

**TOWN OF WEDDINGTON  
REGULAR PLANNING BOARD MEETING  
MONDAY, APRIL 23, 2012 - 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 April 23, 2012, with Chairman Dorine Sharp presiding.

Present: Chairman Dorine Sharp, Vice-Chairman Rob Dow, Jack Steele, Janice Propst, John Giattino, Jeff Perryman and Jim Vivian and Town Planner Jordan Cook and Town Administrator/Clerk Amy S. McCollum

Absent: None

Visitors: Barbara Harrison, Scott Swimmer and Harry Swimmer

**Item No. 1. Open the Meeting.** Chairman Dorine Sharp called the April 23, 2012 Regular Planning Board Meeting to order at 7:02 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. Approval of Minutes.**

**A. March 26, 2012 Regular Planning Board Meeting Minutes.** Mr. Jack Steele moved to approve the March 26, 2012 Regular Planning Board Meeting minutes. Ms. Janice Propst seconded the motion, with votes recorded as follows:

AYES:	Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow
NAYS:	None

**Item No. 4. Old Business.** There was no Old Business.

**Item No. 5. New Business.**

**A. Public Hearing – Review and Consideration of Temporary Use Permit for Drumstrong.** Chairman Sharp opened the public hearing to review and consider the temporary use permit request for Drumstrong. Town Administrator/Clerk Amy McCollum swore in the following individuals wishing to give testimony: Town Planner Cook and Mr. Scott Swimmer.

Town Planner Cook reviewed the following information with the Planning Board:

Mr. Scott Swimmer submits an application for a Temporary Use Permit for the 24 hour musical charity event titled Drumstrong. The event is to be held at Misty Meadows Farm located at 455 Providence Road South. The property is owned by Harry and Marilyn Swimmer.

**Application Information**

Date of Application: March 22, 2012

Applicant's Name: Scott Swimmer-Drumstrong

Property Owner's Name: Misty Meadows Farm (Harry and Marilyn Swimmer)

Parcel ID#: 06-153-314, 06-153-315, 06-153-026A and 06-153-026B

Property Location: 455 Providence Road South, Weddington, NC

Existing Zoning: R-CD

Existing Use: Single Family Home and Farm

Proposed Temporary Use: Drumstrong 24 Hour Musical Charity Event

Property Size: 81 Acres Total, Parcel 06-153-026B (as listed on application) is 45 acres

Event Hours: Starting Saturday, May 19 at 12:00 noon through Sunday, May 20, 2012 at 5:00 pm

**Additional information:**

- Projected attendance is 3,500 attendees, services available for as many as 5,000.
- A copy of the Certificate of Liability Insurance has been provided to Planning staff.
- The Mass Gathering Permit application has been sent to Union County Environmental Health and will be issued by the County on the day of the event. Staff (Christy Ford) at Union County Environmental Health has stated that they are reviewing the application with other county agencies.
- Security and traffic control will be provided by Union County Sheriff's Department. Confirmed by Union County Sheriff's Office.
- Fire (Providence VFD and Wesley Chapel VFD), EMS, ambulance and medical personnel will be on site for the duration of the event.
- Portable bathroom facilities will be provided on site. All sewage will be self-contained and removed by professionals. Trash receptacles and a dumpster will be on site.
- Union Power Company has provided permanent electrical service with two drops on Ennis Road. Backup generators and lighting will also be available.
- On site parking will be available for approximately 3,000 vehicles. Additional parking will be available at Meadows at Weddington, Hunter Farms and Weddington Baptist Church (approximately 2,000 additional spaces) with the property owner's written approval.
- Applicant will be allowed two temporary off-premises special event signs in accordance with *Section 58-151 of the Town of Weddington Zoning Ordinance*.
- The organizers have stated that all sound and lighting from the event will abide by all Town of Weddington Ordinances. Decibel levels and speaker placement will be monitored throughout the weekend.
- The applicant has received approval for a TUP since 2007 for the same event.

Staff has reviewed the application and submitted documents and finds the Temporary Use Permit Application to be in compliance with the *Town of Weddington's Zoning Ordinance* with the following conditions (all conditions taken from last year's TUP):

1. Receive Union County Mass Gathering Permit;
2. Receive Certification from Union County Health Department;
3. Need written permission from property owners if using off-site parking;
4. Amplification to be turned down from no later than 11:00pm on Saturday to 1:00pm on Sunday;
5. Saturday-Have at least two police officers present from 3:00pm to 8:00pm;
6. Sunday-Have at least two police officers present from 12 noon until officers no longer see a need to be there.

Applicant has provided written confirmation that they will comply with all aforementioned conditions of approval.

The Planning Board also received a copy of the following:

- Temporary Use Permit Application
- Checklist
- Project Narrative
- Site Plan

- Aerial Map
  - Zoning Map
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Town Planner Cook – Condition #6 states that on Sunday they will have at least two police officers present from 12 noon until officers no longer see a need to be there. I talked with Mr. Swimmer and he said that officers would not be needed on Sunday.

Mr. Steele – What does turn down mean?

Mr. Scott Swimmer - We completely eliminate the speaker amplification on stage to an acoustic volume. Regarding the officers, we have found in the past that there was not much of a crowd on Sunday. We have paid security on site throughout the full event. I have employed the Union County Sheriff's Office until midnight on Saturday when the big names come on stage because a lot of people are there just for that instead of staying and camping. Part of the on-site security that we will be hiring is capable of handling parking and traffic as well. UCSO would be available on call as well. We usually average 2,500 to 3,000 for the weekend. We have some good name artists coming this year and I would guess that is why we are estimating closer to 5,000. We are providing for 6,000 people.

Chairman Sharp advised that Town Planner Cook would handle the signage through the temporary use permit process.

Mr. Giattino - Usually bigger names means bigger trucks and logistics.

Mr. Swimmer – The traffic may be greater because of the bigger names but not the gear itself.

Chairman Sharp asked Mr. Swimmer the following Findings of Fact:

**Findings of Fact:**

The proposed temporary use will not materially endanger the public, health, welfare and safety. Mr. Swimmer – Yes, it will not. We have professional security for parking and traffic control on site at all times. Both local volunteer fire departments and Union County EMS will be on site or on call. We have sufficient port-a-johns and dumpsters will also be available.

The proposed temporary use will not have a substantial negative effect on adjoining properties. Mr. Swimmer – Yes, it will not. We have permission to park across the street and sound is under control.

The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit. Mr. Swimmer – Yes, it is. The event is growing globally and provides a significant benefit to the participants and the community as a whole.

The proposed temporary use is held no more than four (4) times per year at any particular location. Mr. Swimmer – The event occurs only once a year.

Chairman Sharp closed the public hearing.

The Planning Board discussed the issue with deputies not being in attendance on Sunday to help with traffic control. Mr. Steele advised that he has never witnessed an issue and Ms. Propst mentioned that there would be professional security on hand to step in if there is an issue. The Planning Board agreed to strike that condition. They also asked that a condition be included that approval of signs and banners by the Zoning Administrator would be a part of the temporary use permit.

Vice-Chairman Dow moved that the proposed temporary use will not materially endanger the public, health, welfare and safety due to all permits from the Health Department have been received, the necessary police presence for traffic would be available along with fire and EMS on site or on call and sufficient porta-johns and dumpsters would be available. All were in favor, with votes recorded as follows:

AYES: Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow  
NAYS: None

Vice-Chairman Dow moved that the proposed temporary use will not have a substantial negative effect on adjoining property owners because of the curtailed amplification from Saturday 11:00 p.m. to Sunday 1:00 p.m. and the permission from adjoining properties owners for off-site parking. All were in favor, with votes recorded as follows:

AYES: Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow  
NAYS: None

Vice-Chairman Dow moved that the proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit because the promotion of charitable events such as this is consistent with the purposes underlying the Town's ordinances. All were in favor, with votes recorded as follows:

AYES: Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow  
NAYS: None

Vice-Chairman Dow moved that the proposed temporary use is held no more than four times per year at any particular location and advised that it is only held once per year. All were in favor, with votes recorded as follows:

AYES: Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow  
NAYS: None

Vice-Chairman Dow moved to approve the temporary use permit for Drumstrong with the following conditions:

1. Receive Union County Mass Gathering Permit;
2. Receive Certification from Union County Health Department;
3. Need written permission from property owners if using off-site parking;
4. Amplification to be turned down from no later than 11:00pm on Saturday to 1:00pm on Sunday;
5. Saturday-Have at least two police officers present from 3:00pm to 8:00pm;
6. Approval of signs and banners by the Zoning Administrator

Mr. Giattino seconded the motion, with votes recorded as follows:

AYES: Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow  
NAYS: None

Mr. Swimmer - I want to invite the Town to be a part of the event by having a tent and by allowing Weddington families to be our guests. I have talked with individual neighbors that had questions and concerns. They had said their kids wanted to come and raise money. I would love for the Council to take an initiative that any funds that get raised through Weddington efforts be donated to their cancer charity of choice.

Members discussed that Mr. Swimmer would need to speak to the Town Council regarding his idea and that he may want to start earlier next year and get information in the Town's newsletter regarding the event.

Mr. Harry Swimmer discussed with the Planning Board his concern over the dangerous situation that he felt existed at the entrance of his farm and questioned whether the Town deputies could assist the day of the event. He discussed the number of accidents that have occurred at that location. Chairman Sharp advised that he would have to speak with the Town Council on this request.

**B. Review and Consideration of Subdivision Sales Sign Text Amendment.** Town Planner Cook reviewed the proposed text amendment with the Planning Board. He stated, "Both of these sections are new. This is for subdivision sales signs. I have received requests from several subdivisions for these signs and have told individuals that they are not permitted or allowed in the ordinance. No where in our ordinance do we actually mention these signs, but they are up everywhere. It is unfair to tell these new guys that they cannot have them up when Lake Forest, Brookhaven and Bromley have them up. We determined that if we are going to allow them, we need to come up with some type of regulations for them. I do think that it makes sense for these types of signs to be allowed."

Items discussed:

- Under the proposed text, subdivision sales signs would be allowed as long as 10% of the lots in the subdivision continue to be marketed for sale – Town Planner Cook advised that in some of the larger subdivisions 10% is still 20 lots remaining and felt that the language should be changed to 10% or 10 lots, whichever is less. Planning Board agreed to always round up in calculating the number of houses remaining.
- Town Planner Cook advised that not many of the existing signs will comply with the proposed regulations. He mentioned that he had given permits for approximately two signs recently and permitted them based on these proposed regulations.
- Signs are not to be lit.
- Should text include that signage be behind the right-of-way line and out of the site triangle.
- Chairman Sharp was concerned with developers adding items coming off of the signs such as additional banners, etc.
- Planning Board discussed what counts in the 20 square feet calculation. They discussed deciding the size of the sign including the supporting structure should mirror the shopping center freestanding signs language. Town Planner Cook advised that if appendages are added to the sign that does not comply with the permit he issues and he would send a violation letter to them.
- Town Planner Cook felt that the existing signs that were not permitted will be considered non-conforming signs and if the developer wanted to change their sign out, they have to conform to the new ordinance. Mr. Steele stated, "Non-conforming means that it was permissible under the ordinance at the time it was erected. It was not permitted at the time it was erected. There was no provision in the ordinance that allowed these signs to be constructed at the time. They were in violation." Planning Board felt that a letter could be sent stating that the Town did not allow the signs in the past but they are allowed now and what regulations they would need to follow to have a subdivision sales sign.

**The Planning Board made the following changes to the proposed amendment:**

**Subdivision Sales Signs-All New Text Below:**

**Section 58-4. - Definitions**

*Sign, subdivision sales*, means a sign located at the entrance of a subdivision, identifying lots and/or homes for sale during construction. Subdivision sales signs may be permitted only after **the** Final Plat is approved by the Town Council.

**Sec. 58-151. - Temporary signs.**

*Subdivision sales signs.* One subdivision sales sign per entrance shall be permitted and shall require a sign permit, valid for one year and renewable annually as long as 10% **(rounded up) or 10 lots whichever is less of the lots** (excluding septic and unbuildable lots) continue to be marketed for sale. Subdivision sales signs shall be no greater than 20 square feet **(including text and support structures)** in area and six feet in height, measured from grade, and must be located behind the right-of-way line at the subdivision entrance. No lighting of subdivision sales signs shall be permitted.

The Planning Board asked that Town Planner Cook draft the proposed amendment with the changes discussed and bring back to the Planning Board at its next meeting.

**C. Review and Consideration of Section 58-233 Variance Text Amendment.** Town Planner Cook reviewed the proposed text amendment with the Planning Board. Mr. Steele moved to send the text amendment to the Town Council with a favorable recommendation. Vice-Chairman Dow seconded the motion, with votes recorded as follows:

AYES: Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow  
NAYS: None

**Sec. 58-233. - Variances.**

- (a) Under no circumstances shall the board of adjustment grant a variance to allow a use of land or structures not permitted under the terms of this chapter in the district involved or for a use expressly, or by inference, prohibited in said district. No variances shall be granted by the board of adjustment for the following:
  - (1) Setbacks for signs and areas **and/or height** of signs.
  - (2) Setbacks for essential services, class III.
  - (3) To change the uses that are permitted on the property in question.No variance for setbacks shall be granted which allows the applicant to reduce the applicable setback by more than 50 percent.
- (b) The board of adjustment, before granting a variance, shall make the following findings based on substantial, competent and material evidence in the record before them:
  - (1) That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter. This shall be construed to mean:
    - a. If the property owner complies with the provision of this chapter, he can secure no reasonable return from, or make any reasonable use of his property;
    - b. The hardship results from the application of this chapter;
    - c. The hardship is suffered by the applicant's property;
    - d. The hardship is not the result of the applicant's own action; and
    - e. The hardship is peculiar to the applicant's property.
  - (2) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.
  - (3) That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done.

- (4) That the reasons set forth in the application and the hearing justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.
- (c) Any order of the board of adjustment in granting a variance shall expire if a zoning permit, or certificate of occupancy for such use if a zoning permit is not required, has not been obtained within one year from the date of the decision.

**Item No. 6. Update from Town Planner.** The Planning Board received the following update memo from Town Planner Cook:

- Construction of the NC 84 Weddington-Matthews Road Dual Lane Roundabout should begin this summer. NCDOT plans to begin construction as soon as schools are out. NCDOT is currently purchasing right-of-way. NCDOT asked the Town to donate 8,080 square feet (0.19 acres) of permanent right-of-way for the roundabout. NCDOT also needed 7,020 square feet (0.16 acres) of right-of-way for temporary construction easements. NCDOT estimates that the total 15,100 square feet (.35 acres) is worth approximately \$58,745. At the April 16 Special Council meeting the Town Council voted not to donate the right-of-way to NCDOT.
- NCDOT plans to start construction of the Weddington Church Road relocation in May. The project has been awarded to Boggs Paving. The project has been delayed because NCDOT plans to hold Public Involvement Meetings with the adjacent landowners this month.
- At their February 13<sup>th</sup> meeting the Town Council approved \$35,000 for additional median landscaping along Providence Road, Hemby Road and Rea Road. Councilman Thomisser, Councilwoman Harrison and I met with Union County Urban Forester David Grant on February 22<sup>nd</sup> to develop a plan. The Town sent an RFP to three area landscapers and will review the bids this week. The Town plans to have plantings done by May 15<sup>th</sup>.
- The Agritourism and Agricultural Use Definition text amendments were on the February 27<sup>th</sup> Planning Board agenda (both received a favorable recommendation). Town Attorney Anthony Fox determined that the Town Council can proceed with these text amendments and that they do not violate any State Statutes. These text amendments should be on the May 14<sup>th</sup> Town Council agenda.
- I sent the Town Council the 2002, 2006 and 2007 Town Surveys for their comments per their request at the March Planning Retreat. The Council will compile a list of questions from those previous three surveys to be included on a new survey as the first step in updating the Land Use Plan. Land Use Map amendments will follow the survey results.
- The Town Council called for the public hearing on the following text amendments at their April 2<sup>nd</sup> meeting:
  - Shopping Center Signs
  - Temporary Use Banners
- The following items may be on the May 28 Planning Board agenda for discussion:
  - Polivka Conditional Zoning Application
  - Stillwell Site RCD Subdivision Application
  - Continuation of Subdivision Sales Signs Text Amendment

The Planning Board discussed the Polivka Conditional Zoning Application process and expressed their concern on discussing the Land Use Plan amendment and rezoning the same night and felt that the hearing on whether the Land Use Plan should be amended for this parcel to be commercial should be discussed first without seeing any drawings on what is proposed. Town Planner Cook will discuss with the applicant the process. Planning Board asked that a text amendment be drafted to require that before an application can be submitted it must be in conformity with the existing Land Use Plan and for Mr. Cook to determine how long it would actually take to run through the process if it were handled separately.

**Item No. 7. Other Business.**

**A. Report from the April Town Council Meetings.** The Planning Board received copies of the April Town Council Meeting agendas as information.

**Item No. 8. Adjournment.** Vice-Chairman Dow moved to adjourn the April 23, 2012 Regular Planning Board Meeting. Mr. Perryman seconded the motion, with votes recorded as follows:

AYES:	Vivian, Perryman, Giattino, Propst, Steele and Vice-Chairman Dow
NAYS:	None

The meeting adjourned at 8:48 p.m.

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Dorine Sharp, Chairman

Attest:

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Amy S. McCollum, Town Clerk