



**TOWN OF MIDWAY
PLANNING & ZONING BOARD
MINUTES
TUESDAY, JUNE 27, 2017**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY,
JUNE 27, 2017 AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY,
NORTH CAROLINA**

CALL TO ORDER

Chairman Jamie Hester called the meeting to order.

Planning & Zoning Board members present were: Jamie Hester, Carl Tuttle, LeeAnn Thomas and James W. Smith. Absent: Charles Waddell. Alternate: Vacant.

Town Planning Consultant Richard Smith, Town Manager Gary Looper, Town Clerk Linda Hunt, and Deputy Clerk Tammy Robertson were present.

APPROVAL OF MINUTES

Town Planner Richard Smith requested the minutes of April 25, 2017 be amended as follows:

On Page number 3 under item titled Davidson County Subdivision Ordinance Review, which reads: “On motion by Board member LeeAnn Thomas, seconded by Board member Carl Tuttle, the Board voted unanimously to recommend to the Town Council adoption of the proposed amendment to the Town of Midway Subdivision Ordinance” with the following recommendations.....” change wording to read: “*On motion by Board member LeeAnn Thomas, seconded by Board member Carl Tuttle, the Board voted unanimously to recommend to the Town Council adoption of the proposed amendment to the **proposed** Town of Midway Subdivision Ordinance with the following recommendations.....*”

On motion by Board member LeeAnn Thomas, seconded by Board member James Smith, the Board voted unanimously to approve the April 25, 2017 minutes as amended.

ADOPT AGENDA

On motion by Board member LeeAnn Thomas, seconded by Board member James Smith, the Board voted unanimously to adopt the agenda as presented.

PUBLIC COMMENT PERIOD

There were none.

REGULAR BUSINESS

REVIEW TOWN OF MIDWAY ZONING ORDINANCE – ORDINANCE NO. 17-03

At their March 28, 2017 Planning Board meeting, the Planning Board recommended to Town Council adoption of the proposed Town of Midway Zoning Ordinance.

Town Council adopted the Town of Midway Zoning Ordinance at their regular meeting held on June 5, 2017.

Town Manager Gary Looper updated the Planning Board on the adoption of the Town of Midway Zoning Ordinance stating the ordinance was adopted with the following three amendments:

1. Table of Permitted Uses, Article III, page 47 **and** Article V, page 32, (BB), limiting solar farms to light and heavy industrial districts only, eliminating residential areas.
2. Article VI, page 15, item (G) number 3, exempting rotating barber shop signs from the Standards of Signage.

For information only.

REVIEW TOWN OF MIDWAY NOXIOUS GROWTH ORDINANCE – ORDINANCE NO. 17-04

At their March 28, 2017 Planning Board meeting, the Planning Board recommended to the Town Council adoption of the proposed amendment to the Littering, Noxious Growth and Unpermitted Junkyards Ordinance for the control of noxious growth within the Town to eliminate the sections on littering and excessive accumulations of junk, solid waste and refuse.

Town Council adopted the Town of Midway Noxious Growth Ordinance at their regular meeting held on June 5, 2017.

Mr. Looper informed the Planning Board that since the adoption of the Noxious Growth Ordinance, there has been some confusion by Council members on what was actually adopted. The Noxious Growth Ordinance that was adopted was a rewrite from Town Attorney Jim Lanik that includes appeals that was intended to supersede the previous Littering, Noxious Growth and Unpermitted Junkyards Ordinance.

It was the understanding of the Town Council that the original Noxious Growth Ordinance was being adopted along with the appeals rewrite. Mr. Looper explained to the Planning Board both ordinances cannot be adopted because of conflicting standards. Also, the rewrite did not include stipulations on vacant lots under one acre and over one acre as the previous Noxious Growth Ordinance did.

Mr. Looper stated that it was the consensus of Council at their June 26, 2017 Special Meeting to reconsider the Noxious Growth Ordinance at their regular Town Council meeting on July 17, 2017 and would appreciate the Planning Board's input.

Board Chairman Jamie Hester stated that the Planning Board wants to have very clear nuisance ordinances whether or not it is noxious growth so that they can be administered effectively.

Mr. Looper described the Town's procedure for handling noxious growth complaints with the previous Noxious Growth Ordinance. After receiving a complaint if it is determined the landowner is in violation of the Noxious Growth Ordinance a letter would be sent to the landowner stating the violation and give the landowner ten (10) days to correct the issue before the Town would abate the issue and bill the landowner for the charges incurred. If the landowner does not pay for the mowing of the property the Town can have a lien issued against the landowner's property.

With the newly adopted Noxious Growth Ordinance that includes appeals, at any time before expiration of the 10-day abatement period, the property owner may request a hearing before the Town Manager to appeal the finding of the investigator that a public nuisance exists. The Town Manager shall consider the evidence presented at such hearing and shall either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order. Any request for a hearing must be in writing and delivered to the Town Clerk at Town Hall and must be received by the Town prior to the expiration of the 10-day abatement period. After the issuance of the Town Manager's written decision, the owner may appeal from the order to the Town Council by giving notice of appeal in writing to the Town Manager and to the Town Clerk so as to be received not later than ten days following the date of issuance of the Town Manager's written decision. In the absence of an appeal to the Town Council within the prescribed time, the written decision of the Town Manager shall be final. The Town Council shall hear appeals within a reasonable time after receipt of the notice of appeal and it may modify, affirm, or revoke the Town Manager's written decision. This process would extend the growth of the weeds approximately thirty (30) days.

Mr. Looper stated there is no formalized appeals structure in the previous Noxious Growth Ordinance, only in the newly adopted Noxious Growth Ordinance.

Town Planner Richard Smith said the reason why the appeals process is common in most jurisdictions is to give people due process.

Town Council will determine at their July 17, 2017 regular meeting whether to keep the newly adopted Noxious Growth Ordinance (Ordinance no. 17-04) with appeals or to revert to the previous Noxious Growth Ordinance that does not contain any appeals processes.

For information only.

REVIEW TOWN OF MIDWAY SOLID WASTE ORDINANCE – ORDINANCE NO. 17-01

The Planning Board reviewed the proposed Solid Waste Ordinance at their March 28, 2017 Planning Board meeting. It was the Planning Board's recommendation to Town Council to adopt the Solid Waste Ordinance as presented.

Town Council adopted the Town of Midway Solid Waste Ordinance at their June 5, 2017 regular meeting.

There was no discussion.

For information only.

REVIEW PROPOSED WATERSHED ORDINANCE AND WATERSHED MAP

The Planning Board reviewed Davidson County's Watershed Ordinance at their April 25, 2107 Planning Board meeting.

The Planning Board voted unanimously to delay any recommendations to the Town Council on the proposed Watershed Ordinance until there was a better understanding of where the watershed area is located in Midway.

At their regular meeting held on June 5, 2017, the Town Council called for a public hearing on the proposed Watershed Protection Ordinance to be held on Monday July 17, 2017 at 7:00 p.m. at Town Hall located at 426 Gumtree Road in Midway.

Town Manager Gary Looper updated the Planning Board on the watershed map stating that the watershed area for Midway is on the eastside along Gumtree Road that covers 1988 acres. Mr. Looper said watershed areas are determined by the State and not local jurisdictions. The State dictates administration of watershed districts. Mr. Looper went on to say that the Town has never adopted a Watershed Ordinance.

The Town has asked Davidson County to administer the Town's proposed Watershed Ordinance through an interlocal agreement between the Town and the County. The interlocal agreement will put the Town in compliance with State law and will be administered by County representatives. The Town does have a Floodplain Ordinance that the County will also administer.

Mr. Looper stated that it is Town Attorney Jim Lanik's recommendation to adopt the County's Watershed Ordinance with the same standards for ease of applicability and enforcement for the Town.

Mr. Looper said if there are issues with development along the watershed area and the area can only be developed up to certain standards and if the Town's Subdivision Ordinance is more stringent than the Watershed Ordinance then the Subdivision Ordinance would supersede the Watershed Ordinance for development standards.

Mr. Looper said any changes the Planning Board makes to the proposed Watershed Ordinance would impact the interlocal agreement.

Board member James Smith asked about a 100-foot buffer versus a 50-foot buffer in the watershed area. Currently, the County's Watershed Ordinance maintains a 50-foot buffer along perennial streams. Mr. Looper stated the County recommends a 50-foot buffer because that is more than adequate protection for perennial streams since development is already minimized.

Chairman Jamie Hester asked how much of the Town's Core Commercial Overlay District is affected by the watershed area. Mr. Looper said the area west of Highway 52 in the Town's Core Commercial District is affected very little by the watershed area.

On motion by Board member James Smith, seconded by Board member LeeAnn Thomas, the Board voted unanimously to recommend to Town Council adoption of the proposed Watershed Ordinance with the following amendment:

1. Allow 100-foot buffer instead of a 50-foot buffer along the perennial stream in the watershed area of the Town.

REVIEW PROPOSED SUBDIVISION ORDINANCE

At their April 25, 2017 Planning Board meeting the Board voted unanimously to recommend to Town Council the adoption of the proposed amendment to the Town of Midway Subdivision Ordinance with the following recommendations:

1. Major and Minor Subdivisions will be approved at the Planning Board level.
2. Delete wording under Section 406.3 Stormwater and insert the following wording: Stormwater controls shall be enforced by the State, if deemed necessary.
3. Define Minor Subdivisions as five (5) lots or less. Current County standard is ten (10) lots or less.

At their June 5, 2017 regular meeting, the Town Council voted unanimously to hold a Special Meeting on June 26, 2017 to further discuss specific details of the proposed Town of Midway Subdivision Ordinance.

Town Council discussed the proposed Town of Midway Subdivision Ordinance at a Special Meeting held on June 26, 2017 at Town Hall.

Town Manager Gary Looper informed the Planning Board of Town Council's decisions regarding key differences between the Town of Midway and Davidson County Subdivision Ordinances with Town Council approving the following:

1. Minor Subdivisions will be approved at staff level leaving only major subdivisions or variances from the regulations to be heard by the Town Planning Board.
2. Minor Subdivisions will not have to go through the plat process, but instead can be attached and recorded with the deed.
3. Flag lots shall be allowed in major or minor subdivisions.
4. Lots can be created along existing private easements and driveways. No longer will all lots have to abut public streets.
5. Private roads will be able to serve up to four (4) lots without having to be built to state standards. Private roads will need a driveway permit from the NCDOT and must have at least forty-five (45) feet of right of way, twenty (20) feet of all-weather driving surface, and must supply a turn-around for emergency vehicles.
6. Town Council. Keep current Midway standard. Driveway permits are required for major subdivisions and new proposed private roads.
7. Sidewalks will no longer be required inside major subdivisions.
8. All wire utilities, such as electric, telephone, and cable television, shall be installed underground.
9. Stormwater controls shall be enforced by the State, if deemed necessary.
10. Proposed easements will allow two (2) lots to be served, unless the easement is proposed as a private road whereby four (4) lots can be served. Existing easements already serving multiple properties may have additional properties added in lieu of improvements being made to the roadway.
11. Define minor subdivision as ten (10) lots or less, and major subdivision as more than ten (10) lots.

Chairman Jamie Hester asked if the Planning Board would be receiving a report from Davidson County regarding any permits for new subdivisions. Mr. Looper responded that Davidson County would keep the Planning Board updated on any new permits issued.

OTHER BUSINESS

Chairman Jamie Hester informed the Planning Board that she will not be available for the July 25, 2017 Planning Board meeting. The decision on whether or not to hold the July Planning Board meeting will be determined at a later date.

REPORTS

**ZONING AND SIGN PERMIT REPORT
JUNE 27, 2017**

ZONING & SIGN PERMIT ACTIVITY

Permit#	Date	PIN	Add.#	Street Name	Permit Description	Applicant
Z-2017-01	1/03/2017	6841-03-40-4131	537	Garden Valley Drive	Living room addition on existing single-family home	Daniel Vines
Z-2017-02	1/17/17	6831-01-47-9043	1156	Quail Drive	32' x 28' detached garage	Lloyd Southern
Z-2017-03	1/31/17	6831-04-80-0343	11211, Unit #9	Old US Highway 52	Retail t-shirt store	Dewayne & Deborah Henderson
Z-2017-04	2/21/17	6830-02-85-6406	294	Eller Road	Manufactured home replacement	Teresa Smith
S-2017-01	2/27/17	6831-04-71-7702	189	Hickory Tree Road	Replacement signs {bank}	Burton Signworks Inc. {Monica Everhart}
Z-2017-05	3/7/17	6841-03-30-9105	131	Chinaberry Ln	12' x 30' accessory building	Michael Bailey
Z-2017-06	3/7/17	6841-04-63-1726	12073	Old US Highway 52	50'x80' accessory farm structure (exempt)	Joe Zimmerman
Z-2017-07	3/28/17	6830-01-47-8775	474	David Smith Rd	1664 SFR home	Jennifer Nicole Smith
Zoning Certification	3/28/17	6830-02-89-0427	106	Hickory Tree Rd	CS - Convenience Store	Christina Mccomas w/Nelson, Mullins, Riley
Z-2017-08	4/4/17	6830-01-16-2267	116	Woodfield Dr	12' x 14' sunroom addition	Tracy Larson
Z-2017-09	4/25/17	6831-01-35-0615	465	Mason Knoll Rd	52' x 10' pool deck	Nate Smith {Backyard Leisure Pools & Spas}
ABC Zoning compliance	4/25/17	6830-02-78-9887	189	Hickory Tree Rd Suite 120	Zoning compliance for CVS	Richard Hughes
Z-2017-10	5/1/17	6841-01-1-6886	4	Briarcreek Drive	22' x 12' pre-existing (prior to inc.) deck	Brian Shollenberger

TOWN OF MIDWAY

CODE ENFORCEMENT
REPORT JUNE 27, 2017

CODE ENFORCEMENT VIOLATIONS

Case Number	Date Issue/ Update	Address	Violation	Action	Status
V-2017-03	6/5/17	506 Lori Lane	Noxious Growth	NOV	Mailed 6/5/17
V-2017-02	5/9/17	149 Lake Drive	Noxious Growth	NOV	abated
N/A	5/9/17	232 Meadow Lee Lane	Noxious Growth & outbuilding	investigated	No violation discovered
N/A	5/9/17	1109 or 1111 Crescent Court	Business from home?	investigated	No violation discovered
V-2017-01	5/9/17	1111 Country Lane	Noxious Growth	NOV	abated
V-2016-21	11/15/16	145 Woodfield Drive	Junk vehicles	NOV	abated
V-2016-20	3/7/17	1379 Country Ln	Junk vehicles	NOV	abated
V-2016-19	11/15/16	Corner of Gardner Ct & West Ln	Noxious growth	NOV	Town abated
V-2016-18	11/15/16	175 Lori Ln	Junk vehicle	NOV	abated
V-2016-17	9/20/16	1293 Country Ln	Overgrown grass	NOV	Abated 9/27/16
V-2016-16	8/23/2016	194 Woodtree Ln	abandoned vehicles; grass	NOV	abated
V-2016-14	8/23/2016	102 Woodtree Ln	abandoned vehicles; grass; auto parts storage; old wood	NOV	abated

V-2016-15	8/23/2016	376 Midbrook Run	Potential: Minimum Housing issues; weeds, debris	NOV	no change
	10/4/2016	323 Midbrook Run	Burned out structure		construction underway (permitted)
V-2016-09	3/7/17	213 Spry Rd.	Overgrown Grass	NOV	grass cut, no other changes
V-2016-08	8/25/2016	175 Gardner Ct.	Overgrown grass, bushes, trees down	NOV	abated
V-2016-07	8/25/2016	1845 Gumtree Rd	overgrown grass	NOV	abated
V-2016-06	8/26/2016	12387 Old Hwy 52	overgrown grass	NOV	abated
V-2016-05	3/7/17	196 Tro- Tod	Outdoor storage	NOV	owner purchasing storage bldg; no change
V-2016-04	8/2/2016	10693 Old Hwy 52	Operating lawnmower bus. Outdoor storage	NOV	no change
V-2016-03	11/15/2016	1847 Hickory Tree Rd	Operating illegal business	NOV	sign down; nothing on display
	8/2/2016	Old 52; hickory tree to gumtree	Tall grass in ROW		abated
	8/2/2016	271 Woods Lane	animal boarding; cars in & out; loose dogs; noise nuisance		abated; no new violations noted
	8/2/2016	261 Spry Rd; (neighbor)	Neighbor overgrown property		abated
	5/3/2016	1111 Country Ln	Tall grass		abated

	5/3/2016	1271 Country Ln	Tall grass		abated
	8/2/2016	377 Baxter Rd	potential illegal construction business		no evidence
V-2016-02	3/16/2016	143 Sinkland Dr.	Noxious Growth	NOV; working with both property owners; working through drainage issue	Pending - Ongoing; Partially abated
V-2016-01	4/18/17	298 Eastwood Dr.	Litter, Noxious Growth, Unpermitted Junkyard	NOV; investigation - notice sent to nearby property owner	No change
V-2015-25	8/2/2016	269 Lori Lane	Possible Addition w/o permit	NOV	coordinate with Davidson Co. inspections
V-2015-24	8/2/2016	544 Lori Lane	Possible unsafe structure	NOV	coordinate with Davidson Co. inspections
V-2015-23	11/15/2016	450 Lori Lane	Junk Vehicles	NOV	abated
V-2015-22	11/15/2016	175 Lori Lane	High Grass, Possible Unsafe structure; junk vehicle	NOV	abated
V-2015-21	8/2/2016	Old 52 (next to K- Roo Express)	High Grass	NOV	abated
V-2015-19	7-14-15; 9- 23-15	155 Lee St	Unscreened outdoor storage; high grass	Citation	No Action
V-2015-14/V- 2016-12	4/18/17	210 Bobby Willard Rd	Noxious Growth,	NOV, Civil Citation	Abatement in progress

V-2015-13/V-2016-11	4/18/17	146 Bobby Willard Rd	Noxious growth, debris, possible unsafe structure	NOV, Civil Citation	abated
V-2015-12/V-2016-10	4/18/17	156 Bobby Willard Rd	Noxious growth, debris, possible unsafe structure	NOV, Civil Citation	abated

ADJOURNMENT

On motion by Board member LeeAnn Thomas, seconded by Board member Carl Tuttle, the Board voted unanimously to adjourn the meeting at 6:47 p.m.

Jamie Hester, Chairperson

Tammy H. Robertson, Deputy Clerk