

Jeff Wenzel
Mayor

Pamala Hall
Mayor Pro-Tem

Greg Hines
Councilmember

Dexter Sholar
Councilmember

Rena Bragg
Councilmember

Carolyn Stanley
Councilmember

Town of Holly Ridge

*Post Office Box 145
Holly Ridge, North Carolina 28445*

*Telephone (910) 329-7081
Fax (910) 329-1593*



Heather Reynolds, CMC
Town Manager

Tracy Martin
Deputy Town Clerk

HOLLY RIDGE BOARD OF ADJUSTMENT MEETING AGENDA January 24, 2023 6:30pm

1. Call to Order
2. Pledge of Allegiance
3. Adoption of Agenda
4. Appointment of Chair and Vice-Chair of BOA
5. Approval of 2023 BOA Meeting Schedule/Time
6. Approval of March 22, 2022 Meeting Minutes
7. New Business
 - A. Special Use Permit—800 US Hwy 17N
William Alexander—owner/applicant
Request for a Special Use Permit for proposed expansion/resumption of a non-conforming use
8. Board Questions/Comments
9. Adjournment

BOARD OF ADJUSTMENT
2023 APPLICATION DEADLINES—MEETING DATES

FILING DEADLINE DATES	MEETING DATES
December 23, 2022	January 24, 2023
January 27, 2023	February 28, 2023
February 24, 2023	March 28, 2023
March 24, 2023	April 25, 2023
April 28, 2023	May 23, 2023
May 26, 2023	June 27, 2023
June 23, 2023	July 25, 2023
July 28, 2023	August 22, 2023
August 25, 2023	September 26, 2023
September 22, 2023	October 24, 2023
October 27, 2023	November 28, 2023
November 24, 2023	December 26, 2023 NO Meeting

Meetings are held in the Town Hall Council Chambers and begin at 6:00pm, unless otherwise specified. Applications must be filed by 4:00pm on the filing deadline. Completed applications should be submitted to the Town of Holly Ridge Community Development Department to include payment.

Town of Holly Ridge

Post Office Box 145
Holly Ridge, North Carolina 28445
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SPECIAL USE PERMIT APPLICATION

Town of Holly Ridge Zoning Ordinance

12-12-22 734.34
 Date of Application Application Number Parcel ID Number

Name of Owner/Applicant : William Alexander

Mailing Address : PO Box 296, Holly Ridge, NC 28445

Street Address : 800 Hwy 17

City, State, Zip : Holly Ridge, NC 28445

Telephone : 910-264-6782 Alternate: _____

Description of Proposed Use : Residential - Place Doublewide
Manufactured home on property

Zoning District : R-15 Special Use Fee : \$300 rec'd 1/17/23 (P)

I certify that the above information is true and accurate.

Owner/Applicant Signature : [Signature]

Owner/Attorney in Fact

Supporting data and information shall include a Site Plan in addition to the application fee as set out in the Schedule of Fees, as adopted. Application must be submitted to the Holly Ridge Planning/Zoning Department.

Date received : Application rec'd 12/14/22 via email | Fee rec'd 1/17/23

Received by : [Signature]

A FEE WILL BE REQUIRED AT SUBMISSION OF THIS APPLICATION PER CURRENT ADOPTED FEE SCHEDULE.

Factors Relevant to the issue of a special permit

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**.

- 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 use will not endanger the public, Health, or Safety. We are proposing replacing an existing single-wide mobile home and placing a brand-new 2022 double-wide mobile home for Will and his family to live.

- 2. That the use meets all required standards set forth in this ordinance:**

The use for this single-family home residence, is for Will Alexander and his family. All construction will meet building code and will be inspected by Town of Holly Ridge.

- 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity:**

The use of 2022 Doublewide will not hurt the value of the adjoining or surrounding property. Since Will acquired property from the previous owner, not only has he cleaned up the property, but he has also increased the value of the land. Before Will purchased this land, it was a dump and full of trash that had accumulated for the last 30 years. Will Alexander owns the property around this piece of land. The last few months, a great deal of money has been invested by Will Alexander on improvements to the lot.

- 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 located and in general conformity with the Holly Ridge Comprehensive Plan.**

In the long term this property will be used for commercial use in junction with the 850 Hwy 17 property, but for now Will Alexander and his family live here.



**Planning & Zoning Department
Staff Report
Special Use Permit
Board of Adjustment Meeting Date:
January 24, 2023**

Request for a Special Use Permit for proposed expansion/resumption of a non-conforming use submitted by William Alexander in order to replace single-wide manufactured home with a double-wide manufactured home on property located at 800 US Hwy 17N and currently zoned R-15

<p>Applicant: William Alexander</p> <p>Property Owner: Get Right Investments, LLC</p> <p>Property/Parcel#: 800 US Hwy 17N 042620 (Map #734-3.4)</p> <p>Current Zone: R-15</p> <p>Total Acreage: 2 acres</p> <p>Number of Properties: 1</p> <p>Board of Adjustment Action Required: Yes</p> <p>Town Council Action Required: No</p> <p>Actions:</p> <ol style="list-style-type: none"> 1. Approve/Deny of the request for expansion/resumption of a non-conforming use by replacing a single-wide manufactured home with a double-wide manufactured home 2. Continue to a future date to obtain additional information or to further consider information presented. 3. Determine findings in granting approval or denying proposal. 	<p>Current Zoning: R-15</p> <p>Relevant History: Currently, the subject property possesses an existing double-wide manufactured home. A single-wide manufactured home was also previously located on the subject property but has recently been removed. As found in the included application, the intent is to install a new double-wide manufactured home to replace said single-wide home.</p> <p>As illustrated in the Town’s Permitted Use Table (included), manufactured homes are not a listed use permitted within the R-15 Zoning District.</p> <p>The property, as illustrated by the included aerial, is located within the boundaries of a larger parcel that is also under the same ownership. The surrounding property is currently zoned as Commercial and is currently being utilized for the sale of landscaping material and portable accessory structures.</p> <p>As illustrated by the included Future Land Use Map, the property subject to this consideration is designated as Medium-Density Residential. The surrounding parcel was rezoned in November 2020 from R-15 to Commercial.</p>
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OVERVIEW

Section 7-3-26, Permitted Use Table, of the Town’s Zoning Ordinance, manufactured homes, regardless of size, are not a listed use that is permitted within the R-15 Zoning District. The existence of the two (2) homes would be permitted to exist due to their existence prior to these regulations being in place.

Section 7-6-4 of the Holly Ridge Zoning Ordinance (included as part of this report) states that “the altering, changing or rebuilding of a non-conforming use is only allowed pursuant to a Special Use Permit issued by the Board of Adjustment... The terms ‘altering, expanding and changing’ shall be strictly construed.”

Section 7-6-4 also states that “‘Resuming’ means the reusing or reoccupying of a non-conforming building or structure which was unused or unoccupied for a continuous period of one hundred and eighty (180) days or more, or the resuming of a non-conforming use which was abandoned for a continuous period of one hundred and eighty (180) days or more. To determine if the property has been used within the 180-day requirement, the applicant shall supply to the Zoning Administrator evidence of the use occupying the property within that timeframe...” No such evidence has been received.

Section 7-9-3 states that “two (2) permitted uses may exist on a zoned lot (parcel) providing that one (1) of the uses is a residential structure inhabited by the property owner or operator of the other use.” If the owner of the property is occupying one of the residential structures, the ordinance allows for a second use to exist. It is understood that the owner of the property will be occupying one of these structures. Should that change in the future, the owner will be in violation and subject to the Town’s enforcement procedures and penalties.



Figure 1—Aerial View of Property

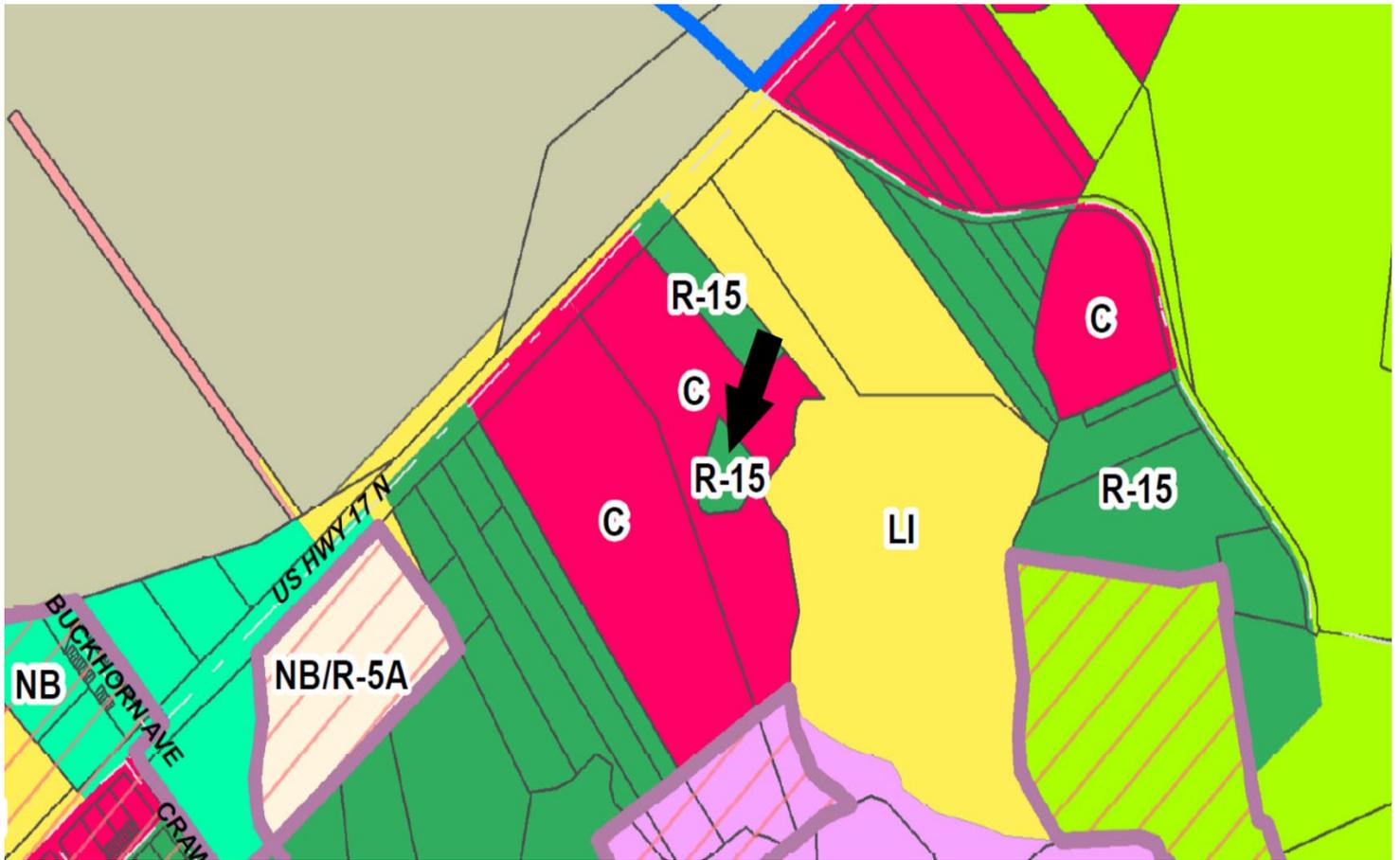


Figure 2—Current Zoning

SPECIAL USE PERMIT REQUIREMENTS

Because the proposal requires a Special Use Permit, additional considerations 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. While there are a few ancillary comments provided by Staff, the applicant is responsible for the burden of proof in establishing each item below has been duly addressed, which has been submitted and included with this report.

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

Staff Comments: R-15 districts do not permit manufactured homes. Being as the removal of one manufactured home has occurred and not replaced within one-hundred eighty (180) days, Section 7-6-4 requires that a Special Use Permit be approved for any proposed alteration, expansion, change, rebuilding or resumption of a non-conforming use. Based upon the submitted site plan, and if the Special Use Permit is approved, the use would meet all required standards.

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

(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.

Staff Comments: The Town’s Future Land Use map contained in the Comprehensive Growth Strategy Plan, and included below, identifies this property for future Medium-Density Residential use. The request for the Special Use Permit is not pertaining to the density of the property and would therefore remain as medium density. While the map indicates the parcel directly surrounding the subject property as Medium-Density as well, it should be noted that this area was rezoned to Commercial in November 2020 and therefore automatically amends the Future Land Use Map to such designation as well.

As illustrated by the aerial photo of the property, the surrounding areas are mostly vacant and undeveloped but it does include a commercial landscaping supply establishment directly adjoining the subject property.

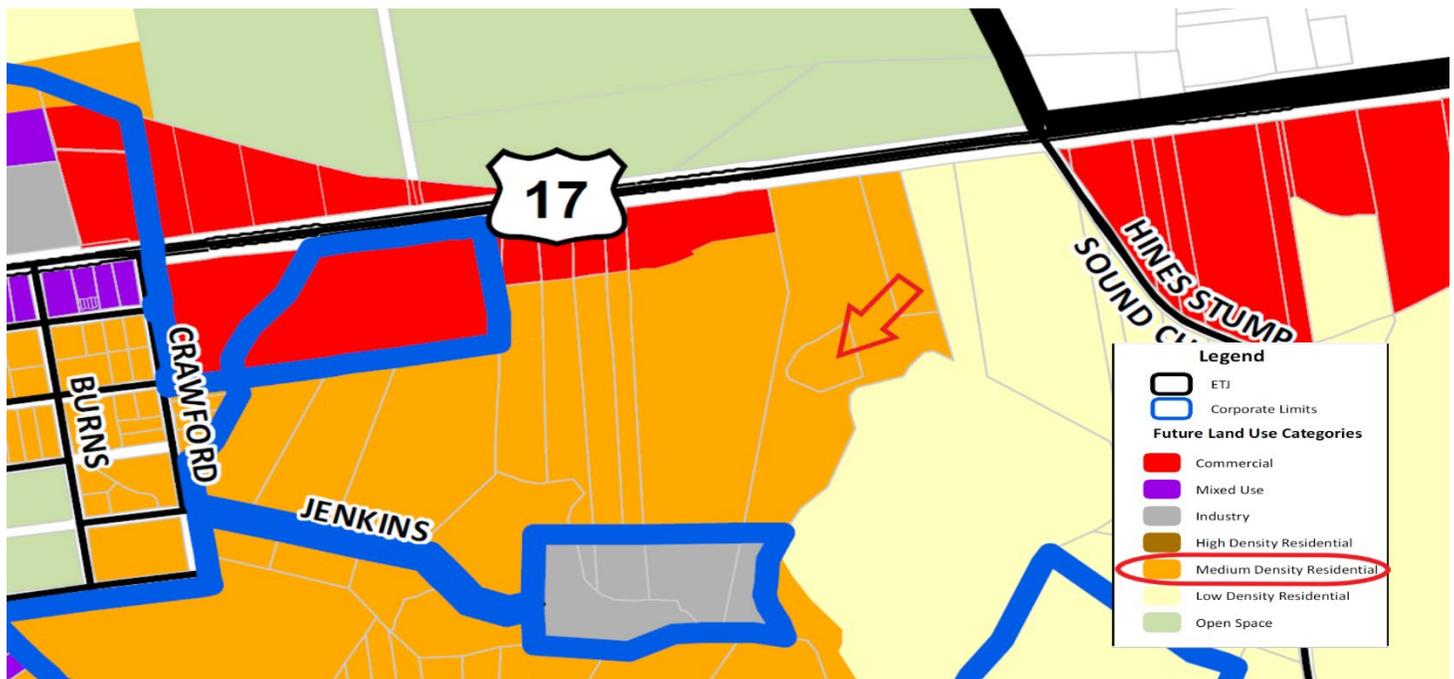


Figure 3—Current Zoning of Property and Surrounding Area

In addition to the standards noted above regarding issuance of Special Use Permits, Section 7-6-5 states that “after taking evidence and testimony, the Board of Adjustment shall find whether the proposed alteration, expansion, change or rebuilding of the non-conforming use will have a substantial adverse impact upon adjacent properties, the neighborhood or the public. If it finds that a petition will not have a substantial adverse impact, the Board of Adjustment may grant a Special Use Permit and may impose reasonable conditions and safeguards on the issuance of such permit. If the Board of Adjustment finds that a petition will have a substantial adverse impact, it shall consider:

- A. The possible detriment or benefit to the owner of the non-conforming use from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested;
- B. The possible detriment or benefit of the owners of adjacent or neighboring properties from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested; and
- C. The possible detriment or benefit to the public from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested and furthermore consideration of setting a precedent for other areas of the Town.

Prior to the issuance of building permits, the following will need to be submitted:

- a) Manufactured home documentation and utility connection details;
- b) Approval of water/sewer availability from ONWASA;
- c) Verification of compliance for all, if any, additional reasonable conditions posed by the Board.

BOARD OF ADJUSTMENT ACTION

The following sequence should be utilized during the Special Use Permit quasi-judicial hearing:

1. Chair opens hearing and announces case.
2. Witnesses are sworn in.
3. Staff gives summary overview the case.
4. The applicant presents case, documents, evidence, witnesses. BOA may ask questions. Chair allows cross-examination.
5. Objectors present case (if present), documents, evidence, witnesses. BOA may ask questions. Chair allows cross-examination.
6. Applicant's rebuttal (if applicable).
7. Objector's rebuttal (if applicable).
8. Chair summarizes evidence and excludes hearsay, opinion. BOA may add/clarify.
9. Deliberation and determination of facts and conclusions.
10. Motion and vote on each of the four findings below:
 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;

2. That the use meets all required standards set forth in this Ordinance;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
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.

11. Hearing closed.

ATTACHMENT A
Section 7-3-26 - Permitted Use Table

P= Permitted Use PS= Permitted with Supplemented Regulation
S= Special Use SS= Special Use with Supplemented Regulation

Use	OAR	R-20	R-15	R-15A	R-10	R10A	R7.5	R7.5A	R5A	C	NB	LI	MFR	RA
Residential - Household Living														
Dwelling, Multi-family (Apartment 3 or more units)														PS
Dwelling, Duplex (2 unit)														PS
Dwelling, Multi-family (Townhouse 3 or more units)														PS
Dwelling, Single-family (manufactured home)				PS		PS		PS	PS					PS
Dwelling, Single-family (modular)		P	P	P	P	P	P	P	P					P
Dwelling, Single-family (stick-built)		P	P	P	P	P	P	P	P					P
Manufactured home parks				SS		SS		SS	SS					
Upper-story Residential										PS	PS			
Residential - Group Living														
Children's home										P	P			P
Family Child Care Home		PS	PS	PS	PS	PS	PS	PS	PS					PS
Family care home										PS				
Nursing, convalescent, assisted living facility										P	P	S		
Rehabilitation facility										P	P	S		
Accessory and Temporary														
Accessory Apartment		PS	PS		PS		PS			SS	SS			
Accessory Structure/Use*	P	P	P	P	P	P	P	P		P	P	P	P	P
Home occupation		PS	PS	PS	PS									
Temporary Construction Office	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Yard Sale		P	P	P	P	P	P	P	P					
Accommodation Services														
Bed and breakfast		S	S		S		S				P			
Campgrounds, travel trailer, and RV parks						PS								PS
Campsites	S													P
Hotels/Motels										P	S	P		
Agricultural and Food Production														
Bona fide farm														S
Chicken houses														S
Flour and feed mills												P		
Greenhouse and/or nurseries (commercial)										P	P	S		S
Hatcheries														S
Livestock sales														S
Meatpacking and poultry processing plant*												P		
Processing plant (food)*												P		
Commercial Sales and Rentals														
Arts and graphics services										P	P			
Auction house										P	P			
Auto, truck and motorcycle sales										P	S	S		
Auto supplies										P	P			

Section 7-6-7 Exceptions and Modifications
Section 7-6-8 Lots Not Meeting Minimum Lot Size Requirements

Section 7-6-1 Definition and Purpose

A “non-conforming use” is any use, building, structure or lot which lawfully existed prior to the adoption of this Ordinance and which fails to comply with one or more of the applicable regulations or standards established herein. A non-conforming use is also any use, building, structure or lot which was lawfully created, constructed, etc., under this Ordinance but which was subsequently rendered non-conforming due to circumstances that were not self-created.

The basic policy of this Ordinance is to allow the continuation of any non-conforming use and the normal maintenance and repair thereof, and to classify any expanding, altering, changing, rebuilding or resuming of a non-conforming use as a special use and to review it to determine whether it will have substantial adverse impact upon adjoining properties, the neighborhood or the community. If, at the discretion of the Board of Adjustment, a proposal to expand or improve a current non-conforming use will have a substantial adverse impact, it will be denied. Conditions and safeguards may be attached to a request to expand or improve a non-conforming permit to require that the non-conforming use be brought into compliance with the regulations of this Ordinance or that any potential hazards or problems be mitigated.

Section 7-6-2 Continuation, Maintenance, and Repair of a Non-Conforming Use Allowed without Permit

The continuation of a non-conforming use and the normal maintenance and repair thereof is allowed without a general or special use approval. Normal maintenance and repair means that which is necessary to maintain and to correct any damage or deterioration to the structural soundness of an improvement, not to exceed 50% of the replacement cost. Replacement cost shall be determined by reference to values stated for the improvements in the Onslow County Tax Office records, which value may be rebutted by the property owner by presentation of a MAI Certified appraisal.

Section 7-6-3 Bringing a Non-Conforming Use into Compliance

The owner of a non-conforming use may bring it into compliance by securing any permit or approval which would have been required in the first instance for the intended or resulting use of the building, structure or lot under this Ordinance or any other applicable local law. For example, if the owner of a building wants to change its use from one which is not allowed under this Ordinance to one which is allowed pursuant to a Zoning Permit, he may secure a Zoning Permit and thus eliminate the non-conforming use. Likewise, approval may be secured under this jurisdiction’s Subdivision Regulations to recombine two (2) lots which do not comply with the minimum area regulations for building lots into one (1) lot which does satisfy minimum area regulations.

Section 7-6-4 Special Use Permit Required for Any Proposed Alteration, Expansion, Change, Rebuilding or Resumption of a Non-Conforming Use

(A) The altering, expanding, changing or rebuilding of a non-conforming use is only allowed

pursuant to a Special Use Permit issued by the Board of Adjustment under this article. The terms “altering, expanding and changing” shall be strictly construed.

- (B) “Rebuilding” means the rebuilding, reconstruction or restoration of any non-conforming building or structure which was damaged or partially destroyed by an exercise of power of eminent domain or by fire, flood, wind, explosion or other calamity or act of God, if the cost of the rebuilding, reconstruction or restoration will be fifty (50) percent or more of the replacement cost of such building or structure as stated in Onslow County tax records at the time such damage or destruction occurred. If the cost will be less than fifty (50) percent of the replacement cost, a Special Use Permit must nevertheless be obtained from the Board of Adjustment under the procedures of this article but the Board of Adjustment is only required to find that the nature and degree of the non-conforming use will not be changed or increased from that which existed prior to the damage or destruction.
- (C) “Resuming” means the reusing or reoccupying of a non-conforming building or structure which was unused or unoccupied for a continuous period of one hundred and eighty (180) days or more, or the resuming of a non-conforming use which was abandoned for a continuous period of one hundred and eighty (180) days or more. To determine if the property has been used within the 180-day requirement, the applicant shall supply to the Zoning Administrator evidence of the use occupying the property within that timeframe. Such evidence shall be clear proof that the legal nonconforming use was actively utilizing the property for its stated purpose. The Zoning Administrator’s determination of the findings shall be subject to appeal by the Board of Adjustment. If a non-conforming building or structure is reused or reoccupied or an abandoned use is resumed within a lesser period of time, no special use permit is required under this ordinance as long as the nature and degree of the non-conforming use will not be changed or increased from that which existed before the non-conforming use became unused, unoccupied or abandoned. Property may not return to the status of a non-conforming use once it has been conformed to the district’s zoning requirements.

Section 7-6-5 Standards for Granting a Permit for Any Proposed Alteration, Expansion, Change, Rebuilding or Resumption of a Non-Conforming Use

After taking evidence and testimony, the Board of Adjustment shall find whether the proposed alteration, expansion, change or rebuilding of the non-conforming use will have a substantial adverse impact upon adjacent properties, the neighborhood or the public. The Board of Adjustment may consider any relevant factor, but no petition shall be granted unless it complies with the requirements of the section entitled Special Use Permits. If it finds that a petition will not have a substantial adverse impact, the Board of Adjustment may grant a Special Use Permit and may impose reasonable conditions and safeguards on the issuance of such permit. If the Board of Adjustment finds that a petition will have a substantial adverse impact, it shall consider:

- (A) The possible detriment or benefit to the owner of the non-conforming use from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested;

(B) The possible detriment or benefit of the owners of adjacent or neighboring properties from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested, and;

(C) The possible detriment or benefit to the public from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested and furthermore consideration of setting a precedent for other areas of the town.

The Board of Adjustment may consider any other relevant factors. The Board of Adjustment shall not approve a petition which fails to comply with the criteria in this section, unless it finds that the detriment to the owner from denying the permit will be so great as to prohibit any reasonable opportunity to recoup his investment in the non-conforming use while the benefit to adjacent and neighboring owners and the public from denying the permit will be minimal. If the Board of Adjustment grants a Special Use Permit, it may impose reasonable conditions and safeguards to mitigate any potential hazards or problems or to bring the non-conforming use into compliance to the extent necessary to protect the rights and interests of adjacent and neighboring owners and the public. Conditions and safeguards imposed under this subsection shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the Town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. All such conditions shall be consented to in writing by the applicant or landowner

Section 7-6-6 Reservation of Authority to Deal with Non-Conformities under Other Powers

Notwithstanding the policies and provisions of this Ordinance with respect to non-conformities, the Town Council expressly reserves its authority under its police and other powers to initiate criminal and civil proceedings against unlawful uses, buildings, structures and lots, including those which unlawfully existed prior to the adoption of this Ordinance, and to control or abate noxious uses, to require the repair or demolition of unsafe buildings or structures, or to control or eliminate unsafe or hazardous conditions through the exercise of any powers other than the ones exercised under this Ordinance.

Section 7-6-7 Lots Not Meeting Minimum Lot Size Requirements

In any district in which single family dwellings are permitted, any lot of record which existed before the enactment of this Ordinance, which has dimensions which are less than required by these regulations, may be used as a building site for a single family dwelling providing all setback dimensional requirements of that zoning district are met. If the lot does not meet the setback dimensional requirements of that zoning district, a variance may be requested of the Zoning Administrator.

ARTICLE VII. AMENDMENTS

Section 7-9-3 Relationship of Building to Lot

Except in the case of a specially designed complex of institutional, residential, commercial, or industrial buildings in an appropriate zoning district, every building hereafter erected, moved or repaired or structurally altered shall be located on a lot and in no case shall there be more than one (1) principal building on lot. Two (2) permitted uses may exist on a zoned lot (parcel) providing that one (1) of the uses is a residential structure inhabited by the property owner or operator of the other use.

Section 7-9-4 Location of Accessory Structures

- (A) Accessory structures shall be located in the side and/or rear yard. Accessory structures may be permitted in the front yards of waterfront lots.
- (B) In all Residential Zoning districts and in the, NB zoning district, the following setbacks shall apply:
 - (1) Any accessory structure of less than 180 square feet in area shall be located in the side or rear yard and shall be setback at least 5 feet from the property lines.
 - (2) Any accessory structure of 180 square feet or more in area and less than 400 square feet in area or with a run of 15 feet or more shall be located in the side or rear yard and shall be setback at least 8 feet from the rear and side property lines.

Section 7-9-5 Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening or the construction of public utilities and sidewalks. Yard or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance.

Section 7-9-6 Pedestrian Sidewalks

Sidewalks shall be required on at least one (1) side of the street, in all new major subdivisions, and new construction nonresidential development of a principal use. Redevelopment of existing nonresidential structures does not require the installation of sidewalks. Sidewalks installation is also not required within the Light Industrial zoning district.

Such sidewalks shall be constructed to a minimum width of five (5) feet and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in the right-of-way or appropriate easement. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings or shall be adequately reinforced otherwise. All sidewalks must meet ADA requirements.

- (A) Generally: These regulations are intended to promote walking and other forms of non-motorized transportation, allow the citizens to reap significant social, environmental,

issue Special Use Permits for construction and demolition landfills under the same requirements that apply to the issuance of Special Use Permits by the Board of Adjustment.

Section 7-5-8 Application

- (A) An owner of real property, or that owner's authorized representative, may apply for a Special Use Permit for that property by submitting all required application materials to the Zoning Administrator. The applicant is encouraged to meet with the Zoning Administrator prior to submitting application materials to discuss the proposed use or development.
- (B) An application for a Special Use Permit may be withdrawn by the applicant at any time prior to the Board taking action on the request.
- (C) In the event that an application for a Special Use Permit is denied by the Board of Adjustment or that the application is withdrawn after the hearing, the Administrator shall not accept another application for the same request on the same property or any portion of the same property within one year of the original hearing. However, the Board of Adjustment may consider such an application within that time period if it finds there is new and different evidence that was not reasonably available at the time of the original hearing or that a substantially revised application/plan has been submitted.
- (D) Each application for a Special Use Permit must include a site plan of sufficient detail to allow the Zoning Administrator to reasonably understand the proposed development. To achieve this purpose, such site plans shall be prepared in accordance with the standards listed in Section 7-5-5 Site Plans. The Zoning Administrator may waive some of these requirements when a reasonable understanding of the proposal can be achieved with less information due to the scale or simplicity of the request.
- (E) The Zoning Administrator shall review the Special Use Permit application for completeness and for compliance with the requirements of this Ordinance. If the Zoning Administrator certifies that the application is complete, it shall be deemed received. For each application certified as complete, the Zoning Administrator shall prepare a report that outlines the proposed use or development, lists any deficiencies or potential negative impacts of the proposed use or development, and recommends conditions to mitigate any potential negative impacts.

Section 7-5-9 Hearing

- (A) The Board of Adjustment shall hear and decide on the application within a reasonable time.
- (B) The hearing and notice shall conform to the requirements for quasi-judicial hearings contained in Section 7-2-12 through 7-2-14 of this Ordinance.

Section 7-5-10 Board Action

- (A) The Board of Adjustment shall comply with all requirements set forth in Section 7-2-12 through 7-2-14 of this Ordinance in making, documenting, filing, and delivering its decision.
- (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;
 - (2) That the use meets all required standards set forth in this Ordinance;
 - (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
 - (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.

Section 7-5-11 Use-Specific Standards

In addition to the conditions specifically imposed in this article and such further conditions as the Board may deem reasonable and appropriate, special uses shall comply with all other regulations for the zoning district in which they are located unless the provisions for the special use provide to the contrary. Conditions and safeguards imposed under this subsection shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the Town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. All such conditions shall be consented to in writing by the applicant or landowner.

Section 7-5-12 Exercise and Modification of Special Use Permit

- (A) A Special Use Permit authorizes its holder to use or develop a parcel of land in a particular way, as specified by the approved site plan, any conditions imposed, and all applicable provisions of this Ordinance. A Special Use Permit is not a personal right but is tied to the specific parcel of property for which it is issued.
- (B) The issuance of a Special Use Permit does not relieve the holder of the Special Use Permit of the responsibility of obtaining a Building Permit or any other permit or approval required by applicable federal, state, and local laws. No use or development authorized by a Special Use Permit may be established until the Special Use Permit has been recorded and the Zoning Administrator has approved final plans for the authorized development or any phase thereof as conforming to the plans, terms, and conditions of the Special Use Permit and all applicable requirements of this Ordinance.