



**TOWN OF MIDWAY  
PLANNING & ZONING BOARD MINUTES  
TUESDAY, MARCH 30, 2021**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY,  
MARCH 30, 2021 AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY,  
NORTH CAROLINA**

**CALL TO ORDER**

Chairman James Smith called the meeting to order.

Planning & Zoning Board members present were: Charles Waddell, Paula Hill, Carl Tuttle, James Smith, Jamie Hester and alternate member Richard Miller. Absent: None.

Town Manager Tammy Michael, Deputy Clerk Tammy Robertson, Town Clerk Linda Hunt, Davidson County Zoning Officers Lee Crook and Travis Swain were present.

**APPROVAL OF MINUTES**

On motion by Board member Jamie Hester, seconded by Board member Charles Waddell, the Board voted unanimously to approve the February 23, 2021 minutes as presented.

**ADOPT AGENDA**

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

**PUBLIC COMMENT PERIOD**

There were none.

**REGULAR BUSINESS**

**REVIEW REZONING REQUEST BY SHANNA TUTTLE TO REZONE .84 ACRES IN MIDWAY TOWNSHIP FROM RA-3 TO CU-RC**

Davidson County Zoning Officer Lee Crook presented a rezoning request by Shanna Tuttle to rezone property in the Midway Township, Tax Map 20, a portion of Lot 63B containing .84 acres more or less. Said property is located on the west side of Thomas Mock Road approximately 425 feet north of the Midway School Road intersection. Rezoning is requested to change from that of RA-3, Rural Agricultural District, to that of CU-RC, Conditional Use Rural Commercial District.

Mr. Crook, first being duly sworn, stated that the request by Shanna Tuttle is a Conditional Use request, and not only will the Planning Board be recommending a change in zoning, but adopting a set of conditions that will go along with the rezoning if approved. If approved, and Ms. Tuttle at some point sells her property, the set of conditions would have to be abided by the next owner.

Planning and Zoning is in place to try and create compatibility between land uses. The use being presented by Ms. Tuttle is a use that staff feels can be made compatible because of the conditions that have been proposed. The list of conditions presented by Ms. Tuttle for the rezoning include the following:

1. Catering business only.
2. No "sit down" customers on site. All meals will be delivered by Ms. Tuttle.

3. Just owner and possibly one other employee conducting business.
4. Appropriate landscaping.
5. Lighting
6. 30 x 40 foot building for catering business. Examples submitted.
7. Building will be designed similar to one of the submitted building images.
8. Will meet all Building Inspections and Health Department Regulations.

Shanna Tuttle, first being duly sworn, shared with the Planning Board that she was raised in Welcome, graduated from North Davidson High School, and currently lives on family land in Midway where she and her family have resided since 1998. Ms. Tuttle has looked extensively for property with commercial kitchens but has not found anything that will accommodate her business. Ms. Tuttle started cooking commercially from her home in 2017, but she wants a commercial building so that she can run her business legally in a safe environment. Currently, she purchases, prepares, and delivers all of the meals from her home. Many people have benefitted from her services including local elementary and high schools, teacher appreciation events, sporting events, and others. Ms. Tuttle does not plan to move and would love to have her own business on the property.

Mr. Crook stated that there are currently three businesses zoned Rural Commercial along the Ridge Road intersection and Norman Shoaf Road along with one business existing as a Legal Non-Conforming Use. The area is predominately residential with low key Rural Commercial uses. Ms. Tuttle can actually purchase the building that has been proposed and place it on her property with the current zoning remaining intact, but could not operate a business under the current zoning.

Mr. Crook submitted the following staff analysis and recommendation regarding Shanna Tuttle's request to rezone property in the Midway Township from RA-3 to CU-RC:

The applicant proposes to place a catering business on the above-mentioned property. The rezoning request is for approximately .84 acre of the side and rear portion of the total 1.4 acre tract. The applicant currently lives on the subject tract and will continue to live on the remainder of the 1.4 acres which will remain in RA-3 zoning. Proposed is a 30 x 40 foot residentially styled building that is to be placed on the rear portion of the property. The applicant will conduct the business herself with possibly one other employee. No walk-in customers will be allowed as Mrs. Tuttle and her potential employee will deliver all catered meals. Appropriate landscaping and security lighting are also proposed to make the building look residential in nature.

Thomas Mock Road is a privately maintained asphalt drive that is in good condition. It connects to Midway School Road approximately 425 feet south of the proposed rezoning. Midway School Road is a two lane, state-maintained facility that would be classified as a heavily traveled connector road. While all contiguous properties are zoned residential and are occupied by dwellings or are vacant in land use, there is a wide diversity of uses located in the immediate proximity of the proposed rezoning. This part of Midway School Road has three existing businesses located in RC districts from the Ridge Road intersection to the Norman Shoaf Road intersection. There are other legal non-conforming businesses located along this part of Midway School road as well. Staff makes this point to recognize that while residential in character this neighborhood has existing small, low key, service-related businesses already in place.

Staff realizes that the Town of Midway Land Development Plan, "Future land Use Map" that was adopted in 2006 does not promote non-residential development along the Midway School Road corridor. While the state and the judicial system want jurisdictions to follow their adopted plans, there is room to deviate from them if the public benefit is served. Staff feels that the Applicant's catering business will serve an immediate need and benefit the community as baby boomers age and the general population stays home during the COVID-19 pandemic.

Staff feels that this rezoning is reasonable due to the mixed character of the area and the conditions that help this use minimize its impact on surrounding residential properties. The "RC" zoning classification is designed to provide services to the "local" area and therefore would not be located

in the Town's center. With the proposed architecture of the building, the fact that no walk-in customers will be allowed and the landscaping that is proposed, staff feels that this low traffic business will not injure any adjoining properties and be a benefit to the community.

With the proposed conditions, Staff would recommend for the approval of this request based on it being a benefit to the community with minimal impact to the surrounding residential properties.

Ms. Tuttle also provided an opinion from a local realtor stating that the property values would not be negatively impacted by adding the commercial kitchen to the property.

Mr. Crook stated that there would need to be two motions made by the Planning Board to approve the rezoning request. The first motion to approve the rezoning, is legislative in nature, and based on the Town's Land Use Plan and Zoning Ordinance. The second motion, which is quasi-judicial, would be to approve the conditions to the rezoning request.

On motion by Board member Charles Waddell, seconded by Board member Jamie Hester, the Board voted unanimously to recommend to Town Council to approve the rezoning request by Shanna Tuttle to rezone a portion of Lot 63B containing .84 acres in the Midway Township, Tax Map 20, from RA-3 to CU-RC.

On motion by Board member Carl Tuttle, seconded by Board member Charles Waddell, the Board voted unanimously to recommend to Town Council to approve the conditions to the rezoning request by Ms. Tuttle as presented.

### **OATHS OF OFFICE**

Deputy Clerk Tammy Robertson administered the oaths of office to the following reappointed members of the Town of Midway Planning and Zoning Board/Board of Adjustment.

- Charles Waddell – Term will expire March 31, 2024
- Jamie Hester – Term will expire March 31, 2024
- Paula Hill – Term will expire March 31, 2024

### **ELECTION OF OFFICERS - CHAIRPERSON**

Chairman James Smith opened the floor for nominations for Chairperson of the Planning Board.

Jamie Hester nominated James Smith for Chairperson.

There being no further nominations, the floor was closed.

On motion by Board member Jamie Hester, seconded by Board member Paula Hill, the Board voted unanimously to elect James Smith as Chairperson of the Planning and Zoning Board.

### **ELECTION OF OFFICERS – VICE-CHAIRPERSON**

Chairman James Smith opened the floor for nominations for Vice-Chairperson of the Planning Board.

Paula Hill nominated Jamie Hester for Vice-Chairperson. Jamie Hester withdrew her name from consideration.

Jamie Hester nominated Carl Tuttle for Vice-Chairperson.

There being no further nominations, the floor was closed.

On motion by Board member Jamie Hester, seconded by Board member Paula Hill, the Board voted unanimously to elect Carl Tuttle as Vice-Chairperson of the Planning Board.

Deputy Clerk Tammy Robertson administered the oaths of office to James Smith Chairperson, and Carl Tuttle Vice-Chairperson. Terms of office expire March 31, 2022.

**OTHER BUSINESS**

A Public Drop-in meeting for the Town of Midway's Comprehensive Land Use Plan update was conducted on March 23, 2021 at Town Hall. Poster boards displaying key findings and draft recommendations were available to be viewed from 12:00 p.m. to 7:00 p.m. with approximately thirty people attending. Jason Epley with Benchmark CMR, Inc. will present the results from the Drop-in meeting at the next Planning Board meeting on April 27, 2021 at 5:00 p.m. at Town Hall.

**ADJOURNMENT**

On motion by Board member Paula Hill, seconded by Board member Carl Tuttle, the Board voted unanimously to adjourn at 5:40 p.m.

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James W. Smith, Chairperson

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Tammy H. Robertson, Deputy Clerk