



**TOWN OF MIDWAY  
PLANNING & ZONING BOARD  
MINUTES  
TUESDAY, AUGUST 31, 2021**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY,  
AUGUST 31, 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, Jamie Hester, James Smith, Carl Tuttle, Paula Hill, and alternate member Richard Miller Absent: None.

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

**APPROVAL OF MINUTES**

On motion by Board member Charles Waddell, seconded by Board member Jamie Hester, the Board voted unanimously to approve the May 25, 2021 minutes as presented.

**ADOPT AGENDA**

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

**PUBLIC COMMENT PERIOD**

There were none.

**REGULAR BUSINESS**

**CCOD PERMIT REVIEW – CAGNEY’S KITCHEN RESTAURANT AND RETAIL**

Davidson County Zoning Officer Lee Crook presented to the Planning Board for review, a permit for a proposed Cagney’s Kitchen Restaurant and Retail Center located in the Core Commercial Overlay District (CCOD) at 11464 Old US Highway 52 in Midway. Mr. Crook stated that the Cagney’s review is the first large scale development in Midway since Davidson County Planning and Zoning was contracted to oversee zoning enforcement for the Town in 2017.

Mr. Crook stated that the submitted plans substituted walkability within the project rather than providing sidewalks because sidewalks were not pertinent with this project. There will be parking lot and island landscaping which will meet landscaping requirements as specified in the zoning ordinance. The plan utilizes zoning ordinance buffers between Residential Use Class B, and street buffers between two road frontages.

Mr. Brent Sievers with FEI Civil Engineers and Land Surveyors in Colfax, North Carolina provided additional information regarding the plans that includes adding a sidewalk to access the dumpster behind the restaurant. Extra parking will be provided for employees. The building satisfies the seventy percent

brick requirement as stated in the zoning ordinance with stone accent at the base of the building. The plan is to build the new restaurant while maintaining business in the old restaurant building. Once the new building is complete, the old building will be demolished, and the retail portion of the plan will be constructed.

The plans submitted for review includes the restaurant, retail space, and signs. The monument sign in front of the restaurant will be constructed of similar material as the restaurant with a maximum of forty-eight square feet and maximum height of six feet. The retail building allows fifty square feet for each retail space sign.

The conceptual plan presented allows for one parking space for every four seats in the restaurant, and one parking space for every two hundred feet for the retail building. There are currently one hundred fifty-four seats planned inside the restaurant and twenty-eight seats for the outside patio.

Mr. Crook stated that the plans presented for the new Cagney's Kitchen and Retail space meets the intent of the CCOD of the Town of Midway's Zoning Ordinance.

On motion by Board member Jamie Hester, seconded by Board member Charles Waddell, the Board voted unanimously to approve the CCOD permit for the Conceptual Site Plan for the new Cagney's Kitchen Restaurant and Retail as presented.

### **ADOPT TOWN OF MIDWAY PLANNING AND ZONING BOARD RULES OF PROCEDURE**

The new Chapter 160D of the North Carolina General Statutes (N.C.G.S.) consolidates current city and county enabling statutes for development regulations (previously Chapters 160A and 153A respectively) into a single, unified chapter. Chapter 160D places these statutes into a more logical, coherent organization.

At the June 7, 2021 Town Council meeting, Council voted unanimously to adopt the Mandated Text Amendments to the Town of Midway Zoning and Subdivision Ordinances to comply with the new N.C.G.S. Chapter 160D.

Town Manager Tammy Michael informed the Planning Board members that the Planning Board operates under rules of procedure. With the N.C.G.S. Chapter 160D updates to the Town of Midway Zoning Ordinance, the rules of procedure for the Planning Board had to be revised. Mrs. Michael stated that the general rules of procedure now states the Planning Board will now operate under N.C.G.S. Chapter 160D instead of Chapter 160A.

Changes to the current Rules of Procedure include adding the following:

- **Section 1: General Rules of Procedure**

- A. The Town of Midway Planning Board (hereinafter referred to as the "Board") shall be governed by the terms of Chapter 160D of the *General Statutes of North Carolina* and by the *Town of Midway code of ordinances*. All members of the Board shall thoroughly familiarize themselves with these laws.

- **Section III: Rules of Conduct for Members:**

- A. The Town of Midway Planning Board shall be governed by North Carolina General Statutes Chapter 160D and other general and special acts relating to planning and related activities in the Town of Midway, as well as by the ordinances which established the Board. Generally accepted parliamentary rules and procedures shall be used to determine the conduct of the affairs of the Planning Board.

B. All members appointed to Board before entering their duties, qualify by taking an oath of office as required by NCGS 160D-309.

• **Section IV: Meetings:**

G. Conflict of Interest

1. Board Members: No member of the Board shall seek to influence a decision, participate in any action, or cast a vote involving any matter that is before the Board where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial business, or other associational relationship which may result in a private benefit to the member, relative, or their business interest. In applying this rule, the following procedure shall govern:

- A member who determines there exists a conflict of interest shall declare the existence of a conflict and shall refrain from any deliberation on the matter.

- A member who believes there may exist a conflict of interest shall declare his or her possible conflict and ask for a determination by the Board. A majority vote of the Board shall determine whether or not a conflict exists.

- A challenge of the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Board. Such a challenge may be an appeal for a review of the finding of the Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenges made to the Board shall be supported by competent evidence and shall be submitted to a properly convened meeting of the Board. The Board shall hear all evidence and shall, by majority vote, make the final determination as to the existence of a conflict of interest.

- Withdrawal from participation in any matter is necessary work in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of considerations because of the business or profession with which a member is associated.

2. Administrative Staff: No staff member shall make a final decision on an administrative decision if the outcome of that decision would have a direct substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person, or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially in a development subject to regulation by the Town of Midway unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

On motion by Planning Board member Paula Hill, seconded by Planning Board member Carl Tuttle, the Planning Board voted unanimously to adopt the Town of Midway Planning and Zoning Board Rules of Procedure.

**OTHER BUSINESS**

Town Manager Tammy Michael informed the Planning Board that the completed Comprehensive Land Use Plan Update book would soon be available from Benchmark CMR, Inc.

**ADJOURNMENT**

On motion by Board member Charles Waddell, seconded by Board member Carl Tuttle, the Board voted unanimously to adjourn the meeting at 5:27 p.m.

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James W. Smith, Chairperson

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Tammy H. Robertson, Deputy Clerk