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TOWN OF HOLLY RIDGE PLANNING BOARD MEETING MINUTES March 16th, 2021 6:00 P.M.

Call to Order

The meeting was called to order at 6:00 PM. Members present were John McIver, Toni Hardin, Wanda Wills and Nicholas Tripp. Also present were Nathan Rhue, and Marsha-Gray Kircher from the Community Development Department. Wes MacLeod from Cape Fear Council of Governments was also in attendance.

Invocation and Pledge of Allegiance

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

Adoption of Agenda (Additions and/or Deletions)

Nathan Rhue asked that Section 7-9-4, location of accessory structures be added to the agenda to discuss after updates to code of ordinance to reflect 160D updates and additional amendments. Town Council asked for the Planning Board to provide a recommendation on how to allow them if that is the Board's recommendation. A motion was made by **Toni Hardin** and seconded by **Nicholas Tripp** to adopt the agenda with addition. **All Agreed.**

Adoption of Minutes

A motion was made by *Nicholas Tripp* and seconded by *Toni Hardin* to adopt the minutes from Planning Board Meetings held on February 16th, 2021. *All Agreed.*

New Business

Updates to Code of Ordinances to reflect 160D updates and additional amendments.

Presented by Wes MacLeod – Substantial number of amendments that have been proposed to several codes of the Town’s Ordinances. Modifications associated with the required legislative update have been included within Chapter 2: Planning Board and Board of Adjustment; Chapter 6: Building Regulations; Chapter 7: Zoning Regulations; Chapter 8: Subdivision Regulations; and Chapter 21: Flood Damage Prevention Ordinance. Wes MacLeod mentioned that all local governments administering land development regulations must update their current codes no later than July 1, 2021 in accordance with the new planning legislation for North Carolina. The City and County planning and zoning laws have been consolidated from 160A and 153A to 160D.

Wes MacLeod mentioned that in addition to required statutory updates, several revisions have also been proposed to the subdivision and zoning ordinance per staff recommendations to help clarify the existing provisions of the ordinance which are the ancillary subdivision and zoning ordinance items. Wes MacLeod explained to the board that the strikethrough text indicates deletion, and underline text indicates new language. Wes MacLeod stated that none of the changes are problematic or concerning as there is not any impact due to them being all administrative. Wes MacLeod read through his summary sheet and discussed the 160D Update Items:

- Update any references to provisions in Chapter 160A to indicate relevant provisions in Chapter 160D. Align ordinance terminology with Chapter 160D terminology, including appropriate definitions.
- Revise conflict-of-interest standards and rules of procedure requirements, where applicable.
- Update enforcement procedures for notices of violation and revocation of approvals.
- Update zoning map inspection and filing standards.
- Update the statutory subdivision definition and provide for expedited minor subdivision approvals. Ensure subdivision performance guarantees comply with statutory requirements.
- Update notice requirements for zoning map amendments. Update consistency statement procedures for Planning Board and Governing Board.
- Revise third-party rezoning requirements.
- Ensure quasi-judicial procedures are compliant with statutory requirements.

- Ensure development approvals are valid for a period of one (1) year per statute.
- Update vested rights and permit choice regulations in accordance with statutory requirements.

Wes MacLeod read and discussed the Ancillary Subdivision and Zoning Ordinance Items:

- Provide definitions for flea market, flag lot, off-street parking, and roadside stand. Provide uses and definitions for yard sale, microbrewery, micro distillery, commercial recreation, and retail store.
- Update Chapter 7 Planning Board Powers and Duties as in accordance with Chapter 2. Remove conflicting language regarding Planning Board and Board of Adjustment procedures within Chapter 2.
- Require paving or similar material for construction of off-street parking lots of 10 or more spaces. Reduce off-street parking requirements by 50% where a use is located within 500 feet of public on-street parking.
- Require street lighting for subdivisions of 10 or more lots.
- Require public streets and infrastructure to be dedicated to the Town within one year of final plat approval and/or prior to transfer of ownership from developer.
- Clarify street construction shall be in accordance with the Town's Policy for Street Improvements and Maintenance.
- Require five-foot sidewalks for all new major subdivisions on one side of the street and on two sides of the street for all subdivisions of 25 or more lots.

Wes MacLeod opened the floor to questions if there was nothing further that Staff needed to discuss or mention. Nathan Rhue mentioned that the staff recommendations in the ancillary items are a cleaning up, no substantial modifications outside of clarifying words and punctuation. Wanda Wills mentioned that she lives in the Neighborhoods had a question regarding the streets going to the Town after a year. Wes MacLeod explained that if the streets on a subdivision plat are identified as for public use to be dedicated to the Town, the requirement would be they need to be offered up for acceptance either at the time of final plat, or within a year. In the instance of private streets, they are going to be private, the Town only requires that they be constructed in accordance with certain standards, but there is no mechanism required for them to be accepted by the Town. Wes MacLeod went on to discuss that private streets are a big problem in our region because of the lack of maintenance issues and a lot of HOA underfund their maintenance requirement. This creates issues when the streets become damaged, and then who is held accountable for the repairs. There are a lot of communities that strongly discourage private streets, others that believe there should only be private streets.

Nathan Rhue mentioned that the Town has some streets that have been completed for 9 years and would now like to dedicate them to the Town. With this time frame, it gives people the opportunity to go ahead and do it before anything happens and additional repair work and maintenance is required. Nicholas Tripp asks if they have an obligation to turn the roads over in one year, what is the consequence if that does not happen. Wes MacLeod answered that they would likely

be subject to a violation of the zoning ordinance or subdivision ordinance. Nicholas Tripp asks what that penalty is. Wes MacLeod answers that there are fines that can be added, and other declaratory items could be pursued from a civil matter. Enforcement is difficult, short of requiring at the time of final plat approval them be accepted, could you do that, because then the subdivision lots would not get recorded unless the streets are being turned over. Nicholas Tripp asks if verbiage can be added as he feels that there are rules put out there, but what is the consequence. Wes MacLeod responds that enforcement is difficult in any jurisdiction and that the Town is trying to be proactive making sure that the construction standards are met and at time of construction there is some form of inspection and oversight. Nicholas Tripp asked if a provision could be added to hold accountability. Wes MacLeod responds that the provision is that the owner does not transfer the roads to another party, that they are responsible for them. There is no perfect solution on how it is handled but need to figure out what works best for the community.

John McIver asked how to proceed with the review. Wes MacLeod suggested that any questions be asked that the Board may have. Wes MacLeod asked if there were any questions on chapter 2. Nathan Rhue asked if anyone had any specifics that they would like to address, or any questions. Wes MacLeod discussed that chapter 2 is just clarifying and making sure that chapter 2 is in conformance with chapter 7, statute reference changes. Chapter 6 is similar, there is statute references, nothing of substance. Chapter 7 is the zoning ordinance, which were identified in the summary. Chapter 8 there is a requirement now that speak to entering a premise for inspection purposes. If the Town did not change its ordinances, the statute is still going to trump whatever is in the Town's ordinance. These changes are now more specific, they are additions. Majority of these items except for zoning and subdivision items are statutory in nature. There are items such as notices that have changed, vested rights, planning board duties removed from chapter 2 and put into chapter 7, and conflict of interest pertaining to appointing board members. Familial relationships have also been expanded and defined.

Wes MacLeod discussed 7-4-17, the provisions added for a microbrewery or micro distillery. Additional changes discussed included the specific requirements for Special Use Permits that all conditions be consented to in writing by the applicant or landowner is new, it is minor, but it is a new statutory provision. There is also now no downzoning allowed for third parties, so I could not request the downzoning of someone else's property either through a text amendment or a rezoning, the Town could still do that, but by statute a third party cannot. There is updated information about consistency statements for Town Council and notice of violation items have been clarified. A lot of these changes that occurred in the statute is wordsmithing. Parking and loading in section 7-9-7, 7-9-11, there has been allowance for on-street parking spaces and the requirements of parking lots have been expanded. There have also been some definitions that have been added to Chapter 7, most are minor. Nathan Rhue asked about performance bonds and forms of payments accepted, whether cash or cashier's check can be removed. Wes MacLeod responded that the general statute is in favor of the developer, but it would be a good question for the School of Government if the local government has the authority to specify. Wes MacLeod mentioned the addition of microbrewery, micro distillery to the table of uses. Outdoor flea markets have been made special use permits, and yard sales have been permitted as well.

Wes MacLeod asked if there were any questions. Wanda Wills asks what the definition is for temporary housing if it included short term rentals. Wes MacLeod answers that there is a specific provision for temporary housing and that it is not short-term rentals. This provision was added after Hurricane Florence which is basically where the home where you live is damaged and it allows you to pull an RV or camper onto the property as long as there is a building permit pulled to proceed with repairing your home. It was a big problem for a lot of communities after Hurricane Florence. Nathan

Rhue had a question about the definition of manufactured homes, in reference to the date. Wes MacLeod agreed that 1976 could be added as that is where the HUD codes came into play.

Wes MacLeod discussed Chapter 8; subdivisions. There is an expansion to the definition of subdivisions, and expedited minor subdivisions are also now allowed. There was not a lot of changes to subdivisions ordinances. The street disclosure statement has been updated, similar to what was discussed in reference to acceptance of public streets within one year of approval and public streets shall not be transferred to HOA or lot owners prior to acceptance by the Town. Chapter 8-36.5 street construction standards have been updated in line with the Town's policy of street construction and maintenance. Nicholas Tripp asks about sidewalks in regards to them being on one side of the street, and not both. Wes MacLeod referenced that 8-36.8 under K, is where the sidewalk requirements are located. Nicholas Tripp asks why the number of lots has been set at 25 for sidewalks on both sides of the street to be required. Wes MacLeod responded that it is a big investment for a developer, if it is a 10 or 15 lot subdivision, and to imagine that a smaller size subdivision would have a less amount of traffic and would not warrant needing to have sidewalks on both sides of the street. Wes MacLeod mentioned that the Town could adjust the number of lots, but to be aware of not being too excessive.

Nicholas Tripp asked if the number of lots could be increased and he felt that 25 lots is a small number considering that a cul-de-sac could have 25 lots. Wes MacLeod answered that the number of lots could be increased from 25. Nathan Rhue mentioned that he was comfortable with the amount being 25. Nicholas Tripp confirms that sidewalks are already required on all streets on one side, Wes MacLeod responded that is it a requirement for all major subdivisions. Nicholas Tripp asks what the definition is of a major subdivision. Wes MacLeod responded that a minor subdivision is less than 10 lots, and that a major subdivision has more than 10 lots.

Wanda Wills asks if the Preserve at Morris Landing is outside city limits as there is no sidewalks. Nathan Rhue answered that it is in city limits. Wanda Wills asks why it does not have sidewalks. Nathan Rhue responds that when the subdivision was first approved, it is likely that there was no sidewalk requirement. Nicholas Tripp brings up that the Preserves have 176 homes, that would be a lot to do sidewalks on both sides of streets. Nathan Rhue mentions that this is an example of where the Planning Board comes into play, if they wanted to make a recommendation to change that requirement, they could as there is nothing to prohibit them from doing so. Toni Hardin asked about exceptions in the past in relation to sidewalks. Wes MacLeod mentioned that there was a payment in lieu of in the past, but that was changed many years ago as there was no account ever established. There was also number 2, under 8-36.9 K that is proposed to be stricken, and this is all subject to the Planning Boards recommendation. Wanda Wills asks if the Town is coming into compliance with the rest of the region, or the state with this document. Wes MacLeod answered that all of the 160D updates, the statutory items, are complying with state rules.

Nicholas Tripp asks if the sidewalk requirement is also for commercial properties and mentions that property that has been approved from commercial in the front, with residential in the back, and asks if the commercial property will require a sidewalk along Highway 17. Nathan Rhue answered yes, and that he looked at it from a planning standpoint in regards to there being a lot of vacant properties along Highway 17, and there has been discussions of sidewalks to Surf City, and for Highway 17 to have sidewalks for walkable traffic. Wes MacLeod mentions that the future land use plan has Highway 17 as a commercial corridor. Nicholas Tripp asks who will own and maintain the sidewalks along Highway 17. Wes MacLeod answers that typically if they are in the corporate limits that it would be under the responsibility of the Town, but if they are in the ETJ, that is different discussion, and usually the adjacent property owner would be responsible, or an HOA. Nicholas Tripp asks if the Town takes declaration of the roads, that they would be responsible for the sidewalks. Wes MacLeod answered that is correct. Nicholas Tripp suggests increasing the number of

lots so that Town does not have to take care of two sets of sidewalks on every road. Wes MacLeod responds that the number can be changed, and that the Board can make a recommendation in regards the number, or not to change the requirement. Nicholas Tripp mentions that if it is a gated community, that they can do what they want, if they want to put sidewalks on both sides of the street they could. Toni Hardin mentions that these rules need to be legislate for all, they apply for everybody, whether they are public or private roads within a subdivision. Wes MacLeod mentions that the reason why communities do require sidewalks on both sides of the street is primarily from a public safety standpoint, and property value implications as well. Wes MacLeod tells the Board that if they are not comfortable with it, that they can make a recommendation to strike it and not have sidewalks on both sides of the street or change the number of lots. Nathan Rhue asked if anyone would like to make a recommendation on it. Nicholas Tripp states that he would like to make a recommendation to strike it.

A motion was made by *Nicholas Tripp* and seconded by *Toni Hardin* to a strike the requirement of sidewalks on both sides of the streets in all subdivisions with 25 or more lots. *Nicholas Tripp* and *Toni Hardin in favor, Wanda Wills against.*

Wes MacLeod asked if there were any additional questions in reference to Chapter 8. Toni Hardin had a question in reference to the maximum height allowance in Camp Davis Industrial Park, if this can be done while these changes are being made. Toni Hardin clarifies that this would be for non-residential, unoccupied structures such as the ones that have come before the Board of Adjustment for variances. Nathan Rhue mentions that after discussing it with the Board of Adjustment if that is something that should be addressed as a text amendment rather than continued variances. Wes MacLeod recommends that the text amendment be very specific. Nathan Rhue states that additional research is required, and other parties are involved such as base and the FAA and will discuss it again at a later time. Wes MacLeod asked if there were any additional questions about subdivisions. There was none.

Wes MacLeod moved on to the last item, chapter 21, flood damage prevention ordinance, and that there was only one minor reference change. Wes MacLeod stated that completed his summary of all changes of the 255 pages, and that there are several recommended staff changes, and the recommendation to strike the sidewalks on two sides of the street requirement as of right now for the draft. Wes MacLeod informs the Board that they can make their recommendation to Town Council, subject to those changes, or that it can be tabled to the next meeting. John McIver asks if there is any additional discussion or questions for Wes MacLeod or Nathan Rhue. There was none. Nathan Rhue reminded the Board that the items to take into consideration were the memo from Wes MacLeod with the 160D updates, the other amendments that are part of 160D, the modifications of the sidewalks, and the other staff modifications. Wes MacLeod and Nathan Rhue mention that if the Board would like to proceed to make a motion to adopt the consistency statement and recommendations subject to changes discussed. John McIver asks if there is a motion.

A motion was made by *Toni Hardin* and seconded by *Wanda Wills* to adopt the consistency statement and recommendations subject to changes discussed. *All Agreed.*

The Planning Board moved on to the next item to be discussed. Nathan Rhue mentioned to the Board that at the last meeting, they recommended denial of the request to amend the ordinance for the accessory structure to allow them in front yards. Town Council addressed it last week and they did not want to adopt it, rather for the Planning Board to come up with some

possible regulations to allow such structures, if that is what the Board recommends. Wes MacLeod mentions that these are problematic for various reasons, and this his only recommendation is that if the Board does allow it, to be very specific, and that 10 feet from a property line is very close. Wes MacLeod left the meeting.

Toni Hardin mentions that one the issues is that it does not describe what the carport can be like, as some carports can have full sides and others do not. Nathan Rhue responded that a carport is defined in our ordinance, maximum of two sides. Nathan Rhue states that by definition a carport is a roofed structure enclosed on not more than two sides and used for the parking of motor vehicles. Toni Hardin mentions that the fact that it is enclosed on two sides prevents view, for example if you are backing out and it is only 10 feet, you cannot see. Nathan Rhue mentions the recommendation that was provided last month, because of the inconsistency with the land use plan as well as the safety aspect it could pose for neighboring property owners coming out of their driveways, and that recommendation was for denial. The Town Council were torn with their decision, and the applicant had already decided to install the structure. Toni Hardin states that moves it against it, not for it, for her, if someone does something wrong and asks for forgiveness, it is not the same as asking for permission. Wanda Wills mentions that there is additional properties in Town that have carports, and inquired how that was possible. Nathan Rhue responds that there are carports that have most likely been installed before the ordinance.

Nicholas Tripp mentions that he has thought about what carports would be like in the subdivisions, would I want to see a carport in a front yard in the Preserve at Morris Landing; the answer is my restrictive covenants do not allow it. Toni Hardin states that it really is a safety issue for her when they want to put them in the front yards right next to the road. Wanda Wills states that the whole issue is in the front yard. Nathan Rhue asks for clarification if this discussion is just for carports, or all accessory structures, would a shed be allowed in the front yard? The existing ordinance is that all accessory structures be in the side or rear yard. Nicholas Tripp asks if it could be a broader statement, that it cannot be four walls and a roof, only two walls. Nathan Rhue responded that would be a carport with two walls. Toni Hardin mentions that even a gazebo has more than two walls along the bottom to hold the structure. Nicholas Tripp states that they are not full enclosed walls. Wanda Wills responded that it still obstructs vision, and that it is also aesthetics; you do not want everyone to have everything in their front yard.

Nathan Rhue discusses that in his experience and based on previous communities, there are continuous complaints always of something that is protruding out the front and residents cannot see out of the driveway, and that is does not look good for the neighborhood, and so forth. Based on experience, it was his recommendation last month to deny it, from staff's side of things, it could be an issue versus one person requesting a carport in the front yard. Staff does not have a lot of requests for this. In every zoning district, the front yard setback differs, for example R-20 has the largest front setback of 35 feet, then they get smaller due to smaller lot sizes. Nicholas Tripp asked if he had of attached the carport to the house, would it have been allowed. Nathan Rhue responded that if it were attached and met the minimum setbacks, yes it would have been allowed. But due to the front setbacks for that particular property, it still would not have worked as the structure would be in the front setback.

Wanda Wills asked if the other existing structures are grandfathered in. Nathan Rhue answers that yes, they would. John McIver mentions that they were built with no permit and did not get caught. Wanda Wills asked if the applicant is continually being fined. Nathan Rhue answered no, it is a stay of enforcement until it is corrected, but if the ordinance is amended, or

however this turns out, and he remains in violation, then he would have options to remove it or be penalized. Nicholas Tripp asks if the Town has a say in aesthetics. Nathan Rhue answered no. Toni Hardin mentions that it is not always about aesthetics and what something is made of, but to think of how developers put the septic tanks in a line and the houses are all in a row for aesthetics, for the beauty of the neighborhood. If everybody does not have carports and this one carport sticks out like a sore thumb, neighbors may call and ask the Town why you let this happen and allow this structure to be put up.

Nicholas Tripp mentions subdivisions and how they have restrictive covenants that cover things like this, but we are talking about the Town in entirety, and there are homes that do not have garages. Nicholas Tripp is in agreeance that it should be about safety. Nicholas Tripp mentioned how the applicant brought up that if he were to put it in his backyard that it would be in the window of his neighbor. Toni Hardin said that the requirements must be for everyone, and because he put his house where it is currently located, that is on him, not on the rules. Nicholas Tripp asked if this is specifically for the front yard. Nathan Rhue responded that accessories structures are already permitted in the side and rear yard, those regulations are already in place, this is specifically allowing accessory in the front yard.

Wanda Wills mentions that Holly Ridge has some what of a reputation that it looks bad, but we are almost a bedroom community of Wilmington, and we need to have some overall standards that speak to aesthetics and safety. Nicholas Tripp asked if this amendment can be sent back to Town Council with no change. Nathan Rhue answered that they can recommend however you feel as a Board. Nathan Rhue brought up Nicholas Tripp's discussion about restrictive covenants in the subdivisions, and asked why do you think that the restrictive covenants do not allow these accessory structures in the front yard? Toni Hardin replied for aesthetics and safety. Nathan Rhue asked, why do Town's even have front yard setbacks? Toni Hardin responded to prevent blocking the view, that is also why there is sight distance easements on corners in subdivisions. Wanda Wills responded that it is also so there is some conformity and consistence in looks. Nathan Rhue brought up how the Town has recently updated the comprehensive land use plan in regard to what direction the Town wants to go, and the Board should consider that as far as text amendments and rezoning of how you understand individually and as a Board to recommend to Town Council.

Nicholas Tripp asked what the Town Council wanted from the Planning Board. Nathan Rhue responded that they wanted the Planning Board to determine if there could be a recommendation to approve with additional regulations or not. Toni Hardin mentioned that there is usually mechanisms for people to get exceptions to the rules through different means, if there is a true hardship, there is other avenues to use. Nathan Rhue mentioned that there is an example from staff as a possibility, and staff's recommendation was submitted previously to the board.

A motion was made by *Nicholas Tripp* and seconded by *Wanda Wills* to not amend the ordinance in reference to the location of accessory structures. *All Agreed.*

Persons wishing to address the Board

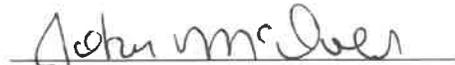
There were none.

Board Member Questions or Concerns

There were none.

Adjourn

A motion was made by *Nicholas Tripp* and seconded by *Toni Hardin* to adjourn the meeting at 7:30 PM. *All Agreed.*


John McIver
Chairman


Marsha-Gray Kircher
Community Development Department