

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
WEDDINGTON TOWN HALL
OCTOBER 23, 2017 – 7:00 P.M.
MINUTES
PAGE 1 OF 11**

1. OPEN THE MEETING

Chairman Rob Dow called the meeting to order at 7:03 p.m.

2. DETERMINATION OF QUORUM/ADDITIONS OR DELETIONS TO THE AGENDA

Quorum was determined with Chairman Rob Dow, Board members Brad Prillaman, Barbara Harrison, Bruce Klink, Jim Vivian, and Gerry Hartman in attendance. Board member Walt Hogan was absent.

Staff present: Town Administrator/Planner Lisa Thompson and Town Clerk Karen Dewey

Visitors: Mayor Bill Deter, Pat Harrison, Mark Knowles, Mike Murphy, Marty Davis, Jessica Marinaccio

3. APPROVAL OF SEPTEMBER 25, 2017 REGULAR PLANNING BOARD MEETING MINUTES

Board member Harrison corrected her statement on page 4 of the minutes to read, “Board member Harrison *asked* for confirmation”

Board Member Hartman corrected his statement on page 2 of the minutes to read, “Board member Hartman *asked* the applicant to confirm that lighting would only be the two lanterns...” and “The Applicant stated that there is *additional* up lighting...” and on page 5, Board member Hartman also recommended that Board member Prillaman’s statement be moved to a more appropriate place in the discussion.

Motion: Board member Hartman made a motion to approve the September 25, 2017 Regular Planning Board Meeting Minutes as amended.
Second: Board member Harrison
Vote: The motion passed with a unanimous vote.

4. OLD BUSINESS

A. Review and Consideration of Final Plat, Phase 1 Map 1 for Harlow Crossing Subdivision (formerly Carrington Subdivision)

Ms. Thompson presented the staff report: M/I homes is seeking re-approval of their final plat application for 20 of their 71 lots on 117.64 acres located at the northeast and northwest corners of Weddington-Matthews Road and Beulah Church Road/Hemby Road intersection.

The Town Council approved the final plat application for Carrington phase 1; map 1 and 2 on June 12, 2017 with the following conditions:

- The emergency access road, gate, and fencing shall be constructed and maintained by the Carrington HOA consistent with the CCRs.
- Bond Estimates shall be approved by USI.
- Performance and Maintenance Agreements shall be reviewed by the Town Attorney.
- CCR's shall be reviewed by the town attorney.
- 15 evergreen trees, 8-10' tall shall be planted in the tree save area that was disturbed along the Waybridge Subdivision border. The plants shall be installed by January 2018 and approved by the Town Planner.
- The 500' line of site line shall be depicted on the final plat at both entrances.

Per Section 46-45(d)(16) of the Weddington Code of Ordinances - The approved final plat shall be filed within 90 days of approval; otherwise such approval shall be null and void, and the applicant subdividing must begin the procedure for approval from the sketch plan stage.

The applicant wasn't able to record the final plat within the timeframe given and is therefore seeking re-approval. The applicant is platting lots on the northwest side and utility easements on the northeast side.

Staff recommends approval with the conditions outlined above.

Board member Hartman asked about the vicinity map on page 5. It appears to be incorrectly shaded. Ms. Thompson confirmed that the vicinity map is shaded incorrectly.

Chairman Dow asked for confirmation on the plat being considered. The plans for consideration by the Planning Board should be phase 1 map 1, but page 5 is map 2.

The Applicant, Marty Davis, explained: Union County Public Work requires the easements recorded in a particular way. Ms. Thompson elaborated that the Planning Board is only considering phase 1, however the Applicant needs to record all of the maps for Union County Public Works. The Applicant stated that map 2 will be submitted to the Town for consideration in 30 to 60 days.

Chairman Dow stated that the Planning Board is not considering any lots, strictly easements on the east side. He asked if there were any other changes from the previously submitted and approved final plat.

Ms. Thompson responded that in the previous plat the area around the entrance was platted as conservation land, but it was approved as common open space. It is now platted as common open space and it still meets the conservation numbers.

- Motion:** Board member Hartman made a motion to forward the Final Plat Phase 1, Map 1 for Harlow Crossing Subdivision to the Town Council with a favorable recommendation with the following conditions:
- The emergency access road, gate, and fencing shall be constructed and maintained by HOA consistent with the CCRs.
 - Bond estimates shall be approved by USI.
 - Performance and Maintenance Agreements shall be reviewed by the Town Attorney.
 - CCRs shall be reviewed by the Town Attorney.
 - 15 evergreen trees, 8-10 feet tall shall be planted in the tree save area that was disturbed along the Waybridge Subdivision border. The plants shall be installed by January 2018 and approved by the Town Planner.
 - The 500 foot line of site line shall be depicted on the final plat at both entrances.
 - Correct the vicinity map on page 5 of the plat to reflect the correct area.
- Second:** Board member Harrison
- Vote:** The motion passed with a unanimous vote.

5. NEW BUSINESS

A. Review and Consideration for Weddington Swim and Racquet Club Amendment to the Conditional Use Permit for Additional Tennis Courts

Ms. Thompson presented the staff report:

Country Haven Swim and Racquet Club requests a Conditional Use Permit (CUP) amendment for an additional 2 tennis courts at Weddington Swim and Racquet Club located at 4315 Weddington-Matthews Road.

The applicant is proposing to add two lighted tennis courts. The new tennis courts will be located at the southeast corner (see Site Plan). These courts will be accessed by a new 5' sidewalk and surrounded by a 12 foot chain link fence

The proposed tennis courts comply with all minimum front, side and rear yard setbacks for an accessory structure in the R-40 zoning district as set forth in the *Town of Weddington Zoning Ordinance*.

Screening and landscaping will be provided using existing, mature vegetation currently on site. However a few trees will be taken down to accommodate the new courts.

The chain link fence surrounding the tennis courts will match the existing chain link fencing on site. The proposed fencing will be 12 feet high. *Town of Weddington Zoning Ordinance* specifically allows for fences to be greater than 8' high when surrounding a tennis court.

A Lighting Plan will be required and must meet the Town's Lighting Ordinance

The applicant is required 129 parking spaces per the *Town of Weddington Zoning Ordinance* and has provided 129 parking spaces including 4 handicap parking spaces; therefore complying with *Section 58-175* of the *Town of Weddington Zoning Ordinance*.

No new signage is proposed.

Staff recommends a favorable recommendation with the following conditions:

1. Lighting Plan must be provided and approved in accordance to Town of Weddington Lighting Ordinance;
2. An inspection report on the existing detention pond and calculations to show the pond can handle the additional impervious surface shall be required and approved by the town engineer.

Board member Prillaman asked if the courts surface would be clay or asphalt and if that would make an impact on the impervious surface. The applicant responded that the courts will be clay. Chairman Dow and Ms. Thompson stated that they believe impervious surface will be impacted no matter what the courts are constructed of.

Chairman Dow reviewed the survey and site map and asked for confirmation where the courts will be built. He also asked if all the existing courts are lit. The applicant responded that they are.

Board member Prillaman asked if the tennis court lights were subject to the same requirements as other CUP holders in Weddington. Applicant responded that the lighting requirement in the current CUP goes until 10:30 p.m. He also stated that play doesn't normally run that late, but there are timers on the lights that turn them off at 10:30 p.m.

Board member Prillaman expressed concern about removing trees, exposing the neighbors to the lights. He would like to see more landscaping.

Board member Klink asked the applicant if they would consider planting more for the buffer. The applicant responded that when they built the first tennis court addition, the Town asked for additional buffering. They planted about 20 Leland cypress that have grown to create a larger screen. If the Town were to ask for that again, it wouldn't be an issue, they would comply.

Board member Hartman expressed concern with the utility easement on the east side. That would have to be considered when planting the buffer. Ms. Thompson confirmed utility line runs right on the property line and there is space for additional buffering that will be in compliance with the town ordinance regarding planting near utility lines.

- Motion:** Board member Hartman made a motion to forward the Weddington Swim and Racquet Club Amendment to the Conditional Use Permit to the Town Council with a favorable recommendation with the conditions that the lighting is subject to the same restrictions as the current courts and applicant provides additional plant screening in the southeast corner of the property.
- Second:** Board member Prillaman
- Vote:** The motion passed with a unanimous vote.

B. Review and Consideration of Temporary Use Permit Application from Town of Weddington for Christmas Tree Lighting at Town Hall

Ms. Thompson presented the staff report:

The Town submitted an application for a Temporary Use Permit for the Annual Christmas Tree Lighting Event December 1, 2017 (December 2, rain date). The event is to be held at Weddington Town Hall and Dr. George Pinsak's property located at 1924 Weddington Road and 13653 Providence Road, respectively. The event will include performances by local school and church choirs. Two food trucks will provide food for purchase. The Town will provide cookies and hot chocolate. Two fire pits will be set up near the back parking lot. A seating area will be set up with folding chairs facing the side porch. The event will be from 5:00 p.m. – 8:00 p.m. with a tree lighting countdown between 6-6:15 p.m.

- Projected attendance is 500 persons.
- Security and traffic control will be provided by volunteers and one Union County Sheriff's Deputy.
- An event organizer application has been sent to Union County Environmental Health
- Two portable bathroom facilities and one hand wash facilities will be provided on-site.
- Portable trash cans will be provided.
- Most parking will occur on the Weddington Corners Shopping Center property. Some parking will take place at Dr. Pinsak's office building.
- Town staff contacted the owners and tenants about the event.
- Music will be provided by a DJ.

All adjoining property owners and properties within 200 feet have been notified in accordance with Section 58-13 of the *Town of Weddington Zoning Ordinance*.

Staff has reviewed the application and submitted documents and finds the Temporary Use Permit Application to be in compliance with Weddington's Zoning Ordinance and therefore recommends approval with the condition that the food trucks provide a certificate of insurance.

Board member Harrison asked about EMS or the fire department presence at the event. Ms. Thompson responded that Councilmember Propst has contacted emergency services. Board member Harrison also suggested that event organizers contact the doctor's office to confirm that the parking lot will be used for this event.

Findings of Fact:

- a. **The proposed temporary use will not materially endanger the public, health, welfare and safety.** The Planning Board unanimously agreed that with the presence of Off Duty Sheriff Deputies and the fire department, as well as holding liability insurance and environmental health permits for the food trucks, this finding of fact is true.
- b. **The proposed temporary use will not have a substantial negative effect on adjoining properties.** The Planning Board unanimously agreed that since the operating hours are within the noise ordinance guidelines and there will be no additional lighting, this finding of fact is true.
- c. **The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit.** The Planning Board unanimously agreed that this event, which will promote community and meets the intent of the land use plan, meets this finding of fact.
- d. **The proposed temporary use is held no more than four times (4) per year at any particular location.** The Planning Board unanimously agreed that this event, which will be held one time in December, meets this finding of fact.

Motion: Board member Harrison made a motion to approve the Temporary Use Permit Application from the Town of Weddington for the Christmas Tree Lighting with the following conditions:

- food trucks provide Certificates of Insurance,
- staff contact surrounding business owners regarding parking, and
- contact emergency services in accordance with the Temporary Use Permit requirements.

Second: Board member Klink

Vote: The motion passed with a unanimous vote.

C. Review and Consideration of Temporary Use Permit Application from The Independence Fund for Decade of Independence Celebration Event at Hunter Farm

Ms. Thompson presented the staff report: Ms. Jessica Marinaccio submitted an application for a Temporary Use Permit on behalf of The Independence Fund. The "Decade of Independence" event will be a celebration of the organization's tenth year of supportive services to the veteran community. The event is proposed at the Hunter Farm located at 13624 Providence Rd. on Saturday, November 19, 2017, from 2:00 pm-6:00 pm. The rain date will be Sunday, November 19, 2017, from 2:00 pm – 6:00 pm.

- Projected attendance is not to exceed 500 persons

- A copy of the Certificate of Liability Insurance is on file with the Town of Weddington (not yet completed-condition of approval).
- Application has been submitted to Union County Sheriff's office for review of traffic and crowd control (not yet completed-condition of approval).
- A Temporary Food Establishment Application from Union County Environmental Health has been approved. Planning Staff has copies on file.
- A Union County Mass Gathering Permit is not required per Union County Environmental Health. This event does not last more than six (6) hours, therefore it is not required a Mass Gathering Permit.
- The Department of Revenue Temporary Sales and Use ID is not required.
- Property owner Nancy Anderson has signed the Temporary Use Application.
- Off-duty Sheriff's Deputy provided by Union County Sheriff's Office
- Portable bathroom facilities will be used.
- Weddington United Methodist Church will be the main parking lot with overflow parking at Hunter Farm.
- Free standing lights will be used for the event and parking areas.
- The location for all proposed uses can be found on the Site Plan provided.
- The applicant has not applied for a TUP within the last year.

Board member Hartman asked about how the people will get from the parking lot at Weddington United Methodist Church to the farm. The applicant explained that there was a change in the application and the church lot is going to be a secondary lot and the back lot at the farm will be used as primary parking. There will be lights to illuminate the area between the back lot parking and where the event will be held.

Board member Harrison asked about the special ABC permits. The applicant explained that the brewery attending the event has a permit and the applicant will be getting a permit for the whisky that was donated to the event. Board member Harrison also asked about accessibility for disabled persons. The applicant confirmed that they are working on options for accessibility.

Chairman Dow asked if the applicant has permission to use the back entrance of the church lot. The applicant explained that they do have permission and in return, they are giving a donation to the church. Chairman Dow also asked about the temporary lights. The lights wouldn't meet town ordinance if it was permanent, can the temporary lights be approved? Ms. Thompson confirmed that the Town Council approves the temporary outdoor lighting.

Chairman Dow asked about the bands playing at the event. The Applicant stated that the band will be playing from 4:00 p.m. to 5:00 p.m. and the attendance was overestimated at 500, event planners are only expecting around 300 people.

Findings of Fact:

- a. **The proposed temporary use will not materially endanger the public health, welfare and safety.** The applicant stated that this is true because EMS will be present. The Planning Board unanimously agreed that, with the presence of Off Duty Sheriff

Deputies and volunteers aiding in traffic control, as well as holding all the required permits, this finding of fact is true.

- b. The proposed temporary use will not have a substantial negative effect on adjoining properties.** The applicant stated that this is true. The Planning Board unanimously agreed that, since the operating hours of this event are primarily afternoon and early evening, the band is acoustic, and the event is a relatively short duration, this finding of fact is true.
- c. The proposed temporary use is in harmony with the general purpose and intent of this chapter and preserves its spirit.** The applicant stated that this is true. The Planning Board unanimously agreed that this temporary use is in harmony with the Weddington Land Use Plan , this finding of fact is true.
- d. The proposed temporary use is held no more than four times per year at any particular location.** The applicant stated that this is true. The Planning Board unanimously agreed that this event is a onetime temporary use and therefore meets this finding of fact.

Motion: Board member Hartman made a motion to approve the Temporary Use Permit Application from The Independence Fund for A Decade of Independence Celebration Event at Hunter Farm with the conditions as follows:

- Applicant provides Certificates of Insurance to Town
- Applicant provides copies of required permits for alcoholic beverages
- Temporary Lighting will be approved by Town Council. Planning Board will forward recommendation that lights be off by 9:00 p.m.
- Emergency Medical Services will be present at the event.

Second: Board member Prillaman

Vote: The motion passed with a unanimous vote.

D. Discussion of NCDEQ Erosion Control by Town

Ms. Thompson presented the staff report.

An erosion and sediment control plan must be filed for any land disturbance of one acre or more at least 30 days before construction. The plan must be filed with the regional Land Quality Office of NCDEQ or a designated local erosion and sediment control program (the Town).

There are several reasons to control the loss of sediment from a site. Sediment is a pollutant and can destroy wildlife habitat. Sediment fills lakes and streams used for power generation, increasing the cost of electric power. Sediment can contain harmful chemicals and pollutants that are used on the land. Soil erosion removes the most valuable soils needed to grow plants and food; these soils cannot be replaced for generations.

Currently, the town has its own stormwater ordinance (which detains and controls the rate of water runoff from impervious surfaces), but erosion control is reviewed and permitted by the

State. When a subdivision application is filed, staff requires the applicant to provide an approved erosion control plan and approval letter from the State. The issue with the states' program is the enforcement. The Town has had several complaints about sediment issues while subdivisions are under construction. There seem to be delays in getting an inspector to the property (their regional office is in Mooresville) and to properly follow up with violation and citation notices.

This issue was brought to the Council last spring and a construction inspector was budgeted this FY17-18, for inspections once per week, but has not been utilized yet by staff. If the Town starts this inspection program, the inspector can be on site to help notify the state of any erosion control violations, but cannot perform any enforcement. By starting the inspection program, the Town can provide some preventative controls.

The other suggestion by staff is to have our own erosion control program. After speaking with the Raleigh office, staff understands that the Town can have its own program which includes fees, reviews, and inspections. The reviewer doesn't have to be certified. Speaking with our contract engineer, Bonnie Fisher, her office has the ability to conduct the reviews and inspections. If the Town decides to go this route the following steps need to occur:

1. Understand State Act and Model Ordinance
2. Document the need in community
3. Obtain local support
4. Develop local ordinance - technical assistance by land quality and legal review by Attorney General's office
5. Plan organization of local program including budget, fees, forms, equipment, personnel, engineer, and attorney
6. Adopt local government ordinance
7. Petition SCC for local delegation and ordinance approval
8. Implement program subject to State review

Staff recommends discussing the issues, and pros and cons be given to Town Council for their review and consideration of moving forward with either preventative controls or our own self-permitting program.

Board member Hartman asked if a report from an inspector engaged by the Town would be accepted by the State as something used to penalize violations. Ms. Thompson responded that it would not. The State would have to make its own inspection. He stated that if the State could take the report from the town inspector without making an inspection of their own, then town wouldn't need its own ordinance.

Ms. Thompson explained that a Town inspector could be enough to get a State inspector to come out, but wouldn't necessarily speed up the process. Board member Hartman suggested follow up with the state and find out if the state is able to cite violators based on reports given by the Town contract inspector.

Ms. Thompson stated that Waxhaw adopted it's own erosion control ordinance in December 2016. Staff will research how that is working out for Waxhaw.

Chairman Dow suggested looking at other towns that have tried to get the State to enforce the erosion control ordinance to see if they have found a way to leverage the state to enforce their own code. He stated that the Town's options are: to rely on the State, which isn't consistent with violations cited and following up; to adopt an ordinance for the Town to take over enforcement of erosion control, which adds another layer of government and opens the Town up for legal enforcement issues; or a third option as suggested by Board member Hartman.

Board member Hartman stated that the Town could use a hybrid of the two options. Find out if the State would consider citing a violator based on a report by the Town inspector. The problem Weddington is trying to solve is unresponsiveness from the State. Also, the Town doesn't want to get involved with the enforcement. This option of inspections on the Town's timetable and getting the State to cite the violators could be the best alternative.

Chairman Dow reviewed the action items:

- Reach out to Waxhaw and find out what their mechanism, process, and experience has been. He believes the Town would be interested in their litigation costs, if they've had enough experience to get to that point.
- Explore other towns' experiences with working with the State to enforce the erosion control program.
- Contact the Town Engineer and run the ideas past her. If she thinks it's worthwhile, then the Board will explore the possibility of helping the State open up the bottleneck at the Town's expense.

The Planning Board agreed with these courses of action. Chairman Dow stated that this is a technical issue and discussion will need to include the Town Engineer at some point. The Planning Board will explore the courses of action and revisit the issue before sending it to the Council.

6. UPDATE FROM TOWN PLANNER

Ms. Thompson updated the Planning Board on future projects.

- The Town received the final plat for the Graham Allen subdivision. It will go through the PRD process because the applicant is asking for private roads. Ms. Thompson agreed to confirm the size of the subdivision.
- The Council has contracted with Benchmark to complete a land use survey for the residents. The Planning Board will be asked to provide input on and to participate in a test run of the survey.

7. REPORT FROM THE OCTOBER TOWN COUNCIL MEETING

Ms. Thompson reviewed the actions from the October Town Council meeting.

- Weddington United Methodist Church Conditional Zoning Application for the columbarium approved
- Additional parking spaces for All Saints Anglican Church were approved, change in lighting agreement was denied.
- The Preliminary Plat/Construction Plans for the Canisteo Subdivision approved, and
- The Noise Ordinance adopted.

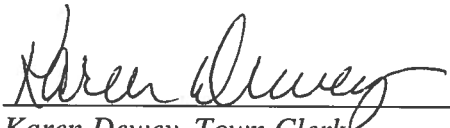
8. ADJOURNMENT

Motion: Board member Prillaman made a motion to adjourn the October 23, 2017 Regular Planning Board Meeting at 8:23 p.m.
Second: Board member Hartman
Vote: The motion passed with a unanimous vote.

Adopted: Nov 27, 2017



Robert Dow, Chairman



Karen Dewey, Town Clerk

