GS 160A-381(D) “An (elected official/planning board member) shall not vote/make a recommendation on any zoning map or text amendments where the outcome of the matter...is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member”. If you are present; and unless you are excused from voting (due to a conflict), and you do not vote, you have abstained; therefore you will be counted as having voted in favor of the motion that is on the table.

Rules of Procedure for PB must also be complied with. PB is subject to open meetings law, a quorum of three cannot talk outside a meeting.

4. Adjourn

Chuck Adams motioned to adjourn, David Boyce seconded the motion.
The motion passed unanimously.

The meeting adjourned at 8:58 pm.

Respectfully submitted,

Cheryl Bennett, Village Clerk

Chairman John Grexa