

**MINUTES OF THE MEETING OF  
THE BOARD OF COMMISSIONERS  
TOWN OF MINT HILL, NORTH CAROLINA  
SEPTEMBER 10, 2015**

The Board of Commissioners of the Town of Mint Hill met in regular session on Thursday, September 10, 2015 at 7:00 p.m. in the Mint Hill Town Hall.

**ATTENDANCE**

Mayor: Ted H. Biggers, Jr.  
Commissioners: Lloyd Austin, Carl M. Ellington, Richard Newton and Katrina (Tina) W. Ross  
Town Manager: Brian L. Welch  
Deputy Town Manager: Lee Bailey  
Planning Director: John Hoard  
Police Chief: Tim Ledford  
Town Clerk: Michelle Wells

**CALL TO ORDER, INVOCATION AND PLEDGE**

Mayor Biggers called the meeting to order, ruled a quorum present and the meeting duly constituted to carry on business. Following the invocation offered by Commissioner Newton, Mayor Biggers led the Pledge of Allegiance to the Flag of the United States of America.

**ORDER OF BUSINESS**

**Addition, Deletion or Arrangement of Agenda Items:** *Discussions and Decision on Modifications to the Noise Ordinance* was removed and would be placed on a later agenda. A Legal Matter was added to Closed Session.

**Approval of August 20, 2015 Quarterly Developers' Workshop and Called Meeting Minutes:** Upon the motion of Commissioner Austin, seconded by Commissioner Ross, the Board unanimously approved the minutes of August 20, 2015 Quarterly Developers' Workshop and Regular Meeting.

**Accept July Treasurer's Report and Financials:** Upon the motion of Commissioner Ross, seconded by Commissioner Ellington, the Board unanimously accepted the July Treasurer's Report and Financials.

**Public Hearing on #ZC15-4, Filed by Carillon Requesting a Conditional Zoning to Allow an Assisted Living Facility for Property Located at 5635 Margaret-Wallace Road, Tax Parcel Number 135-417-42:** The Staff Report noted the following:

*The applicant was requesting Conditional District Zoning to allow an Assisted Living Facility. The request indicated a reduced setback. The front porch was 13 feet from the right-of-way and the back corner was 52 feet from the side property line. The supplementary use for a 100 foot setback.*

*The Zoning Plan also indicated a left turn lane and sidewalk improvements.*

*Conditional District decisions shall be made in consideration of identified relevant adopted land use plan. Conditional District rezoning was a legislative procedure under which the Board of Commissioners had the authority to increase, tighten, add, vary, modify or waive specific conditions or standards. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners could request reasonable and appropriate conditions.*

*7.2.8 Supplementary Use Regulations for Nursing Homes, Rest Homes and Homes for the Aging.*

*A. The minimum site area for a facility having fifty (50) beds or less shall be three (3) acres. For each additional fifty (50) beds or fraction thereof, the minimum acreage requirement shall be increased by one acre.*

*B. The minimum building setback from any street shall be one hundred (100) feet. The area between the street property line, or the equivalent thereto, as provided in Section 6.1.4 (Measurement of Building and Setback Lines), and the building setback line shall be landscaped. Off-street parking and loading shall be prohibited in this area.*

*C. The minimum side yard shall be fifty (50) feet.*

*D. The minimum rear yard shall be fifty (50) feet.*

*E. Whenever such land abuts property used for residential or institutional uses not in the same ownership or a part of the subject site, the minimum side and rear yards shall be one hundred (100) feet.*

*F. The heights of any building shall be limited to the height permitted in the respective districts.*

*G. Off-street parking and loading shall be provided as required by this Ordinance in [Article 6](#), Section 6.3 (Off-Street Parking and Loading). Screening shall be provided for parking and loading areas as required by this Ordinance in Section 6.4.2 (Screening and Landscaping).*

*H. Outdoor recreation areas shall be provided for the use of the residents of the facility, equal in amount to not less than twenty (20) percent of the total site area. No portion of the off-street parking or loading areas or no portion of the front yard area shall qualify as part of the recreation area.*

Mayor Biggers recognized Bob Steenson of Carillon Assisted Living. Mr. Steenson said the Assisted Living Facility would be located on over 11 acres at 5635 Margaret Wallace Road. Mr. Steenson said the operators/owners of Carillon Assisted Living were North Carolina based and were committed to staying in the community. The Carillon Assisted Living Facility would

provide senior citizens with activities, daily living services, dining and medicine management. There would be approximately 60 staff members. The objective would be to preserve the natural beauty of the property, specifically the pond and trees. The impact to the neighbors would be minimal; in fact, a neighborhood meeting was held in July and most of the neighbors supported the project.

Commissioner Ross asked what objections or concerns were voiced at the July neighborhood meeting. Mr. Steenson stated the questions primarily centered on the pond, in relationship to the drainage and storm water issues. Concerns about traffic were addressed too. Mr. Steenson stated most of the residents wouldn't have access to a vehicle because they no longer drove. Commissioner Newton asked if the pond would be fenced. Mr. Steenson said there would be a decorative fence placed around the pond. Commissioner Ross asked what the right-of-way was along Margaret Wallace Road. Mr. Hoard said he would have to verify 100 feet was the current right-of-way; the future right-of-way may be 118 feet. Commissioner Ross asked how encroachment into the right-of-way would impact the transportation plans. Mr. Steenson said they had included the North Carolina Department of Transportation in the planning process. Commissioner Austin asked what materials would be used for the exterior of the building. Mr. Steenson said fiber cement siding.

Edward Dunlap, property owner of 7008 and 7016 Lebanon Road, conveyed strong support for the facility. He stated the Lebanon Road property had been in the family for years and the facility would be the "least damaging" to the surrounding neighbors. He resides in Cramerton and there was an immaculate Carillon facility located within a short distance to his home. He reiterated his support of the project.

There being no further public comments, Mayor Biggers declared the public hearing on #ZC15-4 closed.

**Public Hearing on #ZC15-5, Filed by Mecklenburg County Requesting Conditional Zoning to Allow a Nature Center/ Education Building for Property Located on Thompson Road, Tax Parcel Numbers 195-141-02, 195-141-01, 195-231-06, 195-231-07, 195-241-01, 195-171-56:** The Staff Report noted the following:

*Mecklenburg County was requesting Conditional District Rezoning to allow development of the nature preserve and associated support services and accessory use.*

*The Zoning Plan included a 12,000 square foot nature center, a maintenance building and an area identified as future expansion. According to the Conditional Notes and Development Standards, the proposed uses allowed on the subject property would be limited to those associated with a nature preserve which may include uses such as hiking trails, pedestrian bridge over Steven's Creek, picnic areas, outdoor learning stations and low impact outdoor recreation.*

*Conditional District decisions shall be made in consideration of identified relevant adopted land use plan. Conditional District rezoning was a legislative procedure under which the Board of Commissioners has the authority to increase, tighten, add, vary, modify*

*or waive specific conditions or standards. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners may request reasonable and appropriate conditions.*

Mayor Biggers recognized Chris Matthews, Mecklenburg County-Nature Preserves and Natural Resources Division. Mr. Matthews stated the County had three nature centers (Latta Plantation, McDowell and Reedy Creek) and numerous nature preserves. The intent was environmental protection, education and recreation. The entrance to the project would be off Thompson Road.

Commissioner Austin asked what materials would be used for the exterior of the building. The building would be constructed of wood and stone. The project would have a water based theme with emphasis on water quality and protection. Mayor Biggers asked what hours the facility would be open. The hours of operation would be from 8 or 8:30 until Sundown. Would high density lighting be used? The County would employ innovative technology to reduce the effect on the wildlife and the neighbors. Commissioner Ellington asked if the property would be gated when the facility was closed. Yes, it would be gated at night. Mayor Biggers asked if the existing vegetation would be used as a buffer. Yes and additional trees may be planted. Commissioner Ross asked if a portion of the property was to be purchased pending the decision on the project. Yes, they would purchase some of the property after zoning was approved. Commissioner Ross asked about the pedestrian access at Maple Hollow Lane. Mr. Matthews stated the pedestrian connection at the end of Maple Hollow Lane wouldn't usually cause additional parking along the street. He said the public input was important to the County and they would consult with the Maple Hollow residents.

Susan Campbell, 14004 Maple Hollow Lane, asked how the residents would be notified. She expressed concern over the lack of information on the Zoning Sign. Mr. Hoard stated the Town notified property owners within 200 feet of the property to be rezoned. He stated many people had called the Town Hall number listed on the sign to ask about the project. Ms. Campbell said the sign didn't contain any dates or times of meetings. Mr. Hoard said typically the residents call to get more information.

Commissioner Ross asked how many residents on Maple Hollow were included in the 200 foot notification area. Mr. Hoard stated a few properties were located within 200 feet; perhaps 4. Commissioner Newton asked about public safety access; specifically when the center is closed and gated. Mr. Matthews stated there would be "common key" used to ensure access to public safety officials. Mr. Matthews said the County would expand their mailing to the neighborhood as they wanted to have public input.

Ray Thompson, Mint Hill Park and Recreation Committee Member and Thompson Road resident, noted there would not be an entrance off of Maple Hollow Lane only a pedestrian connection was proposed.

There being no further public comments, Mayor Biggers declared the public hearing on #ZC15-5 closed.

Manager Welch said the Town would mail information on Town meeting dates and times to residents in the neighborhood.

**Public Hearing on #ZC15-6, Filed by Joshua Carl to Allow a Text Amendment to Section 5.2 Table of Principal Permitted Uses:** The Staff Report noted the following:

*The purpose of the text amendment was to permit Brewery Tap Rooms in the B-D district. New construction in the B-D for a Brewery Tap Room would require CD rezoning.*

*BREWERY TAP ROOM -A separated area of the brewery maintained predominately for the purpose of tasting, selling and consumption of the alcohol beverages manufactured on the premises or at a production facility of a related entity, including the sale of take home containers such as kegs, growlers, bottles and cans as may be allowed under Federal and State law. May provide entertainment.*

**TEXT AMENDMENT**

*Brewery Tap Room (Add CD under Distributive Business District)*

Mayor Biggers recognized Jake Reynolds of the Barking Duck. Mr. Reynolds said they were requesting to permit a Brewery Tap Room in the B-D district.

Commissioner Ellington asked if they had spoken to the neighbors. Mr. Reynolds said they had spoken to the fire protection company that operated past 5 p.m. The Barking Duck would not open until 5 p.m. and would close at 10 p.m. The business brews onsite and would have a taproom at the proposed site.

Jim Wiggins, owner of Action Electric- 4475 Morris Park Drive, Suite C, voiced opposition to the amendment. He was concerned that he had not been notified of the public hearing. He was in attendance at the meeting because he was a resident of Thompson Road and came to hear information about the Nature Preserve.

Mayor Biggers stated he wasn't advocating for or against the application he merely wanted Mr. Wiggins to know where the business is currently located. The Barking Duck had been located in an industrial area in Mint Hill off Highway 218 for approximately a year. The impact had been low and the Town had received no complaints. Mayor Biggers suggested Mr. Wiggins contact the Board if he had further concerns or questions.

Commissioner Ross asked where exactly the business would be located. Mr. Reynolds stated it would be on the far end beside the Uncle Bob's Storage facility.

There being no further public comments, Mayor Biggers declared the public hearing on #ZC15-6 closed.

**Pediatric Cancer Awareness Month Proclamation:** Upon the request of Mayor Biggers, Commissioner Ross read the following:

**WHEREAS**, pediatric cancers are the leading cause of disease-related deaths for children in the United States, and,

**WHEREAS**, the American Cancer Society estimates that in 2015 10,380 of our children will be diagnosed with this tragic disease, and,

**WHEREAS**, the side effects of cancer treatment can last a lifetime, and,

**WHEREAS**, pediatric cancer has profound effects on the families and friends of cancer patients, and,

**WHEREAS**, each September America honors all those who have been affected by this tragic disease: young girls and boys whose childhoods have been cut short, the loved ones who know the pain pediatric cancer causes, and the communities across our country that rally to support their friends and neighbors during difficult times, and,

**WHEREAS**, while we recognize that mortality rates for some pediatric cancers have declined by as much as 50% due to research and improved treatment, we take this time to increase our awareness of pediatric cancer, to renew our commitment to advance research, and to support our friends and neighbors who deal daily with the struggles that a pediatric cancer diagnosis brings.

**NOW, THEREFORE, BE IT RESOLVED** that I, Ted H. Biggers, Jr. by virtue of the authority vested in me as Mayor of the Town of Mint Hill, do hereby proclaim September 2015 as

### **PEDIATRIC CANCER AWARENESS MONTH**

in the Town of Mint Hill, North Carolina and commend its observance to all citizens.

Mayor Biggers presented the proclamation to Kevin Ratliff. Mr. Ratliff stated he had grown up on Bartlett Road in Mint Hill. He thanked the Board for issuing the proclamation. He thanked Commissioner Ross; he admired her tenacity. He said very few people knew Pediatric Cancer was the #1 disease killer of children under 14 in America. Only four percent of cancer funding was designated for children. Children were receiving watered down adult drugs because there was no money in pediatric cancer treatments. He concluded by encouraging everyone to make a difference and to be proactive in fighting childhood cancer.

**9/11 National Day of Service and Remembrance Proclamation:** Upon the request of Mayor Biggers, Commissioner Ross read the following:

**WHEREAS**, in an unprovoked and senseless act of terrorism, four civilian aircrafts were hijacked on September 11, 2001, and crashed in New York City, Pennsylvania and the Pentagon, resulting in a momentous loss of innocent U.S. lives of all heritages; and,

**WHEREAS**, while we still continue to recover from the loss of innocent lives, the spirit of the U.S. has been revitalized, giving way to expressions of patriotism; and,

**WHEREAS**, inspired by the heroism of our nation's public service personnel, military service members and countless volunteers, our nation found unity and strength; and,

**WHEREAS**, from the tragedy of September 11th emerged a stronger nation, renewed by the spirit of national pride, and a true love of country; and,

**WHEREAS**, Americans also have fought back against terror by choosing to overcome evil with good by loving their neighbors as they would like to be loved, contributing to relief efforts, and volunteering their time to aid those in need.

**NOW, THEREFORE, BE IT RESOLVED**, that I, Ted H. Biggers, Jr., by virtue of the authority vested in me as Mayor of the Town of Mint Hill, do hereby proclaim September 11, 2015, as

### **9/11 NATIONAL DAY OF SERVICE AND REMEMBRANCE**

in the Town of Mint Hill and urge our citizens to recognize the heroism of firefighters, rescue and law enforcement personnel, military service members and the many volunteers who responded to these tragic events with courage, selfless compassion, determination and skill; and to remember the victims and innocent lives lost as a result of the tragic events on September 11, 2001.

May they forever rest in peace and abide in our memories.

Mayor Biggers presented the proclamation to Chief Ledford, Mint Hill Police. Chief Ledford thanked the Mayor for honoring the Public Safety and military personnel. He asked that prayers be sent for the victims and families affected by the incident. He asked that residents support their local Public Safety Personnel.

Mayor Biggers stated although we weren't under attack like we were 14 years ago that America was still being attacked daily by individuals who wished to change our way of life. He stated we should keep working to keep our country strong and free. He said with all of the negativity toward the Police Departments nationwide that he was proud of the Mint Hill Police and Fire. He stated the Mint Hill first responders acted in a professional manner and he appreciated them.

Chief Ledford stated the FBI had issued a critical threat against public safety personnel. Threats have been made to encourage the shooting of police on the September 11<sup>th</sup> anniversary.

**Public Comments:** None.

**Discussion and Decision Regarding #ZC15-3, Filed by New Beginnings Community Church, Requesting Conditional Zoning Approval for New Community/Counseling Center:** The Staff Report noted the following:

The applicant was requesting rezoning from Residential and Residential (Conditional District) to Residential (Conditional District). The Zoning Plan indicates Phase 1 would consist of a new community/counseling center as part of New Beginnings Community Church. Phase 2 would be additional parking and construction of a new driveway onto Margaret Wallace Road.

Conditional District decisions shall be made in consideration of identified relevant adopted land use plan. Conditional District rezoning was a legislative procedure under which the Board of Commissioners had the authority to increase, tighten, add, vary, modify or waive specific conditions or standards. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners may request reasonable and appropriate conditions.

Staff recommends approval following resolution of the following item:

The architectural rendering does not appear to meet the intent of the requirements specified in Section 7.2.15

*Supplementary Use Regulations for Nonresidential Uses in the Residential Zoning District.*

*D. New Structures.* New structures shall be similar to existing structures in terms of scale, orientation, visual impact, major divisions in the facade and the proportion and relationship of windows and doors to the total wall surface. All nonresidential structures shall meet the following standards:

1. *Building Materials.*

- a. Exposed foundations shall be stone or brick masonry or cement parging. No unfinished concrete masonry units shall be allowed.
- b. Walls shall be brick, stone masonry, stucco or lapped horizontal or vertical board and batten siding. No unfinished concrete masonry walls or metal siding similar in appearance to siding used in commercial or industrial applications shall be used.
- c. Windows shall be either double-hung, casement or fixed pane. No metal frame storefront windows shall be allowed.
- d. Roofing materials shall be shingles, standing seam metal or roofing tiles.

2. *Building Elements.*

- a. Porches and stoops are required, with a minimum covered surface at the main entrance of twenty-four (24) square feet. Elevated porches and stoops visible from the ground require foundations or skirting to the ground.
- b. Primary roof surfaces shall not be less than 4-on-12 pitch or more than a 12-on-12 pitch. Roof profiles compatible with the surrounding area are encouraged.
- c. Mechanical equipment and service entrances located on the ground or building walls shall be completely hidden from the street. If located in the side yard, these shall be screened with evergreen shrubs or fencing.

Commissioner Ross stated she preferred the windows to look more like the windows on the church that front Margaret Wallace Road. Elder James Worthy, New Beginnings Community Church, stated the windows that front Margaret Wallace Road were actually the back of the church. Commissioner Ross preferred them to have the same façade. Mr. Worthy stated occasionally people feel uncomfortable going into a church so they had designed the counseling center to look more like the community; similar to the Billy Graham Library.

Commissioner Austin made a motion to approve #ZC15-3 with Staff and Planning Board recommendations along with notifying the police department of large events and correcting the parking lot sign issue.

Manager Welch said there had been times in the past that the church had not agreed to the amount of officers recommended by the Mint Hill Police Department.

Commissioner Ross seconded the motion to allow for discussion. Commissioner Ross asked what number of people would trigger having an officer direct traffic. Chief Ledford stated a good guideline was 1 officer for 500, 2 officers for 750 people and 3-4 officers for 1000. Commissioner Ross asked if the church would need to notify the Police if there would be more than 100 people. Commissioner Newton asked how it worked now. Mr. Worthy stated if there were more than 300 attendees then the church would employ a police officer. In the past, he said, there had been no formal notification process. The Church had directly contacted the individual police officers. He agreed to notify the Town anytime there would be more than 500 people. Commissioner Newton stated he didn't think the stipulation should be placed on this project but instead should be an agreement between two gentlemen. Chief Ledford said he had a formula that would correlate the number of officers per the number of attendees. Mr. Worthy thought it would be a good policy town-wide not just for New Beginnings Community Church. Attorney Bringewatt said his preference would be to have a separate agreement where the Church agreed to work with the Police Department for the large events that required more officers.

Commissioner Austin revised his motion. Upon the motion of Commissioner Austin, seconded by Commissioner Ross, and approved unanimously to approve #ZC15-3 with Staff and Planning Board recommendations.

**Other Business/Council Matters:** Commissioner Austin attended the Mint Hill Chamber of Commerce golf outing earlier that day. He also received a great compliment about the Mint Hill Police Department patrolling the business parks.

Commissioner Ross thanked Deputy Manager Lee Bailey and the Public Works Department for making Sunday in the Afternoon a nice event; even if it was rainy. She attended Coffee with a Cop and it was nice to see new faces. The next Coffee with a Cop was scheduled for October 6<sup>th</sup> at Nova Bakery at 9 a.m. She attended the Mint Hill Chamber of Commerce meeting. The Fire Department meeting would have been held on Labor Day so she didn't have a fire report for August.

Commissioner Ellington attended the Mint Hill Chamber of Commerce golf outing and the Planning Board meeting.

Commissioner Newton played with the Public Works Department in the Mint Hill Chamber of Commerce Golf Tournament earlier in the day.

Mayor Biggers thanked Tony Long, Planning Board Chairman, for attending the meeting.

Chief Ledford stated Fire Chief Leath asked him to invite the Board and residents to attend a 9/11 Ceremony on Friday, September 11<sup>th</sup> at 7:30 a.m.

**Closed Session for Real Estate:** Upon the motion of Commissioner Ellington, seconded by Commissioner Ross, the Board unanimously voted to move into Closed Session for a Legal Matter and a Real Estate Matter at 8:08 pm.

Mayor Biggers stated no announcement was expected after Closed Session.

The Board returned to Open Session at 9:26.

**Adjournment:** Upon the motion of Commissioner Ellington, seconded by Commissioner Ross, the Board unanimously agreed that the meeting be adjourned. Mayor Biggers adjourned the meeting at 9:26 p.m.

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Michelle Wells, CMC, Town Clerk