



**TOWN OF MIDWAY
PLANNING & ZONING BOARD
MINUTES
TUESDAY, MAY 30, 2023**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY,
MAY 30, 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.

Others present were: Davidson County Zoning Administrator Lee Crook and Zoning Officers Josh Tussey and John Wheeler, and The Keith Company Senior Project Manager Wendy Fulton.

Also present were Councilors Mike McAlpine and Jackie Edwards.

APPROVAL OF MINUTES

On motion by Board member Jamie Hester, seconded by Board member Carl Tuttle, the Board voted unanimously to approve the March 28, 2023 minutes as presented.

ADOPT AGENDA

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

PUBLIC COMMENT PERIOD

There were none.

REGULAR BUSINESS

TRACTOR SUPPLY COMPANY – CCOD REVIEW

Davidson County Zoning Administrator Lee Crook introduced Zoning Officers Josh Tussey and John Wheeler who worked heavily on the Tractor Supply application. Mr. Crook also introduced Wendy Fulton who was representing Tractor Supply.

Zoning Officer Josh Tussey referenced the Tractor Supply conceptual site plan provided for review by the Planning Board. He stated that the site of the project is the tract just immediately to the west of the CVS on Hickory Tree Road. Staff has been in contact with Tractor Supply for a number of months going back

and forth trying to make sure that what is being brought to the Planning Board is more for approval and meets as closely as possible to what the CCOD requirements dictate. Page two of the site plan shows the proposed location and land site. Page three looks very similar but provides additional information on parking information as well as the proposed access connection to the driveway that will be shared with the shopping center next door. Pages four and five are the elevations showing the building from three sides. Page 8 shows the proposed signage for the site. Following that, there is also a landscape plan that shows the proposed landscaping for the site. The final page is lighting for the parking lot.

Mr. Tussey said that throughout this process, staff had been working with Wendy Fulton and Engineer Brandon Devlin with BL Companies, both representing Tractor Supply. Planning staff has gone through a couple of iterations of these plans and site plans going back and forth. He said that the plans being submitted to the Planning Board are the final plans for consideration.

Board member Richard Miller asked if the project would have any effect on the roundabout that is planned for accessing Highway 52 and Hickory Tree Road. Mr. Tussey said he was not aware of that but as far as the connection, a driveway permit would be required from NCDOT. However, Tractor Supply would be using the existing shopping center driveway.

Board member Jamie Hester asked if the monument sign is going to be out front but to the side of the building. Mr. Tussey referenced page two of the site plan that illustrates the sign being at the front but to the left of the building just before the existing driveway to the shopping center. Ms. Hester questioned the measurements of the sign. Mr. Tussey said staff looked over the signage carefully because there are strict requirements for signage in the CCOD. There was a question staff had about the sign and that question is being brought to the Planning Board for clarification more than anything else.

Zoning Officer Josh Tussey then began review of the nine comments the Planning staff had for the Board's assessment and discussion of the details about slight deviations in the Tractor Supply project.

1. 70% brick will be achieved if constructed as planned. "Quick Brick" is proposed as an exterior veneer instead of traditional brick. The appearance will be the same, however staff felt compelled to bring the Boards attention to this slight deviation.

Discussion

Mr. Tussey said that in the staff's research, brick veneer is not traditional brick but will roughly have a similar appearance.

Ms. Fulton said it would give the appearance of brick, but it is a little bigger. It has grout lines like traditional brick, but it is thinner brick, so it is quick set to the building. She said it is a little larger than traditional size brick but other than that, it has grout lines and looks the same.

Board member Jamie Hester asked if the brick could be similar to the shopping center or if a stand-alone store would have a different look. Ms. Fulton responded that she could not remember the color of the shopping center. She said that since the Town's ordinance prohibits painting, Tractor Supply would be constrained somewhat by the color they are cast it in. She said that with brick, it depends on the sand and the color is a little different every time. Referencing the page on the site plans that shows the traditional colors of Tractor Supply, Ms. Fulton said that the little band at the bottom will be their traditional split-face block and it will be painted the color shown. The 70% requirement for brick will be the lighter shade above it on all four sides in a color they can get to somewhat match that.

Board member James Smith said the only issue he has with that is that the standard in the CCOD is that is real brick. He said several businesses were required to adhere to the CCOD. He asked about other Tractor Supply stores. Ms. Fulton responded that the traditional Tractor Supply stores are split-face blocks with no brick whatsoever. That is their standard prototype. It only comes in brick when it is local like this.

Board member Jamie Hester asked if the proposed veneer is a thinner veneer that will be attached. She said, in other words, it will be brick veneer, just thinner. Ms. Fulton responded that was correct. Zoning Administrator Lee Crook added that it is still masonry, just thinner. It would look the same as brick.

Board member James Smith asked what the other 30% would be if it is 70% brick. Mr. Crook responded that the base at the bottom would be painted split-face block and the veneer above is the 70%. It is on all sides of the building, even on the back. He said the majority of the building will be brick or appear to be brick, commenting that you will not be able to tell the difference.

Mr. Crook said the Planning staff brought it to the Board's attention because the CCOD basically is an appearance criteria. He commented that if it looks like a duck and walks like a duck, it is usually a duck. He said there is a slight deviation, but it is still masonry product, and it will still give the same exact appearance as a traditional brick building.

Board member Paula Hill asked if the quick brick would hold up as good and not fall off. Ms. Fulton responded saying that to her knowledge they have never had one to do that, but it could always be damaged if it is hit by a forklift or a vehicle or something. Mr. Crook said that Planning staff had somewhat educated themselves on the product and there are several different companies that use this material. He said it is a common building material and very commonly used in commercial application.

Board member Paula Hill asked if it is still veneer just like brick would be veneer. Ms. Fulton responded that was correct, adding the split-face block would be a set pattern.

Board member Jamie Hester commented that the Cash Points machine in the shopping center is brick and she tried to recall if the base of the ice machine was brick. Town Manager Tammy Michael answered that brick veneer was used for the ice machine. Mr. Crook told the Board that the ice machine has been painted and they are getting ready to put the awning up on the top. Ms. Hester said that was the color scheme to match. Mr. Crook said it was not the intent of Tractor Supply to match the existing shopping center. Tractor Supply is going to be 70% brick and the color scheme will be their traditional colors. That is what is proposed.

Zoning Officer Josh Tussey pointed out the CCOD states that color schemes should utilize earth and other natural tones as found in the soil types and/or plant material found in the Midway area and, more specifically, that area immediately adjacent to the development site.

2. Underground utilities have been planned for this project as proposed.
3. Staff would like to see a NCDOT commercial driveway permit obtained by the Applicant to meet the CCOD language "Conform to the standards of the NCDOT".

Discussion

Ms. Fulton stated they had reached out to DOT about the access to Hickory Tree Road and how that would work. She pointed out that the closer you get to I-285 (Highway 52), there is a very deep ravine along and a guardrail along that area. DOT will not issue a driveway cut for this site. Tractor Supply is in negotiations with the shopping center to attempt to get a driveway connection. She said that if that falls apart, obviously it will kill the project. The site plan shows Tractor Supply using the shopping center driveway. If for some reason the negotiations become unrealistic on either side, this project cannot be developed.

Zoning Administrator Lee Crook told Board member Richard Miller that the roundabout is going to be at the interchange of both sides of the bridge. There is potential for substantial residential development between that and this interchange. The roundabout will be a little further back towards the bridge. Town Manager Tammy Michael pointed out that date for construction of the roundabout had been pushed way out.

4. Staff noted no sidewalk on the western side of the project against the outdoor storage area. This requirement is in the section "Walkways Along Buildings" and since this technically is not part of a building but a storage yard, staff was unsure if this had to be met.

Discussion

Zoning Officer John Tussey said this is one of those gray areas and if the Board has a concern about it, now is the time to let Tractor Supply know.

Board member Jamie Hester asked if parking is going all the way up to the fence. Mr. Crook said it would not go to the fence but probably to the storage area. He said that was the way staff interpreted the site plan.

Mr. Tussey said it was a very minor point, but staff wanted to make the Board aware of it.

5. This proposed project is considered a retail sales facility of durable and non-durable goods; however, it has two components that are listed as prohibited uses in Section 14 Use Restrictions (B) Prohibited Uses. There is a proposed greenhouse and an outdoor storage facility proposed for this project. Staff's interpretation of the prohibited uses section was the listed uses are prohibited as principal uses of the properties not as ancillary uses of an allowed use. Staff would bring the Board's attention to this and would like clarification.

Board member Jamie Hester said it looks like the fencing with the outdoor area is screened on the inside and asked if that was correct. Ms. Fulton said it was just metal fencing. She said the garden area is kind of screened because it has that clear plastic behind the fence.

Board member Carl Tuttle asked for clarification on the location of the Tractor Supply project. Mr. Crook responded it is on the vacant property beside CVS in the shopping center. It is between CVS and I-285. He said it used to be the drain field for the shopping center before the sewer came through. Once the sewer came through, the shopping center abandoned the drain field so now it is available for development.

Mr. Tuttle questioned if Tractor Supply would be using the same entry coming into the shopping center. Mr. Crook said that is the proposal and there are some negotiations to take place with the owners of the shopping center for some type of ingress/egress easement across their land. That is what DOT is requiring of the developers of Tractor Supply.

6. CCOD Section J, Vehicular and Pedestrian Access and Circulation, (18) Separated Pathways, requires the sidewalk in a parking lot of over 100 spaces be a" raised, fully separated, pedestrian walkway. The use as designed meets the parking regs of the CCOD at 125 spaces. The spaces are broken up into 3 different parking areas, east, west and the largest being to the north of the proposed building containing 67 spaces. There is a stamped asphalt walkway through the northern parking lot, but it is not raised or separated. Staff has interpreted this section as 3 separate parking lots with 67 spaces to the north, 40 to the east and 18 to the west. This exempts Tractor Supply from having to raise and separate the proposed sidewalk in the northern parking lot. Staff would like clarification whether this method of calculation is acceptable to the Board.

Discussion

Zoning Administrator Lee Crook said staff's rationale is that the people parking on the west or east side of the store would not utilize that sidewalk. They would come in at a different direction. The people parking in the northern parking lot would be utilizing that but since it did not reach the threshold of 100 spaces, that requirement would not apply.

7. The CCOD requires one loading dock per 5000 square feet of retail space. This would bring the required number of loading docks to four for this project. Only one is shown. Staff would like the Applicant to explain why this will be adequate for their proposed use.

Ms. Fulton said Tractor Supply is just not a heavy unloading business, depending on the volume of the store, but one tractor-trailer delivery from its distribution center a week is the norm. There would never be a situation where they would have four trucks at the store once it is stocked initially. Once it is in operation, they are very low turner of trucks and truck traffic. There is no more than one loading dock in their other facilities.

Board member Paula Hill asked if there is ample space for the tractor trailers to pull around on the asphalt. Ms. Fulton responded there is ample space. They use 60–70-foot trucks and they do the truck turn to make sure they have space.

Board member Jamie Hester said that there are already loading docks behind the CVS and everybody is going to use the same drive. Ms. Fulton said only to the point of entrance into the Tractor Supply site because their trucks do not go to the back.

Board member Paula Hill asked if the truck pulls to the front and all around to that side of the building and then goes out the short track. Ms. Fulton said that is correct.

Zoning Officer Josh Tussey said that just so the Board is aware, there are some other requirements for parking and loading that are not part of the CCOD but are part of the Town's general parking requirements for commercial development. When Tractor Supply comes in to apply for their permits, they have to show one space per 5,000 square feet. Mr. Tussey said staff would certainly address that and ensure that is met once they do come in to apply for their permits.

Ms. Fulton said that is more parking than what is needed. Tractor Supply would be fine with 80-100 spaces, but 125 spaces are what is required.

8. The monument sign proposed for this project complies with the size and locational requirements of the CCOD. The CCOD requires for sign landscaping. There is landscaping shown close to the sign but not around the sign. Staff felt compelled to bring the Board's attention to this slight deviation of the requirements.

Discussion

Ms. Fulton said they would be glad to put some ground planting/flowers around the sign.

9. The landscaping for the interior parking area of the project does comply with the point system requirements in the CCOD. The same interior landscaping does not comply with the area requirement in the CCOD. The Applicant proposes 3000 square feet of landscaping area and staff calculated the requirement at 3125 square feet. Staff feels the proposal meets the intent of the requirements due to point compliance but felt obligated to bring the square footage deficiency to the Board's attention.

Discussion

Board member Jamie Hester said if Tractor Supply is agreeable to putting landscaping around the sign, that should make up the difference. Ms. Fulton said they could do that. Mr. Crook said adding the landscaping around the sign would bring it into compliance.

Ms. Hester asked if it would be possible to see illustrations of other Tractor Supply stores using the brick veneer. Ms. Fulton produced images of other projects on her iPad for the Board to view.

Zoning Administrator Lee Crook asked Ms. Fulton if they were planning on leaving some of the existing foliage that is on the west side of the property. She responded that they planned to touch as little of it as they could get away with. Mr. Crook said there would be an easement or right of way for the sewer but did not know of anything other than that. He said he just wanted to bring that to the Board's attention because the property to the west of that has potential for residential development. Ms. Fulton said the only thing that Tractor Supply would potentially clear would be up at the top for visibility purposes. The bulk of the foliage at the back would not be touched.

Zoning Officer Josh Tussey concluded his report, stating that staff feels that the facility as proposed meets the spirit and intent of the CCOD. He said it is rare to check off every single detailed requirement and staff wanted to bring those few points to the Board that were discovered, and staff thought were questionable or possible gray areas. He said all-in-all, based on their review of the project, it does comply with the CCOD.

Town Manager Tammy Michael asked Mr. Tussey to read Zoning Administrator Lee Crook's letter, less the nine points discussed, so it would reflect in the official record.

Mr. Tussey read the letter into record as follows:

The Planning staff has reviewed the plans for the proposed new project for Tractor Supply located to the west of CVS on Hickory Tree Road. This business falls within the Town of Midway's CCOD overlay district. As such, the business must satisfy all applicable requirements assigned in Section 3.07, Core Commercial Overlay District.

Planning staff has reviewed the plans submitted for the Tractor Supply Project and it is staff's opinion that the facility as proposed complies with the intent and spirit of the CCOD. With the Town Council handing down a consensus that variances to the CCOD should only be for safety issues or other minor defensible/justifiable requests, staff has the following comments:

(The list of nine points followed.)

With respect to all other aspects of the CCOD, staff feels that this application is compliant.

Lee Crook, Josh Tussey and John Wheeler and the Applicant will be present at the meeting to discuss this application and go over the methodology of compliance with these regulations.

*Respectfully,
R. Lee Crook, Jr.
Zoning Administrator*

Chairman Charles Waddell asked the Board if there was any discussion regarding the Tractor Supply site plan.

Board member James Smith said the Town would love to have a Tractor Supply in Midway but looking over this information and the nine variances being requested, the Town has pretty much kept every business up to this point to the Town's goal. Mr. Smith read from the CCOD Introduction under Section 3.08 Core Commercial Overlay District (CCOD) that outlines the purpose of the CCOD as follows:

The purpose of the Core Commercial Overlay District (CCOD) is to establish a set of development and design standards to regulate new development within the Town of Midway's core commercial area around the US 652 and Hickory Tree Road interchange. These standards are established with the intent to ensure conformity of new development in this area with the adopted US Highway 52 Corridor Plan, which was adopted by the Midway Town Council to establish a long-term vision for growth in the Town's commercial core.

Mr. Smith said that that some of the points could be tweaked a little bit, but he feels like on some of them, maybe it would be letting down the standards a little bit of what the CCOD was originally set up for, with the exception of safety issues and defensible/justifiable requests.

Board member Jamie Hester said she did not think these are necessarily variances. Zoning Administrator Lee Crook said they were not intended to be variances but points needing clarification. Ms. Hester said she thought the intent of the Core Commercial Overlay District regulations is to be the esthetics and appearance the Town wants for Midway. She said she would like to see development continue.

Board Member James Smith referenced point number 5 in the list about the proposed greenhouse. He said that is one of the things that goes totally against what was established in the CCOD.

Board Member Hester said she did have a concern about the fencing and had made a note about it on the plan.

Zoning Administrator Lee Crook said the Planning staff heard the Council loud and clear about variances to the CCOD. He said Zoning Officers Tussey and Wheeler went through the site plans with a fine-tooth comb and the list of nine things were points of clarification. Planning staff does not know whether they meet the CCOD or not. He said there are a couple of ways to look at the list of prohibited uses and Mr. Tussey alluded to that. If the greenhouse and outdoor storage facilities were clearly the

principal use of the property, staff knows without a doubt that independently they could not do those things. In planning and zoning, you have principal use and secondary use. The storage and the garden center are secondary uses to the principal use of the retail space. That is the reason it was brought up and phrased as a question to the Board. Staff wanted to see if the Board was all right with that. They are not the principal use but a secondary use to the principal use. Every Tractor Supply has one. If those are a prohibited use here, Tractor Supply will probably just go somewhere else. That is up to the Board's discretion. He said Planning staff heard Council edict that they wanted to stand by the CCOD. Those nine points were things that the staff was not sure whether they complied or not and they wanted to bring their methodology and thought process to the Board so the Board would know how staff was thinking.

Board member James Smith asked if it were a "make it or break it" if Tractor Supply could not meet the standards. He said the ones he had the most concern with were the quick brick instead of traditional brick and the greenhouse and outdoor storage facility. Mr. Crook said that what it all boils down to is what the intent of the regulation is. Staff reads it as an appearance criteria to make the Town uniform within its core. Staff's thought process was that if it looked like brick, then it meets the compliance. He said staff is there just looking at the plans and conveying the information across to the Board. Mr. Smith said one thing that makes him nervous is the Board setting a precedent if the Board "fudges" or changes up from the CCOD. Mr. Crook said that it absolutely does. He said the ice vending machine has quick brick around the base. Board member Hester commented that approval by the Board was due to the movability of that machine. Chairman Waddell commented that it is still brick. Mr. Crook agreed, saying it is just thin brick. It is a thinner brick veneer than the traditional thick brick core. He said if you walk up and touch it, it feels like brick. Town Manager Tammy Michael asked if it still took a mason to set it. Mr. Crook said he assumed so.

Board member James Smith made a motion to table the item until the next Planning Board meeting to give each member a chance to go back over the nine points and look over the CCOD. Members could make notes so the two can be compared and the Board can decide if they want to accept one or all of the points. He said he felt like the Board needed to be a little better informed themselves.

Board member Carl Tuttle seconded the motion.

Under discussion, Chairman Waddell commented about the loading docks. He said if you don't need four loading docks, you don't need them. Board member Smith said that could be an exception the Board makes, and the other ones could be readdressed. He said he did not have an issue with the loading docks either.

Chairman Waddell referred to the brick issue, referencing Mr. Crook's comment that if it looks like a duck and walks like a duck, it is a duck.

Board member Hester said that she feels like this meets the Town's vision and what it has laid out.

Chairman Waddell asked Ms. Fulton if this was going to impact anything on the part of Tractor Supply. She responded that it would not. It would only affect their schedule and submittal, but that part is fine. She said they always want to do everything as fast as possible because they want their doors open as soon as possible.

Chairman Waddell said he appreciated all the work that was done on this by everybody. He said staff had provided s a lot of great detail.

Board member Paula Hill said she had been to multiple Tractor Supply stores, and she does not have an issue with what it is going to look like because most of the time they are very clean and well maintained. The parking at their stores she has been to would be way over the number of cars she has

seen at their other stores. She said she was not concerned about the look of the outside area because she has seen what that fence looks like.

Board member Smith said he wanted to be clear that he did not make the motion to deny the request. He said he just wanted everyone to be clear on what the Board would be voting on. He said there are a couple of the points that he wants to go back and look at the ordinance to make sure he is clear on it. He said he didn't want to be a hypocrite about what the Town has already put in place.

Board member Carl Tuttle said that a lot of hard work has gone into the plan. He asked what would happen to other businesses that want to come. He said he thought the Town should just stay close to what is already in the core district regulations. If the Town starts deviating from that, the next one might come in and want that same thing. He said he just needed time to think about it.

Chairman Waddell said the Planning staff is available for any questions the Board may have.

There being no further discussion, Chairman Waddell called for a vote on the motion to table the matter until the next Planning Board meeting.

The vote on the motion was a 2 to 2 tie. Voting for the motion were Board members James Smith and Carl Tuttle. Voting against were Board members Jamie Hester and Paula Hill. Chairman Waddell broke the tie, voting against the motion to table the item. The motion failed by a 3-2 vote.

Chairman Waddell said he felt like it was just matter of how the CCOD is interpreted.

Board member Jamie Hester said she felt like it is about how the Board understands the intent of the district. She told the Planning staff they had done a great job laying it out.

Board member Paula Hill made a motion to approve the plan as presented. Board member Jamie Hester seconded the motion. The vote on the motion was a 2 to 2 tie. Voting in favor were Board members Paula Hill and Jamie Hester. Voting against were Board members James Smith and Carl Tuttle. Chairman Waddell broke the tie, voting in favor of the motion to approve the plan as presented. The motion passed by a 3-2 vote.

Mayor Pro Tem Mike McAlpine commented that the decision made would affect every other builder that comes in.

OTHER BUSINESS

There were none.

Town Manager Tammy Michael said she just wanted to take the opportunity to thank the Planning staff for getting on the solid waste complaints and the fast turnaround on the last two that the Town submitted. She said the staff had done a really good job and she just wanted the Board to know how good they are to work with.

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