

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, AUGUST 23, 2010 - 7:00 P.M.
MINUTES**

The Planning Board of the Town of Weddington, North Carolina, met in a Regular Session in the Town Hall Council Chambers, 1924 Weddington Road, Weddington, NC 28104 on August 23, 2010 at 7:00 p.m., with Chairman Dorine Sharp presiding.

Present: Chairman Dorine Sharp, Vice-Chairman Rob Dow, Jack Steele, Scott Buzzard, Beth Masurat and Janice Propst and Town Planner Jordan Cook and Town Administrator/Clerk Amy McCollum

Absent: Jeff Perryman

Visitors: Caroline Coleman, Walker Davidson, Tom Wojcik, Bonnie Wojcik, Janet Fee, Paul Gross, Dick Douthwaite, Jane Douthwaite, Judy Jones and Werner Thomisser

Item No. 1. Open the Meeting. Chairman Dorine Sharp called to order the August 23, 2010 Regular Planning Board Meeting at 7:03 p.m.

Item No. 2. Determination of Quorum/Additions or Deletions to the Agenda. There was a quorum. There were no additions or deletions to the agenda.

Item No. 3. New Business.

A. Discussion of Development of Weddington Residential Open Burning Ordinance. The Planning Board received the following memo from Town Planner Cook and a packet of materials prepared by Tom and Bonnie Wojcik:

- The first page of the orange folder sums it up well. These citizens are asking for a public safety ordinance that limits the way residents burn yard waste. They have done a lot of work on the problem of debris burning in Weddington subdivisions. Much has been learned through extensive research, analysis, and meetings with experts in government, both locally and across the state.
- They've worked closely with Town Council members, staff, and Mayor Anderson to understand how best to develop and present options for solving the problem within the operating parameters of the Town to increase the probability of achieving consensus.
- The focus of a proposed ordinance is on residential lots and subdivisions and not on farms, where agricultural burning practices are guided by evolving standards coordinated through the Department of Agriculture and the NC Division of Air Quality.
- The handout folder contains a 2-page "*Early 1st Draft of an Ordinance*". It is a compendium of the attributes, deemed important and reasonable, that aim to manage homeowners' yard waste burning practices. They represent a distillation of research-based Best Practices, and are intended to serve as a menu of possible elements for consideration and inclusion in the text of an ordinance.
- North Carolina statutes provide our starting point; there are some critical and confounding elements that are best understood by discussion:
 - 1) The outdated "*100-ft. from occupied dwellings*" rule is now under review because it causes operational problems resulting from increasing movement of people into former wildlands.

2) North Carolina regulates air quality directly, but pushes down safety of open burning to the local level. Weddington neighbors (Stallings, Waxhaw, and Mecklenburg) have already acted.

- The citizens who've worked on this effort are deeply committed to solving this public safety problem with the goal of achieving a significant reduction of the hazards associated with open-burning of yard debris. They plan to continue dedicating their time and mental energy to this work for the benefit of Weddington.

Town Planner Cook - Several months ago, the Wojciks brought this subject up to the Town Council. At that time it was a full burning ban. The Town Council did not seem too receptive to the full burning ban and it was moved off of the agenda. A month or two went by and the Wojciks proposed what is before you tonight which is not a full burn ban but more of a Residential Open Burning Ordinance setting some guidelines and parameters to open burning. In July, the Council kicked this back to the Planning Board to determine the appropriateness of a burning ordinance.

Chairman Sharp - The memo that you have is comments from the Wojciks and was not drafted by Jordan. One of the things that I wanted to do with Jordan's help is to determine what is and what is not legal right now. Talking to Jordan and looking at the website for the Department of Forestry Services, it appears that if you are within 100 feet of a structure, then you come under the jurisdiction of the Union County Fire Marshal. If you are beyond 100 feet, but you are within 500 feet of a specific woodland area that is regulated by the State, then you have to get a permit to burn. Jordan, you talked with the Fire Marshal and he told you what the regulations were within 100 feet.

Town Planner Cook - One of the reasons that we are here tonight is that there is so much confusion regarding the regulations. I called the Union County Fire Marshal's Office today. The answer was 'yes' you need to get a permit but what are the parameters for getting a permit. Union County does not issue the permit. The Forestry Service does. It is an online permitting process. There are several different types of fires such as recreational, warming and heating. The individual that is burning is making the determination of what type of fire they have.

Chairman Sharp - I did go on Union County's website and looked up Union County Burning Permit. The only time that you have to get a permit is if you are within 500 feet of State protected woodlands. Jordan and I pulled up the State Statute and it states that this regulation shall not apply to fires started within 100 feet of an occupied dwelling house if such fire shall be confined within an enclosure from which burning material may not escape or within a protected area upon which a watch is being maintained and which is provided with adequate fire protection equipment. It appears that the current regulations only require a permit that does not apply to any place in Weddington and State regulations do not apply if you are within 100 feet of your dwelling. Waxhaw does not allow open burning at all but they do have a list of exceptions.

Vice-Chairman Dow - When you say there is no regulation for a fire within 100 feet of a residence, if the regulation is if it is a confined area and it is watched - that is part of the regulation. In other words if somebody lit a fire in their back yard and drove off it seems to me that you could call the Fire Department and they could be ticketed under the State regulations.

Chairman Sharp - I do not think they can unless the fire gets out of control.

Vice-Chairman Dow - But it is unattended and the regulations specify that the fire must be attended to.

Mr. Steele - Assuming that it is not in an enclosure. The way that I read it is that the regulations do not apply to any fire that is open burning more than 100 feet from the occupied dwelling. If it is within 100 feet of an occupied dwelling it either has to be within a self-contained enclosure or it has to be essentially watched by someone constantly with the approved equipment.

Vice-Chairman Dow - My point was that when you said there were no regulations for those fires - I wanted to point out that there is some regulation.

Chairman Sharp – The State Statute does allow municipalities to enact more stringent regulations. You received a copy of Stallings’ ordinance that does not allow any open burning within 100 feet of a structure. Waxhaw prohibits it completely with certain exceptions. Outdoor burning is prohibited in areas covered by code orange or code red air quality forecasts.

Vice-Chairman Dow - What you are saying Jordan is if it is within 100 feet and meets those exemptions of the State code then it is regulated by the County Fire Marshal.

Town Planner Cook - Their regulations are only through the Forestry Service. My conversation was that you are required to get a permit if the Forestry Service deems it necessary.

Mr. Buzzard – Who would write a permit if someone burns on a code orange day?

Vice-Chairman Dow - When the Fire Marshal has written tickets in the past what have they been for? How are they writing a ticket if they do not have the authority?

Chairman Sharp - Enforcement is always an issue in these matters. Based on what you have seen and read, do we want to pursue drafting some sort of regulation? Do we believe that the Town needs something like this? Do you need another month to digest the material and discuss further next month?

Ms. Masurat - I would personally like a little more time to review. I am wondering what brought this on. I see that there is a problem in this neighborhood. Has the Town received a lot of complaints?

Staff answered no.

Town Administrator/Clerk McCollum provided information submitted by the Wesley Chapel VFD and Providence VFD showing calls that they had responded to regarding open burning over the past 12 months.

A woman in the audience spoke and discussed the health issues surrounding burning.

Vice-Chairman Dow - There seems to be a hole in the regulations because the State covers within 500 feet of the woodlands and then they throw to the County regulations within 100 feet of a residence. There seems to be a disconnect when you go to the County Fire Marshal and find out what their authority is and what regulations they have.

Mr. Steele – I do not believe that they have any regulations other than what is stated in the statutes. You cannot burn within 100 feet unless you meet one of the two exceptions and then the State says that is all we are going to do.

Ms. Propst - I live on a farm and I feel that it is a different situation. A farm has to burn. I understand this for smaller properties and maybe Weddington should look at if you are on an acre lot. As a resident that lives on a large piece of property and has to maintain it, I have no other choice. I always have my hoses there. I always burn after a rain. I understand their dilemma. I think we should research further. I

actually talked with Barbara Harrison regarding Stratford on Providence and she said that she would be for a ban in neighborhoods because they have also had problems.

Mr. Buzzard – I am not sure if there is a huge need for it. I do not have a problem in our neighborhood. Moving it further from the house could potentially be a problem because then you are looking at 100+ feet of hose that you have to drag out and you are closer to the woods.

Vice-Chairman Dow - I think we need to look into it. We need to identify the problem a little better. Identify regulations and who has the authority and figure out with the Fire Department and the County on how we are going to enforce it.

Chairman Sharp - I am concerned if someone has a fire in their back yard and are doing everything right and one of the neighbors calls 911 and reports the fire - I do not want the Fire Department coming in the trucks if there is not a need for the trucks to run.

Vice-Chairman Dow - We need to find out exactly where the loops in this regulation are and to talk to someone with authority with the County because it seems to me if I lived on a lot and someone had a fire and drove off it seems like I could call someone because that is against regulations. Who would I call? I believe if we identify things like that we may be able to get a better grip on what we need and do not.

Chairman Sharp - Maybe we could put together some scenarios for the Fire Marshal.

Vice-Chairman Dow - It may even be that our code did not have to be as much a regulation but a reiteration of what the State requirements are. We cannot really tell at this point.

Mr. Steele - A total ban is not going to happen. This is something that we need to look into. We need to determine if it is a real problem in this community or just one person that has had a problem. If it is a community problem, then an ordinance is an appropriate way to deal with it.

Chairman Sharp asked that this item be placed on the agenda for next month and to continue to collect as much information as possible. She stated, "We can also look at other towns' ordinances to see what they have. Enforcement is one of the issues that we are going to have. Who would have authority to go on the property? We do not know what we need because we are not positive what we have yet. We need to know how to supplement and to make sure how to enforce the current regulations."

Item No. 4. Approval of Minutes.

A. June 28, 2010 Regular Planning Board Meeting Minutes. Mr. Steele moved to approve the June 28, 2010 Regular Planning Board Meeting minutes. Vice-Chairman Dow seconded the motion, with votes recorded as follows:

AYES:	Masurat, Propst, Buzzard, Steele and Vice-Chairman Dow
NAYS:	None

B. July 26, 2010 Regular Planning Board Meeting Minutes. Vice-Chairman Dow moved to approve the July 26, 2010 Regular Planning Board Meeting minutes. Mr. Steele seconded the motion, with votes recorded as follows:

AYES:	Masurat, Propst, Buzzard, Steele and Vice-Chairman Dow
NAYS:	None

Item No. 5. Old Business.

A. Review of Amendments to Land Use Plan Goals and Policies. The Planning Board received a copy of amendments to the Land Use Plan Goals and Policies. Chairman Sharp stated, “I took your comments from last month and made the recommended changes. I added under Future Land Use Categories wording for Educational District and Residential Established. Jordan and I will start looking at the entire Land Use Plan. We do not need to do anything with this document at this time until we have a complete revised Land Use Plan. We will start working on another section next month.”

B. Review and Consideration of Revisions to the Planning Board Rules of Procedure. The Planning Board received a copy of amendments to the Planning Board Rules of Procedure. Chairman Sharp reviewed changes to the document that were made since the last Planning Board Meeting. She stated, “Mr. Steele gave us input on the Conflict of Interest section. Also the Town Attorney advised that audio recordings are not required per the statute so all we need to say is that the secretary will take minutes of all meetings of the Planning Board.”

Mr. Steele asked that the following change be made:

A Board member who believes that he may have a conflict of interest shall declare the nature of the possible conflict of interest and ask for a determination by the remainder of **the** board.

Mr. Buzzard moved to adopt the revisions to the Planning Board Rules of Procedure. Ms. Masurat seconded the motion, with votes recorded as follows:

AYES:	Masurat, Propst, Buzzard, Steele and Vice-Chairman Dow
NAYS:	None

C. Review and Consideration of Text Amendments to Chapter 38, Article II of the Weddington Code of Ordinances – Planning Board. The Planning Board received a copy of the proposed text amendments to Chapter 38, Article II of the Weddington Code of Ordinances. Vice-Chairman Dow moved to send a favorable recommendation to the Town Council regarding proposed text amendments to Chapter 38, Article II of the Weddington Code of Ordinances. Mr. Buzzard seconded the motion, with votes recorded as follows:

AYES:	Masurat, Propst, Buzzard, Steele and Vice-Chairman Dow
NAYS:	None

Item No. 6. New Business.

A. Review and Consideration of Potters Creek Subdivision Entrance Sign. The Planning Board received the following memo from Town Planner Cook:

- The attached rendering is of the proposed Potters Creek Subdivision entrance sign.
- The proposed sign does comply with *Section 58-152 of the Town of Weddington Zoning Ordinance*.
- Per Section 58-9 of the *Town of Weddington Zoning Ordinance* the Planning Board is required to review and approve all subdivision entrance signs prior to construction.

The Planning Board received a drawing showing the proposed entrance sign for the Potters Creek Subdivision.

Town Planner Cook advised that the Planning Board had on their desk an updated rendering which showed the list of materials to be used. Town Planner Cook stated, “The sign will be lit from the ground and not internally lit and it is not located in the site triangle.”

Vice-Chairman Dow moved to approve the entrance sign for the Potters Creek Subdivision. Ms. Propst seconded the motion, with votes recorded as follows:

AYES: Masurat, Propst, Buzzard, Steele and Vice-Chairman Dow
NAYS: None

Item No. 7. Update from Town Planner. The Planning Board received the following update from Town Planner Cook:

- The Polivka MX Rezoning Application and Land Use Amendment was on the August 9, 2010 Town Council agenda for Public Hearing and Consideration. The Town Council denied the request to change the Land Use Plan from Traditional Residential to Business. The Town Council did not vote on the actual MX Rezoning portion of the project.
- The Carolina Thread Trail, Trust for Public Land and Steering Committee held four Listening Sessions several weeks ago throughout Union County. The Town of Weddington hosted one of these Sessions at the Weddington Swim and Racquet Club on Monday, July 19 from 6-8pm. Approximately 20 people attended the Session in Weddington. The Trust for Public Land will now begin creating a map with proposed trail locations. These trail locations will depend on the feedback from the four Listening Sessions.
- I have received an application for the Final Plat for the Annecy Subdivision. The project is currently on hold.
- I have received a recombination plat from Forest Lawn Cemetery. This plat would simply add a ten acre parcel to the existing 52 acre cemetery parcel. If Forest Lawn Cemetery wants to change the use of the ten acres, a CUP Amendment will be required.
- I have received a Variance application that will be on the September 27 Board of Adjustment agenda.
- All Weddstock events have occurred. The fourth event was permitted because the Text Amendment to Temporary Uses was approved at the August 9th Town Council meeting.
- The B-1(CD) and B-2(CD) Rezonings will take place after I have met with all property owners involved in the rezonings. Meetings with the property owners are currently being scheduled.
- The Town Council approved the following Text Amendment on August 9, 2010:
 - 1) Section 58-13 (3)-Temporary Structures and Uses
- The Town Council will hold a Public Hearing on the following Text Amendments on September 6, 2010:
 - 1) Section 46-76 (1)-Connection to Public Water Lines (Union County Public Works Director to attend this meeting)
 - 2) Section-58-15-Height Exemption

Item No. 8. Other Business.

A. Report from the August 9, 2010 Regular Town Council Meeting. The Planning Board received a copy of the August 9, 2010 Regular Town Council Meeting agenda as information.

Item No. 9. Adjournment. Vice-Chairman Dow moved to adjourn the August 23, 2010 Regular Planning Board Meeting. Mr. Steele seconded the motion, with votes recorded as follows:

AYES:	Masurat, Propst, Buzzard, Steele and Vice-Chairman Dow
NAYS:	None

The meeting adjourned at 8:17 p.m.

Dorine Sharp, Chairman

Attest:

Amy S. McCollum, Town Clerk