

Attendance: Mayor John Crump; Mayor Pro Tem Darren Hartsell; Councilmembers: Allen Burnette, Mike Tallent and Rich Wise; Town Manager Doug Paris; Attorney Anthony Fox; Town Clerk Nancy E. Boyden, CMC, NCCMC; Finance Officer, Beverly Love; Town Engineer Richard McMillan, PE; Planning, Zoning & Subdivision Administrator, Kassie Watts, AICP, CZO; Planning Clerk, Hilda Keeney; Midland Fire Fighter Cody Hubbard Cabarrus County Deputy Sheriffs, McKenzie Summers and Stephanie Harm.
Also Present: Forestar, Tom Kutz, Alex Bondo & ESP & Associates, Matt Mandle.
Absent: None.
Late: None.
Guests: None.

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

1. **Invocation**: Mayor Pro Tem Hartsell gave the ***Invocation***.
2. **Open Meeting**: Mayor Crump opened the meeting at 6:00pm and called the room to order.
 - a. The room stood for the ***Pledge of Allegiance***.
3. **Announcements**:
 - a. Midland Town Hall will be closed Monday May 31st in observance of Memorial Day. There will be a 1day delay in garbage and recycling service. Thursday route on Friday and the Friday route on Saturday that week.
 - b. Mayor Pro Tem Hartsell said there were only a handful of people for the “I Love My City” project on April 23rd. The group put down pine needles for the welcome signs and trimmed some bushes and limbs.

4. **Approval of the Agenda**:

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

5. **Consent Agenda**: Minutes April 13, 2021; Attorney bills.

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

6. **Public Comment**: No comments forthcoming.

7. **Public Safety**:

- a. Police Report - Cabarrus County Sheriff for Midland

Officer Summers gave the following report for April, 2021:

- 1 Assault call;
- 1 Missing person;
- 767 Security checks;
- 82 Traffic stops;
- 11 Warrants;
- 11 Disputes;
- 6 Domestic disturbances;

Minutes Tuesday May 11, 2021
Regular Meeting of Town Council
6:00pm 4293-B Hwy. 24/27 E. Midland, NC 28107

- 2 Property damage reports;
- 3 Stolen vehicles;
- 4 Traffic accidents with property damage;
- 7 Traffic accidents with injury;
- 2 Trespassing calls.

Regarding the radar trailer, it was placed on US Hwy. 601 near the Tucker Chase development from April 18th to May 9th. The 85% speed was 54MPH and the average speed was 47MPH. The trailer was moved on May 9th to the Fox Creek subdivision and Saddlebrook subdivision to address speed complaints there.

b. Midland Volunteer Fire Department Report

Midland Firefighter Cody Hubbard gave the following report for April, 2021:

- 4 Structure fires;
- 6 Residential fire alarms;
- 2 Commercial fire alarms;
- 3 Brush fires;
- 1 Vehicle fire;
- 12 Local alarms;
- 11 Motor vehicle accidents;
- 41 Medical calls.

Total calls for service= 80.

8. Planning, Zoning & Subdivision Administrator- K. Watts

- a. Zoning Map Amendment- ZMA-2021-04(C) Lower Rocky River- Morrison Rd. LLC, Keith G. Baker and Carolyn Roberts, Albemarle Rd.- Howell Rd. LLC, Pioneer Mill Rd. LLC A NC LLC and Inglefield Enterprises LTD.

The properties are identified as Cabarrus County PIN#'s 5524-15-9853, 5524-17-1342, 5524-28-9123, 5515-81-7060 & 5514-79-6250, totaling 695.76 acres. The properties are currently zoned Cabarrus County "Countryside Residential" (CR) and "Office Institutional" (OI) and the proposed zoning is Town of Midland "Planned Residential Development.

i. Staff Report

Ms. Watts:

May 11, 2021

To: Mayor and Town Council

From: Kassie G. Watts, CZO, Planning, Zoning & Subdivision Administrator

Re: ZMA-2021-04 (CZ) - Zoning Map Amendment (Conditional Zoning) – Cabarrus County PIN#'s 5514-79-6250, 5524-17-1342, 5524-28-9123, 5524-15-9853 and a portion of 5515-81-1706

BACKGROUND & PETITION INFORMATION

On April 9, 2021 the Town of Midland received a rezoning application and conceptual zoning site plan (Exhibit #1) for a conditional zoning map amendment for the properties shown on the attached map (Exhibit #2). The specifics of the rezoning application are as follows:

Minutes Tuesday May 11, 2021
Regular Meeting of Town Council
6:00pm 4293-B Hwy. 24/27 E. Midland, NC 28107

Applicant: Forestar USA Real Estate Group, Inc.

Owner Information: Lower Rocky River-Morrison Road, LLC, Keith G. Baker and Carolyn Roberts, Albemarle Road-Howell Road LLC, Pioneer Mill Road LLC A NC LLC & Inglefield Enterprises LTD

Existing Zoning: Cabarrus County “Countryside Residential” (CR) and “Office Institutional” (OI)

Proposed Zoning: Planned Residential Development - Conditional (PRD-CZ)

Permitted Uses: All uses permitted in the Planned Residential Development (PRD) zoning district as shown in Article 8, Table 8.1 - Table of Uses, would be permitted on the subject property.

Parcel ID Numbers: 5514-79-6250, 5524-17-1342, 5524-28-9123, 5524-15-9853 and a portion of 5515-81-1706

Area in Acres: +/-695.76 acres

Site Description: The property is vacant and undeveloped.

Adjacent Land Use: Residential (Porter’s Landing and Cedarvale Farms subdivisions to the north.) Institutional (The Howell Center to the south.) The properties are bordered to the west by the Mecklenburg County line and to the south by NC Hwy 24/27.

Surrounding Zoning: The property is surrounded by Cabarrus County “Countryside Residential” (CR) zoning to the north and eastern sides. Properties to the south are zoned Cabarrus County “Office Institutional” (OI) and Town of Midland “Industrial” (IND).

Utility Service Provider: The property will be served by public water and sewer provided by the City of Concord.

INTENT OF ZONING DISTRICT

Proposed District: Planned Residential Development (PRD)

The Planned Residential Development District (PRD) permits flexibility in the design, construction, and processing of residential developments. Planned Residential Developments (PRD) are well planned, efficient residential developments that are compatible with the Town’s distinctive character but may otherwise be unachievable under conventional zoning and subdivision regulations. These regulations are further intended to promote cluster development and encourage integrated conservation design that creates sustainable, economical, and efficient use of the land, while providing a harmonious variety of housing choices and preservation of natural and scenic qualities of open spaces. The Planned Residential Development District is a Conditional Zoning District under the standards of the Midland Development Ordinance.

EXHIBITS

1. Conceptual Zoning Plan (Submitted by Applicant)
2. Subject Property Map (Submitted by Applicant)
3. List of Proposed Development Standard Conditions (Submitted by Applicant)
4. Summary of Neighborhood Meeting (Submitted by Applicant)
5. Zoning Map (Submitted by Staff)

LAND USE PLAN ANALYSIS

The property lies within the area designated on the adopted Town Plan 2030 Future Land Use Map for Neighborhood and Residential uses with a Traditional Neighborhood Development

Overlay option and is consistent with the Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013 and 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.

The property is currently vacant. This amendment is reasonable because the subject properties are adjacent to existing residential uses and the development is in keeping with the town's plans for future residential development in this area as shown on the Future Land Use Map and the associated rezoning plan. This amendment will allow the subject property to be used in accordance with the standards of the Planned Residential Development Conditional (PRD-CZ) zoning district in the future. The amendment allows for the potential growth and expansion of the residential housing inventory of the town, as well as the economic base of the town.

FINDINGS AND CONCLUSIONS

Conditional zoning is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a general use district. Additional standards and regulations may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans.

The applicant has submitted a Conceptual Rezoning Plan (See Exhibit #1) and a list of Development Conditions (See Exhibit #3) for the overall development of the subject properties that will be attached to the approval of the conditional rezoning should the Town choose to approve this request. If approved the Ordinance, Rezoning Plan and Development Conditions will be recorded in the Cabarrus County Register of Deeds and will be tied and binding on the subject properties. If approved, the applicant would then be required to go through full Preliminary Plat review and approval for a Major Subdivision, which includes review and approval by the Technical Review Committee (TRC) and all associated service providers. (Fire, Water, Sewer, NCDOT, etc.)

Highlights of the proposed conceptual site plan include the following:

- 1,310 single family lots maximum
- Three (3) lot sizes (42, 52 and 66 foot wide lots)
- Average Density is 1.9 units per acre
- +/- 173.94 acres of open space (10% is required, applicant showing 25%)
- Petitioner is donating approximately 23.759 acres of property to the Town of Midland for the development of a future EMS/Fire station, to be designed and constructed at a later date by the Town of Midland and other potential service providers.
- The concept plan shows 5 entrances into the site.
- Solid waste will be the responsibility of the Home Owners Association. This will save the town \$220,080 per year in expenses.

The proposed development is projected to generate annually:

- \$864,600 in new property tax revenue
- \$86,460 in new vehicle tax revenue
- \$133,620 in new capital recovery fee revenue

Staff has reviewed the Conceptual Zoning Plan and finds that it meets the standards of the Planned Residential Development - Conditional as outlined in Article 8.4-13 of the Midland Development Ordinance.

PROPOSED DEVELOPMENT STANDARD CONDITIONS ZMA-2021-04 (CZ):

Site Area: +/- 695.764 acres

Parcel ID Number: 55147962500000, 55241713420000, 55242891230000, 55241598530000
& portion of 55158170600000

Existing Zoning: Countryside Residential, Office Institutional (Cabarrus County)

Proposed Zoning: Planned Residential Development Conditional (Town of Midland)

Existing Use: Vacant

Proposed Uses: Up to 1,310 Single-Family Detached Residential Dwelling Units Maximum

Proposed Density: Up to 1.9 Dwelling Units per acre Maximum

Parking: Shall meet or exceed Midland Development Ordinance standards

I. General Provisions

1. These Proposed Development Standard Conditions form a part of the Rezoning Plan associated with the Rezoning Petition filed by Forestar (USA) Real Estate Group, Inc. (the "Petitioner") to accommodate the development of a single-family residential detached community on an approximately 695.764 acre site located north of Highway 24/27 and west of Pioneer Mill Road, more particularly depicted on the Rezoning Plan (the "Site"). The Site is comprised of Parcel Identification Numbers 55147962500000, 55241713420000, 55242891230000, 55241598530000 & portion of 55158170600000.

2. Development of the Site shall be governed by the Rezoning Plan, the Planned Residential Development Standards in Article 8, the Proposed Development Standard Conditions and the applicable provisions of the Midland Development Ordinance (the "Ordinance").

3. Unless the Rezoning Plan or these Proposed Development Standard Conditions establish additional site-specific standards, the regulations established under the Midland Development Ordinance shall govern the development and use of the Site.

4. The development and street layout depicted on the Rezoning Plan are schematic in nature and are intended to depict the general arrangement of such uses and improvements on the Site. The ultimate layout, locations and sizes of the development and site elements depicted on the Rezoning Plan are graphic representations which may need to be altered due to unforeseen circumstances, such as environmental constraints. Any such alterations and modifications shall be reviewed by the Town and shall not materially change the overall design intent depicted on the Rezoning Plan. See Article 5.4-3 in the Ordinance.

5. Future amendments to the Rezoning Plan and/or these Development Standards may be applied for by the then owner(s) of the Site in accordance with the provisions of the Ordinance.

6. Base information provided by Cabarrus County GIS and boundary surveys prepared by ESP Associates, Inc. titled "Boundary Survey of: Squires Realty, Inc. Property Containing 480.647 Acres", "Boundary Survey of: Pioneer Mill Road, LLC & Inglefield Enterprises, LTD Property Containing 92.287 AC", "Boundary Survey of: Property of Jessie G. Baker & M. DeWitt Baker Being 25.724 Acres", and "Boundary Survey of: Albemarle Road-Howell Road, LLC Property Containing 120.865 Acres" dated February 17, 2021.

II. Permitted Uses

The Site shall only be devoted to a residential community containing a maximum of 1,310 single-family detached residential dwelling units and any incidental and accessory uses relating thereto that are allowed in the PRD zoning district.

III. Transportation

1. Vehicular access to the Site shall be as generally depicted on the Rezoning Plan. The placements and configurations of the vehicular access points shown on the Rezoning Plan are subject to any modifications required to accommodate final site and construction plans and designs along with any adjustments required by the Town and/or NCDOT for approval.

2. As depicted on the Rezoning Plan, the Site shall be served by internal public streets. Adjustments to the alignments and locations of these streets shall be allowed per Town Engineer approval, during the construction permitting process, as long as they meet the

original design intent shown on the Rezoning Plan and outlined in these Development Standards.

3. The Petitioner shall construct all internal public streets to meet Town of Midland standards and external public streets to meet NCDOT public street standards and specifications.

4. Petitioner shall construct internal sidewalks for pedestrian use and accessibility based on Town of Midland and NCDOT standards. Sidewalks shall meet ADA requirements. Sidewalk and ramp details to be provided during construction permitting process.

5. The use of closes, forecourts, knuckles (or eyebrows) and other alternative road designs shall be allowed at the discretion of, and reviewed by, the Town Engineer for compliance with Town standards during the construction permitting process.

6. A TIA shall be conducted to determine any and all off-site traffic improvements. Adjustments to the Site may be needed in order to accommodate these improvements.

7. Petitioner agrees to provide an 80-foot landscape area along project frontage on existing public roads (Lower Rocky River Road, Morrison Road, Pioneer Mill Road, and Albemarle Road). See detail on this sheet.

IV. Architectural & Individual Lot Standards

1. Buildings shall be oriented towards the internal street system to reinforce the streetscape.

2. Preferred Exterior Building Materials:

a. Traditional Development: All principal and accessory buildings shall be comprised of any combination of brick, natural stone (or its synthetic equivalent), stucco, cementous products (such as HardiPlank, panel, or shingles), aluminum wrapped wood fascia, and/or other materials approved by the Zoning & Subdivision Administrator.

b. Active Adult Development: All principal and accessory buildings shall be comprised of any combination of brick, natural stone (or its synthetic equivalent), stucco, cementous products (such as HardiPlank, panel, or shingles), aluminum wrapped wood fascia, vinyl siding (unless not a Del Webb product, then only HardiPlank shall be used), and/or other materials approved by the Zoning & Subdivision Administrator.

3. Prohibited Exterior Building Materials:

a. Traditional Development:

i. Vinyl siding (but not vinyl handrails, windows, or door trim)

ii. Concrete masonry units not architecturally finished.

b. Active Adult Development:

i. Concrete masonry units not architecturally finished.

ii. Should there not be a Del Webb product used for this area of the development, vinyl siding shall be deemed a prohibited building material (but not vinyl handrails, windows, or door trim).

4. Pitched roofs, if provided, shall be symmetrically sloped no less than 5:12, except that roofs for porches and attached sheds may be no less than 2:12, unless a flat roof architectural style is employed. Homes shall comply with the Anti-Monotony Standards as outlined in Article 2 of the Ordinance.

5. The Petitioner shall minimize the visual impact of garage doors visible from network-required streets by adding additional architectural treatments such as translucent windows, decorative handles/straps, or projecting elements over the garage door opening.

6. Roof overhangs, eaves, cornices, chimneys, gutters, vents, bay windows, pilasters, pillars, open porches (if provided), and other architectural elements may project up to 24 inches into the required setbacks.

7. Placement of mechanical/AC units shall be located at the rear of, and directly adjacent to, the home. Placement of mechanical/AC units shall be prohibited in the front, side and rear yard setbacks.

8. In the event any home is built with a one-car garage, an additional parking pad or wider driveway shall be provided in the front yard to accommodate an additional parking spot.

9. Minimum front yard building setback shall be at least 25 feet.
10. Minimum side yard building setback shall be at least 5 feet and side corner at least 10 feet.
11. Minimum rear yard building setback shall be at least 15 feet.
12. Minimum lot width shall be at least 42 feet at front setback line and minimum lot size shall be at least 5,670 square feet.
13. No single lot size shall comprise more than 50% of the lots in the development. Lot size variations shall be in increments of 10 feet minimum.
14. Petitioner shall commit to three (3) lot sizes; 42, 52, and 66-foot wide lots.
15. All garbage and recycling pickup shall be the responsibility of the HOA.

V. Open Space

1. The Petitioner shall provide natural areas and open space areas (both improved and passive) as generally depicted on the Rezoning Plan and that meet the requirements outlined in Article 21 of the Ordinance.
2. 5% of all proposed lots shall front/face an improved open space area.
3. All lots within the Site shall be located within a ¼ mile of an improved open space area.
4. Typical improved open space areas (as shown on the Rezoning Plan) shall be, but not limited to:
 - a. Landscaped areas along development frontage to existing roads
 - b. Greenspace/landscape areas parallel to the Site's proposed boulevards and collector streets
 - c. Pocket parks
 - d. Closes
 - e. Amenity areas
5. Improved open space shall be any open space area that has been improved for pedestrian use. Typical improvements shall include, but not limited to:
 - a. Walkways
 - b. Benches
 - c. Playgrounds
 - d. Ball fields
 - e. Shelters (pergola, kiosk, gazebo, picnic shelter etc.)
 - f. Bermed areas w/ landscaping
 - g. Amenity areas and their elements within (as outlined below under note 7)
 - h. Formal greenspace bordered by streets and sidewalk (close)
6. Proposed soft surface trails shown on the Rezoning Plan are conceptual and representational and subject to location change. Size, material, location, and orientation of proposed trails shall be detailed and designed during construction document phase.
7. In addition to the proposed natural and open space areas, the Petitioner shall provide two sizeable amenity areas for the traditional and active adult communities within the Site.
 - a. Traditional Amenity:
 - i. Traditional Amenity shall be approximately 3-5 acres, in the location as generally depicted on the Rezoning Plan. The Traditional Amenity shall consist of a clubhouse or cabana, pool(s), play court(s), play equipment, walks, landscaping, dog park, parking, or similar. Final design of amenity area shall be prepared during construction permitting process.
 - b. Active Adult Amenity:
 - i. Active Adult Amenity shall be approximately 8-10 acres, in the location as generally depicted on the Rezoning Plan. The Active Adult Amenity shall consist of a clubhouse, pool(s), play court(s), play equipment, walks, landscaping, dog park, parking, or similar. Final design of amenity area shall be prepared during construction permitting process.
8. Amenity areas shall be opened and ready for use for residents once 100% of homes are built in the first phase of each respective development area (traditional/active adult).

VI. Environmental Features

1. Site and/or lot grading may occur, when necessary, within the Type E Buffer, 80' landscape area, stream buffers, and tree save areas as permitted within the Ordinance. No grading shall be permitted until a grading permit and approval have been obtained from the Town of Midland and NCDEQ. See Article 19 in the Ordinance.
2. Floodplain information obtained from FEMA Firm Panels 3710551400M, 3710552400K, 3710551500K, & 3710552500K effective date of studies 11/16/2018.
3. Stream/wetland information based on preliminary information obtained from "Working Draft WL Sketch" prepared by Wetlands & Waters, Inc. dated January 2, 2021 and Cabarrus County GIS data.

VII. Parking

1. Parking shall comply with the requirements set forth in Article 12 of the Ordinance.
2. This PRD Rezoning Plan shall not be required to comply with Article 2.19-1 through 2.19-8 of the Ordinance.
3. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11 of the Ordinance.

VIII. Lighting

All freestanding lighting fixtures installed on the Site greater than 21 feet in total height (i.e., excluding decorative lighting less than 21 feet in height that may be installed along the driveways and sidewalks as pedestrian/landscaping lighting) shall be fully capped and shielded and the illumination downwardly directed so that direct illumination does not extend past any property line of the Site.

IX. Civic/Institutional Allocation

The Petitioner shall set aside as a donation to the Town of Midland approximately 23.759 acres of parcel #55158170600000 for a future EMS/Fire station, to be designed and constructed at a later date by the Town of Midland. The land to be donated represents 3.4% of the overall Site acreage (695.764 AC), which is 1.4% more than what is required within a PRD (2% or 13.92 AC).

X. Binding Effect of the Rezoning Documents and Definitions

If this Rezoning Petition is approved, all conditions applicable to development of the Site imposed under the Rezoning Plan and these Development Standards shall, unless amended in the manner provided under the Ordinance, be binding upon and inure to the benefit of the Petitioner and subsequent owners of the Site and their respective successors in interest and assigns.

Throughout these Development Standards, the terms, "Petitioner" and "Owner" or "Owners" shall be deemed to include the heirs, devisees, personal representatives, successors in interest and assigns of the Petitioner or the owner or owners of any part of the Site from time to time who may be involved in any future development thereof.

These conditions and approvals shall be recorded in the CCROD and shall run with the property.

The conceptual site plan is illustrative. Final Design of the project as reviewed by the Technical Review Committee shall be subject to meeting all Town of Midland zoning and development standards.

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 prior to the request being forwarded to the Midland Town Council for a final decision.

The Planning and Zoning Commission meeting was held on April 27, 2021. The Commission voted to recommend approval of the proposed zoning request with the above listed conditions. The applicant held a Neighborhood Meeting on April 15, 2021 at 6 pm. (See Exhibit #4) The meeting summary, list of notified property owners and exhibits shown are included in this packet.

Notice of this regular Town Council meeting, public hearing and this agenda item have been publicized, letters have been mailed to all adjacent property owners of the subject properties, and zoning hearing signs have been posted on the properties in accordance with the state statutes.

Town of Midland Development Ordinance standards will apply following the:

1. Public Hearing held by the Town Council (May 11, 2021), and
2. Adoption of an Ordinance (ZMA-2021-04(CZ)) including both Reasonableness and Consistency Statements designating the Town zoning classification.

The Council may vote to recommend approval, denial, or to modify the recommended classification in accordance with the adopted Town Plan 2030 Land Use & 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 by the Town of Midland Town Council.

Ms. Watts reviewed the highlights of her report.

ii. Open Public Hearing

Mayor Crump opened the hearing at 6:43pm.

Developer Tom Kuntz and Alex Bondo from Forestar and Matt Mandle from ESP & Associates presentation:

About Forestar- Mr. Tom Kutz: The company is currently held on the NY Stock Exchange and the largest national residential developer in the country and with that we are well capitalized and for a project of this nature and size that is a big requirement to have for a successful project. A lot of past suiters for this property were a national builder which requires a lot of capital from them and they like to preserve that capital for building homes instead of developing land. We develop lots for national and regional local builders here in the Charlotte market. The company being publically held our largest shareholder is DR Horton Homes and they are a national builder in the US. Our relationship with them is offering them the right of 1st offer on those lots. If they do not want that right or the right of offer doesn't match at the current market rate then it opens it up to other builders. The other ½ of the lots in this community can go to any builder that we choose. We now have 51 divisions across the US. One of the other things about a community that's this large is it goes through several residential cycles and being well capitalized it helps us carry through recessions so we do not leave a community with an unfinished development. (He pointed to the area that's being targeted for the Del Webb adult product). However this is not deeded on the property. We've gone through the annexation process, TRC review and had our 1st rezoning and neighborhood meeting that was held in April of this year and the Planning and Zoning Commission meeting that was held April 27th. We had a TIA meeting for a traffic impact analysis which is in progress and will probably wrap up in mid-June with the town and NCDOT. We are here tonight for the rezoning decision by town council.

Rezoning Plan- 2nd Submittal- Entitlement Manager Alex Bondo: The site is bounded on 4 sides; Lower Rocky River Rd., Morrison Rd., Pioneer Mill Rd. and Albemarle Rd. The 2nd submittal came about by the Planning and Zoning Commission. We are proposing a PRD district for 1,310 home sites of various sizes. Currently the site plan is at 1.9 per acre homes and we cannot go any higher than that. That is calculated by taking the overall acreage of 695.76 and dividing that into the 1,310 per the Midland ordinance. There is a robust tree network with sidewalks. The main access points coming in are on Lower Rocky River Rd., Pioneer Mill Rd, and Albemarle Rd. which will be landscaped. We are proposing a substantial soft trail surface system which is upwards of 3 miles. This network will run internally throughout the site and will connect to different pods of the community, amenities as well as natural areas.

Mayor Pro Tem Hartsell asked how many miles of asphalt is there.

Mr. Alex Bondo said that he did not have that number tonight.

Mr. Alex Bondo said that there are architectural commitments in the development standards. The community is consistent with the land use map as Planner Watts stated earlier. We are also proposing heightened open space commitments above what you may have typically seen in a normal rezoning to single family. That's 25% open space and preserving natural areas in the center of the site. 23.9 acres we are dedicating to Midland for a future EMS fire station. The layout provides a unified approach for a high level of transportation improvements. Lastly around the entire perimeter of and anywhere that our property touches an existing property owner's site we are proposing a 50' buffer. It would be landscaped where it isn't today. The landscape area along Pioneer Mill Rd., Morrison Rd., and Lower Rocky River Rd. would be an 80' buffer.

Mr. Tom Kutz said that there are no single car garages only 2 car garages.

Process/Project Schedule ESP Engineer Matt Mandle: said that he wanted to talk a little bit more about the plan benefits. He showed a, "summary chart" that showed base line requirements by the town ordinance and what is to be included as far as the PRD rezoning. The approved site plan and conditions are recorded and would follow the land. Anytime that the site is to be developed that document is pulled and utilized as the ordinance for the site. Some of the benefits are a vast difference in open space and tree saving provided, tree conservation area which is just over 6%. Our conditional plan is proposing a minimum of 25%. The common open space is 10% and 25% being committed to the plan. Proposed developable density capped at 1.9 units per acre and under the ordinance you can potentially develop up to 3 units per acre.

Site Aerial: ESP Engineer Matt Mandle showed the site by aerial view of everything previously talked about including environmental measure to protect and preserve.

Proposed Plan Overview, Plan Benefits, Open Space, Conceptual Traditional Homes Imagery, Conceptual Active Adult Home Imagery, Buffer Exhibit, Amenity Concepts and Phasing Plan:

Mr. Alex Bondo showed conceptual images of different styles of homes both ranch and 2 stories- both the active adult side and the traditional; vinyl for the adult side and a mix of brick and stone for the traditional. He also showed a buffer exhibit, bocce ball courts, tennis and pickle ball courts, potential dog parks, potential play grounds, monumentation to the entrance of the development, and amenity areas. Planning on summer 2022 beginning development, summer 2023 home construction, 2023-2024 residents would move in and construction to take 5-8 years to fully develop.

Citizen: Said that Forestar has kept this quiet at least from the Midland residents. She lives on Flowe Store Rd. at Morrison Rd. It's been a very quiet community for years. She asked about the acreage for the lots. She said if Midland wants a lot of people they will come. There will be stress on schools. She asked if that is what Midland wants.

Citizen Elizabeth Nervina: Said that she is new to Midland and moved here from Harrisburg. When Harrisburg was smaller it had a small town feel and was nice. Harrisburg has had expedient growth in a short amount of time. Harrisburg has had a big impact on the roads, traffic, schools and law enforcement. One of the reasons she moved to Midland is for that smaller town feel. To have that many homes come to Midland is considered high density housing. She spoke of orderly growth and how much high density developments are allowed according to the Midland Land Use Plan. She said that she would be more in favor of a more conservative approach to development so it doesn't overwhelm the town structure. She asked Council to consider if this development falls into the town's plan.

Citizen Alisha Scott: Said that she was born and raised in Midland. She said that she is not opposed to growth in Midland but is worried about the speed of it. This neighborhood will double the size of Midland. There are already 2-3 neighborhoods that have been approved that will be breaking ground very soon so in the next 5, 6, or 7 years Midland could triple in size. There is 1 school and 2 traffic lights and she wanted to know that other things are being considered. It takes years to get schools. She wanted to know that Midland is not just looking at the tax base but what it is going to take to get schools. She spoke of infrastructure, and the fact that Midland doesn't even have its own police force. She said again that she hopes this isn't just a tax base thing and hopes Council thinks about bringing quality to Midland.

Citizen Frank Bass: Said that he spoke at the last P&Z meeting about this development. He knows that the growth is coming but it needs to be done right. He asked if anyone has spoken with the county about the impact on schools and public safety. There is a lack of communication. The lack of transparency here is astounding. There is nothing on the town website and you have to come to meetings to get any information. He asked why the rush and to slow down. Get the traffic impact study which should have already been done. Get the school board's input on this to find out. It will impact the entire county and he asked Midland to just slow down.

Citizen Jerry Davis: Said that he's not against growth but it needs to be smart growth. This is taking land for Countryside Residential and moving it to an urban density. He asked how the residents there will be able to afford \$350,000 to \$550,000 homes plus the HOA cost and said he didn't think that the feasibility is there. Midland wants to grow because it will attract business, tax base, industry and other services. He said that he talked to the school board and if that development goes in, it will lower the ability for Midland to get schools because of urgency already to the existing infrastructure in Concord. The businesses depend on roof tops. He asked Council to lower the density there. He said that he would love to see 100' buffers to help keep the look and feel that the land has had for so many years. He also spoke to the state of the roads in that area. He asked Council to please coordinate and grow reasonably.

Mr. Kenny Morrison: Said that he grew up in Midland outside the town limits. He said that with the bull clay there will be a need for a lift station. One of the main entrances on Lower Rocky River Rd. didn't even have a zoning sign. He asked how much dirt they will have to move because they can't go with the slopes on the terrain they're working with. He also spoke to the sewer when it spilled from the Howell Center years ago. How many deputies will be needed and how will it be policed? It just got out how big and how tight this development is going to be and don't waste the sewer.

Developer Mr. Tom Kutz: Regarding schools and roads, obviously 600 lots in the community is for the Adult Active Living. These people have no school age children and they're off peak traffic. As far as traffic goes we are required by the ordinance of Midland to conduct a traffic impact analysis with NCDOT and also the town. We have started that process and it has to be approved before the preliminary plat is approved. That is the sequence of events and in the process. If approved we submit the preliminary plat and the impact analysis would go in at that point. This is a phased analysis. We are not developing the entire community on day 1. We are developing the phases. The improvements that the additional traffic that is created from this analysis is approved by NCDOT and the town and we would be required to put those improvements in associated with each phase of the development. The restaurants and retail businesses will follow. The EMS station is good because we will have older adults and a need for an emergency medical facility to service the community so it would be good to put it on the land we are donating for the facility. Trash service will be private and is legal. It would be less of a burden for the town to provide it. Until we get into preliminary engineering and final design we don't know those quantities of moving dirt. We will do more testing of the soil and hit the bull clay. We do a lot of undercutting and replacing of bad soil for good soil so we build houses on structurally sound earth. There is an existing sanitary sewer service that's a City of Concord main that services the Howell Center today.

ESP Engineer Matt Mandle: During our presentation we talked about the conditional rezoning and the development standards Forestar is committed to. Those are done to raise the bar for the development and future developments in Midland. Our team and the town staff have been working back and forth on those comments to come up with standards that are going to make a high quality development that the town can be proud of. As Ms. Watts pointed out in her staff report this is consistent with the future land use plan. With the density of fewer than 2 units per acre we are almost at 1.9 units per acre so that is a relatively low density development. The phasing will occur over 5-8 years depending on market conditions.

(Inaudible from audience)

Mr. Tom Kutz: The product is expensive. For a young family to move into that price range, they want the traditional 2 story house with 4 bedrooms. The adult community is an upscale type of community. On the traditional side we will have ranch homes if someone prefers that style. They will be more moderately priced than the 2 story options.

(Inaudible from audience)

Mr. Tom Kutz: These are very expensive lots for builders to purchase. We are a developer and not a home builder. Our interest is to preserve the real estate value and to have it as high as possible. The amenities in this type of community along with the walking trails, etc. demand an expensive house to meet that type of a buyer.

Councilmember Tallent: Who pays for the amenities?

Mr. Tom Kutz: We do the developer.

Councilmember Wise: Does the HOA have to maintain that?

Mr. Tom Kutz: That's correct.

Councilmember Wise: So the HOA costs will be higher than most HOA's.

Mr. Tom Kutz: Not really. With 1,310 homes you're giving the economy a scale. You're giving those nice amenities because you have that number of people that can pay dues that will cover the maintenance and operation of those facilities.

Mayor Pro Tem Hartsell: There are some things that really bother me. I don't like to mislead people or misrepresentation and I don't like it given back to me. I'm going to do some simple math. Basically there are 695 acres overall and 170 acres in the unusable spaces. Then there are 23 acres you're giving to the Midland Fire Department that's going to leave you roughly 480 acres for the development of 1,310 homes. That's without streets. The misrepresentation I want people to know is that 1.9 houses to the acre is misrepresenting the fact. The fact is, doing the math you're going to be over 7 houses per acre. When you represent it as a 1.9 per acre and that's encompassing the whole property so the representation is not right. Actually we're looking more at 8 houses per acre than the 1.9. To me that's a deliberate misrepresentation of what you're trying to build. I worked for 30 years in home building and grading so you're not talking to someone who doesn't know what's going on. I know that you are business men and I want to be fair to the public and Council.

Mr. Tom Kutz: There is no intent for us to mislead or misrepresent. What we have is a cluster development so we cluster the homes close together to preserve the large open space. There is 174 acres of open space out of 695 acres. We are just following the town's ordinance to measure density and the total number of lots divided by the total acreage inside the entire community. That is all we're stating. We have to meet the ordinance's specifications and state that. The development is a cluster development so we moved the houses closer together so we can conserve. It's a very common planning practice across the metropolitan area and the United States.

Mayor Pro Tem Hartsell: Would it be fair for you to agree that number is not at 1.9 and it would be closer to 8 per acre if you took the usable land minus streets, minus your 170 acres. I know that you know how many miles of streets there are and that's potential for Midland to have to take those streets in and I want to know what that would be.

Mr. Tom Kutz: I'm sorry we didn't have those numbers tonight. We didn't come prepared for that.

Mayor Pro Tem Hartsell: There are 3 miles of nature trails but you don't know what the street distance is?

Mr. Tom Kutz: I would estimate it to be around 13 miles. If you look at the individual pods that we have and the town's ordinance it's symmetric. Also, 50% of these lots back up into open space. People look for that in a lot. They want their property line where there are no houses behind them and have these large open spaces to recreate in.

Councilmember Wise: I heard your presentation at the P&Z meeting and I had to go home and do some research. My research is that I can't comprehend 7 houses per acre. I had to see it on paper. I went online to see what 7 houses per acre looked like. Your development is close to that. Our town talked about this many times and we've talked about a minimum of 10,000 sq. ft. I know that you are going by this PRD that we recently passed. I have a hard time putting that many people in that type of area. I took a trip out to Crestwood to see it. They have space between their houses. It's a little bit more than 10ft. per house and there are some nice properties and some nice big houses. It's a nice community out there. I was hoping with the design that this would be similar to it but it's a lot denser.

Mr. Tom Kutz: We've done studies on the active adult environment and as I mentioned earlier they don't like big yards. They don't want to maintain them. We are going to have the HOA

Minutes Tuesday May 11, 2021
Regular Meeting of Town Council
6:00pm 4293-B Hwy. 24/27 E. Midland, NC 28107

maintain them. The 1st thing they do in the morning is go to the amenity center and walk the trails. That's the lifestyle that this type of community wants.

Councilmember Wise: I understand what you're saying but again I took a ride out to Crestwood purposely to see what a senior development looks like. It is as you said but it's a nice development. We in Midland talked about 10,000 sq. ft. minimum lots. I'm at odds with what you have here.

Councilmember Burnette: Will this be something that the town will be taking over for street maintenance or would it be the HOA?

Mr. Tom Kutz: They will be public streets.

Mr. Paris: I have a couple points of historical clarification based on some of the comments that I've heard. This project 1st came about as a pure Del Webb community. At the time there were meetings with the county and the county expressed interest in the 23 acres for a future EMS station. When the project came back around we wanted to reserve that position in case the county wanted to build the EMS in the future. That was expressed as a desire by county staff at the time. The town is not going to build another fire station on that site. Fire station #2 is a mile and ½ down the road on Hwy. 24/27 which is adequate for that development site. If the county decides not to build another EMS station the town would find a use for it. On the question of schools, former Mayor Kitts wanted a middle and high school in Midland. She got complaints about getting calls from parents about bus times and long commute times for students. For about 5 years we've pushed for a middle and high school. The last meeting had was with county management and the chairman of the county commission and at the time the county was looking at a tract north of the crossroads for a middle and high school. We felt that it was a good call for Midland students. We pushed for a school at that site. Unfortunately it didn't happen. The new schools went up in the Concord area. We were told that the Concord area had a much higher growth rate and they needed schools more. So that is the history behind the school conversation. It would be our preference to have a middle and high school however that is not Midland's decision to make.

Councilmember Wise: The Del Webb section of the development you said that it would be a certain type of house. What if Del Webb decides not to develop that? Are you going to develop it?

Mr. Tom Kutz: We have other builders that we work with for that same product.

Councilmember Wise: What if Del Webb decides to only develop some of those homes? Would you have someone else build a different style of house or would it have to be all Del Webb?

Mr. Tom Kutz: Del Webb has an active adult house. The other builders that I mentioned have active adult houses too. It would be that similar product by a different builder.

Councilmember Tallent: What is Del Webb? Is that your preferred builder for that area?

Mr. Tom Kutz: It is. It's a brand of Pulte Homes that they've purchased many years ago.

Councilmember Tallent: That is your preferred builder but there is no way for you to guarantee that they are going to build there. From your presentation you have your preferred list of builders and Del Webb will get the 1st right of refusal.

Mr. Tom Kutz: The only builder that has preferred right of offer is DR Horton on ½ the lots on the traditional side.

Minutes Tuesday May 11, 2021
Regular Meeting of Town Council
6:00pm 4293-B Hwy. 24/27 E. Midland, NC 28107

Councilmember Tallent: So they get the 1st shot at your price and if they say no, so at that point you can offer it to other builders.

Mr. Tom Kutz: That's correct.

Councilmember Tallent: On the adult side, there is no one who holds that 1st right.

Mr. Tom Kutz: That's correct. The reason we don't contract with builders today is because we are very early in the stages. We don't have detailed designs, site construction drawings, or all the costs and budgets that it's going to take to exactly build this development. We have a budget but it doesn't have good detailed information. For us to commit to a lot price in a time when prices are escalating quickly on raw materials and labor, etc. we don't lock into that price with a builder until we gather that information. We are months away from gathering all that engineering.

Councilmember Tallent: Do you know how much is the proposed price for an individual lot?

(Councilmember Tallent referred to the colored map with the houses and how poor quality it was).

Mr. Tom Kutz said it's just a preliminary map and it will change as we go forward.

Councilmember Tallent: On your phases, phase 7 you're not putting the 2 big groups together until this last phase.

(They also talked about the amenities for each side of the development).

Councilmember Tallent asked what the density is in Cedarvale Farms comparatively to this development.

Mr. Tom Kutz and Ms. Watts both answered that they did not know.

Councilmember Tallent: This is not a good position for the town but we want the growth but it's a little bit tighter than what the town has traditionally had. Traditionally Midland has had a minimum 10,000' lot sizes. I can see going with a little bit smaller lot size because there is so much unusable property on the site. The property is covered in creeks or streams. Forestar did a good job at using most of the usable property. Referring to the map they had he understood that the smallest lot would be .13 acres and the largest lot would be .21 of an acre. So that's getting closer to a ¼ lot size and that is what Midland has traditionally has gone with. I would be more comfortable if we went with the larger lot size.

(In audible from the audience over moving power lines)

(Inaudible from the audience about HOA's)

Councilmember Wise asked about the snout houses.

Mr. Tom Kutz: The definition of a snout house is anything in front of the house. There are not a lot of builders who build those. For a community of this size and quality he sees it more in rear alley low communities or large lot square footage houses.

Councilmember Wise: I'm not a fan of snout houses because they don't make a neighborhood because the neighbors are not visible from the outside.

Citizen Paul O'Neal: Said that the picture of the 2 car garage is no bigger than Council's meeting chambers. He asked why there's a standard in the Del Web homes to use vinyl that's not being used in other places. They never set a cap on the 55 and older adult homes. And millennials today will pay the \$350,000 with no grass mowing because they have to work to pay for it so that part of this doesn't match. With having 2 children that doesn't add up because Midland will have a school system that it will have to pay off.

(Mostly inaudible from the audience regarding traffic, gardening, large sized lots and fire risk)

Mr. Tom Kutz: The hardy plank siding is fire rated except for the vinyl in the Del Web side.

Citizen: How wide are the streets?

Engineer McMillan: They will be 28' back to back through much of it and the collector streets will be much wider depending on whether they need a median or not. Those are standards that I am finalizing and will bring back to Council.

There were no more public comments so Mayor Crump closed at 8:25pm.

iii. Consider ZMA 2021-04(C)

Discussion

Councilmember Burnette: I've listened to a lot tonight and a lot of it made sense but looking at the rendering of 1,310 homes and 700 acres. We could take 1,300 acres and put in 1,300 homes so that would be an acre per house. We would have to take out a lot of land to do that and put in roads. In your concept you have small lots. However there are a lot of people in the country that like small lots and hardly any yard. On page 3 of 3 of the maps there are hardly any houses near this. With the road frontage you're talking about an 80' buffer and most of the 50' buffer is buffered in open land. It will have an impact of a subdivision of this size and I don't think you could find where to put 1 and have less impact on an area than what this 1 would have. There is something to be said about this development. I would like it to be more than 42' lots but the market drives that.

Mayor Pro Tem Hartsell: I think that the design is awesome and Forestar is respectable and they know what works. My biggest concern is do we set a precedence for that small of a lot? Do we say that it's okay for that higher density? We decided with the last 2 developments we agreed on the homes were in the 10,000' size wise as far as lots. I think that there is room here to work with and I'm not satisfied with these 42' lots. If you take 10' between 2 houses that's 6' and 2 people can reach between 2 houses so do we really want it that tight? I think that those are the things we have to think about. No one has anything at stake except the people that live close and those that have to be around it. I'm not happy with the sizes and I hope that we could go back and renegotiate some of these lot sizes and have something that we could honestly accept.

Ms. Watts: Can I verify a few things for the record? This has been a very good conversation from everyone. Any improvements required by NCDOT the developer is responsible for paying for, constructing them and obtaining all the right-of-way. This is the same thing with any infrastructure cost like water and sewer and has to work with the City of Concord. He has to pay for the installation, engineering and design of the infrastructure. Then he has to turn it over when they are willing to accept it for their maintenance as part of the larger system. The

density calculation in interpreted the same way. I'm not aware of any other place in the state of NC where this is interpreted any differently than it is here. Essentially you can't take someone's property from them without giving them the highest and best use of that property because it's against the law. Clustering is not always popular but it is very common. It sounds a lot better saying 1.9 units to the acre when in reality there are pockets that are developed more densely but that do not change what it is. You can call it 1.9 or pockets or call it pockets of .7 to the acre. The density calculation is the same. It's the same way we treat every project. Midland doesn't have an extraterritorial jurisdiction so planning here is unique in the regards that we don't have a zoning jurisdiction outside of our city limits. We do not have an ETJ as every other town in the county has had. We also don't have our own utility system so as Midland grows traditional planning theory goes out the window. Ideally we would like to have an ETJ so we could navigate what is going on right outside of the town limits. Annexation in NC is totally voluntary. We didn't force anyone to come to our doorstep. They always come and it's up to Council's pleasure whether to accept them into the town or not. An Annexation Agreement with Harrisburg was put in place years ago and as far as transparency, I understand people find out things sooner or later and all associated items with annexation and text amendments regarding zoning. All this has been done in accordance with state statutes and the local ordinance requirements. I just want to clarify those and if there is anything else I can clarify for you.

Motion was made by Mayor Pro Tem Hartsell and seconded by Councilmember Wise to table Zoning Map Amendment ZMA 2021-04(C) Lower Rocky River Morrison Rd. LLC, Keith G. Baker and Carolyn Roberts, Albemarle Rd. Howell Rd. LLC, Pioneer Mill Rd. LLC A NC LLC and Inglefield Enterprises LTD to the next regular Town Council meeting on June 8th, 2021 at 6PM At Midland Town Hall located at 4293 B HWY 24/27 East, Midland NC. The properties are identified as Cabarrus County PIN#'s 5514-79-6250, 5524-17-1342, 5524-28-9123, 5524-15-9853 and a portion of 5515-81-1706, totaling 695.76 acres. The properties are currently zoned Cabarrus County "Countryside Residential" (CR) and "Office Institutional"(OI) and the proposed zoning is Town of Midland "Planned Residential Development. **Motion carried 4-0.**

Councilmember Tallent said that no one could answer the question of density in Porter's Landing so he looked it up and found that it's .34 of an acre and Cedarvale looks to be .40; therefore this would definitely be a smaller lot size in that immediate area.

Mr. Paris asked if Council had any specific instructions to staff on what they would like to see done between now and the next meeting.

Councilmember Tallent said that he would like to see staff get rid of the "pink" houses (on the maps of smaller areas) and bring in more "yellow" and "blue". If you do have to do a "pink" area he prefers the area where it's not as clustered. If staff can get something that is more like Porter's Landing that would be more profitable for the developer. He hoped that staff can get back with the developer and try to get rid of some of the "pink".

Mayor Pro Tem Hartsell said he too would like to get rid of some of the smaller area, (pinks) to increase some of the lot sizes.

Councilmember Wise said that he would like to see the snout house percentage drop to 60% from 90% if possible.

Mayor Crump called a 5 minute recess at 8:40pm. Council returned at 8:45pm.

Motion was made by Councilmember Tallent and seconded by Councilmember Burnette to recuse Mayor Pro Tem Hartsell from b. Voluntary Annexation. **Motion carried 3-0.**

- b. Voluntary Annexation Darren Hartsell, PIN 5533-49-2713 Contiguous-
13951 Cabarrus Station Rd. Midland, NC 28107
 - i. Staff Report

To: Mayor and Town Council

From: Kassie G. Watts, CZO, Planning, Zoning & Subdivision Administrator

Date: May 11, 2021

Re: Voluntary Annexation of Contiguous Property of Darren Hartsell

BACKGROUND

On March 31, 2021 the owner of property located at 13951 Cabarrus Station Road, Midland, NC 28107, including Cabarrus County PIN 5533-49-2713, totaling 3 acres; submitted a petition for voluntary contiguous annexation into the town limits of the Town of Midland.

On April 13, 2021 the Town Council adopted resolutions (#2021-239(A)) directing the clerk to investigate the sufficiency of the petition, and (#2021-240(A)), calling for a public hearing on the subject of annexation.

FINDINGS AND CONCLUSIONS

The standards for annexation require that the property must be contiguous to the “primary corporate limits”. Attachment “A” demonstrates the contiguity requirements are satisfactorily met by this petition to the Town of Midland.

FISCAL IMPACT

The property is un-developed, but has two accessory buildings located on the property. The property will not require solid waste collection and recycling services at this time. The Town will receive additional revenues from Ad Valorem tax assessments.

RECOMMENDATION FOR ACTION

There are several steps required to annex this property. The following outline illustrates how this process may be completed in two regular meetings of the Town Council.

The actions taken at the April 13, 2021 meeting included (in order of due process):

- a. Petition for voluntary contiguous annexation (attached).
- b. Direct (by resolution #2021-239(A)) for the Town Clerk to investigate the sufficiency of the petition. (Adopted April 13, 2021)

c. Upon receipt of petition certification by Town Clerk, call (by resolution #2021-240(A)) for public hearing at next regular meeting. (Adopted April 13, 2021)

The actions that may be taken at the May 11, 2021 meeting include:

d. Conducting the required Public Hearing for the purpose of receiving input from citizens and/or persons owning an interest in the subject property.

e. Consideration (adoption or rejection) of an ordinance (#2021-264(A)) extending the corporate limits to include the subject property.

Following the annexation of the property, staff will be preparing the documents to establish initial Town of Midland zoning on the property. The property lies within the area designated on the Town Plan 2030 Future Land Use Map for "Residential" uses. The owner will be requesting the area will be recommended for the "Agriculture" (AG) zoning classification for the subject property.

ii. Open Public Hearing

Mayor Crump opened the hearing at 8:46pm. There were no comments or questions so he closed at the same time.

iii. Consider Adoption of #2021-264A

Motion was made by Councilmember Wise and seconded by Councilmember Tallent to adopt Ordinance #2021-264A. **Motion carried 3-0.**

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF MIDLAND and INCORPORATE BY ANNEXATION A CONTIGUOUS AREA INTO THE TOWN OF MIDLAND, NORTH CAROLINA

Ordinance #2021-264(A)

WHEREAS, a Petition signed by Darren Ray Hartsell, being the owner of the certain land areas hereinafter described in Exhibit "C", attached hereto, was received by the Town of Midland on March 31, 2021; and

WHEREAS, the owner Petitioned that said area be annexed into the corporate limits of the Town of Midland, North Carolina, as authorized by Part 1, Article 4A, Chapter 160A of the General Statutes of North Carolina; and

WHEREAS, the Petition was presented to the Town Council during the regular meeting of April 13, 2021; and

WHEREAS, on April 13, 2021 the Town Council directed, by Resolution duly adopted, the Town Clerk of the Town of Midland, North Carolina, to investigate the sufficiency of said Petition and to certify the results to the Town Council; and

WHEREAS, at the regular meeting of the Town Council held on April 13, 2021, a Certificate of Sufficiency from the Town Clerk of the Town of Midland was presented to the Town Council wherein the Town Clerk certified that upon due investigation found the above individual who

signed the aforementioned Petition constitute the owner of the land within the boundaries described in said Petition and, as hereinafter described, that said boundaries are contiguous to the present Town limit primary boundaries, and are eligible to be annexed pursuant to G.S. 160A-31, et seq. of the General Statutes of North Carolina; and

WHEREAS, following the receipt by the Town Council of the Town of Midland, North Carolina, of a Certificate of Sufficiency from the Town Clerk of the Town of Midland, said information and due consideration thereof by the Council, passed a motion to adopt a Resolution whereby a public hearing upon the question of such annexation was called to be had before the Town Council of the Town of Midland at 6:00 p.m. on the 11th day of May, 2021; and

WHEREAS, the Town Clerk was duly authorized and did so cause notice of such public hearing to be published in the Charlotte Observer, a newspaper having general circulation in the Town of Midland, North Carolina, at least ten (10) days prior to the date of such public hearing, such notice contained Cabarrus County property identification numbers of the areas proposed to be annexed as set forth in the Petition; and

WHEREAS, it appears to the Town Council from the publisher's Affidavit with clipping attached thereto, duly filed with the Town Clerk, that a notice of such public hearing as directed by the Town Council was duly published in the Charlotte Observer in its issue of the 30th day of April, 2021 and the 7th day of May, 2021, which dates of publication was at least ten (10) days prior to the date set for such public hearing; and

WHEREAS, a public hearing was held by the Town Council of the Town of Midland on the 11th day of May, 2021 at the stated time and place where the petitioner and any other residents of the Town of Midland were given an opportunity to appear and be heard on the question of the sufficiency of the Petition and the desirability of the annexation; and

WHEREAS, the Town Council, after due deliberation and consideration during the regular Town Council meeting held on May 11, 2021, now finds that the Petition meet the requirements of G.S. 160A-31, et seq. of the General Statutes of North Carolina, that the Petition contained the signature of the owner of the real property within the area proposed for annexation, that the Petition is otherwise valid and that the public health, safety and welfare of the inhabitants of the Town and of the area proposed for annexation will be best served by the annexation.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Town Council of the Town of Midland, North Carolina, in regular meeting assembled the 11th day of May, 2021, as follows:

SECTION 1: That the area described in the Petition for contiguous annexation, Exhibit "C", be and the same is hereby annexed to and is made a part of the corporate limits of the Town of Midland, North Carolina, the areas being described in the meets and bounds description, Exhibit "A" hereto, and as shown on the map contained in Exhibit "B" hereto.

SECTION 2: From and after the effective date of this Ordinance, the territory so annexed and the property therein located shall be subject to all debts, laws, ordinances and regulations in force in the Town of Midland, North Carolina, and shall be entitled to the privileges and benefits available to other parts of the municipality. The newly annexed territory shall be

Minutes Tuesday May 11, 2021
Regular Meeting of Town Council
6:00pm 4293-B Hwy. 24/27 E. Midland, NC 28107

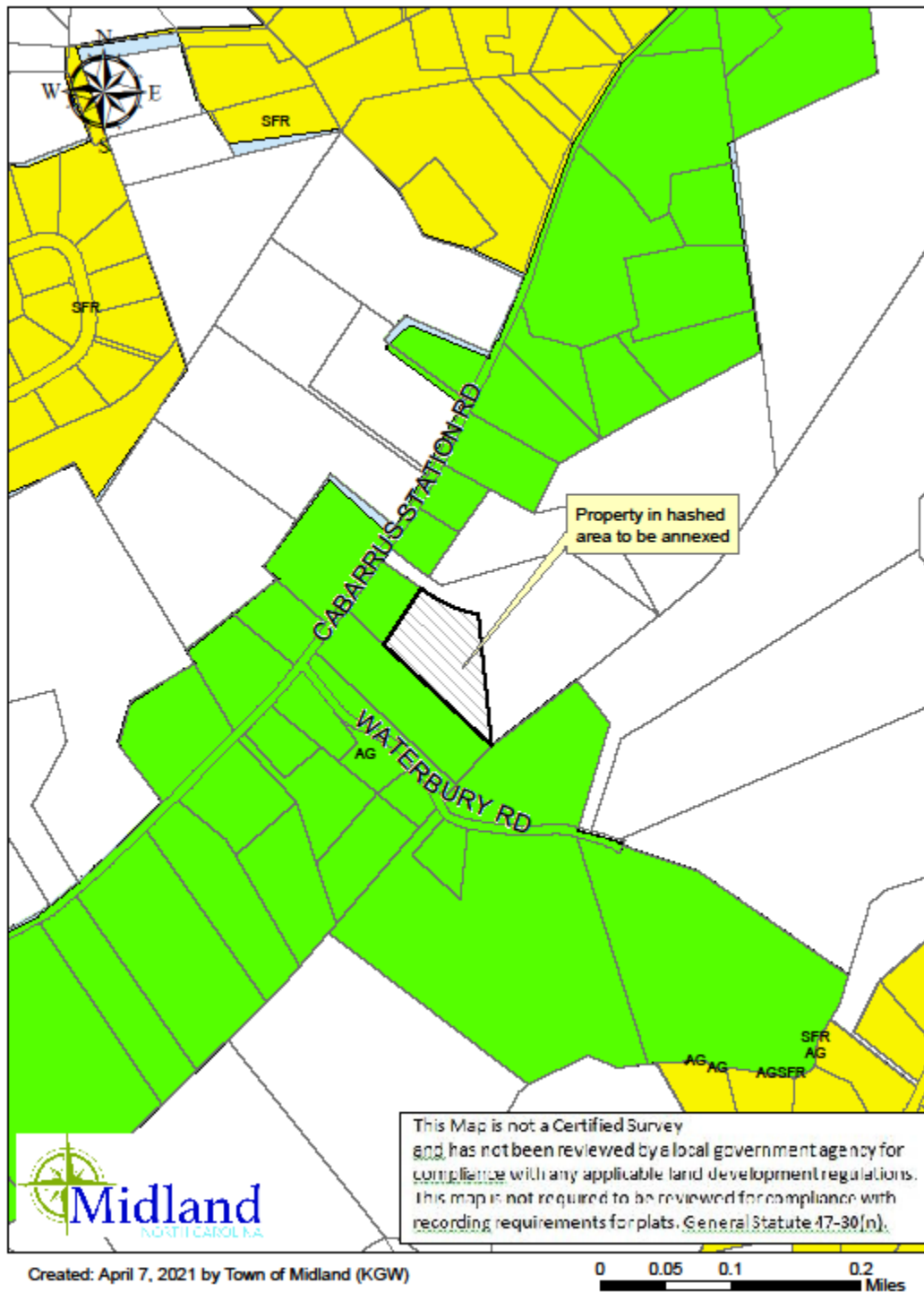
subject to municipal taxes levied as provided in Section 160A-58.10 of the General Statutes of North Carolina.

SECTION 3: It shall be the duty of the Mayor of the Town of Midland to cause an accurate map of such annexed territory, together with a copy of this Ordinance duly certified, to be recorded in the office of the Register of Deeds of Cabarrus County, North Carolina, and in the office of the Secretary of State of North Carolina.

SECTION 4: This Ordinance shall become and be effective on, from and after May 11, 2021.

Adopted this 11th day of May, 2021.

Attachment A - Darren Hartsell



c. Planning Projects- **Verbal Update**

Ms. Watts:

- Fox Creek: Engineer McMillan will go to the development and see what needs to be repaired before the town takes the streets over. They did install the street trees;
- Wyntree: Issuing more permits. Almost built out;
- KB Homes: Has submitted 1st phase of construction drawings;
- Wicker Park: Talking with them quite a bit. The house that was to the left which was an old antique store has been demolished and the fire damage was cleaned up and the 2 trailers have been removed.

9. Engineering: R. McMillan

a. Hwy 24-27- Sewer Project- **Update**

Mr. McMillan:

- Concord has the plans in hand;
- Will have to have another public meeting;
- Surveyor is still working on the easements but he's getting them done;
- Then decisions will need to be made concerning budgeting.

b. Hwy 24-27- Fire Station Crossover- **Update**

Mr. McMillan:

- Hope to hear something back from NCDOT.

c. CMAQ- **Update**

Mr. McMillan:

- Signed document and given to NCDOT;
- Hope to hear back from them in the next week;
- Will get something under construction soon.

d. Veterans Memorial – **update**

Mr. McMillan:

- Bids are out;
- Sent to 21 different contractors;
- Project falls under the informal bid limits;
- Hope to get at least 5 bids.

Mayor Pro Tem Hartsell asked what staff is doing about the bricks and plaques.

Mr. Paris said that the bricks are for sale and people can come by and get the form. Regarding donations the town will do an appreciation plaque either on the monument or on a rock like the town has done previously in the park. Those details will be worked out based on the size of the donations.

10. Mayor's Comments:

Councilmember Wise said that he reached out to WSACC regarding Midland's state permit. In January they sent the state an email and they would get back to Council soon. On March 1st another email was sent and now WSACC is reaching out because they haven't heard back.

11. Staff Reports:

a. Finance Report April, 2021- **B. Love**

Ms. Love:

	<u>Apr 30, 2021</u>
Checking/Savings	
1000 · CASH ON HAND	271.07
1004 · GENERAL FUND	1,657,076.36
1040 · UTILITY CAPITAL RESERVE FUNDS	2,018,074.15
1050 · POWELL BILL FUNDS	318,413.75
1071 · Gen Fund-NCCMT Capital Recovery	120,099.36
1072 · Gen Fund-NCCMT-General Fund	237,266.81
1073 · Gen Fund-NCCMT Police Car Res	120,654.58
1074 · Powell Bill-NCCMT	23,848.29
1075 · Utility Capital Reserve-NCCMT	<u>411,616.28</u>
Total Checking/Savings	4,907,320.65

b. Manager's Comments:

i. Budget Presentation

Mr. Paris said that Council has received the budget. It will be available tomorrow on the counter in town hall and it's currently online.

- The public hearing ad was sent to the papers;
- The public hearing will be held on June 8th;
- If anyone has any questions Mr. Paris will talk to them;
- No property tax increase;
- No fee increases either;
- Includes an appropriation to do the fireworks;
- Includes expense for new Christmas decorations;
- 2 new patrol vehicles and the mapping software the Cabarrus County Deputy Chief wanted;
- Patrol vehicles will cost is a little higher because Ford has gone to a different interceptor;
- Need new equipment and body cameras;
- Includes Pelham Ln. and Gelding Dr. paving using this fiscal year revenues and next.

Mayor Pro Tem Hartsell asked Deputy Harms if they are still using the LIDAR detector and who are using it.

She said that she isn't currently LIDAR certified.

Mayor Pro Tem Hartsell asked her to find out about that piece of equipment.

Mr. Paris said that Deputy Lambert is certified and uses it.

Minutes Tuesday May 11, 2021
Regular Meeting of Town Council
6:00pm 4293-B Hwy. 24/27 E. Midland, NC 28107

Motion was made by Mayor Pro Tem Hartsell and seconded by Councilmember Wise to set the Budget Public Hearing for June 8th, 2021 at Midland Town Hall, 4293B Hwy. 24/27, Midland NC 28107 at 6:00pm. **Motion carried 4-0.**

12. Adjournment:

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

Council adjourned at 9:04pm.

Attest/Seal

Mayor John Crump

Town Clerk Nancy E. Boyden, CMC, NCCMC