

**TOWN OF HOLLY RIDGE
PLANNING BOARD MEETING MINUTES
June 2nd, 2020
6:00 P.M.**

Call to Order

The meeting was called to order at 6:00 p.m. Members present were John McIver, Toni Hardin and Olivia Chaban. Also present were Planner Nathan Rhue and Tracy Martin Deputy Clerk. Carol Froisy was absent.

Pledge of Allegiance (Additions and/or Deletions)

Board paused for a moment of silence. John McIver led the Pledge of Allegiance.

Adoption of Agenda

A motion was made by *Toni Hardin* and seconded by *Olivia Chabin* to adopt the agenda as presented. *All Agreed.*

Approval of May 19th, 2020 Minutes

A motion was made by *Olivia Chaban* and seconded by *Toni Hardin* to adopt the minutes from the Planning Board Meeting held on May 19, 2020. *All Agreed.*

New Business

Zoning Text Amendment – Section 7-4-2 Alcohol Sales

Nathan Rhue stated at the last Town Council meeting, direction was provided by Staff and the Planning Board regarding proposed amendment to Section 7-4-2 related to alcohol sales and consumption.

Mr. Rhue said the verbiage in Section 7-4-2 states that the “sale of alcoholic beverages for on premise consumption will be prohibited within 400 feet of a church”. This was amended from 1500 feet. The understanding is that the sale of alcohol for off-premise consumption would be permitted without local regulation. However, this verbiage could be understood that alcohol could be permitted without local regulation. This verbiage could also be understood that alcohol could be consumed within the separation requirement of 400 feet provided it is not sold on the same property. An establishment could allow patrons to bring alcohol purchased off-site for the purpose of consumption on property that may be within the existing 400 feet separation requirement from a church.

In March 2020 we held a community forum and currently the State allows for sale and consumption of alcohol if it is outside of 50 feet from a church or school. Mr. Rhue said if someone wants to sale alcohol they still have to have an ABC permit and they would have to

follow the restrictions of 50 feet when they submit their application for them to determine the separation of 50 feet.

Mr. Rhue said when he reviewed the June 2019 minutes and with discussion of some of the Town Council members that were at the meeting it appears that the intent and interpretations are the consumption regardless of where it was purchased it has to maintain the separation of 400 feet. The brown bagging was not the intent provided was provided in the ordinance. The proposed amendment is going to do two things. It is going to mirror the State requirements and move out all regulations found in 7-4-2 A and provides additional clarification to drinking establishments and restaurants as to how they are defined.

Mr. Rhue said the Town's Attorney summed everything up in a letter he sent upon reviewing the Town's ordinances regarding alcohol sales within municipal limits. It said "The Town's zoning ordinances and recommendations may, but are not required to be, considered by the ABC Commission in determining whether to issue an ABC permit. However, if the Commission does issue a permit, that decision takes precedence over the local government's zoning authority".

Mr. Rhue said on an ABC permit there is a place for the building inspector, fire inspector and the zoning inspector to complete and they make sure it is compliant or not. Mr. Rhue said but even if it is not compliant and the State issues a permit the Town has no recourse. Mr. Rhue stated in General Statute 18-B-901 (d) it says "The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit. The Commission shall also have the authority to determine the suitability of the location to which the permit may be issued".

Mr. Rhue stated the staff's perspective the proposed amendment section 7-4-2 (a) would just cover adult establishment. The recommendation is references to alcohol be removed from that. He said there was an A, B, and C and A was the portion related to alcohol so the other two items related to adult establishments went to A and B and just remove the alcohol. Currently, our ordinance permits "drinking establishments" within the Commercial and Neighborhood Business zoning districts as a Special Use. However, the only definition for "drinking establishments" is listed as "bars/lounge/pub". In order to provide clarity Staff recommends a more specific definition for "drinking establishments". This definition would include establishments that prepare and serve alcoholic beverages on-site either as a primary or accessory use.

Staff also proposes amending the current definition for "restaurants" in the Holly Ridge ordinances in order to align this definition with that utilized by the State ABC Commission. In order to qualify as a restaurant, gross receipts for food and nonalcoholic beverages cannot be less than 30% of the total gross receipts and have a kitchen and sit at least 36 people. This additional requirement is taken expressly from the ABC Commission's definition and would be enforceable by the State for anyone that has been issued an ABC Permit. Restaurants within Holly Ridge are permitted by right within the Commercial and Neighborhood Business

districts and as a Special Use within the Light Industrial district. Mr. Rhue said as far as the consistency statement is concerned it is required that it be considered or the consideration for this as far as the consistency should be determined. Mr. Rhue said one of the goals is this plan

was to provide polices with clear direction to assist local decision making in consistencies findings. Staff believes an ordinance like it is does provide more consistency and provides clear direction as far as zoning is concerned.

Ms. Chaban stated she thinks it would be confusing to leave it in the ordinance if the State has the final say so.

A motion was made by *Toni Hardin* and seconded by *Olivia Chaban* to recommend approval to Town Council and adopt a consistency statement that was provided in the Staff report. *All Agreed.*

Mr. Rhue stated for clarity it is the Planning Boards recommendation to amend Section 7-4-2 by removing the alcohol reference in that ordinance and add the definition in article 12 for drinking establishments and the additional verbiage for restaurants. Planning Board members Toni Hardin and Olivia Chaban agreed.

Zoning Text Amendment – Section 7-4-16 – Mobile Vendors

Mr. Rhue said at the Town Council on May 12th, direction was not provided to Staff and the Planning Board regarding a proposed amendment to Section 7-4-16 related to mobile vendors. During their discussion on May 12th, Town Council has offered little more specific direction as to how they would like to see the amendment crafted. All members of Town Council agree that mobile vendors should be permitted in all residential districts. All but one member agree that this would also include residential districts with permission from an established homeowner's association. All Town Council members agree that the current yearly fee (\$500) be prorated each calendar year, with all permits expiring at the end of the calendar year regardless of time issued. Mr. Rhue said all but one member agree to keep the current fee amount at \$500.00. All of the Planning Board members also agree that this fee be waived for established "brick and mortar" establishments that apply as an extension to their established business.

Listed below are three sections regarding Mobile Vendors:

A mobile vendor permit shall be required prior to the operation of a mobile vendor trailer or vehicle. A \$500.00 regulatory fee will be assessed to cover the costs associated with regulation of mobile vendors. All mobile vendor operators shall obtain an annual permit from the Zoning Administrator. No fee shall be required for mobile vendors operating at a Town approved special event, nor shall such operation at a Town approved special event count towards the five property limit per permit.

A mobile vendor permit is valid through December 31st, of the year upon which the permit was issued. This permit shall be posted in a visible location on the mobile vendor.

Mobile vendor operators shall have the signed approval of the property owner for each location at which the vendor operates. This approval must be available with the permit

application. A mobile vendor permit allows a permittee to operate at up to five different properties.

A mobile vendor operating as a food truck shall provide documentation of approval from the North Carolina Department of Health. A valid health permit must be maintained for the duration of a mobile food truck vendor permit and shall be placed in a visible location for public inspection.

Regulations

Mobile vendors shall be allowed in the Neighborhood Business and Commercial zoning districts with the following restrictions:

Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.

Mobile vendors shall only operate on private property, unless they are part of a Town approved special event.

No mobile vendor shall conduct business on any public right of way, sidewalk, upon any public road in the Town, or on any property owned by the Town; except for Town approved special events.

A mobile vendor must have the following fire extinguisher on board during hours of operation: minimum Class 2A, 10B and C rated extinguisher. If food preparation involves deep frying, a Class K extinguisher must also be on the truck. All national Fire Protection Association standards shall be met to include fire extinguishers and fire suppression hood systems shall be maintained.

A mobile vendor shall not operate as a drive in window.

Lighting shall be such that minimizes the glare on the roadways and surroundings.

No signage shall be allowed other than signs permanently attached to the motor vehicle and one temporary sign may be permitted in accordance with the temporary sign standards in 710-1-B-6.

The noise level from the mobile vendor truck shall comply with the Town's noise ordinance.

No vendor shall remain on site at one property for more than 12 consecutive hours, with exception of a holiday weekend if holiday falls on Friday or Monday.

Mobile Vendors shall be positioned at least five feet away from any fire hydrants, any fire department connection, utility box or vault. The mobile vendor truck shall not locate within

any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. A mobile vendor shall not impede ingress and egress from driveway entrances, handicapped parking spaces and ramps, building entrances and exits.

Regulations specific to food truck vendors are the following:

The food truck shall be positioned at least 100 feet from the customer entrance of an existing restaurant during its hours of operation; unless the vendor provides documentation that the restaurant owner supports a closer proximity.

A trash receptacle shall be provided for customers. All associated equipment including trash receptacles, must be within three feet of the food truck.

No liquid, grease or solid wastes may be discharged from the food truck. No waste may be disposed of in tree pits, storm drains, the sanitary sewer system or public streets.

Suspension and Revocation of Permit

The permit issued for the mobile vendor business may be revoked if the vendor violates any of the provisions contained in this article.

The Zoning Administrator may revoke a permit if he or she determines that the mobile vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.

Mr. Rhue said Staff's recommendation under Permitting -is the \$500.00 regulatory fee be prorated within the calendar year at the time the permit was issued.

Under Permitting -another change is to have a notarized approval available with the permit application.

Under Permitting- add Mobile vendors with an operating "brick and mortar" establishment within the zoning jurisdiction of Holly Ridge will be exempt from the required permit fee if the mobile vendor operation is an extension of the established business. A mobile vendor permit as noted will still be required.

Mr. Rhue stated Staff recommends adding the following:

Under Regulations - mobile vendors shall be allowed in the Neighborhood Business, Commercial and Light Industrial zoning districts. (Light Industrial was added).

Mobile Vendors shall be allowed in zoning districts other than Neighborhood Business, Commercial, and Light Industrial with the following restrictions:

All mobile vendors shall be located in common open space of the property. Common Open Space is defined as "open space held in common ownership by property or unit owners in a development, normally provided for in the declaration or restrictive covenants".

Staff recommended that an approved Special Event Permit shall be secured through the Town of Holly Ridge. The property owner shall be required to secure the Special Event Permit noting all mobile vendors participating in the event. A Special Event permit can be applied for no more than five times per calendar year. Mobile vendors participating in such special events shall not be deducted the allotted property locations. Mobile vendors do not have to apply for this.

Mr. Rhue stated as far as the consistency statement this would provide policies with clear direction to assist local decision making and consistency findings for zoning, divisions of land, and public and private projects. It is in the public interest because it will provide clarity to existing ordinances and provide additional opportunities for business growth with the intentions of growing interest in Holly Ridge.

Mr. Rhue stated for the minutes that other municipalities he spoke with do not recommend mobile vendors coming into neighborhoods either because of the traffic congestion.

A motion was made by *Toni Hardin* and seconded by *Olivia Chaban* recommend approval and send to Town Council. *All Agreed.*

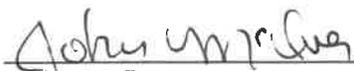
A motion was made by *Toni Hardin* and seconded by *Olivia Chaban* to adopt the consistency statement as presented in the staff report including the Land Use conditions as obtained in section 7-4-16 mobile vendor as submitted by Staff. *All Agreed.*

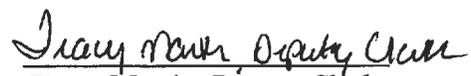
Board Questions/Comments

Adjournment

A motion was made by *Olivia Chaban* and seconded by *Toni Hardin* to adjourn at 7:20 p.m. *All Agreed.*

ATTEST:


John McIver


Tracy Martin, Deputy Clerk