

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, SEPTEMBER 27, 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 September 27, 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, Jeff Perryman and Janice Propst and Town Planner Jordan Cook and Town Administrator/Clerk Amy McCollum

Absent: None

Visitors: Walker Davidson, Judy Jones, Janine Green, Werner Thomisser, Phyllis Pincus, Mike Davis and Brenda McLuskie

Item No. 1. Open the Meeting. Chairman Dorine Sharp called the September 27, 2010 Regular Planning Board Meeting to order at 7:06 p.m.

Item No. 2. Continue Meeting. Mr. Jeff Perryman moved to continue the Planning Board Meeting until the conclusion of the Special Board of Adjustment Meeting. Mr. Scott Buzzard seconded the motion, with votes recorded as follows:

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

Item No. 3. Reopen the Meeting. Chairman Sharp reopened the Regular Planning Board Meeting at 8:23 p.m.

Item No. 4. Determination of Quorum/Additions or Deletions to the Agenda. There was a quorum. There were no additions or deletions to the agenda.

Item No. 5. Approval of Minutes.

A. August 23, 2010 Regular Planning Board Meeting. Mr. Jack Steele moved to approve the August 23, 2010 Regular Planning Board Meeting minutes. Mr. Perryman seconded the motion, with votes recorded as follows:

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

Item No. 6. New Business.

A. Proposed Text Amendment regarding Miniature Horses and Yard Requirements for Miniature Horses. Town Planner Jordan Cook stated, "The Town of Weddington received a formal complaint on July 12, 2010 in regard to four horses on 2.48 acres. Our current code allows one horse per 40,000 square feet of contiguous fenced land and two horses on 80,000 square feet of contiguous fenced land. Two or more horses require five acres. A letter was sent to the homeowner on July 15, 2010. The purpose of this letter was to have the homeowner contact the Town regarding this complaint. It was discovered after several conversations and a site visit on August 3, 2010 that three of the four horses on the site were miniature horses weighing less than 350 pounds per a veterinarian's letter. A letter which I have attached

dated August 13, 2010 gave the homeowner the following options: to remove two horses to comply with the current code, propose a text amendment, or to appeal the Zoning Administrator's decision. The homeowner proposed a text amendment. I want to make sure that tonight we focus on the text amendment and not the citation. We have to determine if miniature horses need to be addressed in our current code and if we need to set any yard regulation sizes for how many miniature horses are allowed on a lot. If the Planning Board does determine that needs to be done, do you like the language that is proposed by the applicant or do we want to look at this?"

The Planning Board received a copy of the following

- A letter dated August 13, 2010 from Town Planner Cook to Ms. Judy Jones regarding Horses and Waste at 109 Oxford Terrace.
- Text regarding Horse Farms and Academies and Agricultural Uses.
- Packet of Information from Ms. Judy Jones regarding the following:
 - Rhode Island Court Ruling regarding miniature horses
 - Other municipalities which have amended zoning ordinances to address miniature horses
 - Description of a miniature horse as a pet, not a pony, horse or livestock
 - What is correct acreage for miniatures?
 - Proposed text amendment to address and accommodate miniature horses in Weddington
 - Weddington current Zoning Ordinance – Section 58-4
 - Veterinarian's Statements

The Planning Board reviewed the packet of information supplied by the applicant. Chairman Sharp discussed material that she had found today while researching the issue.

There was discussion from the Planning Board regarding why horse academies and horse farms were exempt from agricultural uses. Town Planner Cook advised that agricultural uses are allowed in residential zoning. The Planning Board felt that they needed to review the history behind agricultural uses to make sure the ordinance is consistent.

Vice-Chairman Dow - What number of miniature horses equals one horse as far as grazing, manure, wear and tear on the soil and land?

Chairman Sharp advised that the language crafted needs to be able to be applied evenly throughout the Town.

Ms. Jones – I can have two Clydesdale horses that weigh 3,000 pounds on my lot and I am legal.

Vice-Chairman Dow will work with Town Planner Cook on determining the following issues:

- Define what qualifies as a miniature horse.
- Do we need a minimum pasture size for a miniature horse?
- Within that minimum pasture size - what number or combination of miniature horses and adult horses will the Town permit?

Item No. 7. Old Business.

A. Discussion of Development of Weddington Residential Open Burning Ordinance. The Planning Board received the following:

- An excerpt from the July Regular Town Council Meeting regarding the Council's Discussion of Developing a Residential Open Burning Ordinance.

- A Draft Ordinance Regulating the Opening Burning of Yard Waste in the Corporate Town Limits
- A copy of Article 4C (NCGS 113-60.21) – Regulation of Open Fires
- A copy of Section .1900 – Open Burning from the North Carolina Administrative Code

Chairman Sharp reviewed the following language that she drafted regarding a residential open burning ordinance:

ORDINANCE REGULATING THE OPEN BURNING OF YARD WASTE IN THE CORPORATE TOWN LIMITS

WHEREAS, the Town Council of the Town of Weddington deems it to be in the best interest to protect the health, safety and welfare of the citizens of Weddington from fire hazards, it is necessary to regulate open burning in the Town.

THEREFORE, BE IT ORDAINED by the Weddington Town Council as follows:

Section 1. Definitions. The following words when used in this ordinance shall have the meanings ascribed to them in this section:

(A) “Open burning” means the burning of yard waste in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a chimney, or a permitted air pollution control device.

(B) “Yard waste” means any grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar materials which are generated in the maintenance of yards and gardens.

Section 2. Open Burning Regulations:

(A) A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted in accordance with North Carolina General Statutes 113-60.21 through 113-60.31 and 15A NCAC 2D .1901.

(B) Open burning must be constantly attended by an adult (age 18 or older) until after the fire is extinguished.

(C) This adult must have on-site fire extinguishing equipment such as dirt, water barrel, garden hose or water truck that is available for immediate use.

(D) Fires that are intended to clear undergrowth by running along the ground are prohibited, except when conducted under a directive from a state or federal government agency, such as the Forestry Service.

Section 3. Penalties and Remedies

(A) Civil penalties. Any law enforcement officer or the Town Administrator may issue a warning citation for a first offense of this ordinance. Any law enforcement officer or the Town Administrator may issue a civil citation for any subsequent violations of this ordinance, subjecting the violator to a civil penalty of \$200.00 for the second offense, \$300.00 for the third offense and \$500.00 for all subsequent offenses. If a person/corporation fails to pay the citation within ten days of issuance, the Town may seek to recover the penalty by filing a civil action in the nature of a debt.

(B) The Town may seek to enforce this ordinance through any appropriate equitable action.

(C) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(D) The Town may seek to enforce this ordinance by using any one or a combination of the foregoing remedies.

Section 4. Effective Date. This Ordinance shall be effective upon adoption.

Mr. Steele - Have we decided that we need to have an ordinance or regulations?

The Planning Board discussed that there have not been a lot of complaints relative to burning in the Town and reviewed the current State regulations.

Town Planner Cook - I was told by the Fire Marshal that they do not write tickets. They are a reporting agency only. I asked them who responds and what is done if a neighbor calls to report a fire. They said they can extinguish an unattended fire. They do not give a citation. The Fire Marshal can send a report to the North Carolina Air Quality Division if somebody is burning materials that they should not be. The Forestry Service is the only group that would issue a citation for burning outside of 100 feet.

Chairman Sharp discussed that there seems to not be an enforcement mechanism in place for fire violations.

Mr. Perryman moved to send the following motion to the Town Council:

We do not feel that an ordinance is necessary at this time. The Planning Board feels that the current State regulations and penalties are sufficient and a new Town ordinance is not warranted. We will readdress this ordinance in a year. Education of the State regulations should be sent in the newsletter and website.

Mr. Steele - I will be happy to take this item back up again for review if the Fire Marshal and Deputies advise us that there is a problem.

Mr. Perryman amended his motion to reflect that the Planning Board could review in the future if needed.

Chairman Sharp felt that the Town Council was going to want some type of language. Town Planner Cook will write a letter to the Council informing them of the Planning Board's motion.

Vice-Chairman Dow seconded the motion, with votes recorded as follows:

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

Item No. 8. Update from Town Planner. The Planning Board received the following update from Town Planner Cook:

- The Carolina Thread Trail, Trust for Public Land and Steering Committee held four Listening Sessions in July 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. Open House meetings will occur in mid October to discuss the proposed trail locations.

- 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 may be required. This project should be on the October 25th Planning Board agenda.
- A citizen proposed text amendment regarding a wedding chapel/destination may be on the October 25th Planning Board agenda.
- The B-1(CD) and B-2(CD) Rezoning will take place after I have met with all property owners involved in the rezonings. Meetings with the property owners are currently being scheduled.
- NCDOT has completed clearing vegetation for the access road behind Town Hall. The access road will connect the back of the shopping center to Weddington-Matthews Road. The entire project should be completed within three weeks.
- The Town Council approved the following Text Amendments on September 13, 2010: Section 46-76 (1)-Connection to Public Water Lines and Section-58-15-Height Exemption
- The Town Council will hold a Public Hearing on the following Text Amendment on October 11, 2010: Chapter 38, Article II-Planning Board.

Item No. 9. Other Business.

A. Report from the September 13, 2010 Regular Town Council Meeting. The Planning Board received a copy of the September 13, 2010 Regular Town Council Meeting agenda as information.

Item No. 10. Adjournment. Mr. Steele moved to adjourn the September 27, 2010 Regular Planning Board Meeting. Mr. Perryman seconded the motion, with votes recorded as follows:

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

The meeting adjourned at 9:44 p.m.

Dorine Sharp, Chairman

Attest:

Amy S. McCollum, Town Clerk