

Jeff Wenzel  
Mayor

Pamala Hall  
Mayor Pro Tem

Rena Bragg  
Councilmember

Greg Hines  
Councilmember

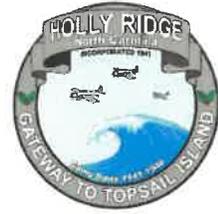
Tom Hedrick  
Councilmember

Dexter Sholar  
Councilmember

# *Town of Holly Ridge*

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Heather Reynolds, CMC  
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## **TOWN OF HOLLY RIDGE BOARD OF ADJUSTMENT MEETING MINUTES March 23, 2021 6:00 P.M.**

### **Call to Order**

The meeting was called to order at 6:00 PM. Board members present were Toni Hardin, Verne Jones, Olivia Chaban and Dave Mosey. Also present were Nathan Rhue, Community Development Director and Marsha-Gray Kircher from the Community Development Department. Applicant David DeMoss was also present.

### **Pledge of Allegiance**

*Chairwoman Toni Hardin* led the Pledge of Allegiance.

### **Adoption of Agenda (Additions and/or Deletions)**

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to adopt the agenda as is. *All Agreed.*

### **Adoption of Minutes (Additions and/or Deletions)**

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to adopt the minutes from February 23, 2021 with corrections mentioned. *All Agreed.*

## New Business

### **Special Use Permit : US Hwy 17 – Buckhorn Development Expansion**

Chairwoman Toni Hardin announced the case for Buckhorn Development and the request for a Special Use Permit. Chairwoman Toni Hardin explained that the hearing on this request is judicial in nature and will be conducted in accordance with special due process safeguards. Chairwoman Toni Hardin asked all persons wishing to testify in this case to sign the sign-in sheet, and anyone wishing to testify to go to come up to the front to be sworn in and then return to their seat.

Applicant David DeMoss and Nathan Rhue were sworn in before hearing, administered by Board Chairwoman Toni Hardin.

Chairwoman Toni Hardin gave all Board members the opportunity to reveal possible conflicts and to withdraw from the proceeding if necessary. There were no Board members with any conflicts. All Board members were then asked by the Chairwoman if any of them had any information or special knowledge about the case that may come out at the hearing, and if so to please describe that information for the record so that any interested parties will know and can respond. There were no Board members with any information or special knowledge.

Chairwoman Toni Hardin stated that in this hearing, we will first hear from the Staff and other Town witnesses, then from the applicant and their witnesses, and then from opponents to the request, if any. Parties may cross-examine witnesses after the witness testifies when questions are called for. Chairwoman Toni Hardin explained that if anyone wants the Board to see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony. Chairwoman Toni Hardin expressed that the Board cannot accept reports from persons who are not present to testify. It was also expressed that if any Attorneys who speak should not give factual testimony but may summarize their client's case.

Chairwoman Toni Hardin opened the hearing on case Buckhorn Development – expansion of 20 units to townhouse development and asked for testimony from Town Staff. Nathan Rhue presented the Board with the staff packet explaining that applicant Buckhorn Development, with representative David DeMoss present, is requesting the issuance of a Special Use Permit. The request is concerning property located on US Highway 17 N, referencing parcel number 029930 or map number 734-115. Mr DeMoss is requesting an addition, this was a previously approved development in 2019. At the time it was approved for a 57-unit townhouse development with 11 buildings, Mr DeMoss is looking for an expansion to allow for 4 additional buildings with 20 additional dwelling units for a new total of 77 units.

Nathan Rhue stated that currently the property is still zoned Neighborhood Business with a small sliver of R-15 at the very top which is not proposed to have any development. Nathan Rhue explained that in accordance with the Town's zoning ordinance, multi-unit development is permitted within the Neighborhood Business portion with a Special Use Permit. What is proposed is 2 story buildings, not to exceed a height of 40 feet. Nathan Rhue explained that within the neighborhood zoning district there is no density requirements for this, even though 15 percent of the gross acreage is to be open space and that parking is required to have two spaces per dwelling. Setbacks for this district will be front 20 feet, rear and sides are 10 feet, with a minimum lot size of 4500 square feet. Nathan Rhue explained to the Board, that Buckhorn Development has recently purchased an additional 2 acres which is right behind Smoky Tony's restaurant, in order to meet the qualifications for open space. Once the properties are combined,

the total of the whole property will be 337,590 square feet which is well in the square footage requirements for Neighborhood Business.

Nathan Rhue informed the board that currently there is infrastructure being installed; water and sewer lines, and stormwater. Nathan Rhue stated that he needed to correct one thing and will defer to Mr DeMoss to provide additional information later in regard to obtaining a driveway permit as this was one of the prior conditions of the existing Special Use Permit. Nathan Rhue showed the board the particular property which is the main area in consideration for the meeting, but it does encompass the two tracts. Nathan Rhue showed the board the site plan for the previously approved development, and then the new proposed expansion by extending the one road of the northern lot. Photographs of the site were showed that were taken by Nathan Rhue the day of the meeting (March 23<sup>rd</sup>, 2021) which showed sewer connections and meter bases for water, and sidewalks under construction. Verne Jones asked if they have approval from Onwasa. Nathan Rhue answered that is his understanding, and there is infrastructure installed as far as water and sewer.

Nathan Rhue presented an email received from Onwasa that he would like to present to the board as evidence, stating that nothing yet has been certified for what has been installed. A copy of the email was given to the applicant. The email was from Wynne Ray, the development services supervisor for Onwasa, stating that they have not received anything as far as the water and sewer certification and approval from NCDEQ. Nathan Rhue stated that he would like to submit this as evidence. Chairwoman Toni Hardin asked the board if there was any objection to the admission of the email from Onwasa. There was none. Email was admitted as evidence 'A'. Verne Jones asked if approval has been granted for electrical. Nathan Rhue responded that at this stage it is not required to be installed and approved. Nathan Rhue explained that under the Special Use Permit, the applicant is not required to do that, prior to final plat approval, the applicant either has to have the items installed, or they could be bonded per the zoning ordinance. Verne Jones inquired about the driveway permit and if that would be issued out the Jacksonville DOT office. Nathan Rhue replied that Holly Ridge will accept it from the State.

Nathan Rhue provided the board with correspondence from the Marine Corps liaison and provided a copy to the applicant. The email correspondence expressed that they do not have any issue with the expansion and had no issue with the project originally and there would be no additional impact on the military operations. The correspondence asked for a buffer that conforms to Holly Ridge zoning ordinance, and that they are installing a fence for security reasons and to deter trespassing on the training areas. Nathan Rhue asked that this email correspondence be submitted as evidence. Chairwoman Toni Hardin asked the board if there was any objection to the admission of the email from the Marine Corps liaison. There was none. Email was admitted as evidence 'B'. Nathan Rhue asked that the staff report with associated maps be submitted as evidence with one change, unless additional information is provided by Mr DeMoss, number 2 of the Special Use Permit standards – the driveway permit still needs to be obtained. Chairwoman Toni Hardin asked the board if there was any objection to the admission of the staff report. There was none. Staff report was admitted as evidence 'C'.

Nathan Rhue recommended to go through the required standards individually and vote on them individually at the same time. Nathan Rhue stated that he had no additional information to provide and would be happy to answer any questions. Chairwoman Toni Hardin asked if there were any questions from the board or the parties involved for the staff. There was none. Chairwoman Toni Hardin stated that it was time to hear from the applicant and other proponents of the request. If there were any attorneys or other representatives to give a summary of the client's position, to go first, but with only the applicant being present, he shall go first.

Applicant David DeMoss explained to the board that they do have a driveway permit and in regard to Onwasa that everything has been inspected and passed. The surveyor was just on site to do the as built survey which is something that must be done before the final plat can be recorded. Mr DeMoss mentioned that Onwasa has required an additional bacteria test due to how much time has passed since the last test was performed. Mr DeMoss explained that they are just extending the existing road, and the additional 2 acres purchased will not be touched unless the stormwater pond needs to be expanded.

Chairwoman Toni Hardin asked if there were any questions from the Board or staff for the applicant. Nathan Rhue had a question for the applicant. Nathan Rhue asked if they have a stormwater permit for the property. Mr DeMoss answered yes. Nathan Rhue asked if that permit is up for modification with the expansion of this project. Mr DeMoss responded that they wanted to go through the Town first to be granted an approval, and then they will start working on updating all the permits – stormwater, water and sewer, to accommodate the additional lots. Chairwoman Toni Hardin asked if there were any additional questions from the Board or staff for the applicant. Dave Mosey had a question in regard to future expansion. Dave Mosey asked if it is the responsibility of Onwasa and the electric company to ensure that the additional 20 units will have appropriate water pressure and electric. Nathan Rhue responded that ultimately that would fall back on the developer to ensure that the requirement is met. Dave Mosey asked if that would be prior to the permit being issued. Nathan Rhue answered that is correct. Chairwoman Toni Hardin asked if there were any additional questions for the applicant. There was none.

Nathan Rhue explained to the Board that based on the Town's ordinance, that special use permits have standards that have to be met in order for a special use permit to be approved. The first of these standards are that the use will not materially endanger the public health or safety, if located where proposed and developed according to the plan submitted and approved. The consideration is for an additional 20 units of a previously approved 57-unit townhome development. The proposed use is located in close proximity to military training operations that may result in incompatible land use and based upon the information from the base that was submitted, the staff is unaware of any immediate dangers. There are no restrictions related to residential development on the tract, with that report from the base, it does not seem to exist that this would endanger the public health or safety with this expansion.

Chairwoman Toni Hardin asked if there were any questions from the board or applicant in relation to number 1 of the standards. There was none. Chairwoman Toni Hardin asked if there was any discussion from the board on number 1 of the standards. There was none.

A motion was made by *Dave Mosey* and seconded by *Verne Jones* for an affirmative vote that the first standard has been met based on evidence submitted. *All Agreed.*

Nathan Rhue discussed the second standard that the use meets all required standards set forth in the ordinance. As proposed the use meets all of the required standards of the ordinance, however, prior to issuance of a building permit the applicant will be required to provide the following:

- a) A plan and HOA documentation for solid waste storage and upkeep and maintenance of common open space. A copy of the maintenance agreement must also be submitted.
- b) An approved NCDOT Driveway Permit has been secured per Mr DeMoss – the Town will need to receive a copy of that
- c) An approved NC Stormwater Permit; modification and approval of the previously approved permit would need to be completed
- d) Recombination plat to combine the property into one tract

- e) Required approval of the water and sewer system from ONWASA as indicated by the included correspondence
- f) Per Fire Chief and Town Building Code, hydrants must be spaced no greater than 300 feet.

Dave Mosey asks if all the permits have to be in place for the board to be able to approve this section. Nathan Rhue responded not for the special use permit. If the Town was to hold that standard that the applicant has to have all those permits prior to a special use permit being in place, that would hold up any development period. If the applicant went through the process of getting those secured and then came to the board, and it was not approved, then justice would not of been served for the developer. Nathan Rhue explains that coming to the board is generally the first step for any development of a property if a special use permit is required to ensure that it does meet the Town's requirements. That does not prevent the board from adding conditions such as these on there that the permits are secured prior to issuance of building permits. Dave Mosey responded that as long as the board can include a stipulation that these things have to be in hand before the board accepts this unilaterally.

Chairwoman Toni Hardin asked if there were any questions from the board or applicant in relation to number 2 of the standards. There was none. Chairwoman Toni Hardin asked if there was any discussion from the board on number 2 of the standards. There was none.

A motion was made by *Dave Mosey* and seconded by *Olivia Chaban* for an affirmative vote that the second standard has been met based on evidence submitted with stipulations on included conditions. *All Agreed.*

Chairwoman Toni Hardin asked if anyone has any additions to be added to the summarizations made. There were none. Chairwoman Toni Hardin asked the Board if there were any questions for staff or adjustments to their summary in any manner. There were no adjustments or questions.

Nathan Rhue discussed the third standard, that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity. Most of the parcels in the immediate proximity are zoned for non-residential uses with no established neighborhood susceptible to damaged property values. A parcel zoned Multi-Family Residential abuts the rear northwest corner of the tract which is also the Buckhorn Development. If the Town supports a diversity of housing options, then the proposed use could be considered a public necessity.

Chairwoman Toni Hardin asked if there were any questions from the board or applicant in relation to number 3 of the standards. There was none. Chairwoman Toni Hardin asked if there was any discussion from the board on number 3 of the standards. There was none.

A motion was made by *Olivia Chaban* and seconded by *Verne Jones* for an affirmative vote that the third standard has been met based on evidence submitted. *All Agreed.*

Nathan Rhue discussed the fourth standard, that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Holly Ridge Comprehensive Plan. A restaurant use adjoins the site. Other more intensive uses compatible with Multi-Family Residential development are also located in close proximity. If the Town desires additional retail and commerce development, more residential development (such as multi-family), will support this goal. The Town's Future Land Use map contained in the Comprehensive Growth Strategy Plan identifies this property for future "Commercial" use. The Town ordinance allows for a

townhouse development to be developed within the commercial district; it would be compliant with the Town's Future Land Use map for high density development.

Chairwoman Toni Hardin asked if there were any questions from the board or applicant in relation to number 4 of the standards. There was none. Chairwoman Toni Hardin asked if there was any discussion from the board on number 4 of the standards. There was none.

A motion was made by *Dave Mosey* and seconded by *Verne Jones* for an affirmative vote that the fourth standard has been met based on evidence submitted. *All Agreed.*

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to direct the Planning Director to prepare a decision granting with conditions as outlined in item number 2, the special use permit. *All Agreed.*

Nathan Rhue mentioned to the board that based upon the Town's ordinance related to special use permits, the special use permit is required to be recorded within 90 days upon receipt of being approved, should it not be recorded, the special use permit becomes void. Also, that work under the conditions of the special use permit must start within 12 months, or it would become void, or if it is started and ceases for 12 months, it would become void, or not going by the submitted site plan, that would also cause it to become void and the structures to become non-conforming.

A motion was made by *Olivia Chaban* and seconded by *Dave Mosey* to close the hearing. *All Agreed.*

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to direct the Planning Director to prepare a decision granting with conditions as outlined in item number 2, the special use permit for Buckhorn Development. *All Agreed.*

Chairwoman Toni Hardin asked the Board if there was any questions or comments to discuss before adjourning the meeting. There was none. Chairwoman Toni Hardin asked Nathan Rhue if he had anything he would like to discuss with the board. Nathan Rhue mentioned that the Town is currently in the process of updating the ordinances in order to comply the 160D requirements which is the new general statutes. Land use authority for municipalities and counties come from 160A or 143A, they have combined those because the verbiage is similar, and decided to combine them into 160D and create a whole new general statute. Each municipality and county must come into compliance and update their ordinances to reflect those changes by July 1, 2021. As far as this board is concerned, there will be some things that change, not drastically, but will include an item related to having a conflict of interest – monetary or familial. Nathan Rhue expressed to the board that they will receive a copy of the updates and is looking to organize some training for the board members in the near future.

### Adjourn

A motion was made by *Olivia Chaban* and seconded by *Dave Mosey* to adjourn the meeting at 6:50 PM. *All Agreed.*



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Toni Hardin  
Chairwoman



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Marsha-Gray Kircher  
Community Development Department