

Town of Archer Lodge

AGENDA

Regular Council Meeting &
Public Hearings on Amending the Code of Ordinances,
Town of Archer Lodge, NC, in accordance
with State Law as referenced below:



1. Chapter 30, Article VI – Subdivisions, Division 3,
Section 30-348 – Traffic Impact Analysis
2. Chapter 30, Article VI – Subdivisions, Division 4,
Section 30-384 – Required Restrictive
Covenants and Review by Town and Appendix

Monday, August 3, 2020 @ 6:30 PM
Jeffrey D. Barnes Council Chambers

NCGS § 143-318.17. Disruptions of official meetings.

A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a Class 2 misdemeanor.

Page

1. WELCOME/CALL TO ORDER:

- 1.a. Invocation
- 1.b. Pledge of Allegiance

2. APPROVAL OF AGENDA:

3. OPEN FORUM/PUBLIC COMMENTS:

(Maximum of 30 minutes allowed, 3 minutes per person)

4. RECOGNITION/PRESENTATION:

- 4.a. Welcome Officer Kerry Barnes, Archer Lodge's new Animal Control Officer from the Town of Clayton
- 4.b. Officer Kerry Barnes will be sworn in by Mayor Matthew Mulhollem as Animal Control Officer for the Town of Archer Lodge

5. PUBLIC HEARINGS, DISCUSSION AND CONSIDERATION:

4 - 13

- 5.a. **PUBLIC HEARING – Test Amendments – Code of Ordinances, Archer Lodge, NC, Chapter 30, Article VI – Subdivisions, Division 3. Procedures for Approval of Major and/or Commercial Subdivisions, Section 30-348 – Traffic Impact Analysis, clarify provisions pertaining to the retention of expert assistance and reimbursement by applicant.**

1. Open Public Hearing
2. Staff Report and Planning Board Recommendations
3. Public Comments
4. Close Public Hearing
5. Governing Body
 - **Discussion and Consideration of Consistency Statement**
 - **Discussion and Consideration of Adopting Ordinance# AL2020-08-1 Amending Chapter 30, Article VI, Division 3, Section 30-348 – Traffic Impact Analysis**

[Staff Report -Traffic Impact Analysis](#)

[AL2020-08-1 Ordinance Amending Chapter 30, Article VI, Div 3, Section 30-348, TIA](#)

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- 5.b. **PUBLIC HEARING – Text Amendments – Code of Ordinances, Archer Lodge, NC, Chapter 30, Article VI – Subdivisions, Division 4. Final Plat Approval, Section 30-384 – Required Restrictive Covenants and Review by Town, clarify/update ordinance provisions pertaining to new major subdivisions addressing ownership, maintenance and repair of the subdivision's right-of-way, roads, sidewalks, and greenways; and add model provisions to Chapter 30, Appendix.**

1. Open Public Hearing
2. Staff Report and Planning Board Recommendations
3. Public Comments
4. Close Public Hearing
5. Governing Body
 - **Discussion and Consideration of Consistency Statement**
 - **Discussion and Consideration of Adopting Ordinance# AL2020-08-2 Amending Chapter 30, Article VI, Division 4, Section 30-384 – Required Restrictive Covenants and Review by Town and Appendix**

[Staff Report - Restrictive Covenants](#)

[AL2020-08-2 Ordinance Amending Chapter 30, Article VI, Div 4, Section 30-384 and Appendix](#)

6. TOWN ATTORNEY'S REPORT:

7. TOWN ADMINISTRATOR'S REPORT:

8. FINANCIAL/TOWN CLERK'S REPORT:

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- 8.a. Preliminary June 30, 2020 Interim Financials & Year-to-Date Comparison (FY19 compared to FY20)
[JUNE 2020 \(PRELIMINARY\) - ALL FUNDS](#)
[JUNE 2020 \(PRELIMINARY\) - YTD COMP](#)

9. PLANNING/ZONING REPORT:

- 9.a. Planning Activity
9.b. Projects
9.c. Code Enforcement

10. MAYOR'S REPORT:

11. COUNCIL MEMBERS' REMARKS:

(Town related, non-agenda items)

12. ADJOURNMENT:



TOWN OF ARCHER LODGE

14094 Buffalo Road

Archer Lodge, NC 27527

Main: 919-359-9727

Fax: 919-359-3333

Mayor:

Matthew B. Mulhollem

Council Members:

Clyde B. Castleberry

Mayor Pro Tem

Teresa M. Bruton

J. Mark Jackson

James (Jim) Purvis, III

Mark B. Wilson

To: Town Council

Date: August 3, 2020

From: Julie Maybee, Town Planner

Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm

Re: Proposed Revision of Chapter 30 – Zoning and Subdivisions, Article VI – Subdivisions, Division 3. Procedures for Approval of a Major and/or Commercial Subdivision, Section 30-348 – Traffic Impact Analysis Submittal Requirements

Background Information:

On Monday, June 15, 2020, the Town Council adopted Ordinance# AL2020-06-1, An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Zoning & Subdivisions, Article VI. Subdivisions and Appendix Section 30-A4.

At the meeting, the Mayor and Council asked staff to develop alternatives to Section 30-348 referenced above pertaining to traffic impact analysis submittal requirements.

On July 13, 2020, alternatives were presented to the Council for input (see pages 4-9).

Staff advised Council that the Planning Board would also be reviewing alternatives on Wednesday, July 15, 2020.

After deliberation/direction from Council, a public hearing was set for Monday, August 3, 2020.

Planning Board Recommendations Consistency Statement:

The Planning Board finds that the proposed amendments to Chapter 30, Article VI, Subdivisions, Division 3. Procedures for Approval of Major Subdivisions and/or Commercial Subdivision, Section 30-348 - Traffic Impact Analysis (TIA) are reasonable and in the public interest. The proposed revisions clarify/streamline the process/procedures for the subdivision of land in Archer Lodge in accordance with NC State laws. Furthermore, the proposed amendments are in compliance with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka "Comprehensive Plan", and other adopted Town plans having bearing on the matter. The proposed revisions will aid in the implementation of the Comprehensive Plan - Action Plan that ensures that new development is consistent with the policies of the Town. Direct and concentrate new development to areas where adequate public infrastructure is available or can be extended without placing excessive burden on the Town's physical or financial resources.

After making consistency statement findings on Wednesday, July 15, 2020, the Planning Board recommended approval of the amendments.

Staff Comments & Recommendations:

Staff concurs with the Planning Board's recommendations and findings.

Requested Town Council Action:

Staff respectfully requests that the Town Council: (1) conduct a public hearing; (2) consider the Planning Board's recommendations; (3) deliberate and make consistency statement findings (draft Town Council Consistency Statement included on page 3 of staff report); and (4) approve the ordinance revisions (see draft Town Council Ordinance #AL2020-08-1).

TOWN COUNCIL DRAFT CONSISTENCY STATEMENT:

The Town Council finds that the proposed amendments to Chapter 30, Article VI, Subdivisions, Division 3. Procedures for Approval of Major Subdivisions and/or Commercial Subdivision, Section 30-348 Traffic Impact Analysis (TIA) are reasonable and in the public interest. The proposed revisions clarify/streamline the process/procedures for the subdivision of land in Archer Lodge in accordance with NC State laws. Furthermore, the proposed amendments are in compliance with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka "Comprehensive Plan", and other adopted Town plans having bearing on the matter. The proposed revisions will aid in the implementation of the Comprehensive Plan - Action Plan that ensures that new development is consistent with the policies of the Town. Direct and concentrate new development to areas where adequate public infrastructure is available or can be extended without placing excessive burden on the Town's physical or financial resources.

MEMO

TO: Mayor Matt Mulhollem, Mayor Pro-Tem Clyde Castleberry, Council Members Teresa Bruton, J. Mark Jackson, James Purvis, Mark Wilson, Town Attorney Chip Hewett

FROM: Julie Maybee, Town Planner; Al Benshoff, The Brough Law Firm

RE: CODE OF ORDINANCES Section 30-348 Traffic Impact Analysis (TIA) Submittal Requirement

DATE: June 22, 2020

INTRODUCTION: The Mayor and Council asked the staff to develop alternatives to section 30-348. This memo contains two main alternatives to the adopted ordinance. The recently-adopted ordinance is included for your reference at section A) on page 1. Section B) on page 4 includes a version of Mr. Hewett's suggestions that developers required to select a traffic engineering firm from the Town's short list. In this scenario, the developer will pay for the TIA. One variant not included is Section B) with the developer reimbursing the Town for the

Section C) on page 4 is Mrs. Bruton's scenario. In this version the Town selects the traffic engineer and contracts directly with the engineering firm.

The original version of 30-348 appears to have been based on Johnston County's TIA policy. A copy of that policy starts on page 5. cost of the TIA.

Finally, there is a note from Al Benshoff on page 5 suggesting that we revisit the issue of requiring improvements to roads identified by TIAs.

A) Section 30-348 as adopted with comments by Commissioner Bruton [TB], Al Benshoff [AB] and Julie Maybee [JM].

Sec. 30-348. - Traffic Impact Analysis (TIA) Submittal Requirement.

- (a) *Purpose:* Archer Lodge is committed to maintaining and improving the quality of life for current and future citizens. A major factor affecting the quality of life has become traffic congestion along the major thoroughfares and local streets within urbanizing areas. By requiring a traffic impact analysis (TIA), the Town can evaluate the effect proposed development will have on the Town's existing traffic system and enable the Town to require specific improvements. The intent of this section is to provide developers with a clear policy as to the Town's TIA expectations and to ensure that all developments are treated equally through the establishment of specific guidelines and improvement requirements.
- (b) *Requirement thresholds:*
 - (1) Residential subdivision proposing 100 lots/units or more, no matter how many phases are proposed.

- (2) Proposed nonresidential subdivision which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
- (3) Any residential or nonresidential development requiring a special use permit or site plan approval which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Note #1: The count is cumulative; as a proposed development reaches the threshold, a TIA will be required for the entire development. As new phases are proposed and once a development has reached the threshold, an additional TIA will be conducted for each additional phase.

Note #2: Failure to meet all requirements listed within this section may constitute disapproval of the development request.

(c) *Retention of expert assistance and reimbursement by applicant*

- (1) The Town shall hire a consultant and/or expert necessary to assist the Town in preparing, reviewing, and evaluating the traffic impact analysis, and at the request of the Town may be asked to look at other specific issues.
- (2) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the performance and review of any analysis. The initial deposit shall be established by the Town and may be changed within the discretion of the Town. These funds shall be deposited at the time the subdivision application is submitted and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for its services in reviewing the application and performing its duties. The applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance established by the Town and may be changed within the discretion of the Town. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the subdivision application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. All invoices submitted by the applicant shall be itemized and be public records available for inspection.
- (3) The total amount of the funds needed as set forth above may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as reasonably required and requested by the Town, shall be paid by the applicant. However, notwithstanding any other provisions of this section, if the total amount paid to the consultant exceeds \$7,500.00 for a single application, such amount shall be subject to review and approval by the Town Council at the request of the applicant.
- (4) The developer may have a TIA conducted by a consultant of his or her choice but will be required to be submitted for review and evaluation by the Town's consultant. *[TB: Recommend that this not be allowed – if hired by the developer, there could be a conflict of interest. JM: I believe the option should exist. We would hire consultant and still review the*

TIA.] Any cost associated with the Town's review shall be paid by the developer as described in subsections (c)(2) and (3).

(d) *Traffic impact analysis guidelines.* All traffic impact analyses shall be completed in accordance with the guidelines listed in section 3 of the Johnston County Land Design Manual. *[TB: Recommend that all TIAs adhere to the current version of the NCDOT Congestion Management's Capacity Analysis Guidelines. AB: The Johnston County Design Manual provides for some local detail that may not be found in the general state model. Please see Section 3. JM: I concur with utilizing the County Design Manual as well.]*

(e) *Improvement requirements.*

- (1) Left turn lane, right turn lane, and/or right turn taper. Based on requirements of the NCDOT Driveway Manual or other NCDOT standards.
- (2) *Additional right-of-way.* If a subject development falls along a road projected to be widened by NCDOT or an adopted Town or Johnston County plan, additional right-of-way along the development's road frontage shall be dedicated as deemed acceptable by NCDOT.
- (3) *Offsite improvements.* If a road segment or intersection is currently performing at level of service (LOS) D or better and is projected to perform at LOS E or F at the time of build-out, improvements to maintain the road segment or intersection at LOS D must be included. If a road segment or intersection is currently performing at level of service (LOS) E or F and is projected to continue to perform at LOS E or F at the time of build-out, the TIA shall demonstrate how an LOS D could be achieved and also specify what improvements must be made to ensure that the road segment or intersection is not degraded any further than the current levels *[TB: Will the applicant be required to make these improvements? If so, need to indicate. AB: This is not the place to indicate that improvements are required. This section deals only with what is in the study. Town needs to be careful about requiring off-site improvements given our Supreme Court's decisions. Under the statutes as amended in 2019, if the Town requires something not clearly legal, the Town may end up paying the plaintiff's lawyer's fees.]*
- (4) *Other necessary improvements.* Additional improvements may be required based on the TIA recommendations related to topographic/environmental conditions, sight distance, street offsets, conflicting movements, existing traffic accident counts, circulation, and other potential traffic issues resulting from the proposed development. Additionally, the Planning Board may determine that additional improvements are necessary to ensure the safety and welfare of the Town's citizens and travelers.¹

B) Section 30-348 (c) Retention of Expert Assistance and Reimbursement as suggested by C. Hewett.

(c) *Retention of expert assistance and reimbursement by applicant*

¹ Adapted from Johnston County ordinances (Amend. of 11-8-2004; Amend. of 02-03-2010(2))

- (1) The Town shall identify consultants and/or experts who are able to prepare, review and evaluate the traffic impact of the proposed development.
- (2) The Town will present a list of the consultants identified in (a) to the applicant. The applicant shall select one firm from the list to conduct a TIA for the applicant's proposed development at the applicant's expense.
- (3) The Town, applicant and consultant shall agree in writing to the scope of work and costs of the TIA. The selected consultant shall provide draft and final versions of the TIA directly to the Town.
- (4) The Town may retain a consultant to review and evaluate the applicant's TIA. Any cost associated with the Town's review shall be paid by the applicant. The applicant will provide funds for the review at step (2) above. The Town will hold the funds in escrow until either used for a TIA review or returned to the applicant.

C) Section 30-348 (c) Retention of Expert Assistance and Reimbursement as suggested by T. Bruton.

(c) Retention of expert assistance and reimbursement by applicant

- (1) The Town shall hire a consultant and/or expert necessary to assist the Town in preparing, reviewing, and evaluating the traffic impact analysis, and at the request of the Town may be asked to look at other specific issues.
- (2) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the performance and review of any analysis. The initial deposit shall be established by the Town and may be changed within the discretion of the Town. These funds shall be deposited at the time the subdivision application is submitted and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for its services in reviewing the application and performing its duties. The applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance established by the Town and may be changed within the discretion of the Town. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the subdivision application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. All invoices submitted by the applicant shall be itemized and be public records available for inspection.
- (3) The total amount of the funds needed as set forth above may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as reasonably required and requested by the Town, shall be paid by the applicant. However, notwithstanding any other provisions of this section, if the total amount paid to the consultant exceeds \$7,500.00 for a single application, such amount shall be subject to review and approval by the Town Council at the request of the applicant.

D) A note about Sub-Section 30-348 (e) Improvement Requirements.

There are now strict legal restrictions on requiring off-site improvements. DOT should require improvements to DOT roads, so the City will be left with possibly requiring improvements for private roads. This is a topic for another discussion we can have in the future at the appropriate time. AB

There are now strict legal restrictions on requiring off-site improvements. DOT should require improvements to DOT roads, so the City will be left with possibly requiring improvements for private roads. This is a topic for another discussion we can have in the future at the appropriate time. AB

EXCERPT FORM JOHNSTON COUNTY DESIGN MANUAL

SECTION 3 - TRAFFIC IMPACT ANALYSIS GUIDELINES

A. INTENT

The intent of this Section is to provide specific guidelines for the completion of a Traffic Impact Analysis (TIA).

B. STANDARDS

- 1) Prior to beginning a TIA, the preparer must meet with Planning staff to determine the scope of the analysis including the appropriate intersections to study, surrounding factors and future developments to consider, proposed NCDOT road projects and any other concerns which may need to be addressed.
- 2) An executive summary shall be provided with the TIA noting the following:
 - a) Name of Development and township location,
 - b) Property owner and developer names,
 - c) Description of uses proposed,
 - d) Number of lots proposed,
 - e) Number of access points proposed and studied,
 - f) Intersections and streets studied,
 - g) Existing traffic count for road(s) and intersection(s) studied and dates/times counts were conducted,
 - h) Existing and future Level of Service for studied intersections,
 - i) AM and PM Peak Hour Trips,
 - j) Average Daily Trips created by the development at build-out,
 - k) Existing Traffic Accident Counts, and
 - a) Existing Traffic Accident Counts, and
 - b) Any recommended improvements.
- 3) Studied roads and intersections shall be determined based on 10% contribution by the development to the total traffic counts.
- 4) Studied road segments, intersections, and development access points shall be evaluated based on current traffic counts, projected traffic generated by the development at time of build-out, projected background traffic at time of build-

out, and projected traffic counts two years beyond build-out.

- 5) The TIA shall take into account the existing background traffic and growth of such traffic at time of build-out and two years beyond build-out with an annual background traffic growth rate based on townships as follows:
 - a) Clayton, Cleveland, Pleasant Grove, Wilders: 9% annual growth rate.
 - b) Banner, Beulah, Elevation, Ingrams, Micro, O'Neals, Pine Level, Selma, Smithfield, Wilson Mills: 5% annual growth rate
 - c) Bentonville, Boon Hill, Meadow: 3% annual growth rate
- 6) Traffic counts no older than one year must be provided for all studied intersections, road segments, and development access points and shall be based on the AM and PM peak hour.
- 7) Number of Daily Trips generated by the proposed development along with AM and PM peak hour trips shall be evaluated by the TIA.
- 8) Studied intersections shall be evaluated based on AM and PM peak hour traffic with Level of Service provided at time of build-out and two years beyond build-out.
- 9) Provide trip distribution for access points and studied intersections.
- 10) TIA shall evaluate sight distances at all proposed access points based on the existing speed limit.
- 11) Evaluate the offset of the proposed access points with existing driveways or streets to ensure the reduction of conflicting movements.
- 12) Traffic accident counts for studied intersections and road segments shall be evaluated based on the latest records obtained from NCDOT, local law enforcement, and/or the Highway Patrol Office.
- 13) TIA shall take into consideration proposed/planned NCDOT roadway improvement projects, future County Thoroughfare Plan recommendations, and proposed development projects potentially affecting the road network and traffic generation.
- 14) Recommended improvements within the TIA shall take into account the County's *Improvement Requirements* listed in Section 14-366(5) of the Land Development Code. Additional recommended improvements not addressed in the Land Development Code shall be provided to ensure that all the Guidelines within this Section have been addressed.

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES,
TOWN OF ARCHER LODGE, NORTH CAROLINA,
CHAPTER 30 – ZONING AND SUBDIVISIONS,
ARTICLE VI. - SUBDIVISIONS , DIVISION 3, SECTION 30-348
TRAFFIC IMPACT ANALYSIS**

Section 1. Pursuant to authority granted to by N.C. Gen. Stat. § 160A – 381, the Town of Archer Lodge hereby amends the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 - Zoning & Subdivisions, Article VI. – Subdivisions, Division 3. – Procedures for Approval of a Major and/or Commercial Subdivisions, Section 30-348 Traffic Impact Analysis, subsection (c) is deleted in its entirety and replaced with the following:

- (c) Retention of expert assistance and reimbursement by applicant
 - (1) The Town shall identify consultants and/or experts who are able to prepare, review and evaluate the traffic impact of the proposed development.
 - (2) The Town will present a list of the consultants identified in (a) to the applicant. The applicant shall select one firm from the list to conduct a TIA for the applicant's proposed development at the applicant's expense.
 - (3) The Town, applicant and consultant shall agree in writing to the scope of work and costs of the TIA. The selected consultant shall provide draft and final versions of the TIA directly to the Town.
 - (4) The Town may retain a consultant to review and evaluate the applicant's TIA. Any cost associated with the Town's review shall be paid by the applicant. The applicant will provide funds for the review at step (2) above. The Town will hold the funds in escrow until either used for a TIA review or returned to the applicant.

Section 2. This ordinance shall become effective upon adoption.

DULY ADOPTED, THIS 3RD DAY OF AUGUST 2020.

TOWN OF ARCHER LODGE

(SEAL)

Matthew B. Mulhollem, Mayor

ATTEST:

Kim P. Batten, Town Clerk



TOWN OF ARCHER LODGE

14094 Buffalo Road
Archer Lodge, NC 27527

Main: 919-359-9727

Fax: 919-359-3333

Mayor:

Matthew B. Mulhollem

Council Members:

Clyde B. Castleberry

Mayor Pro Tem

Teresa M. Bruton

J. Mark Jackson

James (Jim) Purvis, III

Mark B. Wilson

To: Town Council

Date: August 3, 2020

From: Julie Maybee, Town Planner

Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm

Re: Proposed Revision of Chapter 30 – Zoning and Subdivisions, Article VI – Subdivisions, Division 4. Final Plat Approval, Section 30-384 – Required Restrictive Covenants and Review by Town and Chapter 30, Appendix

Background Information:

On Monday, June 15, 2020 the Town Council adopted Ordinance# AL2020-06-1, An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Zoning & Subdivisions, Article VI. Subdivisions and Appendix Section 30-A.4.

At the meeting on Monday, June 1, 2020, the Mayor and Council asked staff to look at ordinance provisions pertaining to subdivision road maintenance responsibilities; and also encourage Developers and Homeowner's Associations (HOA) to turn over subdivision roads to NC Department of Transportation (NCDOT) for maintenance.

In response, draft ordinance provisions were presented to the Town Council on Monday, July 13, 2020 for input.

Staff advised Council that the Planning Board would also be reviewing the draft provisions on Wednesday, July 15, 2020.

After deliberation/direction from Council, a public hearing was set for Monday, August 3, 2020.

NC Department of Transportation Correspondence:

On Tuesday, May 19, 2020, Sam Lawhorn, P.E., District 3 Engineer, Highway Division 4, North Carolina Department of Transportation (NCDOT), relayed to staff the following:

"...For a road to be considered for State maintenance, it needs to be a recorded as a public street, have been built to NCDOT standards, meet a minimum housing density of 2 homes per 0.10 miles and in a current acceptable state of maintenance. For us to consider adding a street to the system, it is to first be petitioned by the developer or homeowners by completing a NCDOT SR-1 form located on our website. NCDOT does not review the subdivision at all until this official form is submitted to the NCDOT. Once petitioned we will perform an inspection and provide a list of repairs or discrepancies necessary for either an acceptable state of maintenance or to get the street to meet minimum standards. Once the requirements have been provided, repairs must be performed within 90 days and a follow up inspection must be requested. If all requirements have been satisfied and repairs have been made, the petition will be submitted to the local County Commissioners and NCDOT Board of Transportation for final approval.... "

Planning Board Recommendations Consistency Statement:

The Planning Board finds that the proposed amendments to Chapter 30, Article VI, Subdivisions, Division 4. Final Plat Approval, Section 30-384 Restrictive Covenants and applicable provisions in the Appendix pertaining to model covenants, are reasonable and in the public interest. The proposed revisions clarify/streamline the process/procedures for the subdivision of land in Archer Lodge in accordance with NC State laws. Furthermore, the proposed amendments are in compliance with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka "Comprehensive Plan", and other adopted Town plans having bearing on the matter. The proposed revisions will aid in the implementation of the Comprehensive Plan - Action Plan that ensures that new development is consistent with the policies of the Town. Direct and concentrate new development to areas where adequate public infrastructure is available or can be extended without placing excessive burden on the Town's physical or financial resources.

After making consistency statement findings on Wednesday, July 15, 2020, the Planning Board recommended approval of the amendments.

Staff Comments & Recommendations:

It may take years, if at all, before a subdivision road meets NCDOT criteria and turned over to for maintenance. In the meantime, things can happen – death of the developer or bankruptcy, insufficient funds to bring roads up to NCDOT standards, no restrictive covenants or no homeowner's association etc. in place at the time the subdivision plat is recorded. Consequently, subdivision roads eventually often fall into a state of disrepair.

As conveyed by Attorney Benshoff, "... If NCDOT won't accept the roads, then, eventually they become orphaned unless the homeowners maintain the streets...".

The proposed ordinance provisions will help facilitate ongoing maintenance of new major subdivision roads.

Staff concurs with the Planning Board's recommendations and findings.

Requested Town Council Action:

Staff respectfully requests that the Town Council: (1) conduct a public hearing; (2) consider the Planning Board's recommendations; (3) deliberate and make consistency statement findings (draft Town Council Consistency Statement included on page 4 of staff report); and (4) approve the ordinance revisions (see draft Town Council Ordinance #AL2020-08-2).

TOWN COUNCIL DRAFT CONSISTENCY STATEMENT:

The Town Council finds that the proposed amendments to Chapter 30, Article VI, Subdivisions, Division 4. Final Plat Approval, Section 30-384 Restrictive Covenants and applicable provisions in Appendix Section 30-A.5, are reasonable and in the public interest. The proposed revisions clarify/streamline the process/procedures for the subdivision of land in Archer Lodge in accordance with NC State laws. Furthermore, the proposed amendments are in compliance with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka "Comprehensive Plan", and other adopted Town plans having bearing on the matter. The proposed revisions will aid in the implementation of the Comprehensive Plan - Action Plan that ensures that new development is consistent with the policies of the Town. Direct and concentrate new development to areas where adequate public infrastructure is available or can be extended without placing excessive burden on the Town's physical or financial resources.

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES,
TOWN OF ARCHER LODGE, NORTH CAROLINA,
CHAPTER 30 – ZONING AND SUBDIVISIONS,
ARTICLE VI. - SUBDIVISIONS, DIVISION 4, SECTION 30-384 AND
CHAPTER 30 APPENDIX**

Section 1. Pursuant to authority granted to by N.C. Gen. Stat. § 160A – 381, the Town of Archer Lodge hereby amends the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 - Zoning & Subdivisions, Article VI, Division 4, Section 30-384 and Chapter 30 Appendix as follows:

Delete ordinance text in its entirety in Article VI, Division 4, Section 30-384 and replace with the following:

Sec. 30-384. - Required Restrictive Covenants and Review by Town.

- (a) Prior to the approval of any final subdivision plat the applicant/developer shall create a homeowner's association to be responsible for the at least the items listed in this section. The restrictive covenants will contain the model language found in Appendix Sec. 30-A.5. The proposed restrictive covenants will be reviewed and approved by the Town Attorney. The model language need not be followed, if substantial similar covenants accomplishing the goals of this section are proposed and then approved by the Town Attorney. A copy of the recorded covenants will be provided to the Administrator before the final plat is recorded. If a development is built in phases the covenants will be reviewed and approved before the final plat is issued for the first phase.
- (b) Prior to final approval of any residential major subdivision submitted after the effective date of this ordinance, the applicant/developer shall include in the restrictive covenants a provision that mandates the discharge of firearms is strictly prohibited anywhere in the subdivision or on any adjoining property owned by the developer or Homeowner Association (HOA). Discharging of air guns, air pistols and air rifles, not to exceed a caliber of 0.177, is permitted, as they are not considered firearms within the meaning of this section.
- (c) Prior to the final approval of any major subdivision submitted after August 3, 2020, the applicant/developer will meet the following goals regarding ownership, maintenance and repair of the subdivision's rights-of-way, roads, sidewalks, greenways and related stormwater drainage infrastructure:
 - (1) A homeowner's association will be created by the applicant/developer, known in this sub-section as the declarant.
 - (2) Membership in the HOA is mandatory for all current and future property owners for the purpose of maintaining the streets, sidewalks, greenways and related stormwater drainage infrastructure.
 - (3) The declarant will own and maintain the roads, sidewalks, greenways and associated stormwater drainage infrastructure until such time as the ownership interest is transferred to the HOA or to NCDOT.
 - (4) The HOA is responsible for the maintenance and repair of the streets, sidewalks and related stormwater drainage infrastructure to NC DOT Standards in the current edition of the "Subdivision Roads Minimum Construction Standards."
 - (5) Each member of the HOA will be assessed annually their pro rata share of the costs of road, sidewalks and greenway maintenance and related stormwater drainage infrastructure but in no case less than \$100.

- (6) The Association shall deposit all assessments for the purpose of maintenance, repair, and upkeep of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision into a separate account with an accredited, FDIC backed banking institution in the name of the Association. The Association shall file with the Town, by the first day of the calendar year, an annual accounting of said maintenance account.
- (7) The HOA or Declarant, whichever the case may be, shall either (i) Petition the NC DOT to assume ownership and maintenance of the rights-of-way, roads, sidewalks greenways and related stormwater drainage infrastructure or (ii) Provide that the rights-of-way, roads, sidewalks, greenways and related stormwater drainage infrastructure be privately owned and maintained to NC DOT standards in perpetuity.
- (8) To the extent permitted by law, in the event that the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the right-of-ways thereto have not been previously dedicated to the NC DOT, in the event the Association should dissolve, the Association shall transfer any and all ownership interest in the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the right-of-ways thereto, as well as the associated maintenance account as described in Paragraph (6) above, to another legal entity for the purpose of maintenance, repair, and upkeep.

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Add to Chapter 30, Appendix the following section:

Sec. 30-A.5. Model Language for Declaration of Restrictive Covenants

**MODEL LANGUAGE FOR
DECLARATION OF RESTRICTIVE COVENANTS**

THIS DECLARATION AND AGREEMENT is entered into this the ____ day of _____, 20__, between (Developer) (hereinafter “Declarant”) and all parties hereafter acquiring any of the described property.

WITNESSETH:

WHEREAS, Declarant is the owner and developer of all lots within a subdivision of the Town of Archer Lodge, Johnston County, NC, known as _____ and being that certain tract or parcel more particularly described by map and survey in Plat Book _____, Page _____, of the Johnston County Registry; and

WHEREAS, it is in the best interest of the Declarant and to the benefit, interest, and advantage of every party hereinafter acquiring any of the described property that certain covenants, conditions, easements, assessments, liens, and restrictions governing and regulating the use of the property be established; and

WHEREAS, Declarant desires to provide for the continued ownership, maintenance, and repair of all streets, roads, sidewalks, and greenways together with the associated stormwater drainage infrastructure located in the above-named subdivision; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of North Carolina, a non-profit corporation known as “_____” (hereinafter referred to as “Association”) for the purpose of exercising the functions aforesaid, and which are hereinafter fully set forth.

NOW, THEREFORE, in consideration of the premises, the Declarant agrees with all parties hereafter acquiring any of the property herein described, that it shall be and is hereby subject to the following restrictions, covenants, conditions, easements, assessments, and liens relating to the use thereof, which shall be construed as covenants running with the land, which shall be binding on all parties acquiring any right, title, or interest in any of the properties and which shall inure to the benefit of each owner thereof.

- (1) **MEMBERSHIP:** Every person who is a record owner of a fee or undivided fee interest in any lot which is subject to assessment by the Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of any obligations, shall be a member of the Association. Ownership of such interest shall be the sole qualification for such membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. Membership in the Association is mandatory and may not be waived by the Association for any such owner.

- (2) ***OWNERSHIP OF STREETS, ROADS, SIDEWALKS, AND GREENWAYS:*** The Declarant shall own and maintain the streets, roads, sidewalks, and greenways together with the associated stormwater drainage infrastructure of the subdivision until such a time that the ownership interest in the above shall be transferred to the Association or to NC DOT.
- (3) ***MAINTENANCE, REPAIR, AND UPKEEP OF STREETS AND ROADS:*** Until such a time that the ownership interest in the streets and roads of the subdivision shall be transferred to the Association or NC DOT, the Declarant shall maintain and repair said streets and roads in the subdivision at a minimum of NC DOT standards as set forth in the most current edition of the “Subdivision Roads Minimum Construction Standards.” In the event that, and after such a time that, the ownership interest in the streets and roads of the subdivision has been transferred to the Association, the Association shall maintain and repair said streets and roads in the subdivision at a minimum of NC DOT standards as set forth in the most current edition of the “Subdivision Roads Minimum Construction Standards.”
- (4) ***ASSESSMENTS FOR MAINTENANCE, REPAIR, AND UPKEEP OF STREETS, ROADS, SIDEWALKS, AND GREENWAYS:*** Each member of the Association shall be required to pay an annual assessment for their pro rata share of the costs of maintenance, repair, and upkeep of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision, with a minimum annual payment of \$_____.
- (5) ***MAINTENANCE ACCOUNT:*** The Association shall deposit all assessments for the purpose of maintenance, repair, and upkeep of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision into a separate account with an accredited, FDIC backed banking institution in the name of the Association. The Association shall file with the Town, by the first day of the calendar year, an annual accounting of said maintenance account.
- (6) ***CONTINUED STREET, ROAD, SIDEWALK, AND GREENWAY MAINTENANCE:*** Either the Declarant or the Association, whichever shall possess the ownership interest in the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure, shall either (i) Petition the NC DOT to assume ownership and maintenance of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the right-of-ways thereto, or (ii) Provide that the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the right-of-ways thereto shall be privately owned and maintained to NC DOT standards as set forth in the most current edition of the “Subdivision Roads Minimum Construction Standards” by the Association, its successors or assigns, in perpetuity.
- (7) ***TRANSFER OF OWNERSHIP INTEREST UPON DISSOLUTION OF ASSOCIATION:*** To the extent permitted by law, in the event that the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the right-of-ways thereto have not been previously dedicated to the NC DOT, in the event the Association should dissolve, the Association shall transfer any and all ownership interest in the streets, roads, sidewalks, and greenways

together with associated stormwater drainage infrastructure of the subdivision and the right-of-ways thereto, as well as the associated Maintenance Account as described in Paragraph (5) above, to another legal entity for the purpose of maintenance, repair, and upkeep.

- (8) ***FIREARMS***: The discharge of firearms of any kind is strictly prohibited anywhere in the subdivision or on any adjoining land owned by the Association, a member of the Association, or the Declarant. Discharging of air guns, air pistols, and air rifles, not to exceed a caliber of 0.177, is permitted, as they are not considered firearms within the meaning of this section.

Section 2. This ordinance shall become effective on August 3, 2020.

DULY ADOPTED, THIS 3RD DAY OF AUGUST 2020.

TOWN OF ARCHER LODGE

(SEAL)

Matthew B. Mulhollem, Mayor

ATTEST:

Kim P. Batten, Town Clerk



TOWN OF ARCHER LODGE
FINANCIAL SUMMARY REPORT
FOR MONTH ENDING
JUNE 30, 2020

PRELIMINARY JUNE 30, 2020

GENERAL FUND 10				
<i>REVENUES</i>	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % COLLECTED
AD-VALOREM & MOTOR VEHICLE TAXES	841,500.00	9,573.98	839,352.58	99.74%
SALES TAXES	181,010.00	37,605.44	203,555.77	112.46%
FRANCHISE TAXES	158,000.00	42,391.47	121,603.91	76.96%
ALCOHOL BEV TAXES/JO CO ABC DIST	58,000.00	2,169.12	57,132.06	98.50%
PERMITS AND FEES	6,140.00	175.00	5,310.00	86.48%
FEE IN LIEU OF RECREATION	20,000.00	0.00	20,000.00	100.00%
PEG CHANNEL SUPPORT	53,000.00	13,605.44	41,099.76	77.55%
MISCELLANEOUS REVENUES	6,700.00	(0.01)	6,699.15	99.99%
INVESTMENT EARNINGS	13,500.00	314.64	13,435.27	99.52%
TRANSFER IN FROM CAP RES FUND	0.00	0.00	0.00	#DIV/0!
TRANSFER IN FROM PARK RES FUND	66,000.00	0.00	66,000.00	100.00%
TRANSFER IN FROM PUBLIC SAFE RES FUND	0.00	0.00	0.00	#DIV/0!
TRANSFER IN FROM TOWN HALL EXP FUND	1,919.00	0.00	1,919.11	100.01%
FUND BALANCE APPROPRIATION	0.00	0.00	0.00	#DIV/0!
TOTALS	1,405,769.00	105,835.08	1,376,107.61	97.89%
<i>EXPENDITURES</i>	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % SPENT
GOVERNING BODY	57,600.00	3,868.57	47,532.76	82.52%
ADMINISTRATION	250,853.00	17,297.77	227,736.98	90.79%
JO CO TAX COLLECTION FEES	25,000.00	317.25	22,022.30	88.09%
LEGAL	13,000.00	3,382.50	14,025.00	107.88%
PROPERTY TAXES	100.00	0.00	104.44	104.44%
PUBLIC BUILDINGS	54,750.00	3,251.76	46,241.20	84.46%
PEG MEDIA PARTNERS	53,000.00	13,605.44	41,099.76	77.55%
PUBLIC SAFETY	343,000.00	7,605.45	335,683.92	97.87%
TRANSPORTATION-PUBLIC WORKS	79,500.00	16,011.29	43,009.84	54.10%
PLANNING & ZONING	153,629.00	9,585.46	138,994.25	90.47%
CULTURAL & RECREATION	45,000.00	0.00	40,150.00	89.22%
DEBT SERVICES	145,337.00	0.00	145,244.26	99.94%
TRANSFER TO CAP RESERVE	25,000.00	0.00	25,000.00	100.00%
TRANSFER TO PARK RESERVE	135,000.00	1,262.62	131,484.05	97.40%
TRANSFER TO PUBLIC SAFETY RESERVE	25,000.00	0.00	25,000.00	100.00%
TOTALS	1,405,769.00	76,188.11	1,283,328.76	91.29%
Y-T-D GENERAL FUND INCREASE (DECREASE)		29,646.97	92,778.85	

PRELIMINARY JUNE 30, 2020

CAPITAL RESERVE FUND 30				
REVENUES	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % COLLECTED
INVESTMENT EARNINGS	7,000.00	137.12	6,713.14	95.90%
TRANSFER FROM GEN FUND 10	25,000.00	0.00	25,000.00	100.00%
FUND BALANCE APPROPRIATED	0.00	0.00	0.00	#DIV/0!
TOTALS	32,000.00	137.12	31,713.14	99.10%
EXPENDITURES	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % SPENT
TRANSFER TO GEN FUND 10	32,000.00	0.00	0.00	0.00%
TOTALS	32,000.00	0.00	0.00	0.00%
Y-T-D CAP RESERVE FUND INCREASE (DECREASE)		137.12	31,713.14	

PARK RESERVE FUND 31				
REVENUES	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % COLLECTED
INVESTMENT EARNINGS	4,000.00	83.76	3,507.74	87.69%
TRANSFER FROM GEN FUND 10	135,000.00	1,262.62	131,484.05	97.40%
FUND BALANCE APPROPRIATED	0.00	0.00	0.00	#DIV/0!
TOTALS	139,000.00	1,346.38	134,991.79	97.12%
EXPENDITURES	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % SPENT
TRANSFER TO GEN FUND 10	66,000.00	0.00	66,000.00	100.00%
TRANSFER TO AL TOWN PARK FD41	73,000.00	27,100.00	27,100.00	37.12%
TOTALS	139,000.00	27,100.00	93,100.00	66.98%
Y-T-D PARK RESERVE FUND INCREASE (DECREASE)		(25,753.62)	41,891.79	

PUBLIC SAFETY RESERVE FUND 32				
REVENUES	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % COLLECTED
INVESTMENT EARNINGS	5,000.00	88.95	4,354.90	87.10%
TRANSFER FROM GEN FUND 10	25,000.00	0.00	25,000.00	100.00%
FUND BALANCE APPROPRIATED	0.00	0.00	0.00	#DIV/0!
TOTALS	30,000.00	88.95	29,354.90	97.85%
EXPENDITURES	ADOPTED BUDGET	MONTH ACTIVITY	ACTUAL TO DATE	Y-T-D % SPENT
PUBLIC SAFETY DEVELOPMENT	30,000.00	0.00	0.00	0.00%
TRANSFER TO GEN FUND 10	0.00	0.00	0.00	#DIV/0!
TOTALS	30,000.00	0.00	0.00	0.00%
Y-T-D PUB SAFE RES FUND INCREASE (DECREASE)		88.95	29,354.90	



Kim P. Batten



TOWN OF ARCHER LODGE
FINANCIAL SUMMARY REPORT
FISCAL YEAR COMPARISON FOR
PERIOD ENDING JUNE 30

PRELIMINARY FIGURES

GENERAL FUND				
REVENUES		Jun-20	Jun-19	DIFFERENCE
	AD-VAL & MOTOR VEHICLE TAXES	839,352.58	674,220.70	165,131.88
	SALES TAXES	203,555.77	179,733.14	23,822.63
	FRANCHISE TAXES	121,603.91	123,498.73	(1,894.82)
	ALCOHOL BEV TAXES/JO CO ABC DIST	57,132.06	55,018.13	2,113.93
	PERMITS AND FEES	5,310.00	7,880.00	(2,570.00)
	FEE IN LIEU OF RECREATION	20,000.00	0.00	20,000.00
	PEG CHANNEL SUPPORT	41,099.76	40,540.56	559.20
	MISCELLANEOUS REVENUES	6,699.15	25.01	6,674.14
	INVESTMENT EARNINGS	13,435.27	24,601.64	(11,166.37)
	PARK LAND GRANTS-NCDNCR		100,000.00	(100,000.00)
	TRANSFER IN FROM CAPITAL RESERVE	0.00	0.00	0.00
	TRANSFER IN FROM PARK RESERVE	66,000.00	202,049.00	(136,049.00)
	TRANSFER IN FROM PUBLIC SAFE RESERVE	0.00	0.00	0.00
	TRANSFER IN FROM TOWN HALL EXP FUND	1,919.11	0.00	1,919.11
	FUND BALANCE APPROPRIATED	0.00	275,000.00	(275,000.00)
		1,376,107.61	1,682,566.91	(306,459.30)
EXPENDITURES		Jun-20	Jun-19	DIFFERENCE
	GOVERNING BODY	47,532.76	26,239.22	21,293.54
	ADMINISTRATION	227,736.98	223,054.66	4,682.32
	JO CO TAX COLLECTION FEES	22,022.30	17,638.30	4,384.00
	LEGAL	14,025.00	11,426.25	2,598.75
	PROPERTY TAXES	104.44	89.36	15.08
	PUBLIC BUILDINGS	46,241.20	47,638.27	(1,397.07)
	PEG MEDIA PARTNERS	41,099.76	40,540.56	559.20
	PUBLIC SAFETY	335,683.92	271,405.45	64,278.47
	TRANSPORTATION-PUBLIC WORKS	43,009.84	17,111.51	25,898.33
	PLANNING & ZONING	138,994.25	93,935.48	45,058.77
	CULTURAL & RECREATION	40,150.00	297,710.00	(257,560.00)
	DEBT SERVICES	145,244.26	48,685.73	96,558.53
	TRANSFER TO CAP RESERVE	25,000.00	25,000.00	0.00
	TRANSFER TO PARK RESERVE	131,484.05	188,910.90	(57,426.85)
	TRANSFER TO PUBLIC SAFETY RESERVE	25,000.00	300,000.00	(275,000.00)
	TRANSFER TO TOWN HALL EXPANSION		8,000.00	(8,000.00)
		1,283,328.76	1,617,385.69	(334,056.93)
Y-T-D INCREASE (DECREASE)		92,778.85	65,181.22	27,597.63

Kim P. Batten

Kim P. Batten

FINANCE OFFICER