



**TOWN OF MIDWAY
PLANNING & ZONING BOARD
MINUTES
TUESDAY, FEBRUARY 28, 2023**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY,
FEBRUARY 28, 2023, AT 5:00 P.M. AT TOWN HALL, 426 GUMTREE ROAD, MIDWAY NORTH
CAROLINA**

CALL TO ORDER

Chairman Charles Waddell called the meeting to order.

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

Town Manager Tammy Michael and Town Clerk Linda Hunt were present.

Davidson County Zoning Administrator Lee Crook and Zoning Officer Josh Tussey were present.

Dawn Vallieres, Senior Regional Planner with Piedmont Trial Regional Council (PTRC) was present.

APPROVAL OF MINUTES

Minutes amended to correct attendance of Board members Jamie Hester and Carl Tuttle as attending the December 13, 2022 meeting.

On motion by Board member James Smith, seconded by Board member Carl Tuttle, the Board voted unanimously to approve the December 13, 2023 minutes as presented.

ADOPT AGENDA

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

PUBLIC COMMENT PERIOD

There were none.

REGULAR BUSINESS

**CIRCLE K STORES, INC. – ADDITIONAL CANOPY WITH DIESEL PUMPS – INTERSECTION
OF OLD HIGHWAY 52 AND HICKORY TREE ROAD - CORE COMMERCIAL OVERLAY
DISTRICT (CCOD)**

Jacob Dooley, contract engineer with the Timmons Group representing Circle K, was present to answer any questions from the Planning Board.

An additional handout was provided to the Planning Board members and staff that included information and illustrations on the following: Code Check, Scope of Work, Main I.D. Sign, Diesel Canopy, Diesel Canopy Elevations, Diesel Pump Flags, Dispensers, and Directional Signs.

Zoning Officer Josh Tussey reported his office had been approached a few months ago about Circle K wanting to expand. Circle K has purchased property beside the gas station to be able to build a stand-alone, freestanding canopy for diesel pumps there.

Planning staff has reviewed the plans that show the expansion as well as the new proposed signage for this facility and staff have reviewed the plans. The only part that staff believes is applicable and pertinent to the CCOD regulations is the sign. Most of the signs will primarily be directional signs which are not pertinent to the CCOD regulations.

Mr. Tussey referred to Page A of the handout that shows the updated sign by the road. It adds “truck diesel” and changes some of the layout. There will also be some very minor signs added to the canopy. He added there will not be any new entrances to the gas station. The large box trucks will enter off Hickory Tree Road and exit on Old Highway 52.

Board member Paula Hill asked if the truck diesel is different from the diesel that is already there. Mr. Dooley responded the diesel that is there is mainly for pickup trucks and regular driving. The new diesel pumps are for larger box trucks.

Board member Jamie Hester expressed her concerns about the traffic that would be created if there were signs along the highway advertising Circle K as a truck diesel stop. She said the entrance there is tight already and she could not see how that would work without changing the traffic patterns. Ms. Hester said that although she realizes that is more of a D.O.T. issue, it is still a concern to her. Mr. Dooley said he has been working with the NCDOT District Engineer on the concept plan. The entrance is being shifted further from the intersection and the right turn lane is being extended. The entrance for these trucks will be off Hickory Tree Road.

Board member Carl Tuttle said his concern is the exit onto Hickory Tree Road for commercial trucks because there is already a lot of traffic there.

Alternate Board member Richard Miller asked if the entrance would be the same entrance as the existing one. Mr. Dooley said it would be, but it would be shifted over roughly 40 feet with some widening and striping.

Board member James Smith asked if another tank would be added. Mr. Dooley said they are planning on utilizing the existing tanks and then adding an above-ground tank that would hold about 6,000 gallons of diesel fuel.

Board member Jamie Hester asked if there is going to be any foliage between the two properties. Mr. Dooley said there would be some foilage. He said this is just a conceptual plan before they go full design on the project. He said having a buffer is planned, depending on drainage.

Zoning Administrator Lee Crook pointed out that there is not any requirement in the CCOD for Circle K to do any landscaping. If they do, they are just being a good neighbor. The standard landscaping section in the Town’s Zoning Ordinance is triggered at a 3,000 square feet addition. In the CCOD, landscaping is applicable to new builds. There is no set trigger for landscaping for projects like this. Board member Jamie Hester commented that it appears the existing shrubs there now will be removed.

Zoning Administrator Lee Crook presented Planning staff’s report and recommendation on the proposal. He said the Planning staff has reviewed the drawings for the proposed fuel island and signage change for

Circle K located at 106 Hickory Tree Road. This business falls within the CCOD overlay district. As such, the business must satisfy any applicable requirements found in the CCOD requirement of the Midway Zoning Ordinance. The Applicant submitted all required information laid out in the development approval Section (A) (2). Circle K wishes to add an additional fuel island and new signage to the existing site. Said fuel island will be located on the property directly to the North. After review, staff finds it difficult to apply the design standards section pertinent to the fuel island itself.

This project also contains signage. Staff has reviewed said signage and found it compliant with the Zoning Ordinance and the CCOD regulations. The proposed signage will be consistent with the new signage changes that are proposed, which should comply with the intent of the CCOD common signage plan section. The only other question for the Planning Board is whether or not to require landscaping. The Zoning Ordinance's regular landscaping section does not require landscaping until a 3,000 square foot addition is being proposed. Even then, with two commercial properties being beside one another, no planting yard would be required. The CCOD is silent on when landscaping is required but only speaks to how to calculate the landscaping for a project. Staff recognizes that landscaping is applicable on any new build project in the CCOD but is not clear on these partial additions to properties.

Mr. Crook stated staff has reviewed both the fuel island addition and signage changes and have determined both satisfy these standards and recommend approval of the Circle K project.

Board member James Smith asked about the distance between the new asphalt and the other business property line. Mr. Crook answered that the site plan shows that there is a strip of land that will not be developed on the north side of the new fuel island. If Circle K so chooses, some sort of planting can be put there.

Alternate Board member Richard Smith asked if there are two lanes for the large box trucks. Mr. Dooley answered there would be two lanes.

Town Manager Tammy Michael pointed out there are two corrections that need to be made on the second page of the handout provided by Mr. Dooley. The municipality should be *Town of Midway*, and the contact information should be *Davidson County Planning and Zoning*.

On motion by Board member Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to approve the plans for the Circle K project as submitted for the signage and canopy, contingent upon NCDOT approval of the driveways. The Board also encouraged Circle K to add some landscaping.

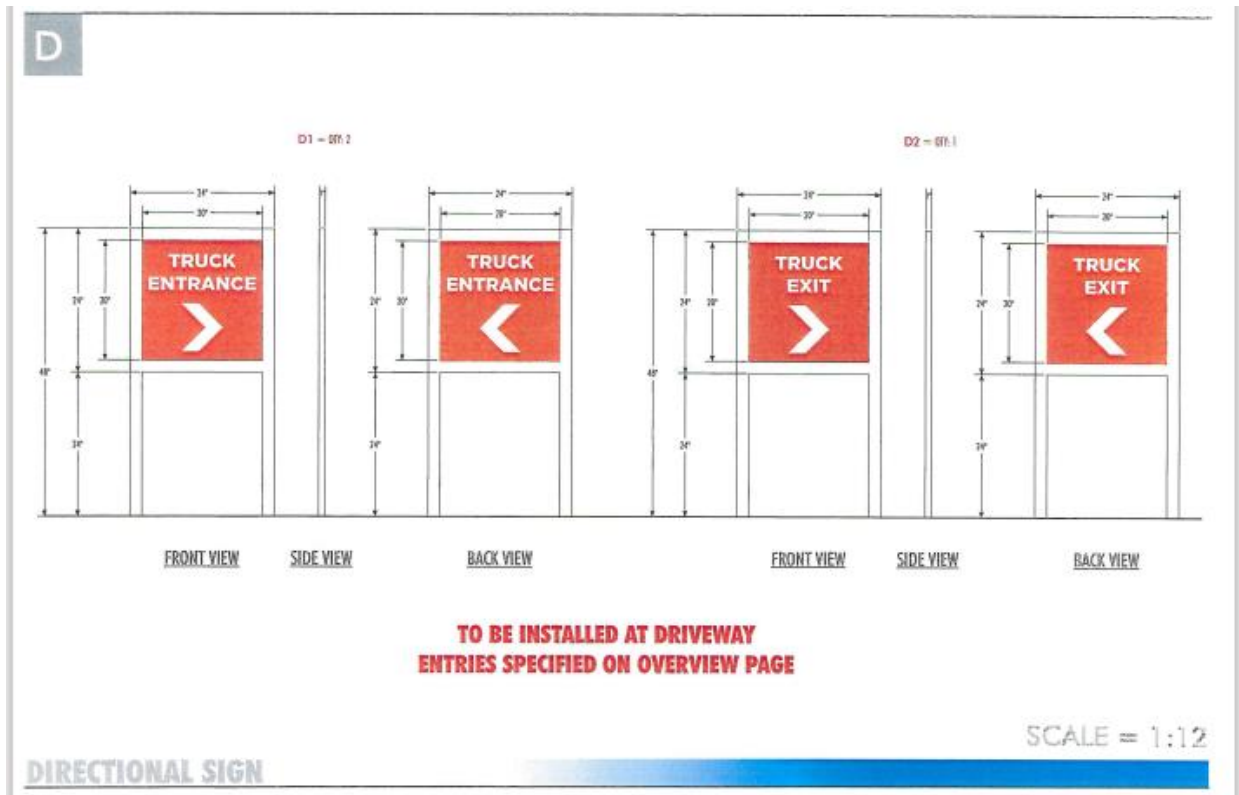


PUMP FLAGS



DISPENSERS ARE PROVIDED BY THE FUEL VENDOR & SHOULD ARRIVE PRE-IMAGED PLEASE LET SIGNRESOURCE KNOW IF ADDITIONAL DECALS ARE NEEDED.

DISPENSERS



CORE COMMERCIAL OVERLAY DISTRICT (CCOD) – DISCUSSION

Zoning Administrator Lee Crook stated that in 2017, the Town contracted with Davidson County to provide certain services relating to planning and zoning code enforcement. He stated that Davidson County simply enforces the ordinances and has no opinion as to them. As a part of the Town's Zoning Ordinance, Davidson County is responsible for enforcing the Core Commercial Overlay District (CCOD) regulations.

Mr. Crook explained that he wanted to have an informal discussion with the Planning Board about the CCOD regulations. The Planning staff does not have an opinion either way on any of the regulations; however, staff feels obligated as the Town's planning consultants to let the Town know what staff is hearing and what is going on. Since Davidson County took over the planning and zoning responsibilities in 2017, the Planning staff has had a number of CCOD requests to come through but the only full build that the Town has had in that time is Cagney's. There were no deviations from the CCOD regulations for Cagney's. All other requests for deviations from the CCOD regulations that came before the Board were approved. Mr. Crook pointed out those were not full builds, referencing Cash Points and Ice Vending machines. Mostly what has come before the Board in the CCOD has been signage. Mr. Crook pointed out the deviations the Board has approved have been based on good, solid rationale. Not requiring landscaping around the Cash Points was to keep people from having a place to hide and to keep people safe using the machine. The deviation to reduce the brick requirement for the ice vending machine was due to it being a non-permanent structure on leased property. If the machine had to be moved, the brick would have to be torn down thus creating a financial hardship. Mr. Crook reiterated that any deviation that has been approved by the Board had good rationale behind it.

Mr. Crook said that a couple of building projects have fallen through due to the restrictions imposed by the CCOD. One potential project that is currently considering locating in Midway has expressed concern about the brick and underground utilities requirements, with the developers saying those requirements would add as much as \$500,000 to the project. They have been asking about possible variances. Mr. Crook stated variance is an appropriate process because variance has to be indicative of a hardship. They would have to be able to show that for some reason, if they follow the rules exactly, the property could not be used at all.

That is not the case in this instance. Staff have conveyed to this entity that just not wanting to spend the money is not a valid reason. Mr. Crook said he did relay to them that the Board could deviate from the plan if a solid rationale for moving away from strict adherence to the CCOD is exhibited. When trying to put numbers together for a project, developers need solid numbers. Five hundred thousand dollars (\$500,000) is a big difference when considering that the Board may or may not deviate from the plan.

Mr. Crook said he simply wanted to approach the Board to get any feedback they may have regarding deviating from the rationale of the CCOD and to ask if there is any support for lessening the CCOD requirements in any way. Mr. Crook said he is not talking about doing away with them. He is simply asking if there is any support for reducing some of them. He added that he knew of a couple of projects that fell through because of the extra costs associated with the requirements. Mr. Crook reiterated there is no right or wrong answer. It is just philosophical. If the Town wants to stand firm and wants to look a certain way, then it needs to stay where it is. Mr. Crook said he just felt obligated to keep the Board informed.

Board member Jamie Hester said she knows there is growth that the Town wants to see. She said she also understands the reasoning behind the CCOD requirements and the way the requirements work for that growth to have a certain look. She said, however, times are different now, commenting we are in unprecedented times.

Mr. Crook said development costs are very exorbitant right now for anything. It is more impactful than it has ever been. He said that the project in question is a national chain that would be a new build and a potential anchor unit out on the highway. He said Planning staff has not received an official application from them yet.

Mr. Crook reiterated he is simply looking for input from the Planning Board on these CCOD regulations and not requesting any action. He said he will request to bring this same discussion to the Town Council at their next meeting.

After discussion it was the consensus of the Planning Board to defer this item to the Town Council for direction to the Planning Board.

REVIEW OF SUBDIVISION ORDINANCE UPDATES

Mayor Pro Tem Mike McAlpine addressed the Board to introduce the reasonings behind the updates to the Subdivision Ordinance. He explained there is a lot of development going on in the area. Some changes that were made to the original subdivision ordinance in 2017 loosened some of the regulations in how a development goes in and how those project go forth. There are illustrations on Gumtree and Hickory Tree Roads that demonstrate changes that need to be made in the ordinance. An example is that there is a road in a subdivision on Gumtree Tree Road without a cul-de-sac. Mayor Pro Tem McAlpine said that some of the wording in the document needs to flow more smoothly and to have a more professional look. He said the subdivision ordinance does not have a good rhyme or reason for everything. The County is in the process of redoing their ordinances to somewhat control growth in the County. Changing the Town's subdivision ordinance could control the kind of growth the Town would like to see. The proposed changes look at acreage. The Town was at a little under three-fourths (3/4) of an acre at 30,000 square feet. There have just been some concerns about the possibility of tract builders coming into Midway. With that in mind, the Town Manager reached out to Piedmont Triad Regional Council (PTRC) about nine (9) months ago to request their assistance with updating the Town's subdivision ordinance. Subsequently, Town Council approved a contract with them. PTRC addressed the Town's issues of concern and put a professional touch to the document.

Mayor Pro Tem McAlpine introduced Dawn Vallieres to review the updates with the Planning Board.

Ms. Vallieres referred the Board to the Subdivision Ordinance that was provided in their agenda packet and reviewed the changes with the Board as follows:

Page 5. Article 4. Legal Approval, Section 4.5 Amendments

- Remove wording – “or by petition of fifty (50) or more people registered to vote in the Town of Midway.”

Page 6. Article 4. Legal Approval, Section 4.5 Amendments

- Change number of days Planning Board will have to submit a report from thirty (30) days to sixty (60) days

Page 7. Article 5. Definitions, Section 5.0 “Subdivision” Defined

- Add Section 5.05 – “The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.”

Page 12. Article 6. Compliance with Official Plans, Section 6.0 Reviewing Agencies

- Specify the names of agencies to be given the opportunity to make recommendations concerning an individual subdivision plat before the preliminary plat is approved:
 - A. Davidson Water
 - B. N. C. Department of Transportation
 - C. Davidson County Health Department
 - D. Davidson County Planning & Zoning
 - E. Davidson County Inspections/Central Permitting Department
 - F. N. C. Department of Environmental Quality
 - G. Utility Companies
 - H. Other agencies or individuals as deemed necessary by the Planning Board and/or Town Council.

Page 13. Article 7. Procedure for Approval of Subdivision, Section 7.1 Minor Subdivisions, Subsection 7.1.1 Minor Subdivision Defined

- Change the number of lots from ten (10) to five (5).

7.1.5 Review Procedure

- Change number of days Planning Board staff must either approve, disapprove, or approve conditionally from thirty (30) days to sixty (60) days and change the number of days the subdivider has to appeal the decision of staff from thirty (30) days to sixty (60) days.

Page 14. Article 7. Procedure for Approval of Subdivision, Section 7.2 Major Subdivisions, Subsection 7.2.2 Preapplication Procedure – Sketch Design Plan

- Change wording to read: “The subdivider shall submit a sketch plan prior to submitting a preliminary plat. Sketch plans shall be submitted at least fourteen (14) days prior to a regularly scheduled Planning Board meeting.”

Page 18. Article 7. Procedure for Approval of Subdivision, Section 7.9 Review Procedure, Subsection 7.91

- Change wording to read: “Before acting on the preliminary plat, the Town of Midway Planning Board shall request comments from the agencies identified in A through G below, as applicable. The Planning Board may submit copies of the preliminary plat and any accompanying material to other officials and agencies concerning with new development to invite their comments including but not limited to the agencies listed D through G below.”

- A. Davidson Water
- B. N. C. Department of Transportation
- C. Davidson County Health Department
- D. Davidson County Planning & Zoning

- E. Davidson County Inspections/Central Permitting Department
- F. N. C. Department of Environmental Quality
- G. Utility Companies
- H. Other agencies or individuals as deemed necessary by the Planning Board and/or Town Council.

Page 19. Article 7 Procedure for Approval of Subdivision, Section 7.11 Final Plat, Subsection 7.11.2 Performance Guarantee

- Remove section b) Reduction of Bond or Surety

Pages 25 - 26. Article 7 Procedure for Approval of Subdivision, Section 7.13 Review Procedure, Subsection 7.13.1 Planning Board Review

- Change the number of days for approval or disapproval of the final plat from thirty (30) days to sixty (60) days of its first consideration.

Page 30. Article 8. General Requirements and Minimum Standards of Design, Section 8.8 Coordination and Continuation of Roads, Subsection 8.3.3 Private Streets and Reserve Strips

- Change number of lots or parcels in which a new street provides access from three (3) or four (4) lots to four (4) or fewer lots
- Change (b) length of street to no longer than 0.4 miles

Page 32. Article 8 General Requirements and Minimum Standards of Design, Section 8.94 Driveway Permits

- Remove wording “Driveway permits must be obtained from the Town of Midway for proposed driveways and street connections that access roads maintained by the Town.”

Pages 33 - 34. Article 8 General Requirements and Minimum Standards of Designs, Section 8.11 Design Standards for Lots, Subsection 8.11.3

- 1) Lot Area
 - a. Change number of square feet from fifteen thousand (15,000) square feet to thirty thousand (30,000) square feet for lots served by both public water and public sewer
 - c. Change thirty thousand (30,000) square feet to forty thousand (40,000) square feet for lots served only by public water and not public sewer, and outside of watershed area
 - d. Change twenty thousand (20,000) square feet to forty thousand 40,000 square feet of area suitable for a septic tank system location and operation for lots located in a watershed of a Class II or Class IV reservoir or in the watershed of a portion of a Class IV Stream or River extending to a downstream intake of water purification plant
- 2) Lot Width
 - b. Lot width served by only public water or by neither public water nor sewer shall have a lot width of at least one hundred twenty-five (125) feet at the building line. Except in cul-de-sacs where the minimum linear width is eighty (80) feet.
- 3) Lot Depth
 - b. Lots served by only public water or by neither public water nor sewer shall have an average depth of at least one hundred seventy-five (175) feet.

Page 35. Article 8 General Requirements and Minimum Standards of Design, Section 8.11 Design Standards for Lots, Subsection 8.11.4 Panhandle Lots

- Lots must have at least thirty-five (35) feet of width extending from the road throughout the panhandle and must not extend farther than three hundred twenty (320) feet and shall be defined as having access along a private driveway.

Pages 36-38. Article 8 General Requirements and Minimum Standards of Designs,

- Add Section 8.14 Sidewalks
- Add Section 8.15 Curb and Gutter
- Add Section 8.16 Water Meters
- Add Section 8.17 Recreation Space

Page 42. Article 11 Hillside Subdivisions, Section 11.2 Street Design and Construction, Subsection 11.2.2 Cul-de-sacs

- To read: The required turn-around on a dead-end street in a hillside subdivision shall have a roadway diameter of not less than fifty (50) feet and a right-of-way diameter of not less than sixty (60) feet. Other wording to be removed.

It was the consensus of the Planning Board to delay action on this item until the next Planning Board meeting to allow the Board more time to review the updates.

OTHER BUSINESS

There were none.

ADJOURNMENT

On motion by Board member James Smith, seconded by Board member Paula Hill, the Board voted unanimously to adjourn the meeting.

Charles Waddell, Chairperson

Linda A. Hunt, Town Clerk