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Mayor

Joshua Patti
Mayor Pro-Tem

Greg Hines
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Heather Reynolds, CMC
Town Manager

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Deputy Town Clerk

HOLLY RIDGE BOARD OF ADJUSTMENT MEETING AGENDA MARCH 26, 2024 6:00PM

- 1. Call to Order**
- 2. Roll Call** (Board to excuse absences)
- 3. Moment of Silence/Pledge of Allegiance**
- 4. Adoption of Agenda**
- 5. Election of Chair and Vice-Chair**
Section 2-6 of the Holly Ridge Code of Ordinances states that a Chair and Vice-Chair be appointed to serve a term of 1 year.
- 6. Adoption of BOA 2024 Meeting Schedule/Time**
- 7. Approval of May 23, 2023 BOA Minutes**
- 8. New Business**

Special Use Permit

New Hanover Airport, LLC—142 Stump Sound Church Road

Request from New Hanover Airport, LLC for a Special Use Permit to install aircraft hangars at existing airport

- 9. Board Questions/Comments**
- 10. Adjournment**

BOARD OF ADJUSTMENT
2024 APPLICATION DEADLINES—MEETING DATES

FILING DEADLINE DATES	MEETING DATES
December 29, 2023	January 23, 2024
January 26, 2024	February 27, 2024
February 23, 2024	March 26, 2024
March 29, 2024	April 23, 2024
April 26, 2024	May 28, 2024
May 31, 2024	June 25, 2024
June 28, 2024	July 23, 2024
July 26, 2024	August 27, 2024
August 30, 2024	September 24, 2024
September 27, 2024	October 22, 2024
October 25, 2024	November 26, 2024
November 29, 2024	December 24, 2024 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.



**Planning & Zoning Department
Staff Report
Special Use Permit
Board of Adjustment Meeting Date:
March 26, 2024**

Michael Soignet, applicant, is requesting the issuance of a Special Use Permit to modify his previously submitted site plan utilized for an approved Special Use Permit pertaining to the construction hangars

<p>Applicant: New Hanover Airport, LLC Michael Soignet, Manager</p> <p>Zoning Administrator: Nathan Rhue</p> <p>Property Owner: New Hanover Airport, LLC</p> <p>Parcel #: 006954 (Map #734-117), 006953 (Map #748-24.1)</p> <p>Acreage: 18.94 (combined)</p> <p>Number of Properties: 2</p> <p><u>Actions:</u></p> <ol style="list-style-type: none"> 1. Approve or Deny of the proposed Special Use permit for modification to the previously approved site plan 2. Continue to a future date to obtain additional information or further consider information presented. The next available meeting date is April 23, 2024 or at special time of Board's choosing 3. Determine findings in granting approval or denying proposal. 	<p>Current Zoning: 006954 – R-15, R-15A, RA 006953 – Rural Agriculture</p> <p>Relevant History: On December 5, 2019, the Town's BOA considered and approved a site plan previously submitted by Mr. Michael Soignet. At the time, the proposal also included an adjoining parcel and the intent was to construct a total of four (4) hangars between the three (3) parcels. Currently, two (2) hangars have been constructed and are being utilized.</p> <p>All parcels abutting this parcel are zoned R-15A, R-15, and RA. The properties abutting this parcel consists of single-family dwellings and undeveloped properties surrounding all three (3) parcels. One (1) parcel (4.85 acres) located on the western side of Parcel 734-116 is a substation for Jones-Onslow EMC. Another parcel (80 acres) is an undeveloped property that is split-zoned as RA and R-15 which is suited for low and medium-density residential development along with agricultural uses. The properties are found within the ETJ of Holly Ridge.</p>
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OVERVIEW

The applicant is requesting a modification to a previously approved Special Use Permit site plan for expansion of a non-conforming use. Originally, the applicant planned to construct four (4) hangars during four (4) phases taking approximately two (2) years to complete. To date, two (2) hangars have been constructed and are being utilized. This consideration is to move the hangar previously proposed on the western portion of the property and closer to Stump Sound Church Road to a new location adjacent to an existing hangar on the eastern side of the Duke Energy easement. The proposal is also to increase the size of the hangar from 60' x 60' (3,600 square feet) to 252.5' x 33.5' (7,788.75 square feet). Additionally, the requested modification is to increase the size of a previously approved hangar from 231' x 40' (9,240 square feet) to 294.6' x 33.7' (9,928.02 square feet).

The property is currently zoned as R-15, R-15A, and RA. The property currently exists as an airport/landing strip and is permitted to exist as a legal non-conforming use. Section 7-5-12(C) states: "The Zoning Administrator may approve final plans that reflect minor modifications of the Special Use Permit's approved site plan. For the purposes of this Section, minor modifications are those that are necessary to comply with Special Use Permit's conditions or those that would not significantly change the development's general function, form, intensity, character, appearance, demand on public facilities, relationship to adjacent properties, impact on adjacent properties, or other characteristic related to the required affirmative findings for the issuance of a Special Use Permit. A change that would require evidentiary support in addition to that on which the Board of Adjustment based its decision to issue the Special Use Permit shall be considered a significant change. Any modification of the approved site plan that is not a minor modification requires the issuance of a separate Special Use Permit by the Board of Adjustment prior to the establishment of the use or development pursuant to the modified site plan." It is Staff's opinion that the proposed site plan is not defined as a minor modification and, therefore, would require a Special Use Permit issued by the Board of Adjustment.

There is a noted 100' easement that belongs to Jones-Onslow EMC that runs through the property lines along the front of Parcel 734-117, but no construction is proposed within that area. Bill Wilder, Senior Asset Protection Program Manager for Duke Energy, has provided that there appears to be no impact to their system as no activity is proposed within the limits of the transmission easement. The applicant has submitted a site plan illustrating the layout of the proposed development, which has been included along with the previously approved site plan. Larger copies of the site plan are available and will also be presented during the hearing.

The Town's Zoning Ordinance does not provide detailed dimensional and open space requirements related to airports. However, being as the primary use of the property has been as an airport prior to zoning regulations, the proposal for hangars would consist more as accessory uses to the principal use. As such, consideration of setbacks could be given for the accessory structures.



Aerial View of Property

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. Staff has provided some guidance for each item; however, the applicant is responsible for the burden of proof in establishing each item below has been duly addressed. The *italicized* statements below have been provided by the applicant.

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

(1) That the use will not materially endanger the public health or safety, if located where proposed and developed according to the plan submitted and approved.

The proposed additional hangars do not materially change the activities at the airport and thus should not change the impact to safety.

The existing use is in proximity to residential uses with one 4.85-acre tract being utilized as an electrical substation. The use of the property has existed and was issued an approved SUP by the BOA on December 5, 2019 to expand the non-conforming use by allowing additional hangars. The proposed modification is relocating one (1) of the previously approved hangars and increasing the overall square footage of the buildings combined from 32,283 square feet to 37,159.77 square feet. It is not known at this time how this will impact the overall traffic.

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

The use is the same as current for the site.

Standards do not currently exist specifically related to airports aside from being defined and parking requirements, which only apply with waiting passengers and/or employees. As part of the TRC processes, as required by the Town's ordinances, the Camp Lejeune liaison, Timothy McCurry, provided an email that, while the actual construction of the hangars does not pose any military impacts, their concern would be the increased airfield traffic associated with the hangars and the proximity to OLF Camp Davis. They've recently worked with the FAA for the expansion of the Hatteras F Military Operating Area (MOA) that includes airspace over the airfield. The MOA is above the airfield's Class D airspace and would only be active when they turn on their Special Use Airspace so there is room to deconflict with proper communication. They asked for the airfield manager's contact information to meet with their airspace managers to iron out any procedures or concerns. It is understood that Mr. McCurry will likely not be in attendance for the scheduled hearing related to this matter. If a statement, in this case being in the form of an email, from a person who is not present is offered and it is the best evidence available, it can be received by the board if there is no objection to its introduction and the board deems it sufficiently trustworthy. The board could condition the SUP that confirmation of any agreements related to Mr. McCurry's request are in place prior to additional permitting.

Additionally, NCDEQ has been contacted to ensure no additional permitting is required related to stormwater. It is the intent to provide this information to the Board as soon as possible. The Board may also condition the SUP that NCDEQ permitting be secured, if needed, prior to additional permitting.

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

The value of property should already include the impact of operating airport. Several properties around the airport have been acquired by pilots to have access to the airport. Further development should only improve values surrounding the airport.

Most of the parcels in the immediate proximity are zoned for residential uses, except for a parcel identified as a Jones-Onslow EMC substation. The Town has received application and issued permits for single-family dwellings with larger attached garages in the area that are understood to potentially be utilized for planes.

(4) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Holly Ridge Comprehensive Plan.

The use is consistent with current use. It will simply put airplanes on the field currently outside into an enclosed structure and add property tax paid by owner.

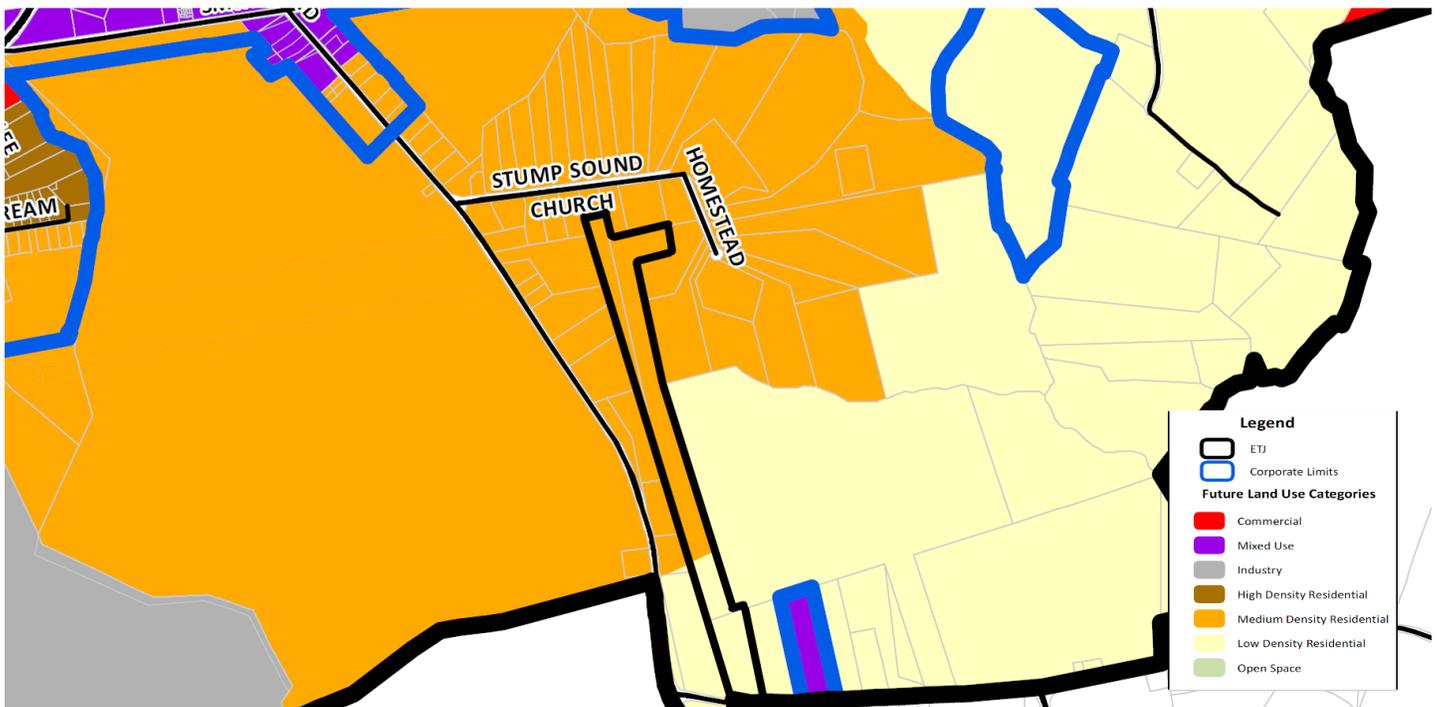
Being as the use of the property has previously existed and operates under an approved SUP, the property is permitted to be utilized unless the use is changed. The addition of the hangars as accessory structures would be in harmony with the current use of the property but may differ from the surrounding residential uses.

The Town's Future Land Use map contained in the Comprehensive Growth Strategy Plan identifies this property for future "Commercial" use. The proposed density of the project could be considered more in harmony with the "Commercial" designation of the future land use map rather than a "Low Density Residential" classification.

The current and future land use designation of the site is primarily "Residential."



Current Zoning of Property and Surrounding Area



Future Land Use Map

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 Board should condition the SUP that the following will need to be submitted:

- Confirmation of agreement, if any, with Camp Lejeune; and
- Submittal of any additional State permits from NCDEQ.

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.