



VILLAGE OF MARVIN

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TS = audio time stamp

VILLAGE COUNCIL REGULAR WORK SESSION MEETING

October 27, 2016 – 5 p.m.

Banks Fellowship Hall

Agenda

1. ADOPTION OF AGENDA

TS 1:37 2. CONSENT AGENDA

- a. Adopt the 9/13/2016 Regular Meeting Minutes
- b. Adopt the 9/28/2016 Regular Work Session Meeting Minutes
- c. Adopt the 10/11/2016 Regular Meeting Minutes
- d. Adopt the 10/18/2016 Regular Meeting Minutes
- e. Adopt the September 2016 Treasury Report
- ** f. *Call for a special meeting to be held Wednesday, Nov. 2 at 6 p.m. at 2151 Hawkins St. (Shook Kelley Office) to hold an informal discussion with the Planning Board and a Planning Consultant to discuss the Land Use Plan and a possible Village Center District*

3. PUBLIC HEARINGS

- TS 1:54 a. Proposed Text Amendments to Title XI: Business Regulations, Adding a New Chapter 110 Panhandling, Begging, Solicitation and Canvassing
 1. Discussion and Consideration of Proposed Text Amendments
- TS 8:49 b. Proposed Text Amendments to Sections 150.015, 150.061, 150.062, 150.066 to Define and Reference the Marvin Engineering Standards and Procedures Manual and Amend Various Subsections for Streets and Roads
 1. Discussion and Consideration of Proposed Text Amendments
- TS 20:11 c. Temporary Use Permit #16-11779 for the Annual Christmas Tree Lighting to be held Saturday, December 10, 2016 from 4:30-6:30 p.m. at Marvin Efird Park
 1. Discussion and Consideration of TUP #16-11779

TS 22:09 4. DISCUSSION AND CONSIDERATION OF REGULATING UNMANNED AIRCRAFT (DRONES)

TS 31:13 5. UPDATE ON VILLAGE HALL PROJECT

TS 42:54 6. PUBLIC HEARING ON REZONING OF PARCELS 06-183-011, 06-183-011B, 06-183-011C, 06-156-014A AND 06-159-005B FROM MXCD TO ICD-MARVIN GARDENS (at 6:30 p.m.)

- TS45:43 1. Discussion and Consideration of Rezoning from MXCD to ICD-Marvin Gardens

Meeting Recessed until Tuesday, November 1, 2016 at 5 p.m. at Banks Fellowship Hall

7. REVIEW ACTION ITEMS

8. COUNCIL COMMENTS

9. ADJOURNMENT

VILLAGE OF MARVIN
Regular Council Work Session Minutes
October 27, 2016 – Banks Fellowship Hall
Page 1 of 16

Mayor Pollino called the meeting to order at 5:20 p.m.

Quorum was established with the following members in attendance: Mayor Joe Pollino, Councilman Nick Dispenziere and Councilman Ron Salimao.

Mayor Pro Tem Brian Beaty and Councilman Robert Epps were absent.

The following staff was present:

Lisa Thompson, Administrator/Senior Planner

Melody Graham, Clerk

Melanie Cox, Village Attorney

Tim Riordan, Village Engineer arrived at 6:30 p.m.

ADOPTION OF AGENDA

Councilman Salimao added a new item 5 (*Update on Village Hall Project*).

Councilman Dispenziere added a new Consent Agenda item 2.f (*Call for a special meeting to be held Wednesday, Nov. 2 at 6 p.m. at 2151 Hawkins St. [Shook Kelley Office] to hold an informal discussion with the Planning Board and a Planning Consultant to discuss the Land Use Plan and a possible Village Center District*)

TS 1:30 **Motion:** Councilman Salimao moved to adopt the agenda as amended.
 Vote: The motion passed with a unanimous vote.

TS 1:37 **CONSENT AGENDA**

TS 1:42 **Motion:** Councilman Dispenziere moved to adopt the Consent Agenda as previously amended.
 Vote: The motion passed with a unanimous vote.

The following actions were taken:

- Adopted the 9/13/2016 Regular Meeting Minutes
- Adopted the 9/28/2016 Regular Work Session Meeting Minutes
- Adopted the 10/11/2016 Regular Meeting Minutes
- Adopted the 10/18/2016 Regular Meeting Minutes
- Adopted the September 2016 Treasury Report (*See Attached: The staff report is hereby incorporated by reference and made a part of these minutes*).
- Called for a special meeting to be held Wednesday, Nov. 2 at 6 p.m. at 2151 Hawkins St. (Shook Kelley Office) to hold an informal discussion with the Planning Board and a Planning Consultant to discuss the Land Use Plan and a possible Village Center District

TS 1:54 PUBLIC HEARING ON PROPOSED TEXT AMENDMENTS TO TITLE XI: BUSINESS REGULATIONS, ADDING A NEW CHAPTER 110 PANHANDLING, BEGGING, SOLICITATION AND CANVASSING

- TS 2:10** **Motion:** Councilman Salimao moved to open the public hearing on proposed text amendments to Title XI: Business Regulations, adding a new Chapter 110 Panhandling, Begging, Solicitation and Canvassing.
- Vote:** The motion passed with a unanimous vote.

No one signed up to speak.

- TS 2:18** **Motion:** Councilman Salimao moved to close the public hearing.
- Vote:** The motion passed with a unanimous vote.

TS 2:29 DISCUSSION AND CONSIDERATION OF PROPOSED TEXT AMENDMENTS TO TITLE XI: BUSINESS REGULATIONS, ADDING A NEW CHAPTER 110 PANHANDLING, BEGGING, SOLICITATION AND CANVASSING

Ms. Thompson presented the staff report.

Staff Report

The Village Council is requested to consider a text amendment to Title XI: Business Regulations, to add a new Chapter 110 Panhandling, Begging, Solicitation and Canvassing. The Village Council discussed issues surrounding door-to-door sales within Village limits at the September 13 regular meeting. The Council agreed that door-to-door sales is both a nuisance and a possible safety issue and directed staff to propose text to regulate this. Council called for a public hearing at the October 11, 2016 regular meeting.

Staff reviewed text from other surrounding towns and proposes adding a new Chapter 110. The Village Attorney has reviewed the proposed text. These text amendments have not gone to the Planning Board as they are not related to land use. If the Council prefers Planning Board review, then staff recommends tabling the Call for Public Hearing to allow Planning Board review at their next meeting.

The following text is proposed:

SECTION 1. The Code of Ordinance, Chapter 110 is hereby added to read as follows:

§110 PANHANDLING, BEGGING, SOLICITATION AND CANVASSING

- 110.01 Purpose
- 110.02 Definitions
- 110.03 Panhandling and begging
- 110.04 Solicitation
- 110.05 Canvassing
- 110.06 Enforcement

§ 110.01 PURPOSE.

The purpose of this chapter is to protect the public against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disturbance of privacy and to preserve the public health, safety and welfare by regulating and controlling solicitors, peddlers and canvassers.

§ 110.02 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AFTER DARK. From one-half hour after sunset until one-half hour before sunrise. The times of sunset and sunrise

will be established by the times listed in The Charlotte Observer or another publication of similar distribution.

ACCOSTING. Approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or property in his or her immediate possession.

BEG. To ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.

CANVASSING. The act of going upon property or approaching people to discuss or explain issues which include religious proselytizing, exercising an individual's freedom of speech or campaigning for political votes, that does not include the request for contributions or donations or the sale of goods or products.

PANHANDLE. To ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means in a public place.

PERSON. Any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

PRIVATE PROPERTY. A legal designation of the ownership of property by non-governmental legal entities. Private property is distinguishable from public property, which is owned by a state entity; and collective property, which is owned by a group of non-governmental entities.

SOLICITOR/SOLICITATION. Any person or organization who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

VILLAGE. The Village of Marvin, North Carolina.

§110.03 PANHANDLING AND BEGGING.

Prohibited acts. It shall be unlawful for any person to panhandle or beg:

- (A) On a public sidewalk, public right-of-way or within a public park owned by the town; or
- (B) By accosting another, or by forcing oneself upon the company of another; or
- (C) Within twenty (20) feet of the entrance of any financial institution or any automated teller machine, regardless of whether or not such automated teller machine is located at or near a financial institution; or
- (D) Within twenty (20) feet of any outdoor dining area or outdoor merchandise area, provided such areas are in active use at the time; or
- (E) While the person being solicited is standing in line waiting to be admitted to a commercial establishment; or
- (F) By touching the person being solicited without the person's consent; or
- (G) After dark by means of verbal communication.

§ 110.04 SOLICITATION.

- (A) *Prohibited acts.* It shall be unlawful for any person to solicit:
 - (1) On private property where "No Soliciting" or "No Trespassing" signs are posted.
- (B) *Exceptions.* The following individuals and activities are exempted from the provisions of this chapter:
 - 1. Children under the age of 18 years who are students in a public or private school, and who conduct door-to-door solicitations for magazine subscriptions or donations for school activities; and

§ 110.05 CANVASSING.

- (A) *Prohibited acts.* It shall be unlawful for any person to canvass:
 - (1) On private property where "No Soliciting" or "No Trespassing" signs are posted;
 - (2) On a public sidewalk, public right-of-way or within a public park owned by the Village; or
 - (3) By accosting another, or by forcing oneself upon the company of another; or
 - (4) Within twenty (20) feet of the entrance of any financial institution or any automated teller

machine, regardless of whether or not such automated teller machine is located at or near a financial institution; or

- (5) Within twenty (20) feet of any outdoor dining area or outdoor merchandise area, provided such areas are in active use at the time; or
 - (6) While the person being solicited is standing in line waiting to be admitted to a commercial establishment; or
 - (7) By touching the person being solicited without the person's consent; or
 - (8) After dark by means of verbal communication.
- (B) *Exceptions.* Organizations with 501(c)(3) tax status, including but not limited to the Boy Scouts of America, Girl Scouts of America, recognized organized religious organizations and political persons, shall be exempted.

§ 110.06 ENFORCEMENT

This chapter may be enforced by any of the following ways as provided by law. A violation of this chapter shall subject the violator to issuance of a citation as defined in § 10.99 of the Village of Marvin Code of Ordinances.

Staff recommends discussion and consideration of the proposed text amendment to Title XI: Business Regulations, Chapter §110 PANHANDLING, BEGGING, SOLICITATION AND CANVASSING and consideration of adoption of the corresponding Ordinance #OR-2016-10-01.

The Council discussed the proposed text amendments in depth. The Council agreed to table the adoption of the proposed text until the November 8 meeting to allow full Council input on the item.

TS 8:49 PUBLIC HEARING ON PROPOSED TEXT AMENDMENTS TO SECTIONS 150.015, 150.061, 150.062, 150.066 TO DEFINE AND REFERENCE THE MARVIN ENGINEERING STANDARDS AND PROCEDURES MANUAL AND AMEND VARIOUS SUBSECTIONS FOR STREETS AND ROADS

TS 9:10 *Motion:* Councilman Dispenziere moved to open the public hearing on proposed text amendments to Sections 150.015, 150.061, 150.062, 150.066 to define and reference the Marvin Engineering Standards and Procedures Manual and to amend various subsections for streets and roads.

Vote: The motion passed with a unanimous vote.

No one signed up to speak.

TS 9:15 *Motion:* Councilman Dispenziere moved to close the public hearing.
Vote: The motion passed with a unanimous vote.

TS9:26 DISCUSSION AND CONSIDERATION OF PROPOSED TEXT AMENDMENTS SECTIONS 150.015, 150.061, 150.062, 150.066 TO DEFINE AND REFERENCE THE MARVIN ENGINEERING STANDARDS AND PROCEDURES MANUAL AND AMEND VARIOUS SUBSECTIONS FOR STREETS AND ROADS

Ms. Thompson presented the staff report.

Staff Report

The Village Council is requested to discuss and consider proposed text amendments to Sections 150.015, 150.061, 150.062, and 150.066. The proposed text amendment defines an Engineering Standards and Procedures Manual and

references it throughout the code and amends the streets and road section of the ordinance. The text also clears up redundant language and clarifies standards.

Land Use Plan Consistency Statement:

This amendment is consistent with the Land Use Plan by ensuring infrastructure is adequately planned.

The Planning Board reviewed this text amendment along with a text amendment to allow private roads/gates on September 20, 2016. The Planning Board recommended approval on the following text, while tabling the private road/gate sections until further questions are answered. The Planning Board would like the Village Council to consider if a process is needed to amend the Engineering Standards and Procedure Manual in the future.

New text is in **bold**; text to be deleted is ~~stricken~~. (Staff will re-number/letter when the text amendment ordinance is drafted). Items **highlighted** were amended after Planning Boards review.

§ 150.015 DEFINITIONS.

ENGINEERING STANDARDS AND PROCEDURES MANUAL. The most recent edition of the manual, which regulates and controls the technical standards for construction of public and private improvements relating to streets, sidewalks, drainage and other facilities. Whenever reference is made to "manual" in this ordinance, it refers to the most recent edition of the "Engineering Standards and Procedures Manual".

§ 150.061 COMPLIANCE WITH OFFICIAL PLANS AND ORDINANCES INCLUDING COMPLIANCE WITH ZONING REGULATIONS.

All subdivisions (and lots created within the subdivisions) authorized and developed within the jurisdiction of the Village shall comply with the zoning regulations of the Village for the district in which it is located and any other applicable laws, ordinances, **manuals** or regulations. In the case of a conflict between the standards required for development in this chapter and the zoning regulations, or **Engineering Standards and Procedures Manual** the more restrictive standard shall apply. Any variance or conditional zoning approval necessary to allow subdivision of property shall be obtained as provided for in that ordinance prior to (or simultaneously with) the approval of the sketch plan.

§ 150.062 BLOCKS.

Blocks shall be laid out with due consideration to the traffic circulation pattern and the contemplated use.

(A) *Width.* Blocks shall have sufficient width to provide two tiers of lots of minimum size, except blocks may be one lot in width where reverse frontage lots are required to separate development from through traffic on arterial and major collectors or to separate residential development from nonresidential uses.

(B) *Distance between through streets.* Along each side of each street, the distance between through streets shall fall between the minimum and maximum specified below, provided that the minimum distance specified shall not prevent access from adjoining property to a street.

<i>Street Type</i>	<i>Minimum</i>	<i>Maximum</i>
Arterial	1,000 feet	-
Local	350 feet	1,800 feet
Major collector	800 feet	-
Minor collector	600 feet	2,000 feet
Major Thoroughfare	Per NCDOT	

~~—(C) *Medians.* Whenever a median is to be located within a street right of way, the following regulations shall be applicable:~~

~~—(1) The pavement width shall be no less than 13 feet from the edge of the median to the outer edge of the pavement;~~

~~—(2) The right of way width shall be a minimum of 60 feet from the intersection to the end of the median, then tapering to 50 feet at a point at least ten feet beyond the end of the median, with a minimum of 60 feet for the length of the taper;~~

~~—(3) Medians shall not exceed nine feet width unless additional right of way is provided as may be needed;~~

~~—(4) The median shall not be closer than 15 feet from the center of any two intersecting streets; and~~

~~—(5) Medians shall not be allowed unless provisions have been made for persons or parties other than the Village to be responsible for the medians. The responsible party shall be identified on the final plat.~~

§ 150.066 STREETS AND ROADS.

All streets shall be constructed in accordance with the design and construction standards in this ordinance and the Engineering Standards and Procedures Manual. All minimum requirements for streets and roads in subdivisions shall be reviewed by the Village ~~prior to submission to NCDOT~~ and shall comply with the following:

(A) *Street names.* Street names shall not duplicate or closely approximate, phonetically, existing street names in the Village and the area covered by this Chapter. This provision shall be approved by the Zoning Administrator.

(B) *Coordination with existing and proposed streets.* Streets shall be designed in coordination with existing and proposed streets in the surrounding area providing for the continuation of appropriate streets.

~~(C) *Large lot subdivisions.* If land is to be subdivided into tracts larger than typical building lots, streets and roads shall be graphically arranged on the sketch plan so as to allow for future resubdivision and opening of streets.~~

(C) *Cul-de-sacs.* Except as provided below, cul-de-sacs or other dead end streets designed to be permanently closed shall have fourteen (14) or fewer lots abutting the cul-de-sac right-of-way. Cul-de-sacs or other dead end streets shall be provided at the closed end with sufficient right-of-way for vehicular circulation. Circular right-of-way **and surface area** at the closed end shall have a minimum radius of **forty eight (48) feet and six (6) inches** and surfaced area shall **be constructed as shown in accordance with the Engineering Standards and Procedure Manual** ~~shall have a minimum radius of thirty five (35) feet.~~ Additionally, cul-de-sacs or other dead end streets that do not terminate in a lot shall terminate a minimum of one hundred (100) feet from the property line of the proposed development. Termination without a lot must be fully screened throughout the one hundred (100) foot common open space with a mix of evergreen and hardwood trees establishing a year-round screened buffer. Temporary dead end streets shall be provided with a turnaround radius of at least one-half the right-of-way of the streets. Notwithstanding the foregoing or division (H), below, if the subdivision adjoins property that is not within the corporate limits of the Village (and thus the Village cannot assure conformity with its development requirements), the Village Council may defer a decision as to whether a cul-de-sac or other dead end street is permanent or temporary and (i) allow more than fourteen (14) lots on the cul-de-sac or dead end street and (ii) require a reserve strip to be donated to the Village such that the Village can control the decision whether to connect the cul-de-sac or dead end street in the future.

~~(E) *Parkways.* Parkways or double streets may be required to traverse a drainageway, watercourse or stream. The width of the right of way shall be adequate to accommodate the flow of stormwater.~~

(D) *Parallel access streets.* Parallel access streets may be required along existing or proposed arterials and major collectors to afford separation of local traffic from through traffic.

~~(G) *Streets of nonresidential area.* The width of right of way and roadway surfacing on streets adjacent to existing or proposed nonresidential property may be increased by the Zoning Administrator up to 15 feet to ensure the free flow of traffic without interference of vehicles entering or leaving the property.~~

(E) *Private streets and reserve strips.* Private streets or reserve strips are not permitted and shall not be platted in any subdivision except privately maintained alleys, as herein defined, shall be allowed under the following conditions:

- (1) The alley accesses homes whose architectural rear facades front the alley; and/or
- (2) **The alley meets the following design standards: The alley shall be designed as specified by the Engineering Standards and Procedures Manual unless otherwise directed by the Village Engineer.**

Design speed	15 mph
Drainage	Open sections
Minimum centerline radius	50 feet
Minimum curb radius	10 feet
Minimum pavement width	10 feet
Minimum right of way width	20 feet
Other	1 foot of flat concrete curb shall be placed on either side of pavement

(F) *Rights-of-way.* Street and roadway rights-of-way shall be reserved and dedicated ~~as follows:~~ **in accordance with the Engineering Standards and Procedures Manual. Intersection rights-of-way or easements shall be designed in accordance with Section II B of the Engineering Standards and Procedures Manual.**

~~(1) *Arterial and major collectors.* Rights of way for arterial and major collectors shall be dedicated in compliance with official street plans and the provisions of this chapter.~~

~~—(2) *Minor collectors and local streets.* Rights of way for minor collectors and local streets shall be dedicated in compliance with official street plans and the provisions of this chapter.~~

~~—(J) *Street standards.* Subdivision streets shall conform to the following requirements and minimum standards of design as set forth in the most current State Department of Transportation Standards as set forth from time to time and published by State Department of Transportation.~~

(G) *Intersections.* The following minimum standards shall apply to street intersections.

(1) *Angle intersections.* Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than a sixty (60) degree angle.

(2) *Frequency of intersections.* Intersections, whether full or “T” intersections, shall not occur at less than the distances indicated:

<i>Street Type</i>	<i>Minimum Distance Between Intersections</i>
Arterial	1,000 feet
Local	200 feet
Major collector	800 feet
Minor collector	400 feet

~~—(3) *Right of way at street intersections.* Right of way on each corner at an intersection shall be enlarged by constructing a triangle. One point of the triangle shall be the intersection of the centerlines of the two streets abutting the corner lot. The other points shall be a minimum distance of 80 feet distant from the first point on minor collectors and local streets and shall be located on the centerlines of the two streets abutting the corner lot. The minimum distances from the centerline intersections for arterials and major collectors shall be determined by the State Department of Transportation.~~

~~(H) *Topography.* All topography for streets within subdivisions shall be as shown on Village topography mapping, when available. Prior to availability, the topographic survey shall be completed in the field and represented along with the street centerline vertical profile, done for centerline of streets and shall be shown as a street profile in vertical scale. If within Village limits, it may be referenced from the Village’s existing sewer manholes or from the federal elevation points that are located within the Village.~~

(I) *Maintenance.* The developer shall be responsible for the repairs to streets within subdivisions until such time as the streets are accepted for maintenance by ~~the Village North Carolina Department of Transportation.~~

(J) *Gates and other traffic obstructions across streets.* The use of any vehicular traffic obstruction on or across streets, including but not limited to gates, fences, structures, buildings or utilities, shall be prohibited at all times. This prohibition shall be enforced both before and after the acceptance of any street, **or portion of said street**, by a public entity. This provision shall not apply if the traffic obstruction in question is part of a subdivision plat approved by another governmental agency preceding annexation into the Village’s jurisdiction. ~~Nor shall this prohibition apply if a temporary use permit has been issued in accordance with § 151.051 of the Marvin Code of Ordinances. The ordinance codified herein.~~ **This section** does not intend to prohibit traffic calming devices as allowed and approved by the Village or by the NCDOT.

(K) *Alignment of streets; street access.*

(1) A street system shall be delineated so as to provide vehicular access to each house in a manner conforming to the tract’s natural topography and providing for a safe pattern of circulation and ingress and egress to and from the tract.

(2) Streets shall be designed and laid out in a manner that minimizes adverse impacts on the conservation lands. Wetland crossings and new streets or driveways traversing steep slopes shall be avoided.

(3) At least two means of ingress and egress from a major subdivision onto adjoining public roads shall be provided for all major subdivisions containing fifteen (15) or more lots. Where practical and to the greatest degree feasible, connectivity between the major subdivision and adjoining subdivisions and/or undeveloped tracts shall be required.

(4) Lots shall be accessed from interior streets, rather than from roads bordering the tract.

(5) Curvilinear streets, as opposed to straight streets and/or a grid street pattern, shall be required internally within major subdivisions as a means of promoting safety and to increase the aesthetics of the subdivision.

(6) A terminal vista shall be required to be placed on any internal street within the major subdivision that is visible from and connects with an adjoining major road. The purpose of this requirement is to mitigate the view of a significant portion the internal subdivision road from the adjoining major road. The placement of a terminal vista may be waived if, due to topography, tree cover and/or layout of the internal road network, it is determined that a terminal vista would serve no useful purpose.

~~—(P) *Minimum thickness of base course and pavement surface.*~~

~~(1) The minimum thickness specified below is the specifications of the State Department of Transportation applicable at the passage of this chapter. Any changes in state specifications after this date may not be reflected here or in tables elsewhere in this chapter. Therefore, the subdivider is cautioned against assuming that compliance with this chapter automatically assures suitability of streets for maintenance by the Department of Transportation or the village at some date in the future. —~~

~~—(2) Design will be as follows:~~

Base course	6 inch ABC or STBC, Type B
Pavement surface	1.5 inch SA or I-2
ABC — Aggregate Base Course, No. 7	
STBC — Soil Type Base Course	
SA — Sand Asphalt, Type F 1	
I-2 — Bituminous Concrete Surface Course, Type I-2	

(L) *Streets and roads/base and surface.* **All roadways shall be paved.** All materials, the construction of the shoulder and disturbed portions of the right-of-way, and the application of the base course and pavement surface shall meet the requirements set forth in the most recent published requirements of the State Department of Transportation. **be constructed in accordance with the most recent edition of the NCDOT Standard Specifications, Superpave Manual and Standard Drawings unless otherwise specified by the Engineering Standards and Procedures Manual, or as directed by the Village Engineer.**

~~—(R) *Paving of streets required.* In all subdivisions, paving of streets is required. Paving of streets shall be done **completed** in accordance with the most recent published requirements of the State Department of Transportation.~~

(M) *Stabilization.* All unsurfaced disturbed portions of street rights-of-way shall be stabilized by seeding, fertilizing and mulching or by another equally effective method.

(N) *Medians.* Whenever a median is to be located within a street right-of-way, the following regulations shall be applicable:

(1) The pavement width shall be no less than thirteen (13) feet from the edge of the median to the outer edge of the pavement;

(2) ~~The right of way width shall be a minimum of sixty (60) feet from the intersection to the end of the median, then tapering to fifty (50) feet at a point at least ten (10) feet beyond the end of the median, with a minimum of sixty (60) feet for the length of the taper;~~ **Right-of-way widths shall be in accordance with applicable Street Typical Sections of the Engineering Standards and Procedures Manual, unless otherwise directed by the Village Engineer.**

~~—(3) Medians shall not exceed nine (9) feet width unless additional right of way is provided as may be needed;~~

~~(3) The median shall not be closer than fifteen (15) feet from the center of any two intersecting streets; and Medians shall be placed to accommodate pedestrian refuge islands and crosswalks at intersections. Median plantings shall not obstruct intersection sight distance requirements.~~

(4) Medians shall not be allowed unless provisions have been made for persons or parties other than the Village to be responsible for the medians. The responsible party shall be identified on the final plat.

(O) *Street Signs and Traffic Control Signs.*

(1) **All street and traffic control signs shall be posted in accordance with the FHWA - Manual on Uniform Traffic Control Devices (MUTCD) and installed by the developer prior to the issuance of any Certificates of Occupancy for any building on that street.**

(2) **Additional wayfinding, pedestrian crossing, bicycle route, “Share the Road”, and/or similar street signs may be required by the Zoning Administrator or Village Engineer.**

(3) The text size and location of street signs shall provide for sufficient visibility in accordance with the FHWA - Manual on Uniform Traffic Control Devices (MUTCD) and the Engineering Standards and Procedures Manual.

(P) Traffic Calming Techniques. The use of traffic calming devices such as raised intersections, speed tables, raised or stamped crosswalks, chicanes (lateral shifts), and roundabouts/neighborhood traffic circles may be required by the Zoning Administrator depending on the nature of the street or intersection.

(Q) Posted Speed Limits. All streets, except alleys and state roads, shall be posted with a twenty-five (25) mile per hour speed limit unless otherwise posted by the Village or NCDOT.

~~**(R) Curb and Gutter.**~~

~~(1) Drainage shall be provided using standard (two foot) closed curb and gutter systems along all streets. Parkways may use open swales on the park/greenway side upon approval of the Zoning Administrator. Valley curb and gutter are prohibited.~~

~~(2) Standard curbing is also required along any side of a street with marked on-street parking.~~

(S) STREET ACCEPTANCE REQUIREMENTS. Before streets will be accepted for maintenance by the Village, the requirements outlined herein shall be followed and the development shall meet all applicable policies adopted by the Village. ~~following conditions must be met:~~

~~(1) At least eighty (80) percent of the buildings fronting a street are occupied.~~

~~(2) The developer must contact the Village in writing requesting an inspection. A petition, record map and pavement core results per the road acceptance policy and engineering standards manual shall be provided.~~

~~(3) If the street meets Village standards, a one-year waiting period will commence.~~

~~(4) If the street does not meet standards, the developer must perform repairs which bring the streets up to standards. Upon completion of repairs, the developer must request another inspection of the street or greenway; if repairs are satisfactory, the one-year waiting period begins.~~

~~(5) After the one-year waiting period has expired, the Village Engineer will inspect the street. If road standards are still acceptable, the one-inch final overlay will be applied and the Village will accept the street and notify the developer that the street has been accepted for maintenance purposes and the performance bond can be released. If substandard conditions exist, repairs must be performed before the streets will be considered for acceptance.~~

~~(6) In addition to the provisions above, all applicable requirements and standards delineated in relevant road acceptance manuals, adopted by the Village, shall also apply.~~

Staff recommends approval of text amendments to Sections 150.015, 150.061, 150.062, and 150.066 along with the statement of Land Use Plan Consistency and corresponding Ordinance OR -2016-10-02.

The Council discussed the proposed text amendments in depth. Mayor Pollino asked if the Village-wide speed limit within subdivisions should be reduced to a lower speed, possibly 15 mph or 18 mph. The Council discussed the idea and agreed the speed limits for subdivision streets should be addressed in a policy, along with possible 4-way stop streets, speed tables, etc.

TS 20:00

Motion: Councilman Salimao moved to adopt the proposed text amendments to Sections 150.015, 150.061, 150.062 and 150.066 as presented, along with the corresponding Ordinance #OR-2016-10-02 and the Statement of Land Use Plan Consistency as follows: This amendment is consistent with the Land Use Plan by ensuring infrastructure is adequately planned (*See Attached: OR-2016-10-02 is hereby incorporated by reference and made a part of these minutes*).

Vote: The motion passed with a unanimous vote.

TS 20:11 PUBLIC HEARING ON TEMPORARY USE PERMIT #16-11779 FOR THE ANNUAL CHRISTMAS TREE LIGHTING TO BE HELD SATURDAY, DECEMBER 10, 2016 FROM 4:30-6:30 P.M. AT MARVIN EFIRD PARK

- TS 20:26** **Motion:** Councilman Salimao moved to open the public hearing on Temporary Use Permit #16-11779 for the Annual Christmas Tree Lighting to be held Saturday, December 10, 2016 from 4:30-6:30 p.m. at Marvin Efird Park.
- Vote:** The motion passed with a unanimous vote.

No one signed up to speak.

- TS 20:31** **Motion:** Councilman Salimao moved to close the public hearing.
- Vote:** The motion passed with a unanimous vote.

TS 20:38 DISCUSSION AND CONSIDERATION OF TUP #16-11779

Ms. Thompson presented the staff report.

Staff Report

The Village Council is requested to consider Temporary Use Permit #16-11779 to allow a Christmas Tree Lighting at Marvin-Efird Park. The event is proposed for Saturday, December 10, 2016 between 4:30 pm and 6 pm. Six hours of setup will occur the day before the event and one hour of clean up afterwards. Staff is estimating approximately 300 people attending the event. The event will feature a tree lighting and a visit from Santa Claus. School bands and choirs will perform Christmas carols and there will be kid crafts. Warm Beverages and cookies will be provided.

CUP

The approved conditional use permit allows for town events to be held at the park. All planned events meet the plans restrictions.

Parking

As most guests will arrive in groups, sufficient parking will be available on site. A parking plan will be provided.

Zoning Ordinance

Per the Zoning Ordinance, §151.051(D), the Village Council may issue a temporary use permit for public events such as festivals, concerts, carnivals, circuses, fireworks displays, etc. only after a public hearing has been conducted. Before issuing the temporary use permit, the Village Council shall make the following determinations:

1. The proposed temporary use will not materially endanger the public health, welfare and safety.
2. The proposed temporary use will not have a substantial negative effect on adjoining properties.
3. The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit.

In addition, the Village Council may authorize conditions regarding duration of the use, hours of operation, signage, lighting, temporary structures, etc. and such conditions shall be made part of the temporary use permit issued. The applicant shall be responsible for acquiring any permits required by other local, state, or federal agencies prior to the issuance of the temporary use permit by the Village of Marvin. Violations of such conditions shall be considered a violation of this Ordinance.

Noise Ordinance

The Noise Ordinance exempts noise resulting from any event held in recognition of a community celebration, or national, state, or county events or public festivals or parades and noise created by any public recreational activity.

Outside Agencies

The local Sheriff and Fire Department will be reviewing the plans for the event. The event organizer will obtain permits from Union County Environmental Health, if required.

The request is consistent with the Village of Marvin's Zoning and Noise Ordinances and the approved Conditional Use Permit. Staff has identified no effects from the proposal which would result in a significant impact on adjoining or neighboring properties and therefore recommends approving TUP #16-11779.

- TS 21:55** **Motion:** Councilman Salimao moved to approve TUP #16-11779 for the Annual Christmas Tree Lighting event to be held Saturday, December 10 from 4:30-6 p.m. at Marvin Efird Park.
- Vote:** The motion passed with a unanimous vote.

TS 22:09 **DISCUSSION AND CONSIDERATION OF REGULATING UNMANNED AIRCRAFT**

Mayor Pollino explained: He has received complaints from residents about drone use at the park. Residents are nervous and concerned about safety while enjoying the park. The drones are loud and parents are concerned that they could crash and injure children. There are no regulations regarding use of drones – no experience required. He wanted to get Council's thoughts on regulating drone use.

Ms. Cox explained: According to NCGS, a unit of local government may only adopt an ordinance to regulate the use of the local government's property for the launch or recovery of unmanned aircraft systems. Everything else is regulated by the State. There are only three towns in NC that have ordinances on this. These include Garner, Nags Head and Kannapolis. Some of the ordinances allow permission to be granted by the Town Manager.

The Council held an in depth discussion on unmanned aircraft. Council directed staff to draft text prohibiting use of unmanned aircraft on Village-owned property. Council agreed to call for a public hearing on the proposed text at the November 8 regular meeting.

TS 31:13 **UPDATE ON VILLAGE HALL PROJECT**

Ms. Thompson provided an update on the Village Hall project. She explained: ESP, the site engineer, provided a preliminary site plan. She, along with Councilman Epps and Councilman Salimao, met with the architect to review some of the site concerns with the site plan. The site is subject to the Goose Creek/Six Mile Creek buffer rules. This requires a 100' buffer along the creek at the top of the property. This impacts a good portion of the property. It was originally planned to use this area for required stormwater detention, but due to the buffer requirements, we'll have to move the stormwater down closer to the road. This does limit what, if anything, can later be developed on this part of the property. At this time, the plan shows the building, a parking lot with the access from Marvin School Road, and a small cul-de-sac internal to the lot for emergency vehicles to use as a turn-around. This area could also be used for events. She is waiting to hear from the Fire Marshal on the cul-de-sac specifications.

Ms. Thompson added: She will forward the preliminary site plan sketches to the Council. She asked if Council thought the project should be phased, depending on cost. Once she receives the site plan, it will likely have to be engineered and will then be subject to the Design Review Process.

Councilman Salimao stated: He was disappointed to learn that the site is subject to the 100' buffer setback. He understands it, but had hoped the site wouldn't be impacted by this. If the project is phased, it should only be for the Farmers Market portion of the site. He wants to get the Village Hall, parking area and roads piece completed together. He thought the building sketches were really good. They seemed to encompass everything that the Council gave input on.

The Council briefly discussed the round-about project. Ms. Thompson explained: We have received approval from the NC Historic Commission with a few conditions. NCDOT can now begin on right-of-way acquisition. We are still looking at a spring timeframe to finalize acquisition.

Mayor Pollino asked about the existing power lines that abut the Village Hall site. Ms. Thompson explained: Union Power will be relocating the power lines by moving them back farther from the road. She has previously asked about burying the lines, but the power company has stated that this is too expensive as far as maintenance goes. She agreed to check with them again on the possibility of burying these lines.

TS 42:31 Mayor Pollino called for a brief recess at 6:08 p.m.

TS 42:45 Mayor Pollino reconvened the meeting at 6:30 p.m.

TS 42:54 **PUBLIC HEARING ON REZONING OF PARCELS 06-183-011, 06-183-011B, 06-183-011C, 06-156-014A AND 06-159-005B FROM MXCD TO ICD-MARVIN GARDENS**

TS 43:30 **Motion:** Councilman Salimao moved to open the public hearing the rezoning of parcels #06-183-011, #06-183-011B, #06-183-011C, #06-156-014A and #06-159-005B from MXCD to ICD-Marvin Gardens.

Vote: The motion passed with a unanimous vote.

Dale Bishop, 7814 Stonehaven Dr., Marvin NC

Mr. Bishop thanked everyone who has been involved with and worked so hard on this project. He added: He has been involved with the project for a long time, since the first rezoning. He knows it has involved a lot of hard work on everyone's part. He has heard from a number of his neighbors over the past few weeks and everyone seems to be in favor of the project. He knows there are a lot of opinions on the development and he hopes that the best interests of the neighbors are taken into account. He would like to see something built here sooner, rather than later.

TS 45:32 **Motion:** Councilman Salimao moved to close the public hearing.

Vote: The motion passed with a unanimous vote.

TS45:43 **DISCUSSION AND CONSIDERATION OF REZONING FROM MXCD TO ICD-MARVIN GARDENS**

TS 45:48 Ms. Thompson thanked everyone for attending and working on this project. She stated: No matter what the outcome of tonight's meeting, we have all worked relentlessly to get where we are tonight. Since the receipt of this application, I found out I was expecting; I became a mom

and I now have a 9 month old baby at home. So first of all, I'd like to thank everyone for all the hard work. Throughout this time, the Planning Board held 11 meetings on this project in order to make a recommendation to Council on January 19. Out of those 11 meetings, more than half were special meetings. So I'd especially like to thank the Planning Board and staff for their time and effort in this project. To provide a little history on why this project has taken so long. The Council approved a contract to help write ordinances for items that were missing from the code, which will also help with this project. We now have a new Design Review process that will help us ensure that our Ordinances and conditions are followed throughout the process. We have definitions for uses; architectural provisions; better defined off-street parking regulations, including appropriate parking stall dimensions and aisle widths; drive-through definitions, including stacking, location of stacking lanes and drive-through service windows; pedestrian connectivity requirements; off-street loading requirements, buffer and screening regulations, including foundation plantings, drive-through landscaping, screening for parking areas, mechanical equipment, dumpsters and loading areas. As well as better signage and lighting standards. We have been working very hard on these ordinances.

Ms. Thompson continued: Since then, the Village Council has held 4 of their own meetings to discuss this project, which has led us to tonight. The subject property is currently undeveloped land that is zoned MX-CD. A rezoning is needed to facilitate redevelopment of the site due to the expiration of the previous approval. The proposed development is organized with an anchor grocery store, multi-tenant shops to the southeast and four out-parcels fronting New Town and Providence roads. There will be a maximum of 25 age-restricted single-family homes and a floor area ratio of .09 for the commercial area. This is a conditional district zoning and will include individualized conditions. Site plan provisions are incorporated. Specific conditions may be suggested by the applicant or the Village, along with those conditions already put forth. Staff has forwarded some conditions to the applicant and we have received written responses on these. Staff has provided a possible Land Use Plan Consistency Statement (*See Attached: The 10/27/16 ICD Staff Report is hereby incorporated by reference and made a part of these minutes*).

Ms. Thompson introduced John Carmichael, attorney for the applicant; Chris Widmayer, applicant representative and Thomas Cowan, Publix representative for comments.

TS 49:42

Mr. Carmichael stated: He is an attorney with Robinson Bradshaw in Charlotte. He has had the privilege of appearing before the Marvin Council on previous occasions, primarily working with Toll Brothers. He has become involved with the Marvin Gardens rezoning late in the game. The applicant requested that he look at the packet and the development standards in order to have a fresh set of eyes on the project. In reviewing it, he was struck by a couple of things. The first is that this is a down-zoning. This area is currently zoned for 260,000 sq. ft. of commercial square footage. The current plans are now 105,000 sq. ft. of commercial development and 25 detached residential units. He isn't familiar enough with both plans to discuss the differences in uses. The second thing to strike him is the level of detail that has been provided. This is indicative of the hard work that's been put forth by Planning Board members, staff and the petitioner. This speaks highly of everyone's desire to have a project at this site that the Village can be proud of and that can serve the Village and the residents in the surrounding neighborhoods. In his view, after reviewing the documents, he believes this project does that. He believes this is a project that everyone can be happy with. There is a lot of detail. He believes that the commitments that are in place ensure the quality of the development. He hopes the Village Council agrees with that. The petitioner has done a lot of things to address a lot of concerns. To help fund some of

the landscaping and architectural elements, they actually had to go back to the landowner to get a price reduction. They've reduced the number of residential units. They have amended the contract between eight and ten times. This is just indicative of the amount of work that has been done. There are approximately 1.4 million dollars of transportation improvements that will be a part of this project, some of which will help to mitigate the background traffic issues in this area. He has been doing this type of work for 16 years and has had the pleasure of working on a number of nice projects and the 57 pages of development standards is the most he has ever seen, particularly on a project of this size. He isn't here to say that's a bad thing, nor a good thing; he's just saying that is a lot of detail and a lot of commitments and he sincerely believes that this will, if approved, will show a project that everyone can be proud of.

TS 53:17 Mr. Widmayer stated: He is with Regency Centers. They are the applicant for this project. He would like to echo what Ms. Thompson and others have said. This has been a two and a half year process. They first met with members of the Village Council in the spring of 2014. It has been a long road. They've made a lot of friends. They have not always agreed with everyone and there have been a lot of tough conversations, but he believes it has been a productive, albeit lengthy, process. Through the process he hopes everyone who has wanted to participate has had the chance to have their opinions heard. Thank you for your time and thank you for your commitment. I have some comments that I wrote out. I usually just talk, but because we're close to the end I wanted to be a little more careful with what I said. I want to go back to the beginning.

In 2007, this property was rezoned at the request of Lat Purser and Alan Tate. Unfortunately, back then before the recession, the rezoning was not developable, as the density in the trade area does not support a project of that project's size. After a careful evaluation of the trade area and its potential growth – it's a great community - we developed a concept that would include a small-scale neighborhood shopping experience that would be buffered by a high quality residential community, instead of the YMCA or commercial development that was in Lat Purser's project.

When we first approached the Village of Marvin in April of 2014, we laid out our desire to bring a mixed-use retail project to the Village, anchored by our friends and partners – Publix - that would meet the high standards of Marvin. We wanted a project that would also attract other desirable retailers to ensure a successful and thriving project. Initially, we suspected that our perspectives might not always align, but we believed that through joint consideration of each party's perspective and compromise we would create a quality project without diminishing its potential for a successful outcome. Today, I am confident that we have come as far as we can. We submitted our application for this rezoning on February 16, 2015; and have engaged in at least 60 hours of public hearings, public meetings, public work sessions and hundreds of hours of phone work sessions with both staff and the Planning Board Chair, Mary Shkut. In the end, we would be doing the Village a disservice if we agreed to any additional conditions that would render the project unbuildable or destined to fail. There is nothing sadder than a failed retail project, which comes in the form of lower quality tenants, vacant shop space or vacant tenant buildings. There is considerable competition in the marketplace, including Waverly, the former Charlotte Golf Links site, the Raley Miller development on Rea Rd. and continued growth in Waxhaw. While this site is in a unique location and special community, retailers have many choices and they will gravitate to projects that give them the best opportunity to succeed. Regency and Publix are proud of the final submission made this past September and believe it

strikes a balance between the competing high standards we strive to achieve and those of the Village of Marvin and its residents. We started in 2014 with a commitment to architecture that embodies the agrarian and equestrian nature of the Village in response to the Village Vision. We stated at that time that the commitment to unique architecture would come at the expense of other amenities, which holds true today. There is only so much cost that project can absorb and unfortunately, the 'potential' income generated from the project will not support everything on everyone's wish list. Put simply, we are at the end of our ability to accommodate any additional requests and restrictions. We hope you share our belief that while no party got everything, it is collectively that we created a well thought out and extraordinary project that will bring pride to the community for many years to come. I would like to personally thank everyone who invested countless hours and made an extensive emotional investment to the process. At this time, we ask the Village Council for approval of our zoning request.

TS 58:54 Mr. Cowan stated: He is the Development Manager with Publix. His first trip to Marvin was two years ago this coming December. He's been involved since the beginning in presenting plans and drawings of the earliest views and ideas of what they thought they could do with this property. Over the past two years he's attended several meetings and held several discussions with residents in the area, Planning Board members, Council members and staff. This is a great town. There is a good quality of people here and it is an ideal location for a Publix store. We run a fairly small-sized store, usually 50,000 to 60,000 square feet – not a large Harris Teeter sized model of 100,000 square feet. Publix is something you can get into and out of quickly. You don't have to walk aisles and aisles just to pick up one item. We have a unique presence in our market and this is an ideal market for our store. We like it in Marvin and we think we'll be a great neighbor. We think we've done a good job in working with the Village in planning. We received a lot of input and have made a lot of adjustments to the plans. We'll be doing a lot of infrastructure work and we'll be making improvements outside of our shopping center to the local streets and highways. This is a good deal for everyone. As was previously mentioned, not everyone got everything on their wish list. We certainly didn't. But at the end of the day we certainly came to a good agreement about what we can build. This is going to be a great shopping center for everyone. It is important to mention that the seller has given extensions on the closing on three different occasions. He has been very tolerant of the process and the time that it's taken, but the contract does expire in mid-December. There will be no extension at this point. We really do hope that we can bring this project to fruition, so we can all move on.

Councilman Salimao gave some background on the project to members of the audience. He explained: In 2005, the Council approved this project back with Lat Purser the first time. Then in 2007 they came back and had the project approved again. It was a 245,000 sq. ft. commercial project. This application is for a mixed-use project with 105,000 sq. ft. of commercial and 25 residential units. One of the things that we've been pushing back on is details. It's important to the Council to set the details up front and to have the details in the development standards. This is one of the things that the Planning Board and Council has spent a lot of time on. We're fine with the Publix and the residential portion, but we are concerned with the outparcels. We want to ensure that they look good and are properly screened. We've negotiated on setbacks and other things. They have negotiated as well. This has been a give and take process. He has been happy to work with Publix. The big concern now is with the outparcels. The applicant doesn't really have a plan for those. This is important for everyone to understand. He needs to know what the plans are before moving on. The more standards that we can include now, the quicker the project will move through the design review process. This was a concern on both sides. These

standards are new for Marvin. We didn't have these before this application. Ms. Shkut and Ms. Thompson looked at codes from different towns to help develop these standards. Council has had a lot of input. It's been a give and take process.

Mr. Widmayer stated: They received 24 conditions that were requested by staff on Monday. Of the 24, they agreed to 16. He reviewed the conditions that are unresolved:

- Fee in Lieu
- Truck deliveries
- Outparcel 2 parking requirements
- Stacking for drive-throughs
- Tree Spacing
- Engineering Comments
- Weddington Chase sidewalk
- Ornamental Lighting

The Council discussed the unresolved conditions in depth. Mayor Pollino requested that the Council consider voting on the project. Councilman Salimao and Councilman Dispenziere both agreed that a full Council was important for a decision of this importance to the Village. They agreed that the vote should be tabled until the next meeting with a full Council.

The applicant agreed that they are willing to add their responses to the record for the conditions that they agree to (*See Attached: The applicant's responses to proposed conditions are hereby incorporated by reference and made a part of these minutes*).

Councilman Salimao asked if there were any members of the public who wished to add additional comment.

Kristi Maher, 8306 Woodmont Dr., Marvin NC

Ms. Maher offered her thanks to everyone involved in the rezoning process. She added: Her property abuts the proposed development and she has been involved in this process for 12 years. She wants to see the development move forward. She wants to see a beautiful, high quality development. Residents have entrusted the Council and Planning Board to represent them and she believes they have done so. It sounds like the applicant is working hard to meet Marvin's standards. She appreciates the Council's hard work and diligence on the project and trusts the Council to make the best decision for the Village.

TS 141:07 **Motion:** Councilman Salimao moved to recess the regular work session meeting to Tuesday, November 1, 2016 at 5 p.m. at Banks Fellowship Hall.
Vote: The motion passed with a unanimous vote.

The meeting recessed at 7:50 p.m.