

Attendance: Mayor Kitts; Mayor Pro Tem John Crump; Councilmembers: Allen Burnette, Darren Hartsell and Rich Wise; Town Manager, Doug Paris; Town Clerk, Nancy E. Boyden, *CMC, NCCMC*; Finance Officer, Beverly Love; Town Attorney, Anthony Fox; Planning, Zoning & Subdivision Administrator, Kassie Watts, *AICP, CZO*; Town Engineer, Richard McMillan, *P.E.*; Cabarrus County Captain Nesbit; Midland Firefighter, Austin Cole.  
Also Present: Cabarrus County Commissioner Lynn Shue.  
Absent: None.  
Late: None.  
Guests: None.

All items are for discussion and possible action unless otherwise specified.

\*SR denotes staff memo/report included

1. **Invocation:** Councilmember Hartsell pronounced the *Invocation*.
2. **Open Meeting:** Mayor Kitts opened the meeting at 7:01 pm and called the room to order.
  - a. The room stood for the *Pledge of Allegiance*.
3. **Announcements:** Mayor Kitts gave the following announcements:
  - a. There will be no delays in garbage and recycling pick up for Christmas and New Year.
  - b. Holiday refreshments will be served following adjournment of this meeting.
  - c. Midland Town Hall will be closed Friday, December 23<sup>rd</sup>, Monday, December 26<sup>th</sup> and Tuesday, December 27<sup>th</sup> in observance of the Christmas holiday.
  - d. Mayor Kitts encouraged citizens to check out local holiday events happening at various churches- Christmas concerts and a variety of other activities.

4. **Approval of Agenda:**

**Motion** was made by Councilmember Burnette and seconded by Mayor Pro Tem Crump to approve the Agenda as presented. **Motion carried 4-0.**

5. **Consent Agenda:** Minutes Regular Session: 11-9-2016, Minutes Special Meeting: 11-14-2016; Attorney Bills.

**Motion** was made by Councilmember Wise and seconded by Councilmember Hartsell to approve the Consent Agenda as presented. **Motion carried 4-0.**

6. **\*SR 2017 Town Council Regular Monthly Meeting Calendar:**

Mayor Kitts said that staff has been discussing changing the Regular Monthly Meeting time from 7:00pm to 6:00pm.

Council and Attorney Fox were amenable to the time change.

Mayor Kitts asked Mr. Paris to do a social media survey to see how citizens feel about the change. She also asked the citizens in the audience how they feel about the time change by a show of hands.

There were no objections.

**Motion** was made by Councilmember Burnette and seconded by Councilmember Wise to approve the 2017 Regular Monthly Meeting Calendar and set the meeting time at 6:00 pm. **Motion carried 4-0.**

## MIDLAND TOWN COUNCIL REGULAR MEETING SCHEDULE

## Calendar Year 2017

**Regular Council Meetings are held the 2nd Tuesday of each month.  
Midland Town Hall 4293-B NC Hwy. 24/27 Midland at 6:00pm.**

**This Meeting Schedule is subject to change.**

**January 10<sup>th</sup>, February 14<sup>th</sup>, March 14<sup>th</sup>, April 11<sup>th</sup>, May 19<sup>th</sup>, June 13<sup>th</sup>, July 11<sup>th</sup>,  
August 8<sup>th</sup>, September 12<sup>th</sup>  
October 10<sup>th</sup>, November 14<sup>th</sup>, December 12<sup>th</sup>.**

7. **Public Comment:** None forthcoming.

8. **Public Hearings:**

a. \*SR Initial Zoning Designation I & A Properties 12322 Old Camden Rd

Ms. Watts summarized her staff report:

Re: Initial Zoning Classification – I&A Properties, LLC – 12322 Old Camden Road; Midland, NC 28107  
(Cabarrus County PIN 5534-08-2366)

### **BACKGROUND**

On November 9, 2016 the Town Council adopted an ordinance (#2017-204(A)) to annex, by voluntary petition, the property shown on the attached map.

I&A Properties, LLC is approximately 4.43 acres and is currently zoned by Cabarrus County. The current County zoning classification is, “Limited Industrial – Special Use” (LI-SU) and, “Office/Institutional” (O/I). The proposed zoning district is the Town of Midland “NC 24/27 Commercial” (C 24/27) designation.

On November 22, 2016 the Planning & Zoning Commission discussed the request and made a recommendation to the Town Council for approval by a unanimous affirmative vote (7-0).

North Carolina General Statutes require that municipalities annexing territory into the corporate limits must apply its own zoning classification to the territory being annexed within sixty days of the effective date of the annexation.

### **FINDINGS AND CONCLUSIONS**

The property lies within the area designated on the adopted Town Plan 2030 Future Land Use Map for commercial uses and is consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013 and subsequently amended March 8, 2016 and October 11, 2016. The adopted Land Use Map appearing therein, which covers areas outside the city limits of the Town of Midland, shows the subject property lying within the area known as the Midland Service Area, as required by NCGS § 160A-383. This amendment is reasonable because the subject property is adjacent to other commercial and industrially zoned properties and is in close proximity to a major thoroughfare where commercial uses are appropriate and where future utility infrastructure is expected.

### **POLICY IMPLICATIONS**

The Town of Midland Development Ordinance and the North Carolina General Statutes require the P&Z Commission to make a recommendation on the zoning map amendment. The P&Z Commission discussed this zoning map amendment during the November 22, 2016 meeting and voted (7-0) to recommend the “NC 24/27 Commercial” (C 24/27) designation.

Town of Midland Development Ordinance standards for the “NC 24/27 Commercial District” will apply following:

1. Public Hearing held by the Town Council (December 13, 2016), and;
2. Adoption of an Ordinance #12-2016 (A)(IZ) including both the Statement of Consistency and Reasonableness and designating the Town zoning classification.

Notice of this meeting and this agenda item has been publicized, letters have been sent to adjacent property owners within 500 ft. of the subject property, and a sign has been posted on the property.

The Council may vote to approve or deny, or to modify the requested amendment to the Official Zoning Map consistent with the adopted Town Plan 2030 Land Use & Comprehensive Master Plan, Revision 2 adopted October 8, 2013, and subsequently amended March 8, 2016 and October 11, 2016, by the Town of Midland.

i. Open Public Hearing

Mayor Kitts opened the public hearing at 7:09 pm. There were no comments so she closed at 7:09 pm.

ii. Consider rezoning to Commercial- *Zoning Ordinance #12-2016 (A)(IZ)*

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Crump to adopt *Ordinance #12-2016 (A)(IZ)* to designate the subject property as “NC 24/27 Commercial” (C 24/27) to be consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013 and subsequently amended March 8, 2016 and October 11, 2016. The adopted Land Use Map appearing therein, which covers areas outside the city limits of the Town of Midland, shows the subject property lying within the area known as the Midland Service Area, as required by NCGS § 160A-383. This amendment is reasonable because the subject property is adjacent to other commercial and industrially zoned properties and is in close proximity to a major thoroughfare where commercial uses are appropriate and where future utility infrastructure is expected. **Motion carried 4-0.**

**AN ORDINANCE AMENDING THE DEVELOPMENT ORDINANCE  
OF THE TOWN OF MIDLAND, NORTH CAROLINA**

*Ordinance #12-2016 (A)(IZ)*

**BE IT ORDAINED** by the Town Council of the Town of Midland, North Carolina that the Midland Development Ordinance Official Zoning Map as adopted pursuant to Article 1, section 1.13 of the Town be amended as follows:

**Part 1. Consistency with Adopted Comprehensive Plan.**

The Town Council finds that the zoning map amendment to the property of I&A Properties, LLC; changing the zoning designation of Cabarrus County “Limited Industrial – Special Use” (LI-SU) and “Office/Institutional” (O/I) to Town of Midland “NC 24/27 Commercial” (C 24/27) is consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013, and subsequently amended March 8, 2016 and October 11, 2016 as shown on the adopted Land Use Map appearing therein which covers areas inside the city limits of the Town of Midland, as required by NCGS § 160A-383. This amendment is reasonable because the subject property is adjacent to other commercial and industrially zoned properties and is in close proximity to a major thoroughfare where commercial uses are appropriate and where future utility infrastructure is expected. This amendment allows the subject property to be used in accordance with the standards of the NC 24/27 Commercial (C 24/27) Zoning District in the future. The amendment allows for the potential growth and expansion of the economic base of the Town and provides opportunities for local jobs for the community.

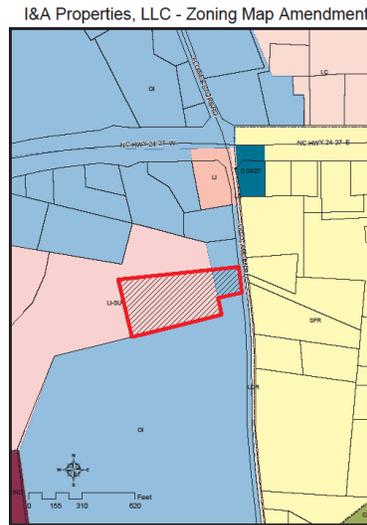
**Part 2. Designation of Initial Zoning Designation.**

Cabarrus County Property Identification Number 5534-08-2366 shall be designated “NC 24/27 Commercial” (C 24/27) on the Official Zoning Map as shown on Attachment “A”.

**Part 3. Effective Date.**

This Ordinance shall be effective immediately upon its adoption.

Adopted this the 13<sup>th</sup> day of December, 2016.



b. \*SR Initial Zoning Designation Purser Property 501Hwy. 27 West

Ms. Watts summarized her staff report:

Re: Initial Zoning Classification – Deloria P. Rowell, Carole S. Purser & William N. Purser – 501 NC Hwy 24-27 West; Midland, NC 28107 (Cabarrus County PIN 5524-87-3928)

**BACKGROUND**

On November 9, 2016 the Town Council adopted an ordinance (#2017-205(A)) to annex, by voluntary petition, the property shown on the attached map.

The subject property is approximately 24.343 acres and is currently zoned by Cabarrus County. The current County zoning classification is “Office/Institutional” (O/I). The proposed zoning district is the Town of Midland “Industrial” (IND) designation.

On November 22, 2016 the Planning and Zoning Commission discussed the request and made a recommendation to the Town Council for approval by a unanimous affirmative vote (7-0).

North Carolina General Statutes require that municipalities annexing territory into the corporate limits must apply its own zoning classification to the territory being annexed within sixty days of the effective date of the annexation.

**FINDINGS AND CONCLUSIONS**

The property lies within the area designated on the adopted Town Plan 2030 Future Land Use Map for industrial uses and is consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013 and subsequently amended March 8, 2016 and October 11, 2016. The adopted Land Use Map appearing therein, which covers areas outside the city limits of the Town of Midland, shows the subject property lying within the area known as the Midland Service Area, as required by NCGS § 160A-383. This amendment is reasonable because the subject property is adjacent to other industrially zoned properties and is situated along a major thoroughfare where industrial uses are appropriate and where future utility infrastructure is expected.

**POLICY IMPLICATIONS**

The Town of Midland Development Ordinance and the North Carolina General Statutes require the P&Z Commission to make a recommendation on the zoning map amendment. The P&Z Commission discussed this

zoning map amendment during the November 22, 2016 meeting and voted (7-0) to recommend the, “Industrial” (IND) designation.

Town of Midland Development Ordinance standards for the “Industrial District” will apply following:

1. Public Hearing held by the Town Council (December 13, 2016), and;
2. Adoption of an Ordinance #12-2016 (B)(IZ) including both a Statement of Consistency and Reasonableness and designating the Town zoning classification.

Notice of this meeting and this agenda item has been publicized, letters have been sent to adjacent property owners within 500 ft. of the subject property, and a sign has been posted on the property.

The Council may vote to approve or deny, or to modify the requested amendment to the Official Zoning Map consistent with the adopted Town Plan 2030 Land Use & Comprehensive Master Plan, Revision 2 adopted October 8, 2013, and subsequently amended March 8, 2016 and October 11, 2016, by the Town of Midland Town Council.

i. Open Public Hearing

Mayor Kitts opened the public hearing at 7:15 pm. There were no comments so she closed at 7:15pm.

ii. Consider rezoning to Commercial- *Zoning Ordinance #12-2016 (B)(IZ)*

**Motion** was made by Councilmember Wise and seconded by Councilmember Hartsell to adopt *Ordinance #12-2016 (B)(IZ)* to designate the subject property as “Industrial”(IND) to be consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013 and subsequently amended March 8, 2016 and October 11, 2016. The adopted Land Use Map appearing therein, which covers areas outside the city limits of the Town of Midland, shows the subject property lying within the area known as the Midland Service Area, as required by NCGS § 160A-383. This amendment is reasonable because the subject property is adjacent to other industrially zoned properties and is situated along a major thoroughfare where industrial uses are appropriate and where future utility infrastructure is expected. **Motion carried 4-0.**

**AN ORDINANCE AMENDING THE DEVELOPMENT ORDINANCE  
OF THE TOWN OF MIDLAND, NORTH CAROLINA**

*Ordinance #12-2016 (B)(IZ)*

**BE IT ORDAINED** by the Town Council of the Town of Midland, North Carolina that the Midland Development Ordinance Official Zoning Map as adopted pursuant to Article 1, section 1.13 of the Town be amended as follows:

**Part 1. Consistency with Adopted Comprehensive Plan.**

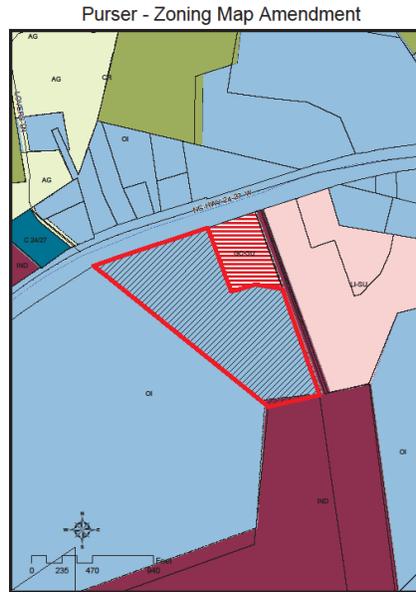
The Town Council finds that the zoning map amendment to the property of Deloria P. Rowell, Carole S. Purser & William N. Purser; changing the zoning designation of Cabarrus County “Office/Institutional” (O/I) to Town of Midland “Industrial” (IND) is consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013, and subsequently amended March 8, 2016 and October 11, 2016 as shown on the adopted Land Use Map appearing therein which covers areas inside the city limits of the Town of Midland, as required by NCGS § 160A-383. This amendment is reasonable because the subject property is adjacent to other industrially zoned properties and is situated along a major thoroughfare where industrial uses are appropriate and where future utility infrastructure is expected. This amendment allows the subject property to be used in accordance with the standards of the Industrial (IND) Zoning District in the future. The amendment allows for the potential growth and expansion of the economic base of the Town and provides opportunities for local jobs for the community.

**Part 2. Designation of Initial Zoning Designation.**

Cabarrus County Property Identification Number 5524-87-3928 shall be designated “Industrial” (IND) on the Official Zoning Map as shown on Attachment “A”.

**Part 3. Effective Date.**

This Ordinance shall be effective immediately upon its adoption.



c. \*SR Land Use Plan Zoning Map Amendment & Zoning Reclassification Miles Little

Ms. Watts summarized her staff report:

Re: Zoning Map Amendment (re-zoning) – Miles Little  
5540 NC Hwy 24-27 East; Midland, NC 28107 (Cabarrus County PIN 5555-80-8680)

**BACKGROUND**

On August 19, 2016 the Town received a letter (attached) requesting a change to the adopted *Town Plan 2030 Future Land Use Map* and subsequent re-zoning affecting the property shown on the attached map. The adopted Future Land Use Map designated the subject property for agricultural uses and the zoning designation was “Agriculture” (AG).

North Carolina General Statutes require that municipalities adopt zoning designations consistent with an adopted land use plan.

On September 27, 2016 the Planning & Zoning Commission reviewed the proposed amendment to the Town Plan 2030 Future Land Use Map and voted unanimously (7-0) to recommend approval of the proposed amendment to the Future Land Use Map request.

On October 11, 2016 the Town Council adopted a Resolution (#2017-180), approving the amendment to the Town Plan 2030 Future Land Use Map.

The request for the Zoning Map Amendment (re-zoning) of the property then returned to the Planning & Zoning Commission to 1) determine if the request is consistent with the Town Plan 2030 Future Land Use Map and 2) make a formal recommendation including a Statement of Consistency and Reasonableness to the Town Council.

On November 22, 2016 the Planning & Zoning Commission discussed the request and made a recommendation to the Town Council for approval by a unanimous affirmative vote (7-0).

**FINDINGS AND CONCLUSIONS**

Minutes Tuesday, December 13, 2016  
Regular Meeting of Town Council  
7:00pm, 4293-B Hwy. 24/27 E. Midland, NC 28107

The property lies within the area designated on the adopted Town Plan 2030 Future Land Use Map for commercial uses in the Town Plan 2030 Land Use & Comprehensive Master Plan, Revision 2 adopted October 8, 2013, and subsequently amended March 8, 2016 and October 11, 2016.

### **POLICY IMPLICATIONS**

The Town of Midland Development Ordinance and the North Carolina General Statutes require the P&Z Commission to make a recommendation on both land use map and zoning map amendments. Therefore, following recent consideration and approval by adopted Resolution (#2017-180), of a revision to the future land use map, the applicant's request brought forth a proposed zoning map amendment to actually re-zone the property. The P&Z Commission discussed this zoning map amendment during the November 22, 2016 meeting and voted (7-0) to recommend the "NC 24/27 Commercial" (C24/27) designation.

Town of Midland Development Ordinance standards for the "NC 24/27 Commercial District" (C 24/27) will apply following:

1. Public Hearing held by the Town Council (December 13, 2016), and;
2. Adoption of Ordinance #12-2016 (C)(M)) including both a Statement of Consistency and Reasonableness and designating the Town zoning classification.

Notice of this meeting was publicized, letters sent to adjacent property owners within 500 ft. of the subject property, and a sign posted on the property.

The Council may vote to approve or deny, or to modify the requested amendment to the Official Zoning Map consistent with the Town Plan 2030 Land Use & Comprehensive Master Plan, Revision 2 adopted October 8, 2013, and subsequently amended March 8, 2016 and October 11, 2016, by the Town of Midland Town Council.

#### **i. Open Public Hearing**

Mayor Kitts opened the public hearing at 7:19 pm.

Ms. Norma Floyd of 5665 Hwy. 24/27 E. Midland (unincorporated)

Ms. Floyd said that it's her understanding that this is a, "done deal" for the NC 24/27 commercial corridor. She said that the state is rerouting the 2 bridges and presently surveying. She also stated that several of her neighbors received letters on the rezoning yet she never received one. She said to her understanding that the state is going to place one of the bridges in a different direction which will mean different lanes. By looking at the markings it seems there will be a different direction for the road. She asked if Council knows something about the bridge work that she doesn't know. If this property is going to be zoned commercial, is it going to affect ingress and egress? She said she got some information today online about what is required and not required for someone to develop Mr. Little's land. Her main concern is where people are going to ingress and egress if the property is commercially developed. Will they develop it off of McManus Rd. or is there a special ingress/egress off NC 24/27? She said she lives directly across the road on property that's been in her family for 5 generations. She has buildings on her land that are historic. She's concerned about the development but very concerned on how it's going to play in as far as traffic flow.

Mayor Kitts asked Mr. Paris if there is a way the Town can assist Ms. Floyd with her questions.

Ms. Floyd asked before Council makes its decision, could the rezoning consideration be tabled and the bridge issue be investigated first so people can have more information.

Mr. Paris said after the close of the Public Hearing if the Council desires they can ask staff and the applicant to answer Ms. Floyd's questions but at this point the decision is in Council's hands.

There were no more questions or comments so Mayor Kitts closed at 7:25 pm.

Councilmember Hartsell said that when there are commercial property developments on major thoroughfares traffic studies are done. NCDOT is the entity that determines turning lanes and routing of traffic. It's the state's responsibility and not a town's.

Ms. Watts agreed with Councilmember Hartsell. She said the specific use is not known at this time only that it would be rezoned commercial. Anything in the list of uses for commercial could go there. When a development plans and site plans are submitted it triggers a traffic study from NCDOT.

Councilmember Hartsell added that this is located on a state highway with 4 lanes of traffic. NCDOT's engineers will perform all the necessary studies and ensure safety for the public.

Councilmember Burnette said he's been contacted by one of the companies helping with the bridge study. He's been informed that NCDOT is looking at rebuilding the bridge east bound on Hwy. 24/27 for what kind of impact it would affect emergency services- making the bridge 2 lanes until it is finished.

Mr. Paris will contact NCDOT for information on bridge construction. This information will be passed onto the citizens.

ii. Consider Re-Classification from AG to Commercial- ***Zoning Ordinance 12-2016 (C)(M)***

**Motion** was made by Councilmember Burnette and seconded by Mayor Pro Tem Crump to adopt ***Ordinance #12-2016 (C)(M)*** to designate the subject property "NC 24/27 Commercial" (C-24/27) as to be consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013 and subsequently amended March 8, 2016 and October 11, 2016 as required by NCGS § 160A-383. This amendment is reasonable because the subject property is situated along a major thoroughfare where commercial uses are appropriate and where future utility infrastructure is expected. **Motion carried 4-0.**

Councilmember Wise added that from the Transportation Advisory Committee, (TAC) meetings he attends on behalf of Midland, it will be at least 10 years before anything will be done to the bridge.

**AN ORDINANCE AMENDING THE DEVELOPMENT ORDINANCE  
OF THE TOWN OF MIDLAND, NORTH CAROLINA**

***Ordinance #12-2016 (C)(M)***

**BE IT ORDAINED** by the Town Council of the Town of Midland, North Carolina that the Midland Development Ordinance Official Zoning Map as adopted pursuant to Article 1, section 1.13 of the Town be amended as follows:

**Part 1. Consistency with Adopted Comprehensive Plan.**

The Town Council finds that the zoning map amendment to the property of Miles Little and Carol Little; changing the zoning designation of "Agriculture" (AG) to "NC 24/27 Commercial" (C 24/27) is consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013, and subsequently amended March 8, 2016 and October 11, 2016 as shown on the adopted Land Use Map appearing therein which covers areas inside the city limits of the Town of Midland, as required by NCGS § 160A-383. This amendment is reasonable because the subject property is situated along a major thoroughfare where commercial uses are appropriate and where future utility infrastructure is expected. This amendment allows the subject property to be used in accordance with the standards of the NC 24/27 Commercial (C 24/27) Zoning District in the future. The amendment allows for the potential growth and expansion of the economic base of the Town and provides opportunities for local jobs for the community.

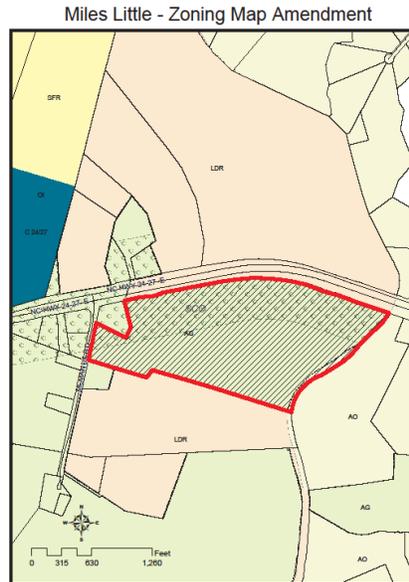
**Part 2. Designation of Initial Zoning Designation.**

Cabarrus County Property Identification Number 5555-80-8680 shall be designated "NC 24/27 Commercial" (C 24/27) on the Official Zoning Map as shown on Attachment "A".

**Part 3. Effective Date.**

This Ordinance shall be effective immediately upon its adoption.

*Adopted this the 13<sup>th</sup> day of December, 2016.*



- d. \*SR Zoning Text Amendment- To modify Article 9, Building & Lot Type Standards

Ms. Watts highlighted her staff report:

Re: Text Amendments to Article 9, Building and Lot Type Standards of the Midland Development Ordinance

**BACKGROUND**

The Town of Midland received multiple requests within the last year to modify the Town Plan 2030 Land Use & Comprehensive Master Plan, Revision 2, Future Land Use Map in anticipation of a request for a Zoning Map Amendment. The requests for amendments to the Future Land Use Map have centered along NC Hwy 24/27 and have been requests for commercial zoning designations. In response to these requests, staff has been working with the Planning and Zoning Commission at their regular meetings, August 23, 2016 and September 27, 2016, to review the existing Town Plan 2030 Land Use & Comprehensive Master Plan Revision 2 and to give thoughtful consideration to how the Town can facilitate commercial growth in the Midland area. A component of this exercise was to look at the existing text of the MDO and determine if building and lot design requirements for commercial development, outlined in Article 9, Building and Lot Type Standards, should be further clarified.

The Planning Department drafted potential Zoning Text Amendments to Article 9, Building and Lot Type Standards of the Town of Midland Development Ordinance (MDO). The purpose of these text amendments is to strengthen various sections of Article 9 that relate to the design standards affecting the C-24/27 zoning district and to update policy related to the ongoing growth and goals of the Town.

There are two building and lot types permitted in the C-24/27 zoning district:

1. Civic Building Lot and Building Type (9.5)
2. Highway Lot Type and Building Type (9.8)

While existing language in the MDO regarding development of these building and lot types is a good foundation, certain language is vague and could be open for interpretation. In an effort to prevent staff from having to interpret standards the Town deems appropriate for said developments, staff recommends the draft text amendments be incorporated into the MDO. For example, the word “should” is used frequently and could be interpreted as an option to a developer, rather than a requirement. The building material options have also been enhanced to require primarily brick, stone, wood, or other masonry materials as the primary construction materials.

Staff recommends approval of these amendments because they will strengthen the Town’s ability to require quality development by incorporating quality building materials. These design standards will determine how the Town will “look” as growth pressure increases, while also creating a “Sense of Place” that exhibits the Town’s brand and individuality.

#### **PLANNING AND ZONING COMMISSION RECOMMENDATION**

The Planning and Zoning Commission considered these zoning text amendments at their October 25, 2016 meeting. The Planning and Zoning Commission recommended approval of these text amendments with the inclusion of stucco as a material option for the front façade only, with a twenty-five percent (25%) limitation, in the Highway Lot Type Standards,

On November 9, 2016 the Midland Town Council received staff’s draft recommendations. Following the presentation, Town Council voted unanimously to schedule the Public Hearing for the December 13, 2016 Town Council meeting at 7:00.

#### **REQUESTED ACTION BY TOWN COUNCIL**

1. Public Hearing held by the Town Council (December 13, 2016), and;
2. Adoption of an Ordinance #12-2016 (D)(T) to amend the Midland Development Ordinance including both a Statement of Consistency and Reasonableness.

- i. Open Public Hearing

Mayor Kitts opened the public hearing at 7:33 pm. There were no comments so she closed at 7:33pm.

- ii. Consider Adoption of Amendments to Article 9- *Zoning Ordinance 12-2016 (D)(T)*

**Motion** was made by Councilmember Hartsell and seconded by Councilmember Wise that the Town Council finds that the text amendments to the Town of Midland Development Ordinance of Article 9, and sections contained therein are consistent with the Town of Midland Town Plan – 2030 Land Use and Comprehensive Master Plan Revision 2 adopted October 8<sup>th</sup>, 2013, and subsequently amended March 8, 2016 and October 11, 2016, and that this statement is reasonable because of the need to clarify design requirements for Highway and Civic Building and Lot Types as a result of increased commercial development along major thoroughfares. **Motion carried 4-0.**

#### **AN ORDINANCE AMENDING THE TOWN OF MIDLAND DEVELOPMENT ORDINANCE ARTICLE 9 BUILDING & LOT TYPE STANDARDS**

*Ordinance #12-2016(D)(T)*

**WHEREAS**, the Midland Town Council has considered the proposed text amendments to the Development Ordinance to modify provisions related to the design standards; and

**WHEREAS**, the Town Council finds that the amendments are necessary to further refine the design standards for Building and Lot Type Standards for the Highway and Civic Lot and Building Types; and

**WHEREAS**, prior to adopting or rejecting any zoning text amendment, the Town Council must adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explain why the Town Council considers the action taken to be reasonable and in the public interest;

***THEREFORE, BE IT ORDAINED*** by the Council of the Town of Midland as follows;

**PART 1.** The ordinances contained in the attached Exhibit A are amended as presented.

**PART 2.** That all ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**PART 3.** “The Town Council finds that the text amendments to the Town of Midland Development Ordinance of Article 9, and sections contained therein are consistent with the Town of Midland Town Plan – 2030 Land Use and Comprehensive Master Plan Revision 2 adopted October 8th, 2013, and subsequently amended March 8, 2016 and October 11, 2016, and that this statement is reasonable because of the need to clarify design requirements for Highway and Civic Building and Lot Types as a result of increased commercial development along major thoroughfares.”

**PART 4.** The text amendments to the Town of Midland Development Ordinance shall be effective immediately upon their adoption.

***Adopted this the 13<sup>th</sup> day of December, 2016.***

This ordinance and its attached Amendment, EXHIBIT A- Changes to Article 9 is hereby referenced and kept in the Office of the Midland Town Clerk and available for public inspection in the Midland Development Ordinance.

**9. Public Safety:**

a. Police Report - Cabarrus County Sheriff

Captain Nesbit reported the following for the month of November, 2016:

676 Self-initiated calls for service- some of which were:

- 570 Security checks;
- 14 Stranded motorists;
- 2 Suspicious subjects;
- 51 Traffic stops.

93 Dispatched calls for service- some of which were:

- 1 B/E in progress;
- 1 B/E of vehicle;
- 14 Burglar alarms;
- 2 Disputes;
- 1 Domestic disturbance;
- 2 Larcenies;
- 3 Property damage;
- 7 Suspicious subjects;
- 6 Suspicious vehicles;
- 5 Traffic accidents (property damage only).

Captain Nesbit added that he spoke with Deputy Harkey today because of an issue with the radar trailer. The speed was set at 25mph in a 45mph zone and that will be adjusted tomorrow.

Councilmember Hartsell asked if there has been any news from the vendor on the new police vehicle.

Mr. Paris said that the latest news is that the vehicle is at rail yard waiting to be shipped to the dealer. As soon as it arrives it will be delivered to Midland and then taken to the Cabarrus County shop to be equipped.

b. Midland Volunteer Fire Department Report

Firefighter Cole gave the Fire Department Report for November 2016:

- 1 Structure fire;
- 2 Residential fire alarms;
- 5 Brush fires;
- 3 Local alarms;
- 3 Motor vehicle accidents;
- 36 Medical calls.

**Total= 50 calls for service.**

Councilmember Hartsell thanked the Midland Fire Department for helping set up the Town Christmas tree this year.

**10. Planning: Planning, Zoning & Subdivision Administrator- *K. Watts***

a. Planning Projects- Verbal Update

Ms. Watts reported the following on ongoing projects:

- Staff is still working with Banks Massey for construction drawings and helping them to get a grading permit in advance of getting full civil engineering approval;
- The Jordan Dental building construction is progressing;
- Brentwood development is coming along well. Staff has approved all of their building elevations;
- Staff is working with the Windham Forest residential development. They soon will be starting construction;
- Allen Mini Storage is coming along nicely. They've taken down the old houses and clearing land.

Councilmember Hartsell asked planning and engineering to monitor the Brentwood construction entrance off of NC Hwy. 601 for mud, rock and other debris spilling onto the highway creating road hazards during the wet winter weather.

Mayor Kitts added that paving has been done at the new park. The County is also working on the building and bridges.

County Commissioner Lynn Shue said there will be a soft opening in January, 2017 for the park. Also the PARTF has approved the work that has already been done.

**11. Engineering: *R. McMillan***

a. \*SR McManus Meadows Subdivision Road Paving- *Update*

Mr. McMillan recapped his staff report as follows:

**Subject Title:**

McManus Meadows Shoulder Work - Landscaping

**Background:** The McManus Meadows paving was completed the first week in November. After the paving was complete, there were a few sections shoulders in the neighborhood that the new pavement was 2" or more higher than the existing shoulder. To protect the pavement and the motoring public, these shoulders sections need to have some soil placed against the pavement and seeded.

Quotes were obtained to place topsoil material and seed and mulch. The Town received three quotes on the shoulder work:

Higher Ground Landscaping, Midland	\$2,886.50
Biggers Landscaping, Wadesboro	\$3,650.00
Butler Builder, Midland	\$3,900.00

These prices include all materials and labor.

**Budget:** \$6,928.16 (Balance of paving contract not used).

**Recommendation:** Staff recommends the Board authorize the Mayor to execute a contract with Higher Grounds Landscaping for McManus Meadows shoulder work in an amount not to exceed \$2,886.50.

There was no discussion by Council.

**Motion** was made by Mayor Pro Tem Crump and seconded by Councilmember Burnette to authorize the Mayor to execute a contract with Higher Grounds Landscaping for McManus Meadows shoulder work in an amount not to exceed \$2,886.50. **Motion carried 4-0.**

b. \*SR Barberry Storm Drainage Estimates

Mr. McMillan gave background on the storm drainage issue from last month's Council meeting.

His staff report is as follows:

**Subject Title:**

Barberry Drainage Work

**Background:** During the summer, a homeowner on Barberry Avenue had contacted the Town about drainage pipe issues and holes developing in the yard over and around the pipe. Staff investigated and found several problems with the pipe system as discussed in last month's Council Meeting.

Since the Town does not have an official policy on "non-public" drainage systems, staff recommends we develop and adopt a policy in the near future, possibly similar to the North Carolina Department of Transportation's (NCDOT) policy.

Until that time and to safe the shoulder of the road from holes, Staff recommends that the existing HDPE pipe be removed and re-establish the ditch line to the outlet. Staff obtained quotes from several contractors to remove the existing pipe and regrade the ditch line and seed/mat:

**Remove Pipe and Regrade Ditch**

Biggers Landscaping, Wadesboro	\$5,300.00
Butler Builders, Midland	\$4,936.95
J.O. Flowe, Midland	No Quote

These prices include all materials and labor.

Staff has also investigated the pipe under the homeowner's driveway and possible settlement issues being experienced. The driveway pipe is in poor condition and changes sizes from a 12" concrete pipe to a 15" concrete pipe – uncertain of connection method. The pipes are misaligned and have partial obstructions – see photos attached.

In regards to the driveway pipe and driveway, staff presents three options to Council:

1. Do nothing – the driveway and pipe are the responsibility of the homeowner;
2. Replace the driveway pipe to current standard (15" RCP) and repair driveway; or
3. Require homeowner to purchase new pipe (15" RCP) and deliver to site, Town's contractor will install pipe and repair driveway.

Staff had the contractor provide a quote for the additional work to remove and replace the concrete pipe, and replace the driveway section (Option 2). The quotes are as follows:

Option 2: Add-on Pipe & D/W Work

Biggers Landscaping, Wadesboro	\$8,700.00
Butler Builders, Midland	\$3,170.00
J.O. Flowe, Midland	No Quote

These prices include all materials and labor.

Staff has researched the ROW and the exact ROW width is unclear. Therefore, if any work is approved by Council, the Town will draft a Letter of Entry (similar to a temporary construction easement) for the property owners to grant permission to the Town to perform this work. If a property owner does not sign the letter, no work will take place.

**Budget:** There are adequate funds available in the Street Paving/Repair budget line item to complete the McManus shoulder work and Barberry ditch line work. If the additional driveway pipe work is included and approved, the Board would need to authorize additional funds of \$169.79 to complete this work.

**Recommendation:**

**Item 1. Remove Pipe & Grade Ditch**

Staff recommends the Board to authorize the Mayor to execute a contract with Butler Builders, Inc. for Barberry Avenue drainage work (ditch line) in an amount not to exceed \$4,936.95. This item is only for the removal of pipe and re-establishing of the ditch.

**Item 2. Driveway Pipe and Driveway**

If the Board approves the Town to replace the driveway pipe in addition to the above item, the recommendation would be as follows:

Authorize the Mayor to execute a contract with Butler Builders, Inc. for Barberry Avenue drainage work (ditch line) and to replace a driveway pipe and driveway in an amount not to exceed \$8,106.95.

**Council discussion:**

Mayor Pro Tem Crump asked if Mr. McMillan looked at any other properties in the vicinity to see if the Town has any right-of-ways on them.

Mr. McMillan said he went up/down the street as far as he could go. All the deeds refer back to older plat maps and even the County couldn't find any information.

Councilmember Hartsell said he doesn't want to set a precedent for everyone in the Town to expect the Town to fix a problem with their driveway pipes. The Town has a responsibility to a certain degree but he disagreed with replacing the pipes. He said he felt that is the homeowner's and doesn't feel that the Town is in that business.

Mr. McMillan said he would like to develop a policy similar to the state's. If someone wants to pipe in a ditch line the homeowner has to go to the state for permission. They approve the materials, yard inlets, catch basins, etc. and the homeowner signs papers to the fact that if there is ever a problem, the homeowner will fix it/remove it and if they don't, NCDOT will and the homeowner will be charged.

Councilmember Burnette agreed with Councilmember Hartsell and said he's in favor of developing a policy.

**Motion** was made by Councilmember Burnette and seconded by Mayor Pro Tem Crump to have staff develop a policy for storm drainage protocol. **Motion carried 4-0.**

**12. Staff Reports:**

- a. Finance Report- November, 2016 – **B. Love**

Ms. Love gave the general report as follows:

					<b>Nov 30, 16</b>

		<b>1000 · CASH ON HAND</b>	154.23
		<b>1004 · GENERAL FUND</b>	1,010,883.14
		<b>1040 · UTILITY CAPITAL RESERVE FUNDS</b>	2,094,490.69
		<b>1050 · POWELL BILL FUNDS</b>	260,529.75
		<b>1060 · CDBG OLD MIDLAND SEWER PROJECT</b>	42,338.78
		<b>Total Checking/Savings</b>	<b>3,408,396.59</b>

Mayor Kitts commended Ms. Love for her flawless annual audit. It was the first time doing it herself.

i. *Budget Amendment #2017-207* Town Christmas Tree Purchase

**Motion** was made by Councilmember Wise and seconded by Councilmember Hartsell to adopt *Budget Amendment Ordinance #2017-207*. Motion carried 4-0.

Town of Midland Ordinance #2017-207 FY 2016-2017				
BE IT ORDAINED by the Governing Board of the Town of Midland, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2016:				
Section 1. To amend the Midland Budget 2016-2017 to purchase the Christmas tree to display at the square				
	Current			Amended
Description	Budget	Increase	Decrease	Budget
Misc. Operating Costs	7,750.00	\$ 5,050.00	\$ -	\$ 12,800.00
GF Fund Balance Appropriation	\$ 29,715.00	\$ 5,050.00		\$ 34,765.00
Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board and to the Finance Officer for their direction.				

b. Manager Comments- *D. Paris*  
 i. Holiday Bonuses for Staff

Mr. Paris reported the following:

Per tradition the Town gives its employees, excluding contract staff, a year-end one-time bonus equivalent of 1% of their salary. Funds were included for the bonuses in the current year’s budget as outlined during the budget presentation given on May 10<sup>th</sup>, 2016.

On 12/14/2016 the 1% bonuses will be distributed with payroll unless the Town Council decides otherwise. I wanted to make sure Town Council was aware as you are our governing board.

**Council Action:** No action is needed, unless Town Council decides to discontinue said tradition.

There were no comments/questions by Council.

ii. Sanitation contract

Mr. Paris explained the following:

The Town of Midland entered into a five year contract with Advanced Disposal for sanitation and recycling services in 2012. The contract is set to expire June 30, 2017.

The Town has the option to renew the contract for an additional two year period or bid out the service. The contract requires 180 days' notice (6 months) to renew, while re-bidding the service is a process involving several months work.

On October 7<sup>th</sup>, the Town Manager contacted Advanced Disposal and asked them to submit an extension proposal for the Town to consider. During this contact the Town Manager also stated that for a proposal to be considered it would have to include favorable pricing to the Town and stronger enforcement language due to service quality complaints the Town has experienced. Later that day, Hardee Horne with Advance Disposal stated the company would be interested in an extension however the hurricane in Florida was impacting their operations so it might take some time to prepare. On November 21<sup>st</sup>, Mr. Horne responded it would be ready in a few weeks. On December 5<sup>th</sup>, I instructed Mr. Horne to submit the proposal by the end of that week at the latest so that Town Council could review it at the December meeting.

If the Town chooses not to renew the contract, Town staff would need to begin preparation of the RFP/bid process, which would take place during 1<sup>st</sup> Q 2017. At the end of the RFP/bid process the Town Council would select a new sanitation/recycling contractor and staff would manage the transition between the existing and new contractor.

**Budget:** N/A until we determine final pricing.

**Council Action:** Staff wants to seek direction from Town Council prior to proceeding in this matter further.

**Council discussion:**

Councilmember Burnette: Has service with Advanced Disposal been going well lately?

Mr. Paris: We had some challenges in the past. A new manager, Justin Rodda started with Advanced Disposal and since his time service has been better. There have only been a few small challenges recently and nothing like issues in the past.

Councilmember Burnette: With changing providers there is a new learning curve and it's an ordeal to go through. The service by AD has been very good from what I've observed on Hwy. 601.

Mayor Kitts: We've been with AD for a 5 year period and it's always good to see who else is out there; go through the RFP process and if AD is still at the high service level they are now the Town can always keep them.

Councilmember Burnette: If we bid it out and a new company comes in, and we don't know much about the service they would provide, should their bid be cheaper, are we obligated to go with that provider?

Attorney Fox: No you are not. This is a service contract and the Council can go with the lowest responsible bidder or whoever they choose.

Councilmember Hartsell: I believe the bidding process is a good idea but cheaper doesn't always mean better. In my opinion our service has greatly improved since the issues of the past have been resolved. I think AD is doing a good job.

Councilmember Hartsell: I would like Mr. Paris to get some bids. This wouldn't necessarily be for a change but to insure that AD is doing the right thing when it comes to pricing.

Minutes Tuesday, December 13, 2016  
Regular Meeting of Town Council  
7:00pm, 4293-B Hwy. 24/27 E. Midland, NC 28107

Mr. Paris: Our current contract does have a six month period for renewal. This month we really need to decide to bid it out or pursue the extension unless AD waives the 6 month notice requirement.

Mayor Pro Tem Crump: I don't have a problem calling for bids. My service at home has been exceptional.

Councilmember Wise: I don't have a problem calling for bids either. I agree with Councilmember Hartsell that the point of bidding keeps everyone honest about pricing. It's good business. AD has corrected a lot of the problems we had in the past.

Councilmember Burnette: [Mr. Paris], are you saying that we need to make a decision tonight because after January 1<sup>st</sup>, there is less than 6 months before the contract runs out?

Mr. Paris: The current contract allows for a 2 year extension with 6 months' notice. If we go into January AD would say that we haven't met that 6 month requirement. Of course AD could waive that notice period in writing. If we are going to move forward with the RFP, then that process doesn't matter. They can participate in the RFP process. Council can then choose amongst the various bidders.

Councilmember Burnette: Is the 2 year extension at the same cost?

Mr. Paris: With the proposal we received there are some plusses and minuses. AD has asked to meet with me which I assume would be to negotiate the 2 year proposal. The positive is that they agreed to penalties for missed pick-ups which our current contract lacks. This is a best practice for the Town and allows us to deduct a fee based on misses. The negatives on the contract is that AD wants to change some language which would allow an increase in the monthly cost which is related to their costs so the price would go up based upon that amount and then would go up based upon the annual CPI under the 2 year scenario. They have requested a 5 year extension with Midland in their proposal however this hasn't been discussed.

Mayor Pro Tem Crump: What does the CPI cover?

Mr. Paris: The CPI covers regular cost increases and tipping fees. AD felt that tipping fees should be a separate item and would increase our prices. I feel that tipping fees should be covered by the CPI that is already in the contract. What they presented is an increase in cost and it denies our ability to reject price increases. AD would get those price increases as the tipping fees go up. I feel this should be included in the CPI and that's the risk of doing business and entering into a contract with us.

Councilmember Wise: Do the tipping fees include fuel with the dumping sites?

Mr. Paris: That's the landfill fee.

Councilmember Hartsell: They can go up as the market does at any time. Correct?

Mr. Paris: Yes.

Councilmember Hartsell: In my opinion again, I can't make a decision that quickly based on the fact that we don't know what they are going to do. If it were to stay the same that would be one thing but if pricing is up in the air I don't know how we can decide on that.

Councilmember Wise: The CPI covers the fuel increase but lately the fuel prices have come down. So have our CPI's been coming down?

Mr. Paris: The CPI has actually gone up because it covers more than fuel. It covers a lot of different indicators such as labor, insurance cost, etc.

Mayor Kitts: Mr. Paris you indicated just a few minutes ago that if we do a RFP that the 6 months' notice is not a requirement.

Mr. Paris: Correct. It's the Town's right to let the contract lapse and do a RFP.

Attorney Fox: One possibility is that the 6 months doesn't run until the 30<sup>th</sup> of this month. Mr. Paris could get an agreement with AD to extend the renewal period or go with the RFP process.

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Crump to authorize staff to pursue the RFP process for sanitation services consistent with the existing contract with AD and also explore with AD the opportunity to preserve the renewal of the existing contract through an appropriate extension and modification of the agreement. **Motion carried 4-0.**

iii. Bethel Glen Roads Case- *Update*

Attorney Fox said the case appeared before the NC Court of Appeals on November 28<sup>th</sup>. The Court decided via the briefs, however, the outcome will not be known until an official decision is rendered by the Court. He said he looked online to evaluate the judges that sat on the panel for that hearing. One of the justices did not prevail in seeking reelection which votes favorably for the Town only from a timing perspective. Justices rolling off generally have to make their decisions prior to leaving (which will need to be wrapped up in December). Mr. Fox predicts that Midland will have a decision very soon. The decision should come down in January of 2017 latest.

c. Mayor's Comments- *K. Kitts*

Mayor Kitts pointed out to the attending citizens the banners of the new Town logo and the mission statement.

i. FOML fundraising goal discussion

Mayor Kitts said that she would like a Councilmember and Mr. Paris and 2 individuals from the FOML to hold discussions on the FOML goals and where they want to be within the next few months.

Mayor Pro Tem Crump volunteered to help.

A meeting will be arranged in January.

d. Anti-Panhandling Ordinance- *Attorney Fox*

Attorney Fox said Clerk Boyden prepared a draft ordinance for the attorneys to review. However, there is a recent circuit court case dealing with challenges to panhandling. Mr. Tosco of Parker and Poe reviewed the case so he is going to revise the ordinance consistent with the circuit court decision for compliancy and First Amendment rights.

**13. Executive Session:**

- a. [N.C.G.S. 143-318.11(a)(3)] Consult with the Attorney to Protect the Attorney-Client Privilege.

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Crump to enter [N.C.G.S. 143-318.11 (a)(3)] inviting Town Attorney Fox, Manager Paris, Town Clerk Boyden, Planner Watts and Engineer McMillan. **Motion carried 4-0.**

Council and guests entered at 8:21 pm.

**Motion** was made by Mayor Pro Tem Crump and seconded by Councilmember Wise to re-enter Regular Session. **Motion carried 4-0.**

Council re-entered Regular Session at 8:54 pm.

**14. Adjournment:**

Minutes Tuesday, December 13, 2016  
Regular Meeting of Town Council  
7:00pm, 4293-B Hwy. 24/27 E. Midland, NC 28107

**Motion** was made by Mayor Pro Tem Crump and seconded by Councilmember Hartsell to adjourn the meeting.  
**Motion carried 4-0.**

**Council adjourned at 8:54 pm.**

**Attest/Seal**

---

Mayor Kitts

---

Nancy E. Boyden, CMC, NCCMC Town Clerk