



**TOWN OF MIDWAY
PLANNING & ZONING BOARD MINUTES
TUESDAY, AUGUST 25, 2015**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD JOINT MEETING WITH THE
TOWN OF MIDWAY TOWN COUNCIL HELD ON TUESDAY, AUGUST 25, 2015 AT 5:00 P.M.
IN THE CONFERENCE ROOM AT FAITH MISSIONARY ALLIANCE CHURCH, 1078
GUMTREE ROAD IN MIDWAY, NORTH CAROLINA**

CALL TO ORDER

Chairman Charles Waddell called the meeting to order.

Planning & Zoning Board members present were: Charles Waddell, Jackie Edwards, Jamie Hester (arrived at 5:05 p.m.), LeeAnn Thomas, Carl Tuttle, and Alternate James W. Smith. Absent: None.

Council present: Mayor Norman Wilkes and Town Councilors Keith Leonard, Mike McAlpine and Robin Moon. Absent: John Byrum and Todd Nifong

Town Planner Erin Burris, Town Manager Ryan Ross, and Town Clerk Linda Hunt were present.

APPROVAL OF MINUTES

On motion by Board member LeeAnn Thomas, seconded by Board member Carl Tuttle, the Board voted unanimously to approve the June 30, 2015 minutes as presented.

ADOPT AGENDA

On motion by Board member Jackie Edwards, seconded by Board member Carl Tuttle, the Board voted unanimously to adopt the agenda as presented.

PUBLIC COMMENT PERIOD

There were none.

PLANNING BOARD CASES

OTHER BUSINESS

LAND DEVELOPMENT ORDINANCE – JOINT MEETING WITH TOWN COUNCIL

ACTION REQUESTED BY TOWN COUNCIL

The Planning Board recommended approval of the proposed Ordinance on 4-1 vote. The Town Council is requested to set and hold public hearing on October 5 to consider proposed Land Development Ordinance. Following the public hearing, the Town Council is requested to take one of the following actions:

- **Adopt:** The Town Council finds that the proposed Land Development Ordinance and associated Zoning Map are consistent with the Land Use Plan and other applicable plans and policies of the Town of Midway.
- **Adopt with Changes:** The Town Council finds that the proposed Land Development Ordinance and associated Zoning Map are not fully consistent with the Land Use Plan and other applicable plans and policies of the Town of Midway, but the changes and conditions agreed upon will make it fully consistent.
- **Deny:** The Town Council finds that the proposed Land Development Ordinance and associated Zoning Map are not consistent with the Land Use Plan and other applicable plans and policies of the Midway.
- **Defer:** The proposed Land Development Ordinance and associated Zoning Map need additional consideration.

REQUIRED VOTES TO PASS REQUESTED ACTION

A majority vote is required to pass the requested action.

BACKGROUND

Benchmark Planning has worked with the Planning Board since 2012 to draft the proposed Land Development Ordinance. This Ordinance is intended to combine and update the previous Zoning and Subdivision Ordinances, incorporate the Flood Damage Prevention Ordinance, and implement several of the strategies of the adopted Midway Land Use Plan and Highway 52 Corridor Plan.

The primary reason the text of the LDO has been proposed as a unit rather than as individual sections is to avoid contradiction in regulation and produce a cohesive, user-friendly document. Whenever an ordinance is amended in pieces to achieve the amount of reorganization and strategy implementation that this ordinance was intended to achieve, the ordinance becomes disjointed, contradictory, and difficult to use. When amended and reviewed comprehensively, these problems are avoided.

The total length of the draft LDO is 225 pages including tables of contents at the beginning and before each chapter. The length of the previous Zoning Ordinance is 127 pages. The length of the previous Subdivision Ordinance is 28 pages. The length of the previous Flood Damage Prevention Ordinance is 22 pages. This is a total of 177 pages. Most of the additional length of the draft LDO can be accounted for with indented formatting, larger page headers and footers, pictures, diagrams, definitions, tables, charts and more in depth explanations than were in the previous ordinances. These changes have made the ordinance more user-friendly and provide Town staff and boards with the tools necessary to do their jobs.

Below is a summary of the major changes that the LDO has included that are different from previous regulations:

Formatting Changes

- **Organization-**The updated LDO is organized into 17 chapters:
 - Article 1: General Provisions
 - Article 2: Administration
 - Article 3: Zoning Districts
 - Article 4: Zoning District Standards
 - Article 5: Use Standards
 - Article 6: General Use Standards
 - Article 7: Landscaping and Buffering Standards
 - Article 8: Tree Preservation & Protection Standards
 - Article 9: Parking Standards
 - Article 10: Sign Standards

- Article 11: Subdivision Standards
 - Article 12: Watershed Protection Overlay
 - Article 13: Flood Damage Prevention
 - Article 14: Review and Approval Procedures
 - Article 15: Enforcement
 - Article 16: Nonconformities
 - Article 17: Definitions
 - Appendices
- **Tables, Diagrams, and Photos:** Detailed items that were formerly only in text format have been placed into tables and/or are described with diagrams or photos for clarity.

Regulatory Changes

Article 1: General Provisions

There are no major changes to current regulations contained within Chapter 1.

Article 2: Administration

- The regulations of Article 2 have been updated to reflect recent legislative changes to the North Carolina General Statutes regarding the Board of Adjustment.
- The Board of Adjustment reviews newly added Certificates of Nonconformity Adjustment.
- Instead of requiring Planning Board Review and Town Council approval, Major Subdivision Final Plats and Minor Subdivisions can be approved administratively.

Mayor Pro Tem Mike McAlpine referenced Table 2-1: Summary of Review and Approval Authority which summarizes review and approval authority under this Ordinance and questioned the Planning Board not being involved with the decision-making process for subdivisions. Ms. Burris explained that subdivisions must meet certain standards as set out in Article 11 of the Ordinance and if those standards are met, the Ordinance Administrator having final approval authority will expedite the process and avoid delays.

Article 3: Zoning Districts

- The RA-1, RA-2, and RA-3 districts have been combined. These districts had very little regulatory differentiation.
- District abbreviations have been changed to reflect the name of the district. For example, instead of RM-1, the Medium Density Residential district will be abbreviated RM.
- The HI district has been removed from the text. This would require rezoning notification for the two small existing HI districts. The uses permitted in the HI district were not appropriate for the Town of Midway.
- Conditional Zoning districts have replaced the previous Conditional Use Districts. Conditional zoning is a legislative process, whereas Conditional Use Districts follow a quasi-judicial process.
- An updated Zoning Map has been provided to reflect these changes. Adoption of the LDO includes adoption of the updated Zoning Map.

Regarding the elimination of the HI district, Ms. Burris pointed that currently the Town only has approximately 10 parcels that are zoned HI and she briefly explained what the process would involve in rezoning the property to LI. Ms. Burris is to furnish the Council a complete list of the parcels currently zoned HI. Planning Board Alternate Member James Wayne Smith recommended contacting the owners that would be affected by the change in zoning before the change is made.

Mayor Pro Tem Mike McAlpine said he had spoken with Guy Cornman, Davidson County Planning and Zoning Director, about the proposed new zoning districts and asked him about any potential problems this could create for the County and what impact the changes might have on Midway residents.

Ms. Burris said that she would provide Davidson County with the new maps and zoning information they would need for their records.

Article 4: Zoning District Standards

- The minimum lot sizes and setbacks for each residential district have been changed to reflect the densities set forth in the statements of intent for each district. Minimum lot sizes step down in 10,000 square foot increments from 40,000 square feet (approximately 1 dwelling unit an acre) for the RA district down to 10,000 square feet (approximately 4 dwelling units an acre) for the High Density Residential District.
- Additional standards have been added for duplex and multi-family residential densities.
- Non-residential lot sizes have been differentiated and increased from residential lot sizes and setbacks in residential districts to increase the distance between non-residential and residential uses.
- A cluster development option has been added to allow for the clustering of residential units at the same overall development density with the provision of open space.
- Core Commercial Overlay standards have been carried over to the proposed LDO, but certain requirements like sign standards have been moved to the appropriate Article to avoid confusion or contradiction. CC-O building design standards have also been carried over from the proposed LDO, but are now illustrated to convey what the text is saying.

Referencing Table 4-2 – Minimum Dimensional Standards for Duplex Dwellings, Mayor Pro Tem Mike McAlpine questioned if 60,000 square feet is too large for RL (Low Density Residential).

Article 5: Use Regulations

- The Table of Permitted Uses has been updated to omit uses that are not appropriate in the Town or in certain zoning districts. It has also been updated with uses consolidated into broader categories to allow for a mixture of compatible uses within certain districts.
- Standards for Accessory Uses, Temporary Uses, and Manufactured Homes have been added.

Mayor Pro Tem Mike McAlpine commented that he would have to look at home occupations a little further. (Section 5.7 Accessory Use Regulations). Ms. Burris said they are standard regulations.

Article 6: General Use Standards

- Requirements for fences and walls have been added.
- All outdoor storage, dumpsters, loading areas, and mechanical equipment must be screened from view.
- Standards for outdoor display of merchandise, outdoor lighting, and driveways have been added.

Article 7: Landscaping and Buffering Standards

- Landscaping requirements have been categorized into four types: buffer, parking, building, and residential.
- Buffer yards are required between residential and non-residential districts and uses.
- Building yards are required between buildings and parking areas.
- Parking lot yards are required within and around parking areas.
- Street yards are required between developments and the street.

Article 8: Tree Preservation and Protection

- Optional incentives are provided to encourage the preservation of existing trees.

Article 9: Parking Standards

- Paved parking is required for all uses with more than 5 parking spaces except for single-family residential, two-family residential, overflow parking and special events. All uses (except single-family and two-family residential) in the Core Commercial Overlay shall be paved.
- Parking cannot back directly onto a street to improve safety.
- A minimum parking requirements table that matches the Table of Permitted Uses has been provided.
- Pedestrian and bicycle amenities must be provided for large scale parking lots.
- Loading areas must be provided based on the size and use of non-residential development.

Article 10: Signs

- Temporary signage is limited.
- Permanent signage has to fit into one of the following depicted categories: monument, encased pole, arm, multi-tenant pylon, wall, projecting, canopy, or awning.
- Sign size is regulated by district and is on a sliding scale based on building size or number of tenants.
- The maximum sign height in the HC Highway Commercial district is 15 feet for a multi-tenant pylon sign.
- Additional sign standards apply to electronic message boards and signs located within the Core Commercial Overlay.

Mayor Norman Wilkes asked if government signs are exempt. Ms. Burris responded that as proposed, they are exempt.

Planning Board member Jamie Hester commented that the sign regulations do provide for more uniformity.

Mayor Pro Tem Mike McAlpine stated that Council had talked about only using monument signs. Ms. Burris responded that the sign regulations do allow more flexibility.

Article 11: Subdivision Standards

- Minimum infrastructure standards have been provided for major subdivisions.
- Sidewalks are required along one side of new collector streets.

Article 12: Watershed Protection

The standards of this section are based on the state model ordinance. To fully implement the model ordinance, an additional text amendment will need to be completed at a later date after special intensity (10/70) allocation has been granted by Davidson County.

Article 13: Flood Damage Prevention

The standards of this section are based on the state model ordinance. These provisions are enforced for Midway by Davidson County as part of the approved interlocal agreement.

Article 14: Review and Approval Procedures

- Clear procedures for the review and approval of requests have been set forth.
- Notification and approval requirements meet all current General Statutes.
- Instead of requiring Planning Board Review and Town Council approval, Major Subdivision Final Plats and Minor Subdivisions can be approved administratively.
- Procedures have been added for the review of Certificates of Nonconformity Adjustment by the Board of Adjustment.

Article 15: Enforcement

- Procedures for the enforcement of the LDO are clearly set forth.

- Civil penalties have a graduated scale depending on the number of infractions.

Ms. Burris noted that the civil penalties as outlined in this Article apply to the Land Development Ordinance only.

Article 16: Nonconformities

- Provisions for the treatment of nonconforming uses, lots, and signs have been updated.
- Nonconforming signs are to be amortized over a period of 5 years.
- The provision for a Certificate of Nonconformity Adjustment has been added.

Article 17: Definitions

- Definitions have been added to coordinate with the new Table of Permitted Uses and other new terminology.

Appendices

Labeling standards for subdivision plats have been added.

Relevant Midway Plans

The Town of Midway Land Use Plan sets forth the following goals and strategies in relationship to the proposed LDO:

1. The Town will adopt land use policies and regulations that support and maintain the area's rural character by encouraging balanced growth and the preservation of agricultural land and open space.
2. Incorporate minimum open space requirements into zoning and subdivision regulations.
3. Provide incentives for development proposals that provide more than the required amount of open space or utilize innovative design techniques to enhance their compatibility with the rural character of the Town.
4. Adhere to policies that encourage development in areas that have the infrastructure and environmental capacity to absorb the growth without significantly impacting the character of the area.
5. Ensure that development regulations that support the vision of the US 52 Corridor plan are applied throughout the Town's core commercial area.
6. Adopt and enforce zoning regulations that require adequate buffering between land uses of differing intensity, such as residential and commercial development.
7. Carefully evaluate development proposals and zoning map amendments to ensure that residential areas are appropriately protected from land uses that may not be compatible, such as a new industrial use being located next to a residential area without any consideration to negative impacts including noise, dust, odor and traffic.
8. Adopt regulations that require context sensitive design standards to ensure that infill development and nonresidential development on the fringes of residential neighborhoods are compatible with the surrounding development pattern.
9. Adopt general commercial design standards that address the appearance of commercial structures to ensure that they are compatible with the Town's character.
10. Adopt performance based development standards that provide for landscaping and screening that enhances the appearance of both new and redeveloped commercial properties.
11. Utilize site plan review procedures that ensure that new development is in full compliance with all Town ordinances and regulations.
12. Use the transactional leverage afforded the Town through conditional zoning to negotiate the highest quality development possible when appropriate.
13. Provide incentives for commercial development that exceeds the minimum performance standards in the ordinance.
14. Encourage the use of conservation development techniques to incentivize the implementation of development techniques that have the least amount of impact on the environment.

15. Review zoning and development proposals to ensure that incompatible development does not encroach into areas around working farms.
16. Adopt regulations to preserve trees in connection with development.
17. Ensure that proper development review procedures are in place to ensure compliance with state mandated watershed protection rules.
18. Adopt access management standards that limit curb cuts along major roads and require the separation of driveways from each other and street intersections.
19. Zoning districts should follow the Future Land Use Map.

The US Highway 52 Corridor Plan has multiple recommendations that were implemented with the adoption of the Core Commercial Overlay. These standards have been carried over from the previous Zoning Ordinance. Additional sign standards have been added to further the implementation of this plan.

Staff Recommendation

Staff finds that the proposed Land Development Ordinance (LDO) and associated Zoning Map amendments are consistent with the adopted Land Use Plan and Highway 52 Plan. Staff recommends adoption of the LDO and its associated Zoning Map.

For review and discussion only. No action taken.

PLANNING AND ZONING

June, July, August 2015 Reports

A. ZONING PERMIT ACTIVITY						
Permit #	Date	PIN	ADD. #	Street Name	Permit Description	Applicant
Z-2015-06	6/1/2015	6840-01-09-9165	219	Terri Drive	Interior upfit-single-family residential	Benjamin McDonald
Z-2015-07	6/9/2015	6831-04-70=8144	11141	Old US Highway 52	Waiver for Suite 8 – Dry Cleaners	Renee Lopez
Z-2015-08	7/1/2015	6841-01-29-3126	230	Hayes Road	New single-family residential home	Scott Smith
Z-2015-09	7/7/2015	6831-02-98-5135	832	Dixie Club Road	Accessory Structure – enclosed carport	Michael Lambeth
Z-2015-10	7/10/2015	6840-01-29-8926	152	Tro-Tod Drive	Waiver for roof – mounted solar panels	Energy Conservation Solutions
Z-2015-11	7/11/2015	6831-03-31-3765	430	Hartman Road	New single-family residential home	Jacob Wilkes
Z-2015-12	8/6/2015	6831-03-24-0111	129	North Wind Drive	New single-family residential home	Richard DeHart
Z-2015-13	8/11/2015	6841-04-63-1726	185	O’Farrell Street	Deck addition	Eddie Trent of AKR Builders

B. CODE ENFORCEMENT

Case Number	Date Issued	Address	Violation	Action	Status
V-2015-01	1-15-2015	10693 Old US Highway 52	Unscreened outdoor storage	Notice of Violation	Abated
V-2015-02	2-19-2015 & 3-10-2015	759 Norman Shoaf Road	Unscreened outdoor storage, more than 4 yard sales	Notice of Violation	Abated
V-2015-03 & 07	2-23-2015 & 4-30-15	376 Midbrook Run	Unscreened outdoor storage, junk vehicle, high grass, possible unsafe structure	Notice of Violation	Partially abated
V-2015-04	3-2-2015	145 Woodfield Drive	Junk vehicles	Notice of Violation	Partially abated
V-2015-05	3-31-2015	11241 Old US Highway 52	Dilapidated fence	Notice of Violation	Abated
V-2015-06	4-21-2015 & 5-19-2015	201 Paint Horse Trail	Unpermitted carport over property line	Notice of Violation and Civil Citation	Car port moved, need permit
V-2015-08	4-30-2015	154 Livengood Drive	Unpermitted carport over property line	Notice of Violation	Partially abated
V-2015-09	4-30-2015	175 Baxter Drive	Possible illegal business, junk vehicles, outdoor storage, unpermitted accessory structure	Notice of Violation	Partially abated
V-2015-10	4-30-2015	254 Baxter Drive	Debris, outdoor storage	Notice of Violation	Abated
V-2015-11	4-30-2015	261 Baxter Drive	Possible illegal business, outdoor storage, junk vehicles	Notice of Violation	Partially Abated
V-2015-12	5-12-2015	156 Bobby Willard Road	Noxious growth, debris, possible unsafe structure	Notice of Violation	No Action, Attorney Contacted
V-2015-13	5-12-2015 & 7-28-2015	146 Bobby Willard Road	Noxious growth, debris, possible unsafe structure	Notice of Violation	No Action
V-2015-14	5-12-2015 & 7-28-2015	210 Bobby Willard Road	Noxious growth	Notice of Violation	No Action, Notice Returned
V-2015-15	5-12-2015	254 Bobby Willard Road	Unscreened outdoor storage, junk vehicles	Notice of Violation	Abated
V-2015-16	5-19-2015 & 7-14-2015	7990 Old Lexington Road	Unscreened outdoor storage, junk vehicles	Notice of Violation	No Action
V-2015-17	5-19-2015	7970 Old Lexington Road	Unscreened outdoor storage,	Notice of Violation	Abated

			junk vehicles		
V-2015-18	6-9-2015	1718 Hickory Tree Road	Use of RV for residential purposes	Notice of Violation	After investigation, no one is living in RV. Awaiting residential zoning permit application for new house.
V-2015-19	7-14-2015	155 Lee Street	Unscreened outdoor storage	Notice of Violation	No action
V-2015-20	7-14-2015	273 Livengood Drive	Junk vehicles, noxious growth	Notice of Violation	Partial abatement

PLANNING BOARD

There were none.

ADJOURNMENT

On motion by Board member LeeAnn Thomas, seconded by Board member Jackie Edwards, the Board voted unanimously to adjourn the meeting.

Linda A. Hunt, Town Clerk

Charles Waddell, Chairperson