

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

Attendance: Chair Darrell Page; Vice Chair Ann Holland, Pam Barger, Pam Carter, Scott Burroughs, Steve Clark, Michael Aldridge; Ed Humphries (filling in for Planning and Zoning Clerk); Nancy Boyden, Town Clerk; Planning, Zoning & Subdivision Administrator, Richard Flowe

Others: Councilmember Rich Wise

Item #1 – Invocation & Pledge of Allegiance

Item #2 – Open – Chair Page called the meeting to order at 7:09 PM.

Item #3 – Oaths of Office – Nancy Boyden, Town Clerk, administered the oaths of office for Darrell Page, Ann Holland, Pam Barger, Pam Clark, Scott Burroughs, Steve Clark and Michael Aldridge. Ms. Boyden departed meeting at 7:21 PM.

Approval of Agenda #4 – Commissioner Barger noted that equestrian was misspelled on the agenda. **Motion** was made by Commissioner Carter and seconded by Commissioner Burroughs to approve the agenda with the correct spelling of equestrienne. **Motion carried 7-0.**

Item #5 – Approval of Minutes – Open Session 11-24-2015

Motion by Vice Chair Holland and seconded by Commissioner Carter to approve open session 11-24-2015 minutes. **Motion carried 7-0.**

Item #6 – Election of Officers

Chair Page opened the floor for nominations for Chair for the P&Z Commission.

Commissioner Holland nominated Darrell Page.

Motion by Commissioner Holland and seconded by Commissioner Carter to elect Darrell Page as Chair. **Motion carried 7-0.**

Motion by Commissioner Barger and seconded by Commissioner Carter to elect Ann Holland as Vice Chair. **Motion carried 7-0.**

Item #7 – Public Comment – The following presented public comments:

Adam Dagenhart, 11645 Mud Drive (Tucker Chase) – Mr. Flowe stated Tucker Chase was on the agenda for a major plat revision. The Technical Review Committee (TRC) is looking at one aspect. The developer submitted a plan to revise the lot configuration and by adding two lots adjacent to the amenity center location, the only issue on the agenda. It is not about the amenity center, it is about whether it can be done or not. The applicant has been advised to work on the site plan for the amenity area and make sure everything fits before this is considered. The reason it is on the agenda, it is not a planning and zoning item, it is actually a TRC review item. The Committee members are P&Z Commissioners, himself, public works, and other types of

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

technical people. The lots meet the minimum size standards but have advised the developer to make sure they can still fit their amenity center. The amenity center has to have appropriate parking, etc. to go with it. When there is a major plat revision, it will increase the density of the project, and adding two lots to Tucker Chase technically increases the density of the project, or changes in the street layouts. One major revision was done about a year ago for the second phase that eliminated the roundabout and changed the intersection because of concerns of going in the wrong direction in the future. It was going to run off the hill toward the pond rather than going past the pond. This item, where the amenities center was located, was requested at that time and rejected to move the amenities center. They have come back and using some of the property beside the amenity center for two new lots. They have a right to apply for that and if it meets the standards it must go through the TRC process. That is the topic on the agenda for Tucker Chase.

Mr. Flowe asked the Chair and Commissioners for their consideration, he could probably answer some of the general concerns.

Chair requested and stated the public still wanted to talk. They could point out their concerns, notes will be made and consideration will be given as to what is said. We will discuss this now and Mr. Flowe can answer most of the questions, if it is kept to about 10 minutes.

Mr. Flowe stated we are deviating from the agenda. A lot of the concerns he had heard are when things are going to be done, i.e. when is the pool going to be done and when the roads are going to be fixed. First, the pool is tied to the permits and is quickly approaching and we are expecting a site plan on the pool and amenities center at any time so permits can be issued for construction to begin. The date they plan to do it, is up to the developer. Except they will not receive permits beyond what is agreed upon, schedule for new homes, until those amenities are initiated. There are basically a couple of thresholds. First, they have to submit the site plan and a certain number of houses built and under contract and underway at a certain point and have to be finished at a certain point so that the project does not build out before the pool and the amenity center comes. Second, is regarding the streets and roads, and going to take a little liberty with this and I think I can say this with a degree of confidence from the developer and I'm not misrepresenting anything. My job is to give you accurate information. People like you, developers, council, Planning and Zoning Commission and many other businesses in the community use the information to make important financial decisions. Whether it is a homeowner in a neighborhood or a developer building a neighborhood, etc. I take that responsibility very seriously and I'm here to serve the public. I also have to be practical. When I took this job almost six years ago, we were in a mist of a crisis where most subdivisions had stalled for underdevelopment. I saw a lot of developers go under and miraculously the Tucker Chase developer did not. The realities of the recession - banks no longer will lend money on speculative development. Undeveloped land was speculative development. Loans were not easy to get to buy property to install roads, water and sewer in order to sell lots to builders. Everyone wanted the potholes fixed and I had to take their word at face value unless there was evidence to the contrary. They asked if they could try to schedule this with the ability to get funding for the

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

next phase when we get to that point. What are the options and alternatives? The alternative is we can't, we don't make it that far. So we have worked with the developer to do that. We have said, we will hold back on any enforcement on the maintenance of the road until we, by helping the developer, get the second phase approved. The needed funding can be obtained and not only to build the remainder of the roads but to complete the roads already built, repair, and then complete the roads that have been built. That is what we see happening now. In my most recent meetings with the developer, the developer is here and they can speak for themselves, I'm telling you what I understand and representations they have made with the Town. Those representations include this: I have talked with the developer about schedule. One of the realities of the schedule will be accepting the roads into Town maintenance in the near future and we do not want the pavement repaired until it warms up. Asphalt has certain temperature ranges that make for a better end result than others. I have advised them to start making the subsurface repairs, which may leave some gravel patches temporarily. That is where we have left it and that brings you up to speed where we were about a week ago when we were also receiving the revised drawings for the two lots they have requested. From a technical standpoint, I think we are on the cusp now of getting everything back on track. They have been able to access their funding and figure out ways to move the project forward.

Comment from unidentified person from audience: We have fast forwarded and we are now in 2015-2016 era as far as financially, that is what we are looking at?

Mr. Flowe stated they should be starting on the repairs based on our conversations. They should be starting on the repairs soon, in the next few months, but we don't want to see asphalt applied until it is appropriate. The repairs on the roads will be going down first to make sure the depressed areas are properly compacted and everything tested properly and everything else before the final surface of asphalt is put on. Some places the asphalt will be thicker than others to adjust for some settling. Part of the problem we have in this area was the trenches. When sewer lines were put in the roads (manholes seem high), actually the manholes are not high the other stuff sank because the manholes are sitting on an undisturbed base underneath when they dug down but the pipes connecting between the manholes actually have fill material put back on top that needed more compaction that wasn't done by the original contractor to the standard it should have been. That is what we will be requiring to run the test on. If you will notice that is where most of the depressions are and there are other weak points because they did not put the final surface of asphalt. That is why the curb and gutter in some places have a lip to it. The base course of asphalt has big rocks and some asphalt mix in it. The final surface course, the finished nice smooth asphalt, has smaller rocks and more of the asphalt material which is actually the sealer. When a project has a long delay between the base being put down and the seal on top, you are going to have moisture that gets through places that should not get through, and there lays the fundamental problem. If at all possible, the repairs needs to happen soon in 2016 as weather and conditions permits.

Comment from unidentified person from audience: We are going to have a lot of construction going on and not sure about paving yet until they patch.

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

Mr. Flowe stated there is always concern and that is why most cities/towns allow delaying the surfacing until the base is down. He has been through rapid and slow cycles and has a little different philosophy. His philosophy is they build the road and when the contractors damage the road they repair the road. Under the Town's new Ordinance, which the development is not under the new Ordinance it is "grandfathered" (under an older approval) we actually do not use the same asphalt mix approach. We now have them doing it all quickly so they get to the finished product and if there is damage, which there is less damage actually, the biggest thing we have to worry about when the road is finished is maybe unloading a heavy duty trailer with a tractor and the ramps laying down in hot asphalt and denting it. Cities that said we are not going to let you put the finished course on until you get all your houses build, or at least 75%, actually created the mistake that was made. We have reversed that in all future developments which does not help you. We are trying to close out and complete that now. In Phase 2 we are going to be looking at the asphalt a little differently. They design the curbs and gutters under the older standards but we are going to be looking for the pavement to go down and go down complete. Then if we have to make repairs we have warranties. The goal being get this down and done right, warranty work done right, once everything is good it is scheduled into the proper maintenance program.

Mr. Flowe stated that the only thing on the agenda for Tucker Chase is the addition of two lots.

Comment from unidentified person from audience: Can you talk about that now?

Mr. Flowe stated that was not up to him. The Commission approved the agenda where it is and that item on the agenda is about 30 minutes away. If the Commission wants to re-consider the agenda, that would be left up to the Chair.

Chair Page stated those that signed up can certainly speak now. When I call your name you can talk about your concerns and we will consider all comments.

Mary Kressler, 11647 Tucker Field Road (Tucker Chase) – I want to speak about the two lots that Mr. Grimmer has proposed. We are now the second buyer, the first buyer has moved out. In the beginning, we were given the plat that had the area designated for the pool and common area and after 70 homes were built the pool would be built. At a later date, Mr. Grimmer met with three of us and he had decided he wanted it to be 100 homes before the pool could be built. So he lowered our dues in trade for the 100 homes. Then two years ago he comes back and now he wants 120 homes before we can get our pool. We were to have our own HOA turned over to us at year seven. He has also changed that to year 10 which will be next year. Now he comes back and wants to change the pool to a different location. You apparently have told him he cannot do that. So now he has come back and said I would like to place two lots here on the common space that was not there originally. We have our community picnics there. The pool, if this subdivision gets one, will need to be bigger as it has been dictated, we are going to need a sizable pool with parking space. The kids would like to have at least a half-court basketball court and

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

we need space for our picnic. I don't see why we have to change what we have been told for the last nine years to appease him because he has not stayed in touch with us. The HOA that he turned over to have two residents to be part of an HOA, he has never met with them, he has no communication with them; it is he, his wife and his son. They have not communicated and we have lost two residents that were extremely good on our board because of the lack of communication with him. He does what he wants to do, when he wants to do it, if he can do it. He doesn't care what we think as far as I'm concerned, I think he abuses us. That is all I got to say and I hope you consider re-considering not letting him put the two homes there. He's going to put it in another phase or something but it is already phased out and Phase 2 to start building. He does not need to take the common space he told us that we should have from the beginning.

Chair asked: When you purchased and were shown the land, there was nothing there but the pool, no houses or anything, correct?

There were no houses, anything on the plat. It was strictly the sign for the pool and the amenity. Eventually, when we were fortunate enough to have our HOA, there has been talk among the residents of possibility of putting up a clubhouse. We would fund that ourselves but need the space to do it and that would be in that space. We don't want two more homes there, period.

Chair asked: Does the Town have a copy of all plans on record. Mr. Flowe confirmed the Town has the records.

James Allen, 11702 Tucker Field Road (Tucker Chase) – I'm not sure how the two houses were planned with the pool. I agree with Mary that has been set as a pool area since the beginning with the sign being there forever. My concern is I live at the house that is connected to that lot but my lot is actually shaped to where I'm at an angle so if they build another house on that lot, my front porch will be looking at the back corner of their house. So that is definitely not appealing and I'm worried that if they try to cram two houses on the other side, that is pushing the pool closer and that is definitely intruding on my noise and personal space basically in that section.

Chair asked: When you purchased your house, it was your understanding there would be a pool there and no houses, correct?

Mr. Allen: Yes sir. I purchased my house over two years ago and that was the intent from the beginning because of the pool area location. My wife is handicap and pool therapy is great for her and that was the purpose of me picking that lot because the pool would be within walking distance.

Chair asked: You purchased your house based on the location of the pool, correct?

Mr. Allen: Yes sir.

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

Steve Mattingly, 4288 Tucker Chase Drive (Tucker Chase) – I'll be brief and I think Mary and James has put it well. I pose a question, who does it benefit? Community, family, kids – the amenity area that was originally proposed – that is a benefit to the community, family, kids. Putting two additional houses, does that benefit the Tucker Chase citizens? As Mr. Page wants to be guided by the decisions that benefit the community. I just want to pose that question and let everybody ponder that. I'm animatedly opposed to two additional houses.

Gary Wood, 13620 Old Camden Road (Wyndham Forest) – They are developing Wyndham Forest about straight across from where I live. They started this back in 2006 or 2007 and that developer went broke. I guess they have sold it since. A question I have, first of all is about the sewer part.

Mr. Flowe stated there was no sewer out that way.

Mr. Wood: He knew that sewer was not out there but are they going to put one out there? So they are going to have to put in sand mounds because I understand the land does not perk.

Mr. Flowe they will have to pass whatever environmental approach they take. If they are going to be applying for septic, etc. they have to get those permits and have a repair field (back-up drain field) on the lot in order to get a building permit.

Mr. Wood: Do you know the cost of the homes after they are built?

Mr. Flowe: No sir.

Mr. Wood: You mean if they wanted they could put a \$50,000 mobile home on there? They can put just a regular house?

Mr. Flowe: It can be modular or anything that meets building code. Building code does not matter whether it is built on the lot or in a factory and brought out on a truck and set down in three or four sections. As long as it meets building code.

Mr. Wood: That is in the city limits, correct?

Mr. Flowe: Correct.

Mr. Wood: Is there any future plans to take in the property around it into the city limits?

Mr. Flowe: The city does not do any involuntary or forced annexation. All annexations since the Town's incorporation have been by petition of the property owner who wanted to be under the Town's regulations rather than the county regulations. That has been the reason for virtually every annexation except for maybe one that have been received here since 2010 and we have had about 14 since then.

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

Chuck Taylor, 4258 Tucker Chase Drive (Tucker Chase) – Similar to Mary, we were in the neighborhood shortly after they came in. We have been there since 2008. The neighborhood was wide open when we moved in. We selected our lot based on the closeness to the pool, we have a lot of grandkids and plans were to bring them to the pool. Part of that to was we did not want to be boxed in by a bunch of houses. I can tell from the lot plans, all that was going to be open so that was part of our decision as to why we went there. We definitely want that to remain as is and opposed to it as Steve has said. Someone made the comment about fitting the pool in. We don't want it to fit in, we want it in there with the design that matches the neighborhood and have common space. We don't want it jammed in there between a couple of houses, the pool parking lot up against somebody's house who does not want to hear all that noise. We want it aesthetically looking good and please the residents. We need room to grow, like Mary said, have some children's things there and green space large enough.

Heriberto Garcia, 4276 Tucker Chase Drive (Tucker Chase) – I think Steve, Mary and Chuck covered everything.

Harry Grimmer – To clarify a couple of things and I understand your concerns. We are trying to approach that subject as quickly as we can to get the pool started. You need to understand, when this subdivision was approved, Midland did not have a planning department. It was Cabarrus County and the only thing that was approved as part of the subdivision was a note on the plan that says proposed amenity area. There's no specs approved by the county, by Midland or anybody as to what the pool is supposed to be, if there is a pool, it could be a kiddie lot. It just says proposed amenity area. When Richard came on board, he got with me and asked me to look at the situation with him and we discussed it. I told him it was my intention to build an amenity area something similar to what the builders were recommending or presenting to the buyers. We never, as the developer, made any commitment for anything there other than proposed amenity area, that is what the plan calls for. We came up with a budget, we signed an agreement with Richard and the Town for the pool. To put a pool on those two lots is twice that budget not including the land, it is a half a million dollar deal. I hear some of you wanting aesthetically pleasing, four lots, landscaped, whatever. That is what we are trying to do but to design the pool that we are proposing to put there we figure we can get it on two lots with parking, landscaping, his/her bathrooms, etc. It's not going to be a country club pool, 160 houses want carry the budget to operate it without extraordinary increase in your HOA dues. So we decided to present the change that the two lots come back to be sold to the builder to help pay for the debt on the budget we decided on and committed to the Town. I guess we could bond the budget and I don't know who pays for the pool if we decide not to do it. We are trying to work with you all and get it done and get you a pool but we need those two lots to help fund the budget and it is still going to be \$200,000 short of what we talked about. It is a half a million dollar deal when considering the land. The subdivision approval plans call for a minimum of two acres of common open space. What the plans shows is 6.1 acres, four times as much as what is required to meet the subdivision and zoning approval. The two lots is about one-half acre. You still have 250% of common open space that is left of what the plans require as a minimum. Just

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

wanted to clarify that. We are in the process of designing a pool, it might not be what all of you want, we are looking at a bigger pool with no kiddie pool, and some of you might want a smaller pool with a kiddie pool that is a circle area about a foot deep. Someone has to make that decision, we will make the decisions as to what would go in there but it is complicated and my effort to try to site it on that site and Richard and I have talked about it in detail as to whether to move it to another place. Because another issue we have been trying to acquire some land that is contiguous to Tucker Chase and I think I heard you all say you did not want any more houses in there. Additional houses will help fund the operating budget for the pool and the CCRs. All of you have agreed to allow the developer to add property within a mile radius for 10 years. Whether I do that or someone does that, whether they can get sewer to it there probably will be some extensions of streets in Tucker Chase in other areas. We think the activity will help the values.

Mary Kessler: When we bought nine years ago, the sign was there for the pool and we were told by several people throughout the past nine years there definitely would be a pool. In that time, you have had developers from real estate people and others, they were informed of the amenities and pool to get them to buy a home. That has never happened. What I'm hearing you say is if you don't give me these two homes here we are not going to get the pool.

Mr. Grimmer: I did not mean to imply that.

Mary Kessler: We don't want those two homes there. We want our picnic area it covers the place for the two lots, then you put a pool in, then you put a parking lot in that is going to take your whole area, two homes is not going to make a difference of getting that pool. HOA in our area is working on funding the pool and you don't have to worry about that, residence have to worry about that. You need to realize that we want to have a say in something that is going on in our neighborhood. We don't want more houses in there, you want more space to build houses buy the land someplace else. You got money to buy that land, you got money to build a pool. Build the pool as originally planned on the plat. Don't come back every couple of years for changes.

Mr. Grimmer: It was never eventually planned, it just said proposed amenities area and that is the way the plans were approved.

Mary Kessler: What was that sign for? I have looked at the sign for the whole nine years we have lived there.

Mr. Grimmer: It says proposed.

Comment from unidentified person from audience: It has a picture of a pool.

Mr. Grimmer: I'm talking about a pool.

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

Mr. Flowe: Let me clarify something. We have a binding agreement with the developer and there is a pool in that agreement so these two lots does not prohibit that pool or take that off the table because we have an enforceable agreement. This is not to strong arm Harry, when I came in I saw the fact there was nothing that had any specifics to it. I reached out to these folks and said we need to be specific and we did and we are standing by that agreement. If those thresholds are not met, the housing stops and that is the leverage the Town has. I don't like having to use the stick to get things down in a nice way. I would rather the nice neighborhoods be a part of something positive, using the carrot, Midland is a nice place to be. This is a great community. We have that protection for you. My job when it comes to subdivisions, is to make sure all the roads, and other components of that subdivision meet the standards and expectations that are established. My job as how I serve Tucker Chase is to make sure all those pieces of the puzzle happen. We have been working with Harry to try to do that with understanding the difficulties of the down turn with most of the other subdivisions in the area. You pointed out Wyndham Forest, Saddlebrook, Bethel Park all are failed developments and are now under new management. I hand it to Harry, he has weathered the storm better than 90% of them out there. I'm pulling for him and hoping he will be able to deliver. I'm not suggesting the two lots are not two lots, what I'm letting you know that regardless of the two lots, the agreement on the pool is in place and enforceable. We have your back on that.

Mary Keesler: Mr. Flowe responded that the pool was not necessarily designated where the pool is now because the subdivision plat called for that amenity area. That particular location where the space is, is where it was designated. He had petitioned/applied to have that moved about a year ago and it was rejected so it stayed in the general vicinity on the site but the property was described earlier is much bigger than a pool complex. There are several acres in there and the pool complex is going to be some portion. I heard comments about having extra room for more amenities in the future. We asked them to give us something that shows that everything is going to meet the setback requirements, parking requirements, meet all the necessary components of the standards to build an amenity area – pool, parking, landscaping, etc. That is not changing because of these two lots. The only thing that would affect it is if those two lots were added it would either shift it left or right or center it. Right now he is talking about adding two lots one way or the other you can split it or not do it. There are several ways you can do it. I'm not here to say it should or should not be done. I'm here to make sure if it is done, it is done properly. We having heard you say tonight that you are against it. The Board and I have heard that loud and clear but I wanted to inject into the discussion that we have an agenda we have to stay focused on and did not want this turned into an HOA internal meeting that is between you and the developer. Mr. Chair, I'm going to leave it up to your discretion as to how much more detail you want before the other matters are heard.

Chair: I'll allow about three more questions if anyone wants to ask Mr. Flowe or Mr. Grimmer a question but we need to move on after that.

Adam Dagenhart: I have a question for Mr. Grimmer. You talk about two lots that you have approval for. The additional sewer capacity that you will be putting on the pump station is at

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

capacity now for the two additional lots you are asking for.

Mr. Grimmer: We have applied for but we have capacity for the lots and the pool.

Adam Dagenhart: You talk about moving to additional properties, how are you planning to accommodate those utility requirements?

Mr. Grimmer: We do not know that because the pump station is at capacity at this point.

Adam Dagenhart: I'm well aware of that. What I would ask the Board to defer this until we have the opportunity to see the site plan of the proposed pool. I don't know how you can make a conjunctive decision when you don't have all the facts.

Mr. Flowe stated people can apply for anything and it is processed. That is why things are on the agenda. I have suggested they work on the pool site. The work on that site is going to be a "bone of contention", like you, I saw that as being good information to have. What is on the agenda tonight is the request to add two lots. I do not have the authority to look at a citizen, developer, business, landowner or anyone and say I'm not going to process your request. I process every request. He has the right for that to be considered here and I will defend any property owner's right to be heard or to be considered. That is why it is on the agenda. I agree with you that it would be more helpful to see more detail but the site plan for the pool is not part of the subdivision review. It is a site plan for a pool and the subdivision review is separate. It would be nice to see it all so we would have better information but we don't have all that.

Adam Dagenhart: Additionally, he has submitted previously a site plan for the pool because it was on my desk approved by the City of Concord utilities, about six or seven years ago.

Mr. Flowe stated that was before his time at Midland and there was a pool site shown on the preliminary plat and I asked him to remove that because the preliminary plat is about the layout of streets and property lines, it is not about parking spaces, pool shapes and things of that nature. That is a separate type of permit. I think he has heard you and me and everyone that it would be helpful to see that additional information. Adam, your request has been heard by the Board.

Chair: Couple more questions and we need to move on.

Comment from unidentified person from audience: Harry, I think your idea of a pool and amenity and our idea are obviously two different things. So hopefully when it comes time we can work together to do that jointly and we can have a chance to express our desires. We need something that is going to work for adults and a lot of kids in the neighborhood, it has got to be kid friendly, etc. We know it is not going to be a country club. The other thing you mentioned, you build more houses you can get more dues to help fund the pool. Anyone considering that you got to consider the size pool we are going to build. We can't build a pool for 160 homes and

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

add another 100 and say you all come on, it's too small. It is going to take a lot of planning and hopefully we can work together and have some input with you when it comes to that time.

Chair: One other question. Anyone have a question? Thank you for your comments and I have plenty of notes here and I'm sure everybody else does to. We will certainly consider all those when we look over the proposals.

Gary Wood: Will the minutes for this meeting be available? Are we able to pick them up?

Chair: The minutes cannot be looked at until they are approved at the next meeting but after that you can certainly pick up a copy.

Gary Wood: It will be word for word?

Chair: They are summary minutes but the wording will be that it covers the overall general conversation.

Gary Wood: I just wanted make sure. You stated you could not be put in the city limits unless you wanted to be put in the city limits.

Mr. Flowe: What I said is the Town has not done any involuntary annexation. State law has provisions for voluntary and involuntary. The Town of Midland does not exercise involuntary. Town Council could say later that we are going to do it all differently. I can't speak for nor is that statement an obligation on their part to change or not change their policy. I just want to be clear on that. I don't expect them to start doing involuntary annexation because they have not done it in the past. I can't say they want do it. I can't control Town Council or can they control future Town Councils. This Town Council can say they will never do it or some future Town Council will ever do it.

Chair: Anyone can voluntarily ask to be taken into the Town limits. Most of the time that happens. I can't think of a time it did not happen.

Mr. Flowe: We have had a lot of voluntary requests. We have one that is actually coming up right away, it has just recently been annexed and we are putting zoning on the property now because it has County zoning and it will shift to Town zoning. It is a common thing and this one is a business park property.

Item #8 – Planning, Zoning and Subdivision Reports

a. Zoning Permit Review

Due to the Planning Clerk's illness, the report was not available but will be distributed at the next meeting.

b. Update on Projects

This is a standing item on the agenda requested by the Chair. Most of the big

projects that are going on right now are on the agenda further down.

Chair stated he had received calls from people potentially interested in the newer subdivision at Bethel Glen and were asking about the roads. I told them right now it was in Superior Court.

Mr. Flowe updated the Commission on the Bethel Glen roads court case. The case may have a reassurance to the citizens and property owners in the neighborhood. He was pleased to announce the Board of Adjustment's (BOA) case which they had ruled in favor of the staff in the Bethel Glen case, it was appealed by the developer to Superior Court, to be a bench review which means no jury, just the judge reviewing the record to determine if it was all in compliance with proper procedures and law. The answer from the bench is "yes". So the Town withstood the appeal by the developer. Now I'll explain what that means to you and the public. In the Bethel Glen subdivision they evolved as a subdivision in 1990s when there was no Town of Midland this was just the Midland area. It was a set of streets that were built with the assumption that NCDOT or someone would eventually have those streets, not a town because there was no town here to be in the role of street maintenance. Similar problems with settling and things of that nature and can be seen in the development today. When I first came here, I looked around for where problems were and what we need to do about problems rather than waiting on people to say "what are you going to do about my problem". I launched an enforcement action against the developer as the Town's Planning, Zoning and Subdivision Administrator. It is my job to administer and when administering those ordinances don't work, I'm to enforce the ordinances. When the standards are not being met by the developer, we start the formal process of enforcement. When we did that we launched and the developer appealed to the BOA and we had four nights of testimony, findings, etc. like a court room. The Town's attorney serve as Mr. Flowe's attorney, being a Town staff member, and a separate attorney to assist the BOA with procedural matters along with a staff expert on procedural matters in the likelihood it would be appealed to the courts. The developer/petitioner had their attorney. I'm very pleased with the actions that were all upheld but most importantly a statement on the plat of Bethel Glen and the different phase of Bethel Glen also is on your plat that says, and signed by the developer, says, "I, the developer, will maintain these roads to these standards until such time as a public entity accepts responsibility of public maintenance." What we learned from this case, an enforceable provision that really means something and we can use to make sure like the problems in both Bethel Glen and Tucker Chase not holding up can be enforced. We have not launched that enforcement on Tucker Chase because the developer is still present and making attempts to work with the Town to reach a point to launch those repairs. I'm very proud of our BOA for conducting things in a very difficult setting. Because for citizen planners having

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

to host a quasi-judicial or court like hearing being thorough and procedurally correct is what makes the difference between winning and losing. The judge did not look to see if I was right, he looked to see if what I did was right, did I violate peoples' property rights, did I uphold the public's interest properly. Those were the things that were reviewed and what the BOA did. Naturally, the other party can still appeal to the next level, the State Court of Appeals.

Item #9 – Initial Zoning Designation

BBD Enterprise (Memo & Map)

The Town Council on January 12, 2016 adopted an ordinance to annex, by voluntary petition PIN#55245799780000. The annexation is non-contiguous. The current zoning by Cabarrus County is classified as "Limited Industrial – Special Use" (LI-SU). 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 principles of the *Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2* adopted October 8, 2013.

Motion by Commissioner Barger and seconded by Commissioner Holland to recommend Town Council 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 such designation is both reasonable and consistent because the adopted plan is the result of a lengthy process of study for the subject area of Midland. **Motion carried 7-0.**

Item #10 – Recess for Technical Review Committee (TRC) Meeting

Motion by Commissioner Holland and seconded by Commissioner Barger to recess for the TRC. **Motion carried 7-0.** The TRC began at 8:26 PM.

a. **Wyndham Forest – Preliminary Plat (master plan) Review**

The original developer abandoned the property and lost their vested rights to the approval. It timed-out because no one was continuing forward and no one picked up the project quickly enough. They had to resubmit. First development in Midland under the new standards. The new standards requiring both sidewalks on all streets, eight foot wide planter strip between back of curb and sidewalk, street trees, traditional street lighting standard for all developments and no cul-de-sacs. Lot lines can no longer extend into flood plain areas. No sewer planned for the area. Meets all requirements. TRC had no additional comments and continue process with developers.

b. **Ward Equestrienne Facility – Conditional Use Permit Review**

Conditional use permit in a single family district. The site plan, requires a minimum of five acres for equestrienne facility. General plan, great detail regarding parking, riding areas, barns. TRC had no additional comments and proceed to Town Council.

c. **Tucker Chase – Preliminary Plan Revision (master plan) Review**

Minutes Planning & Zoning Commission
Tuesday, January 26, 2016
7:00 PM Midland Town Hall
4293-B Hwy. 24/27E
Midland, NC 28107

Recommend not acting in the plan until additional information has been submitted to be able to make an informed decision.

Item #11 – Reconvene Planning & Zoning Commission Meeting

The P&ZC meeting reconvened at 9:09 PM.

Item #12 – Banks-Massey Grading - Land Use Map Amendment Request (preliminary to zoning map amendment) (Memo, Map & Letter)

Motion by Commissioner Aldridge and seconded by Commissioner Holland to recommend Town Council amending the *Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2* adopted October 8, 2013. **Motion carried 5-2.** Nay: Commissioners Barger and Carter.

Item #13 – Adjournment

Motion was made by Commissioner Holland and seconded by Commissioner Barger to adjourn the meeting. **Motion carried 7-0.**

The meeting was adjourned at 9:55 PM.

Darrell Page, Chair Midland Planning & Zoning Commission

Hilda Keeney, Planning & Zoning Commission Clerk to the Board