

**TOWN OF MIDWAY
PLANNING AND ZONING BOARD/BOARD OF ADJUSTMENT
MINUTES
SEPTEMBER 27, 2011 – 5:00 P.M.**

CALL TO ORDER

Planning and Zoning Board Chairman Lynn Griggs called the meeting to order.

Planning and Zoning Board members present were: Lynn Griggs, Jackie Edwards, Sue Stephens, LeeAnn Thomas (arrived at 5:10 p.m.), and Charles Waddell. Absent: None. Town Administrator Ryan Ross, Town Clerk Linda Hunt, and Planning and Zoning Consultant Vagn Hansen of Benchmark CMR, Inc. were present.

PUBLIC COMMENT

There were none.

APPROVAL OF MINUTES

On motion by Board member Charles Waddell, seconded by Board member Jackie Edwards, the Board voted unanimously to approve the minutes of the August 30, 2011 meeting as presented.

ADOPT AGENDA

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

PLANNING BOARD CASES

There were none.

OTHER BUSINESS

INTRODUCTION OF FIRST DRAFT OF ARTICLES 1-5 OF PROPOSED TOWN OF MIDWAY LAND USE AND DEVELOPMENT ORDINANCE

Planning Consultant Vagn Hansen presented copies of the first draft of Articles 1-5 of the proposed Town of Midway Land Use and Development Ordinance to the Board. Mr. Hansen outlined and highlighted certain areas of the Articles with the Board as follows:

ARTICLE 1 – GENERAL PROVISIONS

1.1 Title

This document shall officially be known as the “Land Use and Development Ordinance of the Town of Midway, North Carolina” and may be referred to throughout the document as the “LUDO” or the “Ordinance”.

1.2 Authority

This Ordinance consolidates the Town’s land use regulatory authority as authorized by the North Carolina General Statutes, and is adopted pursuant to the authority granted to the Town of Midway by Chapter 160A, Article 19, of the North Carolina General Statutes.

1.3 Effective Date

1.4 Applicability and Jurisdiction

1.4.1 General Applicability

The provisions of this Ordinance shall apply to the use and development of all land within the corporate limits of the Town of Midway, North Carolina unless such use or development is expressly exempted by a specific Section or Subsection of this Ordinance.

1.5 Purpose and Intent

The purpose of this Ordinance is to protect the health, safety, and general welfare of the citizens of the Town of Midway.

1.6 General Rules of Interpretation

1.7 Conflicting Provisions

1.8 Official Zoning Map

1.8.1 General

The Official Zoning Map designates the location and boundaries of the zoning districts established by this Ordinance. The Official Zoning Map shall be kept on file in the office of the Town Clerk, and is available for public inspection during normal business hours. The official version of the map shall be certified by the Mayor, Town Clerk and Ordinance Administrator. It shall be the final authority as to the status of the current zoning district classification of land within the Town's jurisdiction, and shall only be amended in accordance with the provisions of this Ordinance.

1.9 Transitional Provisions

1.10 Severability

Should any Article, Section, clause, phrase or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction of either the State of North Carolina or the United States, such decision does not affect, impair or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

ARTICLE 2 - ADMINISTRATION

2.1.1 Administrative Bodies

The following elected and appointed bodies and Town staff members shall have powers and responsibilities in administering this Ordinance and for reviewing and making decisions on applications for development approval, appeals and amendments to the Ordinance:

- (A) Town Council
- (B) Planning Board
- (C) Board of Adjustment
- (D) Ordinance Administrator

2.1.2 Organization

With the exception of the Town Council, each of the Boards provided for by this Ordinance must adopt rules and maintain records in conformance with the following:

- (A) Rules of Conduct

- (B) Conformance of Rules
- (C) Election and Terms of Officers
- (D) Record of Meetings
- (E) Temporary Disqualification
- 2.2 Town Council**
 - 2.2.1 Unless specifically modified in this Ordinance, the Town Council must conform to the rules and procedures that it utilizes during the conduct of its regular business.
 - 2.2.2 Powers and Duties
- 2.3 Planning Board**
 - 2.3.1 Authority and Establishment
 - The Town of Midway Planning Board is hereby established pursuant to the authority of NCGS 160A-361.
 - 2.3.2 Membership and Term of Appointment
 - 2.3.3 Quorum
 - 2.3.4 Powers and Duties
 - 2.3.5 Voting
- 2.4 Board of Adjustment**
 - 2.4.1 Authority and Establishment
 - 2.4.2 Membership
 - 2.4.3 Quorum
 - 2.4.4 Powers and Duties
- 2.5 Ordinance Administrator**
 - 2.5.1 Appointment
 - 2.5.2 Powers and Duties
- 2.6 Summary of Review and Approval Authority**

ARTICLE 3 – REVIEW AND APPROVAL PROCEDURES

- 3.1 Common Review Procedures**
 - 3.1.1 Authority to File Applications
 - (A) General
 - (B) Applicant not the Owner
 - 3.1.2 Application Content
 - 3.1.3 Fees
 - 3.1.4 Submission and Review Schedule
 - 3.1.5 Application Submission
 - 3.1.6 Determination of Completeness
 - 3.1.7 Final Approval by the Ordinance Administrator
 - 3.1.8 Preparation of Staff Report
 - 3.1.9 Public Hearings
 - 3.1.10 Public Notification
 - 3.1.11 Conditions of Approval
 - 3.1.12 Deferral of Application
 - 3.1.13 Changes to Applications
 - 3.1.14 Withdrawal of Application
 - 3.1.15 Lapse of Approval

3.1.16 Examination of Application and Supporting Documents

3.2 Standards, Procedures and Requirements

This Section includes the review procedures, standards and related information for each of the development application procedures as summarized in Table 2-1, Review and Decision Responsibilities.

- 3.2.1 Zoning Map Amendment
- 3.2.2 Ordinance Text Amendment
- 3.2.3 Conditional Zoning District Classification
- 3.2.4 Special Use Permit
- 3.2.5 Variance
- 3.2.6 Concept Plan
- 3.2.7 Site Plan
- 3.2.8 Watershed Protection Permit
- 3.2.9 High Density Development Permit
- 3.2.10 Subdivision
- 3.2.11 Land Development Permit
- 3.2.12 Floodplain Development Permit
- 3.2.13 Tree Preservation and Protection Plan
- 3.2.14 Appeals of Administrative Decisions
- 3.2.15 Establishment of Vested Rights

ARTICLE 4 – ENFORCEMENT

4.1 Purpose

This Article establishes the procedures through which the Town seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this chapter are intended to encourage the voluntary correction of violations, where possible.

4.2 Compliance Required

Compliance with all of the procedures, standards and other provisions of this Ordinance is required by all persons owning, developing, managing, using or occupying land or structures within the Town's jurisdiction.

4.3 Violations

4.4 Responsible Persons

4.5 Enforcement Generally

4.6 Remedies and Penalties

4.7 Cumulative Penalties

4.8 Continuing Violations

ARTICLE 5 – NONCONFORMITIES

5.1 General Applicability

- 5.1.1 Purpose and Scope
- 5.1.2 Authority to Continue
- 5.1.3 Determination of Nonconforming Status
- 5.1.4 Minor Repairs and Maintenance

5.2 Nonconforming Uses

5.2.1 General

Nonconforming uses are declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance. Nonconforming uses shall be subject to the standards in this Section.

5.2.2 Change of Use

5.2.3 Expansion and Enlargement

5.2.4 Discontinuance

5.2.5 Reconstruction after Casualty Damage

5.3 Nonconforming Structures

5.3.1 Continuation

5.3.2 Enlargement

5.3.3 Relocation

5.3.4 Reconstruction after Casualty Damage

5.4 Nonconforming Lots of Record

No use or structure shall be established on a nonconforming lot of record except in accordance with the standards in this Section.

5.4.1 Status of Nonconforming Lots

5.4.2 Development of Unimproved Lots

5.4.3 Redevelopment of Improved Lots in Residential Districts after Casualty

5.4.4 Government Acquisition of Land in a Residential District

5.4.5 Change of Nonconforming Lots

5.5 Nonconforming Signs

Mr. Hansen told the Board that he would probably have Articles 6, 7, and 8 of the proposed Land Use and Development Ordinance ready for review at the next Planning Board meeting on October 25, 2011.

This item was for review and discussion only. No action taken.

REPORTS

ZONING ADMINISTRATOR'S REPORT

Planning Consultant Vagn Hansen reported there are 14 code violations on which the Code Enforcement Officer is currently working.

This item was for information only.

TOWN ADMINISTRATOR'S REPORT

Town Administrator Ryan Ross informed the Board of recent issues that have been reported:

- 1293 Country Lane – Van in yard and yard needs to be cleaned up
- North end of Hickory Tree Road – Trailer

This item was for information only.

REPORTS FROM PLANNING BOARD MEMBERS

The following matters were briefly discussed by Planning Board members:

- Status of portable signs
- Sign issues
 - Lynn Griggs' neighborhood
 - Country Girls

This item was for discussion only.

Prior to adjournment, Town Administrator Ryan Ross reminded the Planning Board of the informational meeting he has scheduled with local business owners to provide them an opportunity to ask questions and to express any concerns they may have regarding their costs for sewer service. The meeting is scheduled for Thursday, September 29, 2011 at the Midway Fire and Rescue Building, 228 Midway School Road, in Midway.

ADJOURNMENT

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

ATTEST

Lynn Griggs, Planning Board Chairman

Linda A. Hunt, Town Clerk