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TOWN OF HOLLY RIDGE BOARD OF ADJUSTMENT MEETING MINUTES March 22nd, 2022 6:00 P.M.

Call to Order

The meeting was called to order at 6:00 PM. Board members present were Chairwoman Toni Hardin, Verne Jones, and Dave Mosey. Also present were Nathan Rhue, Community Development Director and Marsha-Gray Kircher, Community Development Administrator. Applicants Mark and Elsie Yusufi were 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 January 25, 2022, as is. *All Agreed.*

New Business

Special Use Permit – NC Cruisers, LLC – 1061 E Ocean Hwy

Chairwoman Toni Hardin announced the case NC Cruisers, LLC and the request for a Special Use Permit. Chairwoman Toni Hardin explained that the hearing on this request is quasi-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 come up to the front to be sworn in and then return to their seat.

Applicants Mark and Elsie Yusufi, Liz Sadler 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 none.

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 before, 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 NC Cruisers, LLC – request for special use permit. Nathan Rhue requested that the Staff Report previously provided to the Board and the applicant be entered into evidence as Exhibit A. Chairwoman Toni Hardin asked if there was anyone present that would like to examine the staff report or object to its submission. There were none. Chairwoman Toni Hardin admitted the staff report as Exhibit A without objection.

Nathan Rhue explained to the Board that the application is pertaining to a request for a special use permit for the property located at 1061 E Ocean Hwy, parcel number 029984. The property is approximately 0.21 acres and is currently zoned Neighborhood Business (NB). In the Town's ordinance, auto, truck and motorcycle sales are permitted with a special use permit. The previous use was Sundial Coffee & Tea. Nathan Rhue explained that the actual location is adjoining building for office use, the proposal as submitted is for the office use for the car dealership with the applicant explaining in the application that no vehicles were intended to be displayed. Currently there is a small office building, which is the location in question with this request.

Nathan Rhue mentioned to the Board that the future land use map does designate this property as commercial use. This location is within the Town's ETJ. In the staff report, there is a sketch plan showing that the one side of the building would be for office use only.

Nathan Rhue explained that in considering a special use permit there are additional considerations that must be considered by the Board of Adjustment. Per Section 7-5-10, the Board must make an affirmative finding of each of the following items prior to issuance of the Special Use Permit.

Section 7-5-10 (B) The Board of Adjustment shall issue a Special Use Permit only when the Board makes an affirmative finding for each of the following:

(1) 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 applicant provided that there will be no endangerment to health or safety. We are moving current office from 312 Hwy 17 North to 1061 E Ocean Hwy. We will be working by appointment only.

Staff provided that a rough sketch of the site was submitted. The proposed use is strictly for office use with no intent of having vehicles displayed. For background purposes, if this was just for an office area, this would not be an issue, but the fact that it is being labeled as an auto, truck and motorcycle sales, is the reason it became a special use permit. Special use permits do go along with the property, this would be something that would be held to the property for future use should this be moved. However, conditions could be applied based on the Board.

(2) That the use meets all required standards set forth in this Ordinance;

The applicant provided that it does.

Staff provided that the proposed use meets all the required standards of this ordinance. However, prior to issuance of an approved zoning permit the applicant will be required to provide the following:

- a) Submission and approval of site plan identifying applicable requirements such as buffering, parking, etc.;
- b) Verification of compliance for all, if any, additional reasonable conditions posed by the Board.

If the proposal is approved the conditions above should be included.

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;

The applicant provided that it will not injure the value of adjoining property. There is currently an office there.

Staff provided that the current use of the property is vacant. The previous use of the property was Sundial Coffee & Tea. While this request is strictly for an office area, the previous use could be considered in relation to this standard – the adjoining building is also vacant. Consideration may be able to be given for retail sales versus an office area.

(4) 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.

The applicant provided that it will be in harmony with the area. It will be primarily used as a used car dealer office. It will not be used as a lot. There will be no cars displayed.

Staff provided that the Town's Future Land Use map contained in the Comprehensive Growth Strategy Plan identifies this property for future "Commercial" use. This is also true with most properties along E. Ocean Road. The proposed density of the project would be more in harmony with the "Commercial" designation of the future land use map rather than any residential classification. The adjoining property owners per the Town's ordinance have been notified of this hearing.

Chairwoman Toni Hardin asked if the Board had any questions for staff. There were none. Chairwoman Toni Hardin called on the applicant and other proponents of the request; if there any attorneys or other representatives to give a general summary, the Board would like them to go first.

Applicant Elsie Yusufi with NC Cruisers, LLC explained to the Board that they are currently renting a space at 312 US Hwy 17 N for their business, and they would like to move it to 1061 E Ocean Hwy. There is an additional to the side of the building where Sundial used to be, which is currently an office, which they would like to use as an office.

Verne Jones asked where they maintain the vehicles that they are going to sell. Applicant Mark Yusufi with NC Cruisers, LLC answered that they are not a traditional dealership, they specialize in specialty cars. Mark Yusufi explained that they purchase a vehicle specific to the order, they do not purchase vehicles and then display them to sell them. They have clients that come to them with a specific vehicle that they are looking for, they search for that vehicle, find it, send pictures to the client and purchase the car if the client would them to pursue the sale. Mark Yusufi mentioned that they may keep the car at this location for a couple of days until pick up and delivery to the client can be arranged. They are not a traditional dealership that displays 10 or 15 cars on the lot for sale. These are nice high-end vehicles which would be kept behind the office building.

Dave Mosey mentioned that as a result of the way that the applicant is doing business, there would be no expectation they would have multiple people waiting outside, since it is by appointment only. Applicant Mark Yusufi answered yes, they would have their phone numbers posted and have connections in other states across the country that they work with to locate these specific cars for clients or refer them to. Dave Mosey mentioned that you would not expect to have 15 cars in the parking lot waiting for pick up and delivery. Applicant Mark Yusufi answered no, that is not what they do, they only deal with 1 or 2 customers at a time, they do not do multiple car sales at the same time. They may sell 10 cars in one year, not a large crazy amount of cars each year – these are specific cars for clients that are very picky and looking for a certain vehicle – looking for the right car for the right customer.

Dave Mosey confirmed that the applicant would never have the car that they are proposing to sell for someone parked at the lot, and no maintenance of the car. Applicant Mark Yusufi answered that there is no maintenance of the car, they do no work on them at all, they sent them off for that, and if there is any car kept on the property it would be parked behind the building and it would not be for sale to the public as it was specially purchased for a certain client. They do not plan on changing their business structure and will continue doing it as they always have – a certain car for a certain client, not for sale to the public.

Chairwoman Toni Hardin asked if there were any questions from the Board or Staff for the applicant. Nathan Rhue mentioned for clarification purposes that the request is for the office area but being that special use permits go with the property, that section is not on its own – 1061 E Ocean is both, the office and the one it is connected to. If approved, that would not be all that you could do with it as there is other permitted uses. But the property concerning this is 1061 E Ocean, not just a portion of it.

Chairwoman Toni Hardin asked for clarification that if it just going to be an office and a car lot that the Board could request additional conditions. Nathan Rhue answered that they stated their operation of business is that there is no vehicle storage, or a display on cars on a car lot – if a special use permit is issued without conditions, it could be a regular car lot in the future.

Applicant Mark Yusufi explained to the Board that in order for them to be able to move their dealership office to this location they have to go through Department of Motor Vehicles Theft & Bureau, and they have to approve the location according to the Town's permission. In order for them to approve that, there needs to be at least 2 parking spots for the vehicles being sold. Their current location has no cars on displays, and they have been leasing it for 1 ½ years. Applicant Mark Yusufi mentioned that occasionally they meet clients at the office, otherwise it is over the phone as they have out of state clients.

Applicant Mark Yusufi mentioned to the Board that the permit would need to state that there are 2 parking spaces at this location for vehicles in order for the property to be approved as the location for the dealerships office and asked that this be noted on the permit. It was also mentioned that the space that used to be Sundial will be up for rent as they are currently under contract to purchase the building and close at the end of this month. Applicant Mark Yusufi mentioned that they also live in Holly Ridge, in the Neighborhoods of Holly Ridge.

Nathan Rhue explained that this special use permit will go with the property, should the applicant decide to rent it out, with no conditions on the permit, that another person could come in and use the property as a traditional car lot. Chairwoman Toni Hardin asked if there is anything in the Town Ordinance pertaining to the number of spaces a car lot can have. Nathan Rhue answered there are no supplemental items relating to a car lot. Chairwoman Toni Hardin asked if the Board could limit the number of spaces and the location of spaces on the permit. Nathan Rhue responded that would be something that the Board could consider and set conditions. Nathan Rhue mentioned that the applicant mentioned that should they have any vehicles on the property that they would be kept on the rear of the property.

Chairwoman Toni Hardin asked if there were any additional questions for the Board or for Staff. There were none. Chairwoman Toni Hardin asked if there was any proponent that was planning on giving testimony. Liz Sadler of 1071 E Ocean Hwy responded that she was originally a proponent until now that she has heard what will be going on. Liz Sadler asked if there would be any large car carriers coming to this location for deliveries. Applicant Mark Yusufi responded no. Liz Sadler stated that her concern is that their right of way adjoins this parking lot, and they maintain it. Liz Sadler asked if they are like a Carvana. Applicant Elsie Yusufi responded no they are nothing like that, they are a small mom and pop dealer.

Applicant Mark Yusufi mentioned that this is not their primary business, but they have been doing this for a long time, they have a passion for cars. Liz Sadler mentioned to them that there is

swampy area out the back of the property and wanted to make sure they were aware of that. Applicant Mark Yusufi responded that they were aware of that and also a septic system located back there, but they only plan on have 2 car parking spaces right against the back of the building.

Chairwoman Toni Hardin asked if there were any additional questions for the Board, Staff or applicant. There were none. Chairwoman Toni Hardin announced that the Board would move into deliberation. Chairwoman Toni Hardin asked for discussion from the Board and reminded the Board that all standards should be considered individually and can be voted on as they are discussed.

Chairwoman Toni Hardin began discussion on standard number 1: 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. Chairwoman Toni asked if there was any discussion. There was none. Chairwoman Toni Hardin mentioned that there is currently an office there at the location, while it would continue to be used as an office, it would not materially endanger the public health or safety.

A motion was made by *Verne Jones* and seconded by *Dave Mosey* to accept the findings of the first standard. *All Agreed.*

Chairwoman Toni Hardin began discussion on standard number 2: That the use meets all required standards set forth in this Ordinance. Chairwoman Toni asked if there was any discussion. There was none. Chairwoman Toni Hardin mentioned that prior to the issuance of the permit there be submission and approval of site plan identifying applicable requirements such as buffering, parking, etc.; and verification of compliance for all, if any, additional reasonable conditions posed by the Board. Discussion amongst the Board included the location of the parking for the vehicles being sold, and the number of parking spaces. Dave Mosey made a recommendation that it be limited to a total of 2 parking spaces for the vehicles being sold and for them to be located in the back of the building.

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to accept the findings of the second standard with conditions set; total of 2 parking spaces located in the rear of building for vehicles being sold. *All Agreed.*

Chairwoman Toni Hardin began discussion on standard number 3: That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity. Chairwoman Toni asked if there was any discussion. There was none.

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to accept the findings of the third standard. *All Agreed.*

Chairwoman Toni Hardin began discussion on standard number 4: 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. Chairwoman Toni asked if there was any discussion. There was none. Chairwoman Toni Hardin mentioned that it is currently zoned Neighborhood Business, and the future land use plan shows this location as Business. Car sales are allowed in Neighborhood Business with a special use permit, and the use would be in harmony with the surrounding area.

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to accept the findings of the fourth standard. *All Agreed.*

Chairwoman Toni Hardin closed the hearing.

A motion was made by *Verne Jones* and seconded by *Dave Mosey* to grant the special use permit. *All Agreed.*

A motion was made by *Dave Mosey* and seconded by *Verne Jones* to direct Staff to prepare the special use permit and allow Chairwoman Toni Hardin to sign the special use permit. *All Agreed.*

Nathan Rhue explained to the applicant that once the special use permit has been prepared and signed that they will be notified to come to Town Hall and pick it up. It was also mentioned that special use permits must be recorded with the clerk at the Onslow County register of deeds office in Jacksonville within 90 days of issuance.

Board Questions/Comments

There were none. Chairwoman Toni Hardin asked Nathan Rhue if there were any updates. Nathan Rhue mentioned that Circle K is now open.

Adjourn

A motion was made by *Verne Jones* and seconded by *Dave Mosey* to adjourn the meeting at 6:40 PM. *All Agreed.*



Toni Hardin
Chairwoman



Marsha-Gray Kircher
Community Development Department