

Town of HOLLY RIDGE

PO Box 145 * Holly Ridge, NC 28445 * Phone (910) 329-7081 * Fax (910) 329-1593

HOLLY RIDGE TOWN COUNCIL COUNCIL RETREAT March 29th, 2014

Mayor Dingler called the Town Council Retreat to order at 10:00 a.m. at the Holly Ridge Community Center. Council members present were Mayor Pro-Tem Hines, Councilman Helms, Councilwoman Stanley, Councilman Lang, and Councilwoman Bragg. Also present were Town Manager Maiorano, Attorney Kitchen, Heather Reynolds, Town Clerk, Finance Officer Susan Prather, Planning and Zoning Supervisor Larry Willaford and Tracy Martin, Deputy Clerk.

Invocation and Pledge

Councilwoman Bragg gave the Invocation and Mayor Dingler led the Pledge of Allegiance.

Adoption of Agenda

A motion was made by *Mayor Pro-Tem Hines* and seconded by *Councilman Lang* to adopt the Agenda as presented. *All Agreed.*

Manager Opening Comments

Manager Maiorano stated this year marks the 10th anniversary of the Holly Ridge Retreats. The first retreat started in 2005 and it was held in Wilmington at a restaurant called Alie's. The town's community center was built and since then the retreats have been at this location. Councilwoman Stanley questioned when the project on the left of Hwy 17 would start. Larry Willaford stated that Charles Riggs was working on the finals with ONWASA. Larry also stated that builders Mongo and Roebuck are looking for more property to keep building. Mayor Pro-Tem Hines asked if after two years and nothing has been done with the piece of property it reverts back to the old zoning. Larry Willaford stated that he has not seen the verbiage. Mayor Pro-Tem Hines asked that the staff look into this and get back to the council.

Attorney Kitchen stated that it is not legal to do that. When rezoning, you are allowing anything permissible. The idea is to keep it zoned to its original use. Councilman Helms asked does this have to be initiated by the property owner. Attorney Kitchen stated the Town can initiate rezoning and notice has to be issued.

Manager Maiorano stated that our comprehensive growth plan document is not in the hand out because the last time it was updated was in 2008. We would like for it to be completed in 2014 and see how it relates to the table of uses.

Manager Maiorano then explained what the Table of Uses is to the Town Council. Following the general discussion of the Table of Uses, Mayor Pro-Tem Hines asked if a type of business must be permitted somewhere in the Table of Uses. Attorney Kitchen said the School of Government has said if something is not listed then it was not allowed. Attorney Kitchen said the School of Government's opinion on this has changed and anything not specifically excluded is allowed due to legislation changing. Attorney Kitchen further explained a Town may not discriminate against lawful uses.

Mayor Pro-Tem Hines asked as an example if we would have to allow a strip club a permit somewhere in town if they wanted to come to Holly Ridge. Attorney Kitchen stated that we would. Attorney Kitchen went on to say that if we had a conditional use, this would allow time for them to not build until we receive a permit and meet with a quasi-judicial hearing and if the town council approves the hearing then they can build a strip bar.

Mayor Pro-Tem Hines asked what if the Table of Uses does not have a C or P. Attorney Kitchen said then the town has a problem. Manager Maiorano asked if it's not on the list than isn't it an automatic C? Attorney Kitchen replied no it is an automatic P. The Town needs to add language to our ordinances. There should not be anything but conditional use in industrial zone.

Mayor Pro-Tem Hines asked why there are so many uses in R15/R20 but not in R15A. He then went on to ask how is home occupation defined and what the scope is. Attorney Kitchen stated that home occupation is allowed as long as customers are not coming in and there are no outside storage areas allowed.

Mayor Dingler called for break at 11:05.
The meeting was called back to order at 11:15.

The following changes were discussed and will be changed in regards to our Table of Uses:

*(P) – Permitted Use
 (C) Conditional Use*

USE	Added To:	Removed From:
Baseball Ranges	OAR(P)	
Bed and Breakfast	NB(C)	
Blacksmith Operations	LI(P)	C, NB
Building Cleaning and Maint.	LI(P)	
Campsites	OAR(C)	
Childcare	LI(C)	
Conservation/Environmental Restoration	RA(P)	
Contractor's Office	MFR	
Detective Agency	C (P)	
Drag Strip & Race Track	LI(C)	NB(C)
Electrical Equipment Sales		R-20(C)
Electronic & Electrical Repair		R-20(C)
Fire & Rescue/EMS	R15A, R10A, R7.5, R7.5A, R5A, MFR(P)	
Firing Range, Indoor	LI(C), C(C)	OAR(C)
Firing Range, Outdoor	LI(C), OAR(C)	NB(C), RA(C)
Flea Markets (outdoor)	C	
Forestry Service (public)		R-20, R-15, R-10(P)
Go-Karts	C, NB(C)	
Golf Course Public/Private	OAR(C)	
Government Building	Add (P) Across All	
Government Maintenance Facility	LI(P)	
Group Homes	Add (P) to all Residential Areas	
Grading Business	LI(P), NB(c)	
Greenways	OAR, R-15A, R10-A, R7.5, R7.5A, R5A, MFR(P)	
Heating & Refrigerator Repair	LI(P)	
Hobby, Toy, Craft Store		LI
Hospital (human)	C, NB (C)	
Hotels/Motels	C, NB (C)	
Hunting Preserves	OAR(C)	
Mining & Quarrying		NB(C)

Monument Work/Sales	NB(C)	
Motor Cross Track		C, NB (P)
Oil & Gasoline Bulk Storage	LI(C)	C, NB (P)
Open Storage Facility	LI(P)	
Paving & Grading	NB (C), LI (P)	
Par 3 Golf Course	OAR(C), C(C), NB(C), RA(C)	LI
Parks & Playgrounds	OAR(P)	
Police Department	OAR, R-20, R-15, R15A, R-10, R10A, R7.5, R7.5A, C, LI, MFR, RA (P)	
Recycling Center	C(C), NB(C)	
Recycling Facility		NB(C)
Recycling Plant		NB(C)
Refineries	LI(C)	
Residential Development	R-20, R-15, R15A, R-10, R7.5, R7.5A, R5A (P)	LI(C)
Sanitarium	C, NB, LI, RA (C)	
Sheet Metal	C(C), LI(P)	NB
Supermarkets	C(C), NB(C)	
Tattoo/Body Piercing	C(P), NB(P)	LI
Temporary Construction Off.	LI, RA (P)	
Tire Recapping	C(C), LI (P)	NB
Truck, Farm Equipment	LI(P)	NB
Truck Freight (6 or fewer)	C, LI, RA(P)	NB
Truck Freight (6 or more)	C (Change from (P) to (C))	NB
Volunteer Fire	OAR, R-15A, R-10A, R7.5, R7.5A, R5A (P)	
Vehicle for Hire		R-20(P)
Warehousing	LI (P)	NB
Winery	LI(P)	

Attorney Kitchen spoke to us about Quasi Judicial. He stated that we use this for a special use permit, when there is an appeal or when there is a variance. If there is a disagreement about the interpretation of a zoning ordinance this is also a Quasi Judicial. The only other time that Attorney Kitchen said we would use a Quasi Judicial is if we remove a board member. Special use permits can only be approved after a Quasi Judicial hearing. Special rules apply for these hearings. Quasi Judicial are similar to hearings in court. There are witnesses that are sworn in, evidence is collected and you may subpoena people to testify.

Attorney Kitchen supplied scripts for all of the staff to review. If you have conflicts you have to excuse yourself from voting. If there is a financial interest you have to remove yourself. If someone has contacted you by phone or email you have to excuse yourself from the meeting. Attorney Kitchen stated that he would like to have the staff explain what is going on first instead

of just opening up. You then should have testimony from the applicants and then you should have testimony from opponents. The staff should be sworn in as well.

Attorney Kitchen stated that you have to have standing in order to oppose a special use permit. Some of the reasons that would warrant a standing would be you live right by the property, if there is financial damage to your property, i.e.: trucks continually riding by your property and you can show where it's going to cause damage, this would be Quasi Judicial. In Quasi Judicial the board will determine the facts and you have to make a decision in a timely manner. The decisions in Quasi Judicial hearings are based on confident material and substantial evidence in the record. You have to make your decision on what's in front of you. The decision must be in writing and signed by the Mayor. Attorney Kitchen stated that it has to be a written order in a Quasi Judicial hearing that is subject to be reviewed. Each decision must reflect determination of contested facts in their application to the applicable standards in the ordinance. Attorney Kitchen stated that the decision is effective when it is filed with the clerk. He also stated that a council member cannot participate in a Quasi Judicial hearing if it would violate the affected person's constitutional rights to an impartial decision maker. Attorney Kitchen said some of the violations include but are not limited to the following:

- Having a fixed opinion prior to the hearing that is not susceptible to change
- Undisclosed ex parte communication
- A close familial, business, or other associational participation

Attorney Kitchen also stated the if an objection is raised to a member's participation, and the member does not recuse him or herself, the remaining members shall by majority vote rule on the objection. The decision on a conditional or special use permit may be "appealed" to Superior Court.

Mayor Dingler stated that there needs to be a meeting in regards to everyone's goals. The meeting is tentatively scheduled for Tuesday, April 15th, 2014 from 6-8 PM.

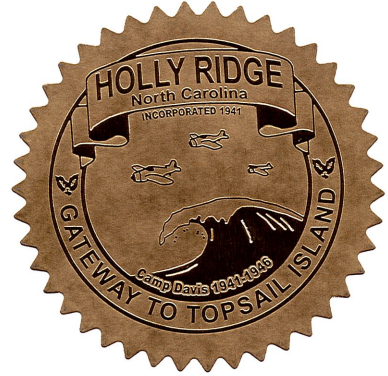
Mayor Dingler gave the following announcements:

- Budget meeting sometime in May 2014
- Four Town meeting April 17th hosted by Topsail Beach

Adjournment

A motion was made by *Councilman Lang* and seconded by *Councilman Helms* to adjourn at 3:06 pm. *All Agreed.*

Attest:



Anita Dingle

Anita Dingle, Mayor

Heather Reynolds

Heather Reynolds, Town Clerk

*These Minutes were recorded by Town Clerk, Heather Reynolds
These Minutes were Prepared by Town Clerk, Heather Reynolds and
Deputy Clerk, Tracy Martin*