

Minutes Planning & Zoning Commission  
Tuesday, July 28, 2020  
6:00 PM Midland Town Hall  
4293-B Hwy. 24/27E, Midland, NC 28107

**Attendance:** Chair Darrell Page; Commissioners: Bob Caddell, Pam Carter, Steve Clark, Darrell Helms, Ann Holland, Jim Hoy; Hilda Keeney, Planning & Zoning Clerk; Kassie Watts, Town Planner

**Alternates Absent:** Jennifer Gallant, Josh Mendoza

**Others:** Councilmember Rich Wise

**Item #1 – Invocation & Pledge of Allegiance**

**Item #2 – Open** – Chair Page called the meeting to order at 6:01 PM.

**Item #3 – Approval of Agenda**

**Motion** was made by Commissioner Helms and seconded by Commissioner Hoy to approve the agenda. **Motion carried 6-0.**

**Item #4 – Approval of Minutes – Open Session 05-26-2020**

**Motion** by Commissioner Hoy and seconded by Commissioner Holland to approve open session 05-26-2020 minutes. **Motion carried 6-0.**

**Item #5 – Public Comments**

Stephen Mills (Steve's Mobile Foods) – 2512 Cabarrus Farms Road – Midland, NC

- lived in Midland 30+/- years, loves the community
- self-employed and decided to open Steve's Mobile Foods & Catering
- since October of 2019 operating a mobile hot dog cart
- trying to do the process legally
- registered with the State of North Carolina, Department of Revenue for sales tax
- inspect by Cabarrus County Health Department and permitted by the State of North Carolina
- has liability insurance
- has a Partner with a commissary
- renting property from Marvin and Don Widenhouse (next to the B&D) – they have no issues
- Partner came to Town Hall regarding a permit from Midland and reported back to him that the Town did not have a permit
- Gene's BBQ has been selling BBQ at the corner of the Sundae Shop in Midland for years and they asked him about the process and said as long as you have permission from property owner you are legal and should be no problem – Tractor Supply said no problem on their property
- set up (planned for three days per week) and on his third week was told the Town had received a complaint but was allowed to stay rest of day
- sells all beef hot dogs, brats and Italian sausages – no hamburgers or ice cream
- talked with Ms. Watts the next week
- felt it was more a personal decision to make him move than a business decision to make him move or any kind of violation because he does not see how he could violate an ordinance that does not exist

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**Item #6 – Planning, Zoning & Subdivision Reports**

**a. Zoning Permit Review**

Ms. Watts reviewed the zoning permits since July 1<sup>st</sup>.

**b. Update on Projects**

**Pinnacle Crane** – sewer work to extend utilities

**Superior Crane** – preliminary discussions for industrial park

**Copart** – need site plan approval – need to engineer a new septic system

**Wyntree** – moving along

**Cedar Creek** – talking with a new builder

**Fox Creek** – almost completely built out

**Rosewood Trail** – coming along

**Item #7 – Zoning Map Amendments**

**a. ZMA-2020-04 - Zoning Map Amendment – Lou Ann Biggers Carter, 596 Hwy 24/27 W; Midland, NC 28107 (1.89 acres) and 685 Lovers Lane; Midland, NC 28107 (1.47 acres) (Cabarrus County PIN#’s (5524-78-0669 & 5524-68-9991)**

**i. Staff Report**

The subject properties, located at 596 Hwy 24/27 W; Midland, NC 28107 (1.89 acres) and 685 Lovers Lane; Midland, NC 28107 (1.47 acres) (Cabarrus County PIN#’s (5524-78-0669 & 5524-68-9991) are approximately 3.36 acres total in size and are currently zoned Cabarrus County “Office Institutional” (OI). The proposed zoning district is the Town of Midland “NC 24/27 Commercial” (C 24/27) designation.

**ii. Public Comments**

No public comments submitted.

**iii. Consider ZMA-2020-04 - Zoning Map Amendment**

The subject properties, located at 596 Hwy 24/27 W; Midland, NC 28107 (1.89 acres) and 685 Lovers Lane; Midland, NC 28107 (1.47 acres) (Cabarrus County PIN#’s (5524-78-0669 & 5524-68-9991) are approximately 3.36 acres total in size and are currently zoned Cabarrus County “Office Institutional” (OI). The proposed zoning district is the Town of Midland “NC 24/27 Commercial” (C 24/27) designation.

**Motion** by Commissioner Holland and seconded by Commissioner Carter to recommend to Town Council designate the subject properties 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 and October 11, 2016, April 11, 2017 and July 10 and September 11, 2018 as shown on the adopted Land Use Map appearing therein which covers areas outside the city limits of the Town of Midland. This amendment is reasonable because the subject properties are adjacent to an existing commercial uses and are identified in the *Land*

*Use and Comprehensive Master Plan* for commercial uses. This amendment will allow the subject property to be used in accordance with the standards of the “NC 24/27 Commercial District” (C 24/27) Zoning District in the future. The amendment allows for the potential growth and expansion of the economic base of the Town. **Motion carried 6-0.**

**Item #8 – Zoning Text Amendment**

- a. **ZTA-2020-06 – The Commission will consider adding “Mobile Food Vending” as a permitted use to “Article 8, Zoning Districts” of the Midland Development Ordinance.**

Ms. Watts presented some background information regarding the consideration of adding mobile food vending to the Town’s MDO. Kevin Gentle, partner with Mr. Mills, stopped by Town Hall and inquired with Ms. Watts the process for a permit for mobile food vending. She informed Mr. Gentle that the Town did not have a permit for such service. He asked if a site could be set up since the Town did not have a process for such permit. She stated she told him that was not what it means. The Town does not currently allow mobile vending but he could petition the Town for a text amendment or the Town could add to the MDO by the normal process when the Town makes other amendments. She stated she made it very clear that he was allowed to open a mobile food vending site within the Town limits until the Ordinance was amended.

When Ms. Watts received the complaint, she had to investigate. She had a cordial discussion with Mr. Mills, did not run him off, told him he could state for the remainder of the day and would talk with the Planning Commission regarding a text amendment to the MDO. She stated she received a number of communications after the incident, apparently some arguing going on in social media and misconceptions about what was said and not said. She did not release information to Mr. Mills as to who filed the complaint and has no intention of doing so. She understands he wants to make an honest living and being on the site is good exposure for the businesses in the area. For the record, Ms. Watts did take issue with Mr. Mills considering it is a personal decision not a business decision as a public servant and found that particularly offensive and that charge is personal.

The following was presented as a proposed for the Planning Commission to consider prior to taking to Town Council:

**Mobile Food Vending**

Applicability: The provisions of this Section shall apply to any mobile food vending subject to the provisions below:

1. A mobile food vendor, or the property owner on which mobile food vending will be placed shall obtain a zoning clearance permit. Permits must be posted in a visible location on the mobile food vending unit.
2. The property owner will be issued a notice of violation if no permit has been issued for the location. However, the mobile food vendor will be cited if located on a property without property owner approval.
3. A permit shall be valid for one calendar year and must be renewed on an annual basis.
4. All applicable local and state regulations, including, but not limited to, Health Department, Environmental Health, and Environmental Protection, shall be met.

#### Site Criteria

1. All food trucks shall be located within a surface parking lot or within a designated parking space or spaces.
2. No mobile food vending unit shall be located within any required setback, sight distance triangle, or required buffer, nor shall any drive aisle, loading/service area, pedestrian walkway, emergency access, or fire lane be impeded.
3. Trash receptacles must be provided by the property owner, or designee, for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food and other such waste. Such trash receptacles shall be located no more than 10 feet from the mobile food vending unit. The property owner, or designee, is responsible for removing all trash, litter, and refuse from the site at the end of each business day.
4. No mobile food vending unit shall operate as a drive-thru service.
5. In all zoning districts where food trucks are allowed, the mobile food vending unit shall provide one (1) parking space per 250 square feet of the mobile food vending unit.
6. Mobile food vending units are required to return to their associated commissary at the end of each business day.
7. These restrictions shall not be applicable to special events recognized by the Town or non-profit events of five (5) days or less.

Mr. Mills stated he has a site in Locust. He discussed with their Planning Director the Town's requirements for the site. He was given:

- o Written permission from the property owner.

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- Do not block traffic or be in line of vision, causing safety issues
- Provide trash receptacles
- Compliance with state and county health department rules and regulations

The Commission agreed to recommend to Town Council the staff's recommends but to include limiting one (1) mobile vending food site per location in areas zoned as C24/27, C601 and Industrial and to limit to three (3) days week.

**Motion** by Commissioner Caddell and seconded by Commissioner Holland to recommend to Town Council amending the existing text in Article 8, Table 8.1 Table of Uses and Article 10, Additional Standards and Conditional Uses, of the Midland Development Ordinance and to recommend approval of ZTA-2020-06, as presented with the inclusion of limiting one (1) mobile vending food site per location in areas zoned as C24/27, C601 and Industrial and to limit to three (3) days week, to Town Council, amending the Midland Development Ordinance consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013, and subsequently amended March 8 and October 11, 2016, April 11, 2017 and July 10, and September 11, 2018 as required by NCGS § 160A-383. This amendment is reasonable because the standards established by this amendment are consistent with goals and strategies listed within Section Six of the Town Plan 2030. **Motion carried 6-0.**

Commissioner Holland announced her resignation from the Commission and would be relocating to the Hickory area.

**Item #9 – Adjournment**

**Motion** was made by Commissioner Helms and seconded by Commissioner Holland to adjourn the meeting. **Motion carried 6-0.**

The meeting was adjourned at 7:25 PM.

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Darrell Page, Chair, Midland Planning & Zoning Commission

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Hilda Keeney, Planning & Zoning Commission Clerk to the Board