



AGENDA

Tuesday, January 14, 2025: 6:00 PM

Town Council Business Meeting

E.S. Douglass Community Center: 1185 W. Pennsylvania Ave

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

a. Adoption of Agenda

4. PUBLIC COMMENTS

5. CONSENT AGENDA

a. Appoint Shawna Fink and Carrie Dugas for a second term to the Library Advisory Board.

Carrie Dugas and Shawna Fink are existing board members whose terms expired December 31, 2024. They are both interested in another three-year term and the board has requested their re-appointments. Their new terms will expire on December 31, 2027.

b. Adopt Resolution #1104 Adopting the Contract to Accept North Carolina Governor's Highway Safety Program Grant

Staff requests that the Town Council consider the adoption of Resolution #1104 Adopting the Contract to Accept North Carolina Governor's Highway Safety Program Grant

c. Approve Meeting Minutes for December 2024

Staff has prepared the following meeting minutes for approval:

- December 17, 2024, Town Council Business Meeting Minutes

d. Approve Amendments to the FY 24-25 Budget

- Final Accounting and Closure of a number of Capital Project Funds (Parking Lot, Open Space, and Nick's Creek) transferring balances to the General Capital Fund.
- Recognizing Highway Safety Grant Funds for the PD and appropriating them
- Amending revenues and appropriations for Fire Department recognizing County Funds For VIPER Radio Purchases.

6. LEGISLATIVE PUBLIC HEARINGS

a. Z-06-24: Red's Corner Food Truck Campus Expansion

Rachel Jurgens, on behalf of B & R Holding Company, and Scott Bertrand, on behalf of RCPESP, LLC, have submitted a request to rezone five (5) properties at the intersection of West Morganton Road and Old US Highway 1 from GB to GB Conditional Zoning District to further develop a mixed-use food truck campus to include a cafeteria, a bar, mobile food services, catering, a multi-purpose facility, temporary/special event uses and several accessory uses with off-street parking and open space. The subject parcels total 2.92 acres.

7. EVIDENTIARY PUBLIC HEARINGS (QJ)

a. PD-07-24 New York Place PDP

Colin Webster and John Spurrell, on behalf of Grosvenor Land, LLC have submitted a PDP application for a mixed-use development to include 40 residential condominiums and 9,100 square feet of retail, restaurant and office space. The subject parcels are currently zoned to Planned Development (PD) with an approved Conceptual Development Plan (CDP), and are located at the intersection of South Bennett Street and West New York Avenue.

b. PD-08-24: Ace Hardware Phase 2 PDP

Mr. Paul Saathoff, on behalf of Southern Pines Ace Land Company, LLC, has submitted a revised Preliminary Development Plan application for Ace Hardware Phase 2, 14,500 square feet of Retail, Restaurant, Professional Office, Personal Services, Gym, Other Office, Medical Office, or Health and Human Services space on 1.87 acres on parcels identified as PIN 857300963887 (PARID 00033603) and PIN 857300974451 (PARID 00033604).

c. MAPP-04-24: Morganton Park South - North Lots

Mr. Bob Koontz of Koontz Jones Design, LLC, on behalf of Midland Atlantic Properties and Morganton Road Enterprises, LLC, has submitted a Major Subdivision Preliminary Plat application to subdivide one parent tract into four smaller commercial out-parcels and one larger parcel (20.69 acres) to the south. The parent tract contains natural wooded areas, an existing stormwater pond, the northern portion of Carolina Green Pkwy, and part of the Morganton Park South Linear Park. The subject property is surrounded by West Morganton Road to the north and Old Morganton Road to the west.

8. ACTION ITEMS

a. AR-14-24: Homeward Kitchen Exterior Modifications

Steven Lazenby with Homeward Kitchen Corporation is requesting an Architectural Compliance Permit to modify the exterior of an existing 4,233 square foot commercial building located at 10735 US Highway 15-501. The property is leased from the legal property owner, R & T Properties of North Carolina, LLC.

b. PD-06-24: Written Decision for Morganton Park South Phase 4 PDP

Planning staff have prepared a draft Written Decision for application PD-06-24, Morganton Park South Phase 4 (Whataburger) PDP, for the Town Council's review and approval. The PDP was approved at the December 17, 2024 Regular Meeting.

c. Adoption of NC League of Municipalities Ten Priorities and Designation of Reporting Delegate

The NC League has requested that Municipalities narrow sixteen potential Statewide legislative priorities to no more than ten and designate an individual to report these items to the League.

d. Approve Resolution #1106: Setting a Public Hearing Date for Annexation Petition AX-03-24: 1485 SW Broad Street

David Thomas Burris and Deborah Stover Burris are petitioning the Town of Southern Pines for annexation of 1 block section of land. Per Resolution #1103, Directing the Clerk to Investigate a Petition Received Under G.S. 106A-31, the Clerk has certified the sufficiency of the application in Resolution #1105 and requests the Council approve Resolution #1106 - Setting the Public Hearing Date for the Town Council Business Meeting on February 14, 2025.

9. ADJOURNMENT

Meetings/work sessions of the Southern Pines Town Council are now available on the Town's [YouTube channel](#). Video of the Town Council meetings will be live streamed on the channel for viewing either during the meetings or after they have concluded. Please note, the video is provided only for the purposes of viewing the meetings; public comments or questions are not accepted via the live stream. To receive notifications when new content is published, please "subscribe" to the Town's channel at <https://bit.ly/3hXx2Qk>



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J.R. "JOEY" HOPKINS
SECRETARY

FY 2025 Agreement Details

To ensure compliance with the Federal Super Circular Requirements, Title 2/Subtitle A/Chapter II/Part 200/Subpart D/§200.331, this document has been attached to your agreement. One grant Agreement may have multiple funding sources, all are listed below.

Federal Awarding Agency: National Highway Traffic Safety Administration
Award Date: September 30, 2024
Period of Performance: October 1, 2024 – September 30, 2025
State Awarding Agency: NC Dept. of Transportation/Governor's Highway Safety Program

Grant Application #: 1000023176
Grantee: Town of Southern Pines

Project #: PT-25-06-60
Total Federal Award: \$30,000
CFDA Number and Title: 20.600 BIL NHTSA 402
FAIN#: 69A37524300004020NC0
69A37523300004020NC0
69A37522300004020NC0

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
TRANSPORTATION MOBILITY & SAFETY DIVISION
UNIT NAME
1561 MAIL SERVICE CENTER
RALEIGH, NC 27699-1561

Telephone: (919) 814-5000
Fax: (919) 771-2745
Customer Service: 1-877-368-4968
Website: www.ncdot.gov

Location:
750 N. GREENFIELD PARKWAY
GARNER, NC 27529



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J.R. "JOEY" HOPKINS
SECRETARY

September 18, 2024

Marcus Ricks
TOWN OF SOUTHERN PINES
PO Box 870
SOUTHERN PINES, NC

Application #: 1000023176
Program: GHSP2025#PERSONNEL/EQUIP
Project: TOWN OF SOUTHERN PINES

Ref: Application Approval

Dear Marcus Ricks,

Congratulations! The NC Governor's Highway Safety Program (GHSP) has approved your agency to begin the next phase of GHSP's FY 2025 Funding process. This phase allows your agency to complete a grant agreement with NC GHSP to provide the outcomes outlined in the final grant application.

Please ensure your agency has reviewed the grant application in the grants management system. Once complete, electronically sign the application using your Personal Identification Number (PIN), then click the submit button. If you have any questions about this process, please contact your Grants Specialist.

Although your application has been approved, this does not ensure funding. Final approval of funds will not be made until late September once your Agreement is finalized. Your organization is not authorized to incur any expenses until you receive final approval, **and** the new federal fiscal year begins October 1st.

Please contact your Grants Specialist if you have any questions about completing these documents.

The GHSP appreciates your dedication and contribution to highway safety.

Sincerely,

Mark Ezzell
Director

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
GOVERNOR'S HIGHWAY SAFETY PROGRAM
1508 MAIL SERVICE CENTER
RALEIGH, NC 27699-1508

Telephone: 919-814-3650
Fax: 919-733-0604
Customer Service: 1-877-368-4968
Website: www.ncdot.gov/programs/GHSP

Location:
215 EAST LANE STREET
RALEIGH, NC 27601



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J.R. "JOEY" HOPKINS
SECRETARY

September 9, 2024

Marcus Ricks
TOWN OF SOUTHERN PINES
CM VENDOR
PO Box 870
SOUTHERN PINES NC 28388
Application number: 1000023176
Ref : 2025 Application Approval

Dear Marcus Ricks,

The Governor's Highway Safety Program (GHSP) grant management team has completed its final review of applications for fiscal year 2025, which begins October 1, 2024.

Your application is approved to proceed to the next stage of the funding process. Your next step is to review and sign the Agreement of Conditions. Some grantees will need to provide additional documentation. If that's the case, your Grants Specialist will provide you with those documents. These completed documents must be returned via email to your Grants Specialist.

Although your application has been conditionally approved, this does not ensure funding. Final approval of funds will not be made until your Agreement is finalized. You are not authorized to spend any grant funds until you receive final approval **and** the new federal fiscal year begins on October 1st.

Please contact your Grants Specialist should you have any questions or concerns about this process. The GHSP appreciates your dedication and contribution to highway safety and your continued partnership in keeping North Carolinians safe.

Sincerely,

Mark Ezzell
Director

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
GOVERNOR'S HIGHWAY SAFETY PROGRAM
1508 MAIL SERVICE CENTER
RALEIGH, NC 27699-1508

Telephone: (919) 814-3650

Website: www.ncdot.gov/programs/GHSP/

Location
750 NORTH GREENFIELD PARKWAY
GARNER, NC 27529



State of North Carolina North Carolina Department of Transportation Governor's Highway Safety Program

The North Carolina Governor's Highway Safety Program (GHSP) will award federal assistance in support of the project described below. The grantee affirms this GHSP award and enters into this grant agreement with GHSP. This grant period is October 1, 2024 through September 30, 2025.

The following documents are incorporated by reference and made part of this pending grant agreement:

- (1) Governor's Highway Safety Program's approved grant application;
- (2) The signed Agreement of Conditions that the grantee signed and provided to GHSP;
- (3) Resolution form that the grantee signed and provided to GHSP, and;
- (4) Any award notifications containing special conditions or requirements, if issued.

This agreement is not valid until the date the authorized NC Department of Transportation (NCDOT), Governor's Highway Safety Program (GHSP) official's electronic signature is entered for this grant agreement.

NCDOT GHSP Award

Upon the Execution of this grant agreement by the grantee named below, GHSP will award a federal grant as follows:

Project Number: PT-25-06-60

Grantee: 1000000511 / TOWN OF SOUTHERN PINES

Application Number: 1000023176

Agreement Number: 2000079912

CFDA Number: 600

Total Eligible Cost (in U.S. Dollars): 30,000.00

Federal Percentage of Total Eligible Cost (in U.S. Dollars): 100.00000

Local Percentage of Total Eligible Cost (in U.S. Dollars): 0.00000

Effective Date: October 1, 2024

Maximum Percentage (s) of GHSP Participation: Percentages of Federal participation are based on amounts included in the approved project budget, modified as set forth in the text following the project description.

Project Description: The Project Description includes information describing the Project within the Project Application submitted to GHSP and the approved project budget, modified by any additional statements displayed in this Grant Agreement and, to the extent GHSP concurs, statements in other documents including attachments entered in the grants management system.

The Grantee, by executing this grant agreement, affirms intent to accept this GHSP award; adopts and ratifies all statements, representations, warranties, covenants and materials it has submitted to GHSP; consents to this GHSP award; and agrees to all terms and conditions set forth in this Grant Agreement. By executing this Grant Agreement, I am simultaneously executing any Supplemental Agreement that may be required to effectuate this Grant Agreement.

Awarded by: NC Department of Transportation-GHSP

Executed by: Mark Ezzell, Director

Awarded to: TOWN OF SOUTHERN PINES

Executed by: MARCUS RICKS

North Carolina Governor's Highway Safety Program

SECTION A – GENERAL INFORMATION

1. Project Title: * Region 6 LEL	Fiscal Year: 2025
2. Agency: 1000000511 - TOWN OF SOUTHERN PINES	3. Contact Person for Agency: Marcus Ricks
4. Agency Address: PO Box 870 SOUTHERN PINES, NC 28388	5. Telephone Number: * (910) 692-2732
	6. Cell Phone:
7. Physical Location of Agency * 450 W. Pennsylvania Avenue	8. Email of Contact Person * mricks@southernpines.net
9. Federal Tax ID Number / Type of Agency Federal Tax ID Number: * 56-6001337 Unique Entity Identifier: DIMBU8EEF5H3 County: * MOORE Type of Agency ☐ State ☐ Non-Profit ☐ County ☐ Higher Education ☒ Municipality ☐ Hospital	10. Project Year * ☒ New ☐ Continuation Year: ☒ 1 ☐ 2 ☐ 3 ☐ 4+ Application Number: 1000023176
	11. Allocation of Funding * Federal % 100.00 Local % 0.00

12. Budget	Total Project Amount	Source of Funds	
		Federal Amount	State/Local Amount
Personnel Costs			
Contractual Services			
Other Direct Costs	\$30,000.00	\$30,000.00	
Indirect Costs			
Total Project Costs	\$30,000.00	\$30,000.00	

13. Specify How Non-Federal Share Will Be Provided: * THROUGHOUT REGION 6 TO SUPPORT TRAFFIC SAFETY	
Project Number: _____ Additional Project Number: _____ Additional Project Number1: _____	CFDA#: 20. Work Type: _____ Additional Work Type: _____

SECTION B – DESCRIPTION OF PROJECT

Statement of Problem (Provide detailed information of the highway safety problems in your area to be addressed through this project. Include countywide crash data for the last three years and any other relevant information to validate the statements. For more detailed information see "How to write an effective traffic safety project" located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>)

This will be a project for the Region 6 Law Enforcement Liaison. The Governor's Highway Safety Program supports and oversees the statewide "Booze It & Lose It" and "Click It or Ticket" programs. Law Enforcement Agency coordination of these programs is accomplished by utilizing 11 regional "Law Enforcement Liaison" positions. Through the guidance and coordination efforts of the Liaisons, planning and preparation and reporting activities from campaign events occur. Regional LELs encourage non-participating agencies commit to GHSP's campaign through phone calls, in-person visits and regional emails.

Proposed Solution (Begin with a one-sentence summary of your project. Then describe in detail how your proposed project will address the problem identified in the "Statement of Problem" section):

A Regional Law Enforcement Liaison serves as coordinator and organizer for highway safety activities in their respective region. Efforts to continue to promote and involve law enforcement agencies in these lifesaving endeavors are of paramount importance to this statewide program. To this end, LELs are required to host events, attend and conduct meetings, assist County Coordinators with organizing highway safety campaigns, and encouraging agencies to report activities.

Budget Justification (Provide a detailed explanation of the costs associated with proposed project):

Mobile Data Terminals (MDTs) are an efficient and effective tool for augmenting traffic enforcement efforts. Whether utilizing applicable software, such as eCitation or eCrash, or completing queries on an impaired driver to ensure they are processed correctly, an MDT provides invaluable information and streamlines the procedures an officer must follow when taking an enforcement action. Understandably, this creates more opportunity for additional traffic safety measures that otherwise would not have been feasible.

Travel Justification (Provide justification for all travel expenses):

In-state travel and out-of-state funds will be used for travel to perform LEL functions, trainings, and responsibilities. Some of the funds may be used to attend traffic safety conferences and trainings like NCGHSP's traffic safety conference, the annual Lifesaver's national conference, the GHSA annual conference and trainings related to traffic safety enforcement and education.

To be completed by law enforcement agencies seeking first year grant:

Provide the agency's number of sworn officers	45
Does the agency currently have a dedicated traffic or DWI unit?	Yes ☒ No ☐
If a dedicated traffic or DWI unit exists, how many officers are assigned to the unit?	7

For applicants requesting enforcement grants, please provide the following county fatality rankings:

Information can be located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>

Overall Fatality Ranking:	29
Alcohol Fatality Ranking:	32
Unrestrained Fatality Ranking:	41
Speed Related Fatalities:	35
Other Applicable Rankings: (Specify)	

As part of this project all law enforcement agencies must enter traffic enforcement citations data of their agency for the past three years.

Year 2021	Occupant Protection Citations	100	DWI Citations	25	Speed Citations	685
Year 2022	Occupant Protection Citations	101	DWI Citations	21	Speed Citations	779
Year 2023	Occupant Protection Citations	89	DWI Citations	27	Speed Citations	745

Goals and Objectives (Provide at least one SMART (Specific, Measurable, Attainable, Realistic and Timely) goals and objectives. For more detailed information see "How to write an effective traffic safety project" located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>)

Goal #1: Promote highway safety within Region #6 with increased efforts to maintain seatbelt use above 90% by September 30, 2025. Raise the law enforcement agency participation rate in Region #6 from the 2022-2023 average of 85% to an average of 89% reporting in Region #6 by September 30, 2025.

Objectives: * Conduct a minimum of four Law Enforcement County Coordinator (LECC) meetings to discuss current highway safety activities, GHSP issues, training opportunities, and legal updates and concerns.
* Gather LECC monthly reports, awarding 25 GHSP STEP system credits for Coordinators each month they submit one.
* Compile a quarterly regional report for GHSP that includes a summary of the reports from the LECC's and the activities by the RLEL.
Promote night-time seatbelt initiatives, GHSP campaigns and events within Region #6.

Goal #2:

Objectives:

Goal #3:

Objectives:

Below are the 5-year goals of the NC Governor's Highway Safety Program (GHSP). To be eligible for funding, your traffic safety project should match one or more of the GHSP goals. Check all that apply.

- ☒ Reduce NC's traffic-related fatalities by 4% from the 2022 total of 1,784 to 1,712 by December 31, 2025.
- ☒ Reduce NC's alcohol-related fatalities by 4% from the 2022 total of 448 to 430 by December 31, 2025.
- ☒ Reduce NC's unrestrained fatalities by 4% from the 2022 total of 562 to 539 by December 31, 2025.
- ☒ Reduce NC's speed-related fatalities by 4% from the 2022 total of 426 to 408 by December 31, 2025.
- ☒ Reduce NC's young driver-related fatalities by 4% from the 2022 total of 198 to 190 by December 31, 2025.
- ☒ Reduce NC's motorcycle fatalities by 4% from the 2022 total of 237 to 227 by December 31, 2025.
- ☒ Increase NC's seat belt usage rate from the 2022 usage rate of 90.8% to 91.46% by December 31, 2025.

SECTION C – BUDGET DETAIL

Other Direct Costs

#	Equipment	Quantity	Cap Amount	Cost
1	MOBILE DATA TERMINAL-INCLUDES HARDWARE, SOFTWARE, MODEM, DATA PACKAGE, INSTALLATION AND SHIPPING	5	\$4,000.00	\$20,000.00
Total Equipment Cost				\$20,000.00

Other Equipment Details :

#	Other Items and Equipment Direct Cost:	Cost
1	LECC SUPPORT	\$5,000.00
Total Other Items and Equipment Direct Cost:		\$5,000.00

#	Travel	Cost
1	In-State Travel	\$2,500.00
2	Out-of-State Travel	\$2,500.00
Total Travel Cost:		\$5,000.00
Total Other Direct Costs:		\$30,000.00

SECTION D – SCHEDULE OF TASKS BY QUARTERS

List the schedule of tasks by quarters, referring specifically to the objectives in Section B. Tasks should be a bulleted list of activities to be performed in each quarter.

Conditions for Enforcement Projects Only

By checking this box, the above agency agrees to the terms below as additional activities to be performed as part of this project.

☒ A minimum of one (1) nighttime and one (1) daytime seat belt initiative per month;

☒ A minimum of one (1) impaired driving checkpoint per month;

☒ A minimum of 50% of seat belt initiatives must be conducted at night between the hours of 7:00 p.m. and 7:00 a.m.;

☒ Participation in all "Click It or Ticket" and "Booze It & Lose It" campaigns;

☒ Participation in any event or campaign as required by the GHSP;

☒ Attempt to utilize one of the Forensic Tests for Alcohol Branch's Mobile Breath Alcohol Testing (BATMobiles) units during at least one of the impaired driving checkpoints.

First Quarter (October, November, December)

- Attend all GHSP meetings and events.
- Conduct a minimum of one county coordinator meeting.
- Visit or revisit non-participating/reporting agencies within the Region. Talk to the LECCs about those agencies as well.

- Submit Quarter 1 Progress report.
- Collect monthly LECC reports and compile into the regional quarterly report. Submit Quarter 1 Progress Report by January 15.

Second Quarter (January, February, March)

- Attend all GHSP meetings and events.
- Conduct a minimum of one county coordinator meeting.
- Meet with a minimum of three non-participating/reporting agencies within the Region.
- Collect monthly LECC reports and compile into the regional quarterly report.
- If requested, provide GHSP with grant application information regarding agencies in their region. Submit Quarter 2 Progress Report by April 15

Third Quarter (April, May, June)

- Attend all GHSP meetings and events.
- Conduct a minimum of one county coordinator meeting.
- Meet with a minimum of three non-participating/reporting agencies within the Region.
- Collect monthly LECC reports and compile into the regional quarterly report.
- If requested, provide GHSP with grant application information regarding agencies in their region. Submit quarter 3 progress report by July 15

Fourth Quarter (July, August, September) Quarter (July, August, September)

- Attend all GHSP meetings and events.
- Conduct a minimum of one county coordinator meeting.
- Meet with a minimum of three non-participating/reporting agencies within the Region.
- Collect monthly LECC reports and compile into the regional quarterly report. Submit Quarter 4 progress report by October 15.
- Submit Final Accomplishments report by October 15
- Submit final claim by October 30.

AGENCY AUTHORIZING SIGNATURE

- ☒ I have read and accept terms and conditions of the grant funding and attached the Grant Agreement. The information supplied in this application is true to the best of my knowledge

Name:

PIN:

Date:

Note:

1. Submitting grant application is not a guarantee of grant being approved.
2. Once form has been submitted, it cannot be changed unless it has a status of "Return".

FOR GHSP USE ONLY:

Recommendation:

Date:

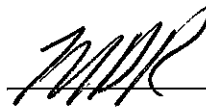


**North Carolina Governor's Highway Safety Program
Agreement of Conditions**

This Agreement is made by and between the North Carolina Department of Transportation, hereinafter referred to as the "Department", to include the Governor's Highway Safety Program, hereinafter referred to as "GHSP"; and the applicant agency, for itself, its assignees and successors in interest, hereinafter referred to as the "Agency". During the performance of this contract, and by signing this contract, the Agency agrees as follows:

A. Federal Provisions

1. **Equal Opportunity/Nondiscrimination.** The Agency will agree to comply with all Federal statutes and implementing regulations relating to nondiscrimination concerning race, color, sex, religion, national origin, handicaps, and age. These include but are not limited to:
 - (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252);
 - (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601)
 - (c) Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686);
 - (d) Non-Discrimination in Federally-assisted programs of the United States Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (49 CFR Part 21), hereinafter referred to as "USDOT", as amended;
 - (e) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, and 49 CFR Part 27; and
 - (f) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.);
 - (g) The Civil Rights Restoration Act of 1987, (Pub. L. 100-209);
 - (h) Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) and 49 CFR parts 37 and 38;
 - (i) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
 - (j) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
2. **Drug Free Workplace.** The Agency agrees to comply with the provisions cited in the Drug-Free Workplace Act of 1988 (41 U.S.C. 8103).
3. **Federal Grant Requirements and Contracts.** The Agency shall comply with the following statutes and implementing regulations as applicable:
 - (a) Highway Safety Act of 1966 (23 U.S.C. Chapter 4 -), as amended;
 - (b) Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94;
 - (c) Uniform Procedures for State Highway Safety Grant Programs (23 CFR part 1300);
 - (d) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 1201);
 - (e) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and all other relevant Federal regulations covering the Highway Safety Program;
 - (f) NHTSA Highway Safety Grant Funding Guidance, as revised, July 2015 (www.nhtsa.gov) and additions or amendments thereto.
4. **Political Activity (Hatch Act)** The Agency will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
5. **Lobbying.**
 - (a) **Certification Regarding Federal Lobbying.** The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.



- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (iii) The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure

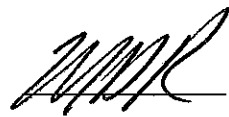
- (b) **Restriction on State Lobbying.** None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

6. Audits.

- (a) **Audit Required.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR, Subpart F, §200.500. Guidance on determining Federal awards expended is provided in 2 CFR, Subpart F, §200.502.
- (b) **Single Audit.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single audit conducted in accordance with 2 CFR, Subpart F, §200.501, except when they elect to have a program-specific audit conducted in accordance with 2 CFR, Subpart F, §200.501, paragraph (c).
- (c) **Non-Governmental Entities.** Non-governmental entities (not-for-profit and for-profit entities) must adhere to North Carolina General Statute 143C-6.22 and 09 NCAC Subchapter 03M.

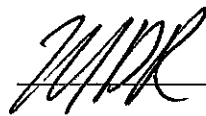
7. Instructions for Lower Tier Certification.

- (a) By signing and submitting this proposal, the prospective lower tier participant (the Agency) is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1200.
- (b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (c) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (d) The terms covered transaction, civil judgement, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR Part 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- (e) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred,



suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- (f) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1200.
 - (g) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
 - (h) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - (i) Except for transactions authorized under paragraph 7(e) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies including suspension or debarment.
 - (j) **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions.**
 - (i) The prospective lower tier participant (the Agency) certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any Federal department or agency.
 - (ii) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this contract proposal.
8. **Buy America Act.** The Agency and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.
 9. **Prohibition On Using Grant Funds To Check For Helmet Usage.** The Agency and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.
 10. **Conditions for State, Local and Indian Tribal Governments.** State, local and Indian tribal government Agencies shall adhere to the standards established by 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments and additions or amendments thereto, for principles for determining costs applicable to grants and contracts with state, local and Indian tribal governments.
 11. **Conditions for Institutions of Higher Education.** If the Agency is an institution of higher education, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR 220 Cost Principles for Educational Institutions for determining costs applicable to grants and contracts with educational institutions.



12. **Conditions for Non-Profit Organizations.** If the Agency is a non-profit organization, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR Part 230 Cost Principles for Non-Profit Organizations for determining costs applicable to grants and contracts with non-profit organizations.
13. **Conditions for Hospitals.** If the Agency is a hospital, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

B. General Provisions

1. **Contract Changes.** This document contains the entire agreement of the parties. No other contract, either oral or implied, shall supercede this Agreement. Any proposed changes in this contract that would result in any change in the nature, scope, character, or amount of funding provided for in this contract, shall require a written addendum to this contract on a form provided by the Department.
2. **Subcontracts Under This Contract.** The Agency shall not assign any portion of the work to be performed under this contract, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this contract without the prior written concurrence of the Department. Any subcontract under this contract must include all required and applicable clauses and provisions of this contract. Subcontracting does not relieve the Agency of any of the duties and responsibilities of this agreement. The subcontractor must comply with standards contained in this agreement and provide information that is needed by the Agency to comply with these standards. The Agency must submit any proposed contracts for subcontracted services to the Governor's Highway Safety Program for final approval no less than 30 days prior to acceptance.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Agency for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Agency of the Agency's obligations under this contract. Additionally, Agencies making purchases or entering into contracts as provided for by this contract must adhere to the policies and procedures of 2 CFR Part 200 and North Carolina General Statute 143-128.4. Historically underutilized business defined; statewide uniform certification as it pertains to Historically Underutilized Businesses.
4. **Incorporation of Provisions in Subcontracts.** The Agency shall include the provisions of section A-1 through A-13 of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the regulations, or directives issued pursuant thereto. The Agency shall take such action with respect to any subcontract or procurement as the Department, the State of North Carolina, hereinafter referred to as the "State", the National Highway Traffic Safety Administration, hereinafter referred to as "NHTSA", or the Federal Highway Administration, hereinafter referred to as "FHWA", may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Agency becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Agency may request the Department or the State to enter into such litigation to protect the interests of the Department or the State. In addition, the Agency may request the NHTSA or FHWA to enter into such litigation to protect the interests of the United States.
5. **Outsourcing.** All work shall be performed in the United States of America. No work will be allowed to be outsourced outside the United States of America.
6. **Property and Equipment.**
 - (a) **Maintenance and Inventory.** The Agency shall maintain and inventory all property and equipment purchased under this contract.
 - (b) **Utilization.** The property and equipment purchased under this contract must be utilized by the Agency for the sole purpose of furthering the traffic safety efforts of the Agency for the entire useful life of the property or equipment.
 - (c) **Title Interest.** The Department and NHTSA retain title interest in all property and equipment purchased under this contract. In the event that the Agency fails or refuses to comply with the provisions of this Agreement or terminates this contract, the Department, at its discretion, may take either of the following actions:
 - (i) Require the Agency to purchase the property or equipment at fair market value or other mutually agreed to amount; or



- (ii) Require the Agency to transfer the property or equipment and title of said property or equipment, if any, to the Department or to another Agency, as directed by the Department.
- (d) **Non-expendable Property.** Non-expendable property is defined as property or equipment having a value of \$5000 or more with a life expectancy of more than one year. Non-expendable property purchased under this contract cannot be sold, traded, or disposed of in any manner without the expressed written permission of the Department.
7. **Educational or Other Materials.** If allowed, any educational or other materials developed using funds from this contract must be reviewed and approved by the GHSP prior to their production or purchase. The cost of these materials is generally limited to a maximum of \$5.00 per item. The purchase of promotional items and memorabilia are not an allowable cost.
8. **Review of Reports and Publications.** Any reports, papers, publications, or other items developed using funds from this contract must be reviewed and approved by the GHSP prior to their release.
9. **Reimbursement.**
- (a) **General.** Payments are made on a reimbursement basis. There is no schedule of advance payments. Only actual allowable costs are eligible for reimbursement. Claims for reimbursement must be made a minimum of quarterly and no more than once a month via the Grants Management System. Claims for reimbursement not made within the three month threshold are subject to denial. The itemized invoice shall be supported by documentation of costs as prescribed by the Department. Reimbursements will not be processed if other required reports are incomplete or have not been submitted. Failure to submit complete reports by the required deadline may result in denial of reimbursement.
- (b) **Approval.** The Governor's Highway Safety Program and the Department's Fiscal Section shall approve the itemized invoice prior to payment.
- (c) **Unapproved Costs.** Any rejected or unaccepted costs shall be borne by the Agency. The Agency agrees that in the event the Department determines that, due to Federal or State regulations that grant funds must be refunded, the Agency will reimburse the Department a sum of money equal to the amount of Federal and State participation in the rejected costs.
- (d) **Final Claims for Reimbursement.** Final claims for reimbursement must be received by the GHSP within 30 days following the close of the approved contract period. Project funds not claimed by this date are subject to reversion.
- (e) **Expending Funds Under This Contract.** Under no circumstances will reimbursement be made for costs incurred prior to the contract effective date or after the contract ending date.
10. **Project Costs.** It is understood and agreed that the work conducted pursuant to this contract shall be done on an actual cost basis by the Agency. The amount of reimbursement from the Department shall not exceed the estimated funds budgeted in the approved contract. The Agency shall initiate and prosecute to completion all actions necessary to enable the Agency to provide its share of the project costs at or prior to the conclusion of the project.
11. **Program Income.** The Agency shall account for program income related to projects financed in whole or in part with federal funds in accordance with 2 CFR 200.307. Program income earned during the contract period shall be retained by the Agency and deducted from the federal funds committed to the project by the GHSP unless approved in advance by the Federal awarding agency as an addition to the project. Program income must be accounted for separately and the records made available for audit purposes.
12. **Project Directors.** The Project Director, as specified on the signature page of this Agreement, must be an employee of the Agency or the Agency's governing body. Any exception to this provision must have the expressed written approval of GHSP.
13. **Reports Required.**
- (a) **Quarterly Progress Reports.** Unless otherwise directed, the Agency must submit Quarterly Progress Reports to the GHSP, on forms provided by the Department, which reflect the status of project implementation and attainment of stated goals. Each progress report shall describe the project status by quarter and shall be submitted to GHSP no later than fifteen (15) days after the end of each quarter. If the Agency fails to submit a Quarterly Progress Report or submits an incomplete Quarterly Progress Report, the Agency will be subject to having claims for reimbursement withheld. Once a Quarterly Progress Report that substantiates adequate progress is received, cost reimbursement requests may be processed or denied at the discretion of GHSP.
- (b) **Final Accomplishments Report.** A Final Accomplishments Report must be submitted to the GHSP within fifteen (15) days of completion of the project, on forms provided by the Department, unless otherwise directed. If the Agency fails to submit a Final Accomplishments Report or submits an

incomplete Final Accomplishments Report, the Agency will be subject to having claims for reimbursement withheld. Once a Final Accomplishments Report that substantiates adequate progress is received, claims for reimbursement may be processed or denied at the discretion of GHSP.

- (c) **Audit Reports.** Audit reports required in Section A-6 above shall be provided to the Department within thirty (30) days of completion of the audit.

14. Out-of-State Travel.

- (a) **General.** All out-of-state travel funded under this contract must have prior written approval by the Governor's Highway Safety Program.
- (b) **Requests.** Requests for approval must be submitted to the GHSP, on forms provided by the Department, no less than thirty (30) days prior to the intended departure date of travel.
- (c) **Agency Travel Policy Required.** For Agencies other than state agencies, out-of-state travel requests must include a copy of the Agency's travel policy, to include allowances for lodging, meals, and other travel-related expenses. For state agencies, maximum allowable subsistence is limited to the prevailing per diem rates as established by the North Carolina General Assembly.
- (d) **Agenda Required.** Out-of-state travel requests must include a copy of the agenda for the travel requested.

15. Conditions for Law Enforcement. In addition to the other conditions provided for in this Agreement, grants to law enforcement agencies are subject to the following:

- (a) **Certifications Required.**
- (i) **In-car Camera or Video System.** For any in-car camera or video system purchased under this contract, it is required that the operator of that equipment has successfully completed Standardized Field Sobriety Testing training (SFST). A copy of this certificate must be filed with GHSP prior to reimbursement of in-car camera or video systems.
- (ii) **Radar.** For any radar equipment purchased under this contract, it is required that the operator of that equipment has successfully completed Radar Certification Training. A copy of this certificate must be filed with GHSP prior to reimbursement of radar equipment.
- (iii) **Alcohol Screening Devices.** For any preliminary alcohol screening devices purchased under this contract, it is required that the operator of that equipment has successfully completed the Alcohol Screening Test Device training offered by the Forensic Test for Alcohol Branch.
- (b) **Report Required - Monthly Enforcement Data Report.** In addition to the reports mentioned above, law enforcement agencies engaging in enforcement activities must submit a Monthly Enforcement Data Report on the form provided by the Department no later than fifteen (15) days after the end of each month. If the Agency fails to submit a Monthly Enforcement Data Report or submits an incomplete Monthly Enforcement Data Report, the Agency will be subject to having cost reimbursement requests withheld. Once a Monthly Enforcement Data Report that substantiates adequate progress is received, cost reimbursement requests will be processed. The agency head must sign the form. However, the agency head may assign a designee to sign the form by providing written signature authority to the GHSP.

16. Conditions for Local Governmental Agencies.

- (a) **Resolution Required.** If the Agency is a local governmental entity, a resolution from the governing body of the Agency is required on a form provided by the Department.
- (b) **Resolution Content.** The resolution must contain a commitment from the governing body to provide the local funds as indicated in this contract. Additionally, the resolution is required even if the funding is one hundred percent from federal sources, as it serves as recognition by the governing body of federal funding for purposes of Section A-6 above.

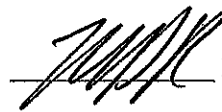
17. Seat Belt Policy and Use. Agency must adopt and enforce a seat belt use policy required for all seating positions unless exempted by state law.

18. Text Messaging Policy. Agency must adopt and enforce a policy banning text messaging while driving unless exempted by state law.

19. Prohibited Interests. No member, officer, or employee of the Agency during his or her tenure, and for at least one (1) year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof or therefrom.

20. Continued Federal and State Funding.

- (a) **Federal Funding.** The Agency agrees and understands that continuation of this project with Federal funds is contingent upon Federal funds being appropriated by the United States Congress specifically for that purpose. The Agency further agrees and understands that in the event funds originally



appropriated by Congress for these grants are subsequently reduced by further acts of Congress, funding to the Agency may be proportionately reduced.

- (b) **State Funding.** The Agency agrees and understands that continuation of this project with funds from the State of North Carolina is contingent upon State funds being appropriated by the General Assembly specifically for that purpose. The Agency also agrees that any state funds received under this contract are subject to the same terms and conditions stated in this Agreement.

21. Performance. All grants provided by the Governor's Highway Safety Program are performance-based and, as such, require that continual progress be made toward the reduction of the number and severity of traffic crashes. Any agency, whose performance is deemed unsatisfactory by the GHSP, shall be subject to the sanctions as provided for in this contract. Additionally, unsatisfactory performance shall be cause for the Department to reduce or deny future funding.

22. Resolution of Disputes. Any dispute concerning a question of fact in connection with the work not disposed of by contract by and between the Agency and the Department, or otherwise arising between the parties to this contract, shall be referred to the Secretary of the North Carolina Department of Transportation and the authorized official of the Agency for a negotiated settlement. In any dispute concerning a question of fact in connection with the project where such negotiated settlement cannot be resolved in a timely fashion, the final decision regarding such dispute shall be made by the Secretary of the North Carolina Department of Transportation, with the concurrence of the Federal funding agency, and shall be final and conclusive for all parties.

23. Department Held Harmless.

(a) **For State Agencies.** Subject to the limitations of the North Carolina Tort Claims Act, the Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.

(b) **For Agencies Other Than State Agencies.** The Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.

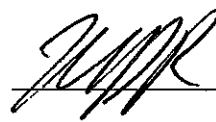
24. Records Access and Retention. The Agency shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department, the State, NHTSA, or FHWA, as appropriate, to be pertinent to ascertain compliance with such regulations, orders and instructions. Furthermore, the Agency shall maintain such materials during the contract period, and for five (5) years from the date of final payment from the Department or until all audit exceptions have been resolved, for such inspection and audit. Where any information required of the Agency is in the exclusive possession of another who fails or refuses to furnish this information, the Agency shall so certify to the Department, State, NHTSA, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information. Pursuant to N.C.G.S. §147-64.7, the Department, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Agency insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Agreement or to costs charged to this Agreement.

25. Sanctions for Non-Compliance. The applicant Agency agrees that if it fails or refuses to comply with any provisions and assurances in this contract, the Department may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this contract in whole or in part;
- (b) Withhold reimbursement to the Agency until satisfactory compliance has been attained by the Agency;
- (c) Refrain from extending any further funding to the Agency under this contract with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency;
- (d) Refer the case to the United States Department of Justice for appropriate legal proceedings.

26. Cancellation, Termination, or Suspension of Contract.

(a) **By the Department.** For noncompliance with any of the said rules, regulations, orders or conditions, due to management deficiencies or criminal activity this contract may be immediately canceled, terminated, or suspended in whole or in part by the Department. For noncompliance not indicative of management deficiencies or criminal activity the Department shall give sixty (60) days written notice



to take corrective action. If the Agency has not taken the appropriate corrective action after sixty (60) days the Department may cancel, terminate, or suspend this contract in whole or in part.

- (b) **By mutual consent.** The Agency or the Department may terminate this contract by providing sixty (60) days advanced written notice to the other party.
- (c) **Unexpended funds.** Any unexpended funds remaining after cancelation or termination will revert to the Department.

27. Completion Date. Unless otherwise authorized in writing by the Department, the Agency shall commence, carry on, and complete the project as described in the approved Highway Safety Project Contract by September 30 of the Federal fiscal year for which it was approved.

28. E-Verify requirements. If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes.

29. Certification of Eligibility Under the Iran Divestment Act. Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 et seq. requires that each Agency, prior to contracting with the State certify, and the undersigned Agency Authorizing Official on behalf of the Agency does hereby certify, to the following:

- (a) that the Agency is not now and was not at the time of the execution of the Contract dated below identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
- (b) that the Agency shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
- (c) that the undersigned Agency Authorizing Official is authorized by the Agency to make this Certification.

30. Agency Fiscal Year. The end date for the Agency's fiscal year is June 30th, 2025

31. Signature. By signing below, the Agency agrees to adhere to the terms and conditions of this Agreement.

AGENCY PROJECT DIRECTOR		
NAME <i>Marcus Rick's</i>	TITLE <i>Region LE4</i>	ADDRESS <i>450 W. Pennsylvania Ave Southern Pines</i>
SIGNATURE <i>[Signature]</i>	DATE <i>11/4/24</i>	TELEPHONE NUMBER <i>910-692-2732</i>
AGENCY AUTHORIZING OFFICIAL		
NAME <i>Nicholas Palidori</i>	TITLE <i>Police Chief</i>	ADDRESS <i>450 W. Pennsylvania Ave Southern Pines, NC</i>
SIGNATURE <i>[Signature]</i>	DATE <i>11/18/2024</i>	TELEPHONE NUMBER <i>(910) 692-2732</i>
AGENCY OFFICIAL AUTHORIZED TO RECEIVE FUNDS		
NAME	TITLE	ADDRESS
SIGNATURE	DATE	TELEPHONE NUMBER



RESOLUTION #1104
RESOLUTION ADOPTING CONTRACT TO ACCEPT THE NORTH CAROLINA GOVERNOR’S HIGHWAY SAFETY PROGRAM GRANT

WHEREAS, the Southern Pines Police Department (herein called the “Agency”) has completed an application contract for traffic safety funding; and that Town of Southern Pines (herein called the “Governing Body”) has thoroughly considered the problem identified and has reviewed the project as described in the contract;

NOW, THEREFORE BE IT RESOLVED, that the Southern Pines Town Council, in open meeting assembled in the Town of Southern Pines, North Carolina, this the 14th day of January, 2025, as follows:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Master Patrol Officer Marcus Ricks is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor’s Highway Safety Program for federal funding in the amount of \$30,000.00 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$0.00 as required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor’s Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

Adopted this 14th day of January, 2025.

ATTEST

TOWN OF SOUTHERN PINES

Elizabeth Robertson, Town Clerk

Taylor G. Clement, Mayor

I certify that this resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025, as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



MINUTES

Tuesday, December 17, 2024: 6:00 PM

Town Council Business Meeting

E.S. Douglass Community Center: 1185 W. Pennsylvania Ave

1. CALL TO ORDER

Mayor Clement called the meeting to order. The following members of Town Council were present: Mayor Taylor Clement; Bill Pate; Ann Petersen; Debra Gray; and Brandon Goodman.

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

a. Adoption of Agenda

Mayor Pro Tem Pate moved to adopt the meeting agenda, seconded by Councilmember Goodman; the vote was unanimous.

Motion passed.

4. PUBLIC COMMENTS

5. CONSENT AGENDA

Mayor Pro Tem Pate moved to adopt the Consent Agenda, seconded by Councilmember Goodman; the vote was unanimous.

Motion passed.

a. Approve Meeting Minutes for November 2024

Staff has prepared the following minutes for approval:

b. Adopt the 2025 Town Council Meeting Calendar

2025 Town Council Meeting Calendar

c. Approve Appointment: Planning Board

Jennifer Garner was appointed to the Planning Board on June 13, 2023 to serve the remainder of a vacant term, which is now expiring. Ms. Garner is eligible to serve two full terms per the UDO and has expressed an interest in remaining on the board. The Planning department recommends her appointment, with her first full term to expire on December 16, 2027.

d. Adopt Resolution #1102 Naming "Southern Pines Elaine T. Baillie Skatepark"

Skaters for Moore (SFM) received a generous donation from longtime local resident Elaine T. Baillie to help fund the skatepark construction and has requested that the Town consider naming the facility the "Southern Pines Elaine T. Baillie Skatepark." SFM founder William Dean shared that Ms. Baillie "was a surrogate mother to several in my skateboarding group [as a teen], and helped offer a safe space and guidance growing up. I believe her name being attached to the Park personifies the mission of being a safe, fun environment for the action sports community." Staff has prepared a resolution to name the skatepark after Ms. Baillie.

e. Resolution #1103 - Direct the Town Clerk to investigate the sufficiency of the petition and certify the result, per NCGS 160A-31(c).

An application has been received petitioning to annex property into the Town of Southern Pines.

f. Approve ARPA Compliance Audit Contract - Forvis

g. Authorize the Town Manager to execute a contract with WakeRack Contract, LLC.

WakeRack will install a kiosk for rental kayaks and stand-up paddle boards at Reservoir Park. They will be responsible for the maintenance of all equipment and the reservation system. WakeRack will cover insurance and the Town Attorney has reviewed and approved the contract. WakeRack will forward to the Town 10% of the rental fees.

6. LEGISLATIVE PUBLIC HEARINGS

a. OA-03-24: Landscaping & Tree Protection Amendments

A continuation of a legislative public hearing that began at the November 12, 2024 meeting regarding proposed amendments to the UDO.

Mayor Clement reopened the hearing for OA-03-24, Landscaping & Tree Protections Amendments Planning Director BJ Grieve addressed the Council.

Discussion ensued

Mayor Pro Tem Pate moved to continue the hearing to the March Town Council Business Meeting, seconded by Councilmember Gray; the vote was unanimous.

Motion passed.

b. Z-04-24 & OA-04-24: Zoning Map Amendment and UDO Text Amendments to Create Two Character Districts

A continuation of a legislative public hearing that began at the November 12, 2024 meeting related to the creation of a Downtown Character District and a West Southern Pines Character District.

Mayor Clement reopened the hearing for Z-04-24 & OA-04-24: Zoning Map Amendment and UDO Text Amendments

Planning Director BJ Grieve addressed the Council.

Discussion ensued

Mayor Pro Tem Pate moved to continue the hearing to the March Town Council Business Meeting, seconded by Councilmember Gray; the vote was unanimous.

Motion passed.

c. AX-02-24: Petition for Annexation - 2.5 acres off Air Tool Drive

RAB Investments, LLC is petitioning the Town of Southern Pines to annex 2.5 acres of land located adjacent to Air Tool Drive inside the Southern Pines Corporate Park.

Planning Director Grieve presented the application and staff report to the Council

Elizabeth Snow of Robins, May and Rich and Chris Jordan, Property Manager, addressed the Council of behalf of the applicant.

Public comments were asked for and none voiced.

Mayor Pro Tem Pate moved to approve AX-02-24: Petition for Annexation as contained in the meeting packet, seconded by Councilmember Goodman; the vote was unanimous.

Motion passed.

d. Z-05-24: Conditional Zoning District - Tony Fairley Duplexes

Tony and Sandra Fairley request to rezone three properties from RS-1 to RS-1 Conditional Zoning District to allow for three pre-fabricated duplexes (one on each property). The subject parcels are identified as PIN 858200023471 (PARID 00037070); PIN 858200024317 (PARID 00036484); and PIN 858213023794 (PARID 00035309) and the total acreage of all three properties is 0.56 acres.

Town Planner Mason Mattox presented the item and staff report to the Council.

Town Attorney McCarley advised that the statute that Planning Director Grieve spoke of earlier in the meeting does not apply to this since it was done with the written consent of the owner.

Mr. Tony Fairly, the applicant, addressed the Council regarding the project, which he views as an affordable housing option.

Discussion ensued.

Public Comments

- John McInerney advised the Council that there was an error in Condition 2 in the meeting packet and that it contained an extra digit in the square footage.

- Jeannie Dupuy of Ox Ridge Lane asked where the parking for this project will be located and be located and how many duplexes would be built on each lot. will be on each lot. Mayor Clement advised that the information was located on Page 173 of the packet which showed 1 duplex per lot and parking is located via driveway in front of each

Councilmember Gray moved that after reviewing the proposed map amendments (i.e., rezoning) to the Town of Southern Pines Zoning Map and after considering the criteria for approval of map amendments found in UDO §2.17.9 that the proposed amendment to the Town of Southern Pines Zoning Map is reasonable, in the public interest, and consistent with the current character of the Western Southern Pines District and the criteria set forth in the Town of Southern Pines Unified Development Ordinance §2.17.9, considering that the Duplexes will expand housing opportunities to account for the 'missing middle' options, and the proposed design is appropriate for the character of the area. Therefore, the requested rezoning from RS-1 to RS-1CD (Conditional Zoning District) is reasonable for the reasons set forth in the Planning Board recommendation and staff report for application Z-05-24. The motion was seconded by Mayor Pro Tem Pate and the vote was unanimous.

Motion passed.

Councilmember Gray moved to approve Z-05-24 and WS-05-24 with the conditions submitted by the applicant on the RS-1 Conditional Zoning District and as set forth in staff report Z-05-24, seconded by Mayor Pro Tem Pate; the vote was unanimous.

Motion passed.

7. EVIDENTIARY PUBLIC HEARINGS (QJ)

a. PD-06-24: Morganton Park South Phase 4 - Whataburger Restaurant

Whataburger Restaurants, LLC and BL Companies have submitted a Preliminary Development Plan application for a ±3,305 square-foot restaurant in Morganton Park South for the parcels identified as PIN 857100478061 (PARIDs 20230956).

Mayor Clement opened the hearing and shared a brief explanation of quasi-judicial hearings.

Town Clerk Beth Robertson swore in pending witnesses for the hearing.

Town Attorney Mac McCarley qualified the Council by asking Councilmembers to disclose the following relative to the application and property: any specialized knowledge; a fixed opinion not subject to change; close relation to the applicant or property owner; and/or a financial interest in the outcome. All responses were negative. Councilmembers Town Attorney McCarley also asked the applicant if they wished to challenge any members of Council standing and the response was negative.

Planner II Gene Ruiz presented the application, staff report and staff presentation.

Discussion ensued.

Planning Director Grieve added some clarifying remarks to Council questions.

Lee Bakeley, representing the applicant Whataburger,

The number of parking spots, the planers and the plantings within the parking lot was discussed.

Mayor Clement closed the public hearing for PD-06-24: Morganton Park South Phase 4

Mayor Pro Tem Pate moved to adopt Attachment 1 of the staff report as Findings of Fact regarding the Preliminary Development Plan PD-06-24, with the change to the number of parking spots mentioned in Point 2 second paragraph be amended from 35 to 39 spaces. Seconded by Councilmember Goodman, the vote was as follows:

- Mayor Clement: aye
- Mayor Pro Tem Pate: aye
- Councilmember Petersen: nay
- Councilmember Gray: aye
- Councilmember Goodman: aye

Motion passed.

Mayor Pro Tem Pate moved to approve the Preliminary Development Plan for PD-06-24 with the following conditions:

- a. that the proposed development is limited to 39 spaces
- b. that the 20ft Morganton Park South perimeter buffer required by the CDP be an undisturbed buffer for Phase 4.
- c. the retaining walls greater than 6' in height meet structure setbacks.

Seconded by Councilmember Goodman, the vote was as follows:

- Mayor Clement: aye
- Mayor Pro Tem Pate: aye
- Councilmember Petersen: nay
- Councilmember Gray: aye
- Councilmember Goodman: aye

Motion passed.

8. ACTION ITEMS

a. Skateboard/Pedestrian District Discussion

At the October work session, staff discussed with Council the issue of enforcement of skateboarding on public streets and in the downtown district. Based on discussion at that meeting, staff has refined some options for Council review.

Town Planner Mason Mattox presented the staff report to the Council.

Discussion ensued regarding the lack of definition on some terms used.

Councilmember Petersen shared that she would like to see a helmet requirement added to the ordinance.

Discussion was had as to working to better define the Historic District for the citizens.

It was agreed that staff would work to find answers to the missing definitions and return to Council when completed.

b. Phase 2 Comprehensive Plan Implementation Projects

The Planning Director has prepared a list of projects for the Council's consideration that, if approved, will constitute the second phase of implementing the 2040 Comprehensive Plan.

Planning Director Grieve presented the Planning Departments recommendations for projects to implement as part of the Comprehensive Plan Phase 2.

Discussion ensued.

The topic of a better connection between the train station and the Greyhound bus stop was discussed.

Councilmember Gray moved to approve the proposed Phase 2 Comprehensive Plan Implementation Projects, seconded by Councilmember Goodman; the vote was unanimous.
Motion passed.

c. 2025 Council Appointments

Individual councilmembers are appointed by the body each year to serve in various capacities and manage certain responsibilities.

Mayor Clement recommends that the item be postponed to March 2025 meeting and the Council concurs.

9. ADJOURNMENT

Upon motion by Councilmember Goodman, seconded by Councilmember Gray and carried unanimously, Council adjourned at 8:47 pm.

Respectfully submitted:

Elizabeth Robertson, Town Clerk



ORDINANCE #3097
AMEND & CLOSE THE NICKS CREEK PARKWAY PROJECT
FUND BUDGET

BE IT ORDAINED by the Town of Southern Pines Town Council, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project budget is hereby amended:

Section 1: The project authorized is to establish a fund for the purpose of construction of a road extending Nicks Creek from NC 22 to US 15-501.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following additional amount is appropriated for the project:

Transfer to General Capital Reserve Fund	\$ 3,758
	<u>\$ 3,758</u>

Section 4: The following additional revenue is anticipated to be available to complete this project:

Interest on Investments	\$ 3,758
	<u>\$ 3,758</u>

Section 5: Copies of this capital project ordinance shall be furnished to the Clerk of the Governing Board, and to the Finance Officer for direction in carrying out this project.

Section 6: This ordinance becomes effective January 14, 2025.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



ORDINANCE #3098
AMENDING THE 2024-2025 FISCAL YEAR BUDGET
Police Grant Proceeds for Mobile Data Terminal Equipment

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 14th day of January, 2025 that the Operating Budget for the Fiscal Year 2024/2025 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
Police	Grant Expenditures	10-511-4800	\$30,000.00	
General Fund	Police Grant	10-370-0200	\$30,000.00	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



ORDINANCE #3099
AMENDING THE 2024-2025 FISCAL YEAR BUDGET
Utilize County Fire Protection Funds for VIPER Radio Installation

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 14th day of January, 2025 that the Operating Budget for the Fiscal Year 2024/2025 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
Fire	Departmental Supplies	10-530-3300	\$25,395.00	
General Fund	County Cont-Fire/Rescue	10-353-0200	\$25,395.00	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



ORDINANCE #3100
AMENDING THE GENERAL CAPITAL RESERVE PROJECT BUDGET

BE IT ORDAINED, by the Town of Southern Pines Town Council, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital reserve project budget is hereby amended:

Section 1: The project authorized is for the purpose of acquisition, renovation, and/or construction of major capital facilities and improvements to the Town's infrastructure.

Section 2: The officers of this unit are hereby directed to proceed with the capital reserve fund within the terms of the budget contained herein.

Section 3: The following additional amount is appropriated for the project:

Transfer to Capital Project Funds	<u>\$ 86,655</u>
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Total Additional Project Appropriation	<u>\$ 86,655</u>
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Section 4: The following additional revenue is anticipated to be available for this project:

Transfer In – Capital Project Fund – Open Space	\$ 54,248
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Transfer In – Capital Project Fund – Nicks Creek Parkway	3,758
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Transfer In – Capital Project Fund – Parking Lot	<u>28,649</u>
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Total Additional Project Revenues	<u>\$ 86,655</u>
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Section 5: Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Finance Officer for direction in carrying out this project.

Section 6: This amended ordinance becomes effective January 14, 2025.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



ORDINANCE #3101
AMEND & CLOSE THE PARKING LOT PROJECT FUND BUDGET

BE IT ORDAINED by the Town of Southern Pines Town Council, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project budget is hereby amended:

Section 1: The project authorized is to establish a fund for the purpose of construction and renovation of parking lots owned by the Town.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amount is reduced for the project:

Construction	\$ <u>8,861</u>
	\$ <u>8,861</u>

Section 4: The following additional amount is appropriated for the project:

Transfer to General Capital Reserve Fund	\$ <u>28,649</u>
	\$ <u>28,649</u>

Section 5: The following additional revenue is anticipated to be available to complete this project:

Interest on Investments	\$ <u>19,788</u>
	\$ <u>19,788</u>

Section 6: Copies of this capital project ordinance shall be furnished to the Clerk of the Governing Board, and to the Finance Officer for direction in carrying out this project.

Section 7: This ordinance becomes effective January 14, 2025.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



ORDINANCE #3102
AMEND & CLOSE THE OPEN SPACE PROJECT FUND BUDGET

BE IT ORDAINED by the Town of Southern Pines Town Council, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project budget is hereby amended:

Section 1: The project authorized is to establish a fund for the purpose of purchasing open space and greenways.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amount is reduced for the project:

Land	\$ 46,466
	<u>\$ 46,466</u>

Section 4: The following additional amount is appropriated for the project:

Transfer to General Capital Reserve Fund	\$ 54,248
	<u>\$ 54,248</u>

Section 5: The following additional revenue is anticipated to be available to complete this project:

Interest on Investments	\$ 7,782
	<u>\$ 7,782</u>

Section 6: Copies of this capital project ordinance shall be furnished to the Clerk of the Governing Board, and to the Finance Officer for direction in carrying out this project.

Section 7: This ordinance becomes effective January 14, 2025.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk

Agenda Item

To: Town Council

Via: BJ Grieve, Planning Director

From: Alaina Mallette, Senior Planner

Subject: Request to rezone several parcels located on SW Broad Street from General Business (GB) to General Business Conditional Zoning District (GB-CD); Applicant: RCPESP, LLC

Date: January 14, 2025

I. SUMMARY OF APPLICATION REQUEST

Rachel Jurgens, on behalf of B & R Holding Company, and Scott Bertrand, on behalf of RCPESP, LLC, have submitted a request to rezone five (5) properties from GB to GB Conditional Zoning District to develop a mixed-use food truck campus to include a cafeteria, a bar, mobile food services, catering, a multi-purpose facility, temporary/special event uses and several accessory uses with off-street parking and open space.

The subject parcels totaling 2.92 acres are identified as PIN 858100061104 (PARID 20180500) and PIN 858100061061 (PARID 00048220) owned by B & R Holding Company, LLC; and PIN 858109051976 (PARID 00055107), PIN 8581090050947 (PARID 00055108) and PIN 858109051859 (PARID 00055109) owned by 155 Hall SP, LLC.

II. PLANNING BOARD REVIEW

On December 19, 2024, the Town of Southern Pines Planning Board convened to hold a public hearing regarding application Z-06-24. The public hearing was opened and concluded on the same day. Planning staff presented a brief description of the subject parcel, additional materials submitted by the Fire Department since completing the staff report, and staff's recommendation of approval with applicant's proposed conditions and some additional considerations. Following staff's comments, Scott Bertrand and Mike Ratkowski, the Applicants, responded to staff's additional considerations. The Planning Board asked the Applicants questions regarding outdoor "occupancy" size, a crosswalk across Old US 1, and outstanding permitting violations.

Regarding illegal parking, the Applicants stated that temporary parking agreements would be a good mitigating measure during certain times of the year and that they are discussing options with adjacent property owners. They prefer to deal with parking-related concerns outside of the zoning process. They are open to a condition that addresses multiple events or high-demand during concurrent use of spaces.

Regarding engineering considerations, the Applicants stated that the stormwater pond is never full and will be re-sodded and safety cages will be added to pipe flows, but had not

done pre-development versus post-development runoff estimates for a 10-year flood event. Regarding ongoing Fire Code violations, the Applicants stated they were addressing the violation. Lastly, Applicants also stated that they were amenable to future public-private partnerships to encourage pedestrian and multimodal improvements within Pinedene.

One additional public comment was received from Tom McCable regarding pedestrian access to the site. He suggested the Applicants add a path from Morganton Road to the site where a dirt, high-traffic pedestrian path has been created and is visible. He further stated that street trees should not block this type of pedestrian path.

After closing the public hearing, a motion was made that after reviewing the request and considering the criteria for approval (i.e., UDO §2.17.9), the proposed conditional zoning district is consistent with the 2040 Comprehensive Plan for the reasons set forth in Attachment 1 of staff report Z-06-24 as modified during Board Discussion and therefore, to recommend approval of Z-06-24 to the Town Council with additional considerations. The motion carried by a vote of 5-0.

III. PROJECT INFORMATION

	A. Physical Addresses	B. Property Owner
“Broad Street”	1. 801 SW Broad St and 901 SW Broad St (PARID 20180500)	B & R HOLDING COMPANY LLC
	2. No Address (PARID 00048220)	B & R HOLDING COMPANY LLC
“Hall Avenue”	3. 155 Hall Avenue (PARID 00047570)	155 HALL SP LLC
	4. No Address (PARID 00055109)	155 HALL SP LLC
	5. No Address (PARID 00055108)	155 HALL SP LLC

C. Applicant

Scott Bertrand
RCPESP, LLC
901 SW Broad St
Southern Pines, NC 28387

D. Authorized Agents

Rachel Jurgens
B & R Holdings Company, LLC
Scott Bertrand
RCPESP, LLC

E. Existing Zoning and Improvements

The following table provides zoning information and existing improvements for the properties, as classified above in section II.A and II.B.

Table 1. Existing Zoning and Improvements Summary

Zoning	Broad Street Properties	Hall Avenue Properties
Entitlements	General Business CU-02-20 AR-03-20	General Business N/A, non-conforming sites that were designed and built legally, to Planning staff's knowledge
Conditions on prior approvals	1) The sidewalk proposed in the Town of Southern Pines Existing Park Inventory and Service Area Map be built by the developer to Town Standard. The amount of sidewalk required to be constructed will be that which is equivalent to the frontage on SW Broad Street that is shown on the Park Inventory and Service Area Map. However, the sidewalk may be located on or adjacent to the proposed development in a manner deemed most appropriate by the applicant and Town of Southern Pines staff. 2) A deviation from the standards in UDO§ 4.3.6 Perimeter Landscaping for Vehicle Use Areas, specifically the requirement for large trees every thirty (30) linear feet along the portion of the property line shared with 155 Hall Ave (also identified by PARID 00055107 and Moore County PIN 858109051976) directly in front of the existing sign for Thyme & Place Cafe.	N/A
Improvements	• Drive-up/through café • Food truck campus, including a commercial building called "Beer Garden" and outdoor seating • Asphalted parking with marked spaces • Stormwater pond • Water and sewer main lines on SW Broad St.	• Multi-unit commercial building • Unpermitted walk-in cooler • Gravel parking, unmarked spaces • Water main line on Hall Ave.
Comments	The proposed conditional zoning district would supersede the existing conditional use permit. Awaiting signed shared parking agreement between all property owners	Awaiting signed shared parking agreement between all property owners

F. 2040 Comprehensive Plan Designation for General Framework, Conservation and Development, and Character Districts

General Framework Map: Area to Transform, Community Activity Center

These areas should re-imagine employment, shopping, and entertainment opportunities by creating new energized activity areas. These areas require deliberate planning for the entire area rather than piecemeal development. These communities' centers should include mixed land uses and have a discernible center including main street, park, square, or plaza with businesses fronting on these centers. All buildings should front on the corridor and street with wide sidewalks. Public gathering spaces are an important component of these centers.

Conservation and Development Map: Mixed-Use Area

These areas are meant to serve economic and entertainment needs within the community. Small blocks with a mix of land uses and active public spaces (i.e., gathering places) between buildings is the vision for these areas. General Business is not a zoning category that is envisioned in this area, rather Central Business or Neighborhood Business.

Character District Map: Complete Community

Similar description to the previous two sections, plus walk-bike-auto-oriented transportation; allowing multi-modal means to access adjacent properties. The design and scale of complete communities encourage active living via a complete and connected network of streets, sidewalks, parks, and greenways. Non-residential development should be neighborhood commercial, office, institutional, and stacked or block-length mixed-use buildings (with designs similar to those shown on pages 79-81 of the 2040 Comprehensive Plan). Signage is meant to include wall signs, murals, blade signs, ground signs, and entrance signs, but not monument signs. These parcels are located in the Focus Area C for US 1-South of Morganton area, called "Pinedene." In this area, emphasis on pedestrian connections, walkways, and crosswalks should be a significant design feature. Many streetscape-level improvements are recommended to be done in partnership with the Town and with adjacent landowners. Parking should be a mixture of street, public lots, and on-site.

Pinedene: Design Guidebook for the Southern Pines Complete Community Focus Area C

Renovation and reuse. Public realm improvements should include sidewalks, street trees, water fountains and other design elements that enhance gathering spaces, and provide bicycle parking. Traffic calming measures should include sidewalks, crosswalks, protected bicycle infrastructure, and travel lane narrowing.

Redevelopment: Public realm improvements should include mixing uses with street-oriented design, public seating along ROW, access within the block (i.e., not main thoroughfares), and balance between shaded areas and open recreational space. Traffic calming measures should include inner block paths that are inaccessible by car (but accessible by delivery trucks or emergency vehicles) and protected bike lanes to connect Pinedene with downtown.

Figure 1. Vision for Pinedene from Guidebook



G. Applicant Proposed Conditions

Condition 1. This conditional zoning district shall adopt the language of the Conditional Use Permit (i.e., Moore County Register of Deeds Book 5334 Pages 278 to 280) and in the event of any conflict, these conditions shall supersede the Conditional Use Permit.

Condition 2. Permitted land uses shall be limited to the following:

- Cafeteria or limited service restaurant (LBCS 2520),
- Bar or drinking place (LBCS 2540),
- Mobile food services (LBCS 2550),
- Food truck campus (LBCS 2551),
- Caterer (LBCS 2560),
- Multipurpose facility open to the general public (i.e., “Banquet Hall,” LBCS 5371),
- Temporary uses (LBCS 9920) and Special events (LBCS 9910), which do not require additional permitting:
 - Vendor markets, such as those with up to thirty (30) vendors using 10x10, 12x12 tents to sell items; and
 - Charity Events, such as fundraisers that include up to thirty (30) related vendors and 10x10, 12x12 tents ; and
 - Themed events hosted either by Red’s or someone wanting to use some or most of the Red’s premises (this would include larger dining tents that will follow tent permitting requirements).
- Temporary uses (LBCS 9920) and Special events (LBCS 9910) other than those listed above shall require Special Event permits.

The following accessory uses and structures shall also be permitted:

- One outdoor stage for up to 400 square feet; and

- One concrete slab patio for up to 825 square feet to be used as outdoor seating; and
- No more than one shed for storage purposes; and
- No more than one walk in cooler and overhead shelter for up to 600 square feet; and
- No more than one drive-through coffee bar; etc.

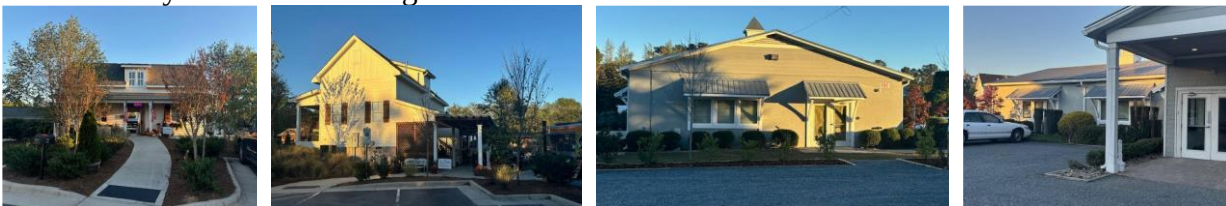
Condition 3. Cross Use of Properties.

- Allowing the cross use of 155 Hall Ave as an ancillary property to 801/901 SW Broad is a primary goal of this application. Cross Use includes, but is not limited to shared restrooms, parking, and reciprocal access. When not being privately rented, Suite A is intended as an ancillary/alternative site to Red's Corner seating areas.
- Pedestrian access:
 - Morganton and SW Broad frontages: the existing sidewalk systems recently installed allow sufficient access to the site from these streets. Once accessed, pedestrians self direct to various points of interest on site. For example, someone headed to a restroom may take a different path than heading to the food trucks.
 - Hall Ave frontage: access from Hall Ave will see minimal foot traffic as Hall Ave is dead end road and not a main thoroughfare.
 - Access between the properties is clearly defined with marked walkways or open area where vehicular traffic is excluded.

Condition 4. Noise. 155 Hall Ave: There shall be no change in permitted noise levels. The outdoor stage shall be permitted to have live outdoor music performances with amplification, subject to the local noise code, until 11PM.

Condition 5. Hours of Operation. The hours of operation shall be 6:00 AM to 11:00 PM.

Condition 6. Architecture. Renovations of the exterior architecture of the existing buildings shall be designed in the same character or complement the existing architecture as was submitted in architectural compliance permit file #AR-03-20. Some key character defining elements include:



Condition 7. Landscaping. Current landscaping and buffering shall be retained except for sod installed in and around the highlighted area in Section 1d (Pocket Park). The perimeter vehicle use area landscaping shall continue to be waived between the property lines of 901 SW Broad Street and 155 Hall Avenue. A vegetative barrier/hedge shall be added between the gravel commonly known as the food truck parking and the sodded area to prevent illegal parking.

Condition 8. The 20 x 30 tent shall be permitted to remain, permanently. A pavilion-type structure of similar size and without walls will be permitted in the event Red's replaces the tent.

Condition 9. Site Access. Site access shall remain at the current locations and no parking shall be permitted in the access easement between 901 SW Broad Street and 155 Hall Avenue.

Condition 10. Parking. Total Combined Parking Spaces shall be 66. The 37 parking spaces at 155 Hall Ave may remain gravel and unmarked. 901 SW Broad shall provide all 29 existing parking spaces.

Condition 11. Bicycle Parking. Bicycle racks shall be provided with a minimum of six spaces.

Condition 12. Signage. Temporary "Coming Soon" sign facing Red's Corner interior of the two properties to notify Red's customers and shall be permitted for 90 days and shall follow UDO standards for dimensions. Any additional street fronting or building signs shall follow UDO standards.

Condition 13. Traffic Patterns. 901 SW Broad: Traffic Patterns will coincide with the existing traffic patterns. 155 Hall Ave: Site access shall remain at the current locations.

Condition 14. Fats, Oils, Grease, Odors. No fats, oils, grease, or odors shall be generated from the business' operations. Prepared food may be provided by Red's Corner food trucks or caterers who do generate fats, oils, and grease. The existing infrastructure is sufficient to support these food trucks and caterers.

Condition 15. Lighting. Existing lighting at the property shall remain in place. Lights may be added to increase safety and security on site but shall follow standards in the UDO.

Condition 16. Utilities & Trash. Existing dumpsters shall remain on site.

Condition 17. Outdoor Storage shall be prohibited.

Condition 18. Fencing. No new fencing shall be permitted.

Figure 2. Zoning Map



Figure 3. Vertical Aerial Imagery of Site Dated December 30, 2022



IV. STAFF REVIEW

1. Application Review Dates

Application Submitted: **November 12, 2024**

Additional Information Submitted: **December 13, 2024**

Additional Information Submitted: **December 19, 2024**

Additional Information Submitted: **December 31, 2024**

Additional Information Submitted: **January 5, 2025**

Additional Information Submitted: **January 7, 2025**

Application Incomplete: **November 19, 2024**

Application Complete: **November 21, 2024**

Planning Board Public Hearing Notice

Publication: **December 4, 2024** and **December 11, 2024**

Mail: **December 5, 2024**

Signage: **December 5, 2024**

Internet: **December 3, 2024**

Planning Board Regular Meeting: **December 19, 2024**

Town Council Public Hearing Notice

Publication: **January 1, 2025** and **January 8, 2025**

Mail: **December 20, 2024**

Signage: **December 5, 2024**

Internet: **December 20, 2024**

Town Council Regular Meeting: **January 14, 2025**

2. Staff Consistency Evaluation Based on Criteria for the Rezoning of Subject Parcel for Zoning Map Amendment Review per UDO § 2.17.9

When reviewing an application for zoning, the hearing bodies (Planning Board and Town Council) shall consider and be guided by the following criteria, as set forth in UDO §2.17.9 and outlined below. Furthermore, additional standards are expected of a conditional zoning district—a reclassification of property subject to specific conditions that ensure compatibility of the use with the use and enjoyment of neighboring properties—such as the one being proposed by the applicant. Conditional zoning is voluntary.

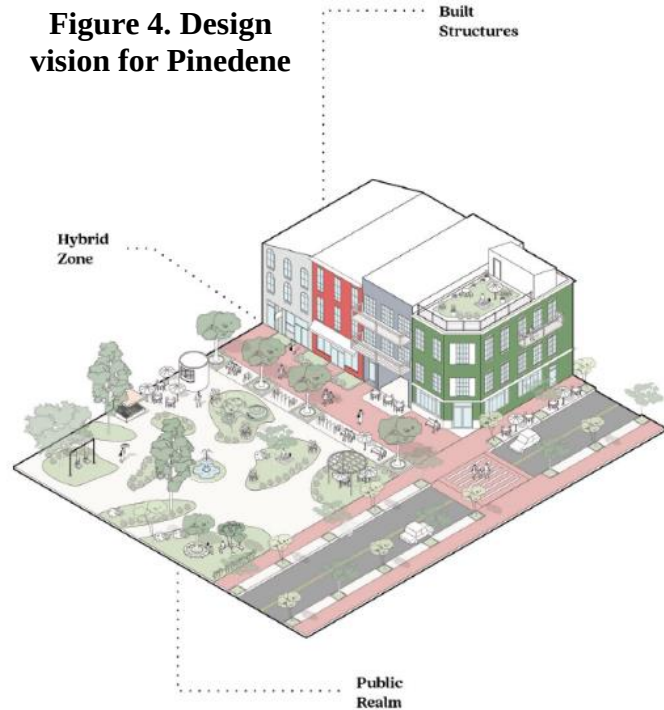
*(A) **Consistency.** Rezoning shall be consistent with the adopted Comprehensive Plan.*

See “2040 Comprehensive Plan Designation for General Framework, Conservation and Development, and Character Districts” above for more information. Generally speaking, the Pinedene area of town, including Red’s Corner, is meant to be a high-density, mixed use, walkable/bikeable area with plazas and wide sidewalks as well as buildings fronting on the edge of rights of way. Red’s Corner is known as an energized activity area; its success was the catalyst for this proposed expansion. Since its special use permit approval, the campus has become a popular gathering place in town. The proposed stage, improved open space and landscaping, bicycle parking, and event venue space are aligned with the 2040 Comprehensive Plan’s vision for a vibrant Pinedene area.

There are some inconsistencies with the 2040 Comprehensive Plan and the Pinedene Guidebook’s visions for this Community Activity Center, but some

envisioned improvements require public-private partnerships with adjacent landowners and the Town of Southern Pines. The first area of inconsistency is interconnectivity with adjacent parcels, which is not a part of the conditions or vision within the proposed conditional zoning district. Crosswalks across Old U.S. 1 and SW Broad Street are not proposed, either, to safely allow pedestrians to cross the street if parking on the opposite side of Old U.S. 1.

Figure 4. Design vision for Pinedene



Secondly, the campus is horse-shoed by Morganton Road, Old U.S. 1/SW Broad Street, and Hall Avenue, which have areas that could be improved with sidewalks and street trees. Figures 4, 5, and 6 show the streetview of Red's Corner from points on the horseshoe. There are technical limitations to planting street trees, such as site visibility triangles and points on ingress/egress, however, alternative designs could improve pedestrian sidewalks along the perimeter of the campus.

Lastly, the Pinedene guidebooks calls for “eyes on the street” design. This concept calls for high-density, mixed use areas that have building-forward design and parking on the rear side of buildings (see Figure 5), which permits residents and businesses to monitor the street, presumably, making them safer, especially at night. Red's Corner, despite being a business, is effectively a public realm in that it has gathering spaces internal to the site. However, the gathering spaces are separated from the actual public realm by a parking lot and café drive-through, and the rights-of-way have insufficient sidewalks, tree canopy, and gathering spaces (i.e., the hybrid zone in Figure 5 below). Parking should be in the rear of buildings and available via shared municipal parking.

In summary, the proposed conditional zoning district is consistent with the 2040 Comprehensive Plan's vision of an energized Community Activity Center, but it falls short of providing public realm and hybrid zone amenities that would make the site more pedestrian friendly. However, the scope of ideal improvements is something that is recommended to be done through public-private partnerships, which the Applicant stated (in the Planning Board public hearing) that they are open to exploring further.

Figure 5. View from Old U.S. 1



Figure 6. View from Morganton Road



Figure 7. View from Hall Avenue



(B) Adverse Impacts on Neighboring Lands. *The Hearing Body shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. The Town finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences, such as traffic congestion, air pollution, and social alienation. Accordingly, rezonings may promote mixed uses subject to a high degree of design control.*

Planning estimates (see Table 2), that if an act is performing on the stage while there is an unrelated, maximum-capacity event at the “Paddock” event venue, caterers prepping meals in 155 Hall Avenue, and typical food truck and bar customers at Red’s, there is potential for a maximum demand of approximately 145 parking spaces. It is understood that all spaces may not be used at their maximum capacity on most days, but on high-demand days with events and/or programming, Planning staff foresee parking problems considering only 66 parking spaces between 155 Hall Avenue and 901 SW Broad Street.

Table 2. Parking Calculations Summary

Space	Requirement	Total Required
Stage, 5 food trucks, and outdoor (including patio) seating areas	Min. 1 space/100 SF	Per staff’s GIS-calculated 7825 SF, 78 spaces would be required
155 Hall Avenue Unit B space (for catering, limited use cafeteria, food prep, and food storage)	Min. 1 space/600 SF	Per staff’s estimated 2792 SF, 5 spaces would be required, but understanding that food prep likely happens at different times, it was reduced to 3 spaces
155 Hall Avenue Unit A (i.e., Paddock) multipurpose space	Min. 1 space/3 people of total capacity plus 1 space/200 SF	Per staff’s estimated 2792 SF and the approved 150 capacity, 64 spaces would be required
TOTAL		145 spaces

Planning staff do not expect the Applicant to create 79 additional parking spaces to accommodate high-demand events, but believe that parking plans with temporary or permanent shared parking agreements for overflow parking would be appropriate to address parking concerns that have already arisen on the existing food truck campus (see Figure 3). The applicant is requesting a condition that states that the following “do not require additional permitting”:

1. Vendor markets, such as those with up to thirty (30) vendors using 10x10, 12x12 tents to sell items; and
2. Charity Events, such as fundraisers that include up to thirty (30) related vendors and 10x10, 12x12 tents; and
3. Themed events hosted either by Red’s or someone wanting to use some or most of the Red’s premises (this would include larger dining tents that will follow tent permitting requirements).

This conditional zoning entitlement may not supersede Building Code, Fire Code, or other non-zoning related codes and their respective permitting procedures. Therefore, there is a concern for future misunderstanding between the Applicants/future owners and the Town with regards to special event permitting, parking plans, and permitting more broadly. Furthermore, tent permitting, temporary structural additions, events taking up vehicle use area (i.e., parking spaces, circulation areas, drive-through, etc.), and potentially other event-related site changes might trigger Building or Fire Codes, and should not be waived.

“Planned Events with high parking demands: In this scenario, we won't overlap multiple events. The result will be all facilities and parking being allocated for this. Single-use parking agreements will need to be procured and provided with a special event permit. Meaning, if we want to advertise a unique event at Red's that we can reasonably expect high parking demands, we'll get and submit parking agreements and not have anything else going on. These are single-day parking agreements and should be allowed to be in writing without signatures (E.G. email confirmation from a manager not objecting to us using their parking lot for an afternoon).”

Additionally, another concern is that the “Parking Plan” narrative (as copied above) states a parking plan with shared event parking would be submitted with a special event permit, but they are requesting that the 3 recurring special events categories listed above (which might generate a high parking demand) not require a special event permit. Special event permits have been reviewed by Planning, Inspection, Fire, and Police Departments each time Red's Corner wants to do a temporary/special event. The Fire Department is concerned about fire truck access in case of an emergency, especially if an event occurs in the vehicle use area. Therefore, Planning recommend that the Applicant and Town Council consider revised Condition 2 language as proposed in the Planning Department's recommendation section below.

Regarding stormwater runoff onto adjacent properties and the streets, the Town Engineer needs a letter, certified by an engineer, that states that the pre-post runoff calculations will be the same with the added impervious surfaces, as is required by the Unified Development Ordinance. At the December 3, 2024, Technical Review Committee meeting, the Town Engineer stated that the pond may be under-designed and underperforming, so improvements may be likely. If stormwater pond improvements are required, then the development would need to go through site plan review. However, if not, then a site plan review may not be needed and the Applicant would proceed to building permit review or certificate of occupancy unless exterior modifications are made to any of the buildings. Therefore, the Town Engineer needs the Applicant to acknowledge this requirement prior to construction and occupancy of any of the new impervious areas. The Applicant may address this in a condition on the district or agree to work out directly with the Town Engineer. Otherwise, a notice of violation may be issued.

In previous meetings with the Applicant, Planning and Engineering staff recommended that the Applicant propose wayfinding signage and “illegal parking” signage to discourage parking in unmarked spots.

(C) Suitability as Presently Zoned. *The Hearing Body shall consider the suitability or unsuitability of the Tract for its use as presently zoned. This factor, like the others, should be weighed in relation to the other standards, and instances can exist in which the land may be rezoned to meet public need, to reflect substantially changed conditions in the neighborhood, or to effectuate important goals, objectives and policies of the Comprehensive Plan or UDO.*

As presently zoned (i.e., CU-02-20), the site is entitled to operate as a food truck campus on properties identified within the Special Use Permit. However, the campus cannot expand without either an amendment to the original special use permit or a conditional zoning district, as is being proposed. The success of Red's Corner food truck campus and its desired expansion into adjacent properties have warranted the need for this rezoning request and Town review. Considering this, the site is no longer suitable as currently zoned.

(D) Health, Safety, and Welfare. *The amending ordinance must bear a substantial relationship to the public health, safety or general welfare, or protect and preserve historical and cultural places and areas. The rezoning may be justified, however, if a substantial public need or purpose exists, even if the private owner of the Tract will also benefit.*

The three main health, safety, or welfare concerns that have been identified by Planning staff at this time, based on the application materials, and routine analysis of the subject parcels and surrounding areas, are as follows:

1. **Illegal Parking.** Need for temporary parking plans between properties and property owners for high-demand days that would address illegal and unsafe parking. Note that the Applicant did submit a supplemental letter to the Fire Department (see Attachment 5) that stated “*Red's Corner (RCPESP, LLC) has recently leased all of 155 Hall Avenue. Per your request, this note confirms we will manage the emergency access points and thoroughways to/from both 901 SW Broad Street and 155 Hall Avenue. Effective management will result in both properties staying open so Fire and Rescue personnel and equipment can service our sites.*” Therefore, Planning staff believes that the Applicant is aware of their responsibility to manage illegal parking as well as to prepare a parking plan for high-demand events, as mentioned in their narrative. Planning staff simply wish to acknowledge that parking will continue to be a source of community commentary for this land use and this proposed expansion at this location based on the proposed design elements.
2. **Pedestrian Safety.** Need for additional sidewalks along each street frontage as well as Hall Avenue. A crosswalk across Old U.S. 1 would provide safer crossing for people unable to secure on-site parking. However, there are NC DOT-identified technical limitations to adding a crosswalk, and additional intersection design improvements may be warranted. The Applicant has stated interest in partnering in a Public-Private Partnership to pursue crosswalk improvements.
3. **Potential Stormwater Runoff.** Engineered calculations on current stormwater runoff and runoff with proposed added impervious surfaces have not been received as of the writing of this staff report.

In follow-up to the Planning Board recommended considerations, the walk-in cooler now appears to be a non-issue. In response to Planning Board's and the Fire Department's concerns, the cooler has been removed, and 155 Hall Avenue has passed Fire's inspection (see Attachments 4 and 5). The Applicant intends to follow proper permitting procedures for future installation of the cooler.

(E) **Public Policy.** *Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with neighborhood, area, or specific plans.*

See comments under **Consistency**.

(F) **Size of Tract.** *The Hearing Body shall consider the size, shape, and characteristics of the Tract in relation to the affected neighboring lands. Amendatory ordinances shall not rezone a single Lot when there have been no intervening changes or other saving characteristics. Proof that a small Tract is unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify ordinance rezoning.*

The rezoning is for five parcels, totaling 2.92 acres. The parcel divisions are atypical and create issues with perimeter vehicle use area landscaping, which has to be between vehicle use areas and property lines. Furthermore, there is a possibility of 155 Hall Avenue breaking away from the food truck campus in the future, as it is under separate ownership. At such time, the whole food truck campus would need to go through another rezoning to mitigate the loss of land within the project area. As of the writing of this staff report, Authorized Agent and Property Owner, Rachel Jurgens, has not agreed to the removal of the text, “In the event an application is submitted and approved for a change in use with the parcels associated with 155 Hall Avenue, the Conditional Use Permit shall be reinstated. To clarify, the original Red’s Corner prior to this conditional zoning district can revert to its original zoning.” This consent will be needed prior to making a final decision on the revised Condition 1, as stated in section III.G of this staff report.

(G) **Other Factors.** *The Hearing Body may consider any other factors relevant to a rezoning application under state law.*

(H) **Applicant Representations.** *Except for rezoning requests submitted in accordance with the provisions herein for conditional zoning districts, the Hearing Body shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Hearing Body shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.*

The rezoning request is for a conditional zoning district; therefore, Applicant representations may be taken into consideration while reviewing and making final recommendations and decisions.

3. Outside Agency Comments

A request for comments was emailed to agencies on December 3, 2024. Agencies notified include Town of Southern Pines Streets, Public Works, Utilities, Fire, Recreation and Parks, and Engineering departments, the Regional Land Use Advisory Commission (RLUAC), United States Fish and Wildlife Services (US FWS), the Moore County Airport, and the North Carolina Department of Transportation

(NCDOT). Furthermore, the expansion of Red's Corner has been discussed by the Technical Review Committee or members of this committee on April 22, 2024, September 26, 2024, November 5, 2024, December 3, 2024, and January 7, 2025. All comments have been reflected in section IV.2 of this staff report. Any additional agency or public comment received prior to the public hearing will be shared during staff's presentation.

4. Staff Recommendation

Approval of a conditional zoning district approves a specific use with reasonable conditions that mitigate the negative impacts of the proposed development and ensure compatibility with the surrounding area. Only conditions approved by the Town Council and consented to by the petitioner in writing may be incorporated into the conditional zoning district. If the applicant ever wishes to change an approved condition, they must follow the same rezoning procedure required to amend the official zoning map unless considered a minor change per UDO §2.17.11(K).

Planning staff recommend that the hearing bodies approve the conditions on the General Business Conditional Zoning District as submitted in the application, with the following considerations:

1. Rewording and editing Applicant Condition 2 as follows:
 - a. Reword: “The following and any other temporary uses... and special events... shall not require a special event permit unless the events occur in the vehicle use area or the parking demand is expected to exceed the parking capacity, as described in the narrative.”
 - b. Remove the second temporary uses and special events bullet requiring special events permits.
 - c. Add, “Temporary Uses and Special Events shall follow Building Code, Fire Code, and other applicable codes and their associated permitting processes (e.g., tent permits and temporary structural additions), but are not required to submit a special event permit except as described in this condition.”
2. Add Condition 19 with proposed language, as follows: “A letter, certified by an engineer, that states that the pre-development and post-development stormwater runoff calculations will be the same with the proposed impervious surface additions. Such letter shall be submitted prior to Certificate of Occupancy.”
3. Ensure that Property Owner, Rachel Jurgens, consents to the revised Condition 1, as stated in section III.G of this staff report prior to making a final decision on the application.
4. The Town Council may want to consider discussion of potential future public-private partnerships between the Town and Pinedene stakeholders to improve the public realm and hybrid zone surrounding the development, such as sidewalks along Morganton, Old U.S. 1/SW Broad Street, and Hall Avenue; a crosswalk across Old U.S. 1; and pedestrian connectivity with future public parking within Pinedene.

V. ATTACHMENTS

The following materials are provided as attachments to this staff memorandum:

1. Signed Planning Board Resolution to Adopt a Written Recommendation
2. Conditional Zoning District Application
3. Proposed Site Layouts
4. Narrative for Proposed Amendment and Offered Conditions provided by Applicant
5. Supplemental Materials Provided by the Applicant and on File for the Property
6. Conditional Use Permit (Deed Book 5334 Pages 278 to 280) for 901 SW Broad St.

Additional documents related to this application including (but not limited to) property deeds, Authorization of Agent forms, email correspondence, meeting minutes and adjacent property notification records are on file in the Town of Southern Pines Planning Office and available for public inspection during normal business hours.

VI. TOWN COUNCIL ACTION:

A request for a zoning map amendment approval is a request for a rezoning. Per North Carolina General Statute 160D-601(a), before adopting the rezoning, the Town Council shall hold a legislative hearing. Per North Carolina General Statute 160D-605(a) the Town Council shall also approve a statement addressing consistency or inconsistency with the 2040 Comprehensive Plan. Furthermore, per North Carolina General Statute 160D-605(b), the Town Council must also approve a statement about the reasonableness of the rezoning and shall approve a brief statement describing whether its action is consistent with an adopted comprehensive plan.

To assist the Town Council in performing this task, Town staff have prepared the following draft motions for consideration, possible modification as necessary, and adoption.

* * *

I move that after reviewing the proposed map amendments (i.e., rezoning) to the Town of Southern Pines Zoning Map and after considering the criteria for approval of map amendments found in UDO §2.17.9:

1. The proposed amendment to the Town of Southern Pines Zoning Map is reasonable, in the public interest, and consistent with the current character of the Pinedene Complete Community Character District and the criteria set forth in the Town of Southern Pines Unified Development Ordinance §2.17.9. Considering that the food trucks and their catering will expand micro-business opportunities and allow the Town to continue supporting local business and entrepreneurship, and for reasons mentioned in the written Planning Board recommendation, the proposed rezoning is consistent with the 2040 Comprehensive Plan. Therefore, the requested rezoning from General Business to General Business Conditional Zoning District is a reasonable request for the reasons mentioned above and within the staff report for application Z-06-24.
2. **The proposed amendment to the Town of Southern Pines Zoning Map is reasonable, in the public interest, and generally consistent with the current character of the Pinedene Complete Community Character District and the criteria set forth in the Town of Southern Pines Unified Development Ordinance §2.17.9. Considering that the food trucks and their catering will expand micro-business opportunities—allowing the Town to continue supporting local business and entrepreneurship—and for reasons mentioned in the written Planning Board recommendation, the proposed rezoning is consistent with the 2040 Comprehensive Plan. Therefore, the requested rezoning from General Business to General Business Conditional Zoning District with an amended Applicant Condition 2 and Staff Condition 19—as written in the staff report and agreed to by the applicant—would be a reasonable request for the reasons mentioned above and within the staff report for application Z-06-24.**

-OR-

3. The requested rezoning is inconsistent with the 2040 Comprehensive Plan and is not a reasonable request for the following reasons:
 - a.

And, therefore, I move to:

1. Approve Z-06-24 with the conditions submitted by the applicant on the General Business Conditional Zoning District.

-OR-

2. **Approve Z-06-24 with the conditions submitted by the applicant on the General Business Conditional Zoning District with an amended Applicant Condition 2 and added Conditions 19 as written in the Z-06-24 staff report and agreed to by the applicant.**

-OR-

3. Approve Z-06-24 with the following modifications made by the Town Council and accepted by the applicant:

-OR-

4. Deny Z-06-24.

Note that the effect of Town Council approval of a conditional zoning district and all conditions that have been attached to the approval are binding on the property as an amendment to the Zoning Map. All subsequent Development and use of the property shall be in accordance with the standards for the approved Conditional Zoning district; the approved petition and all conditions attached to the approval. Only those uses and structures indicated in the approved petition shall be allowed on the subject property. Any Development in the district shall comply with all provisions of and conditions to the approved petition. Any uses and structures on the subject property also shall comply with all standards and requirements for Development in the underlying general zoning district. Lastly, minor changes in the detail of the approved petition or Site Plan that do not involve a change in uses permitted or the density of overall Development permitted and that will not alter the basic relationship of the proposed Development to surrounding properties or the standards. Lastly, minor changes in the detail of the approved petition that do not involve a change in uses permitted or the density of overall Development permitted and that will not alter the basic relationship of the proposed Development to surrounding properties or the standards.



**PLANNING BOARD
RESOLUTION TO ADOPT A WRITTEN RECOMMENDATION
FOR ZONING MAP AMENDMENT APPLICATION
FOR A CONDITIONAL ZONING DISTRICT
Z-06-24**

WHEREAS, Section 160D-701 of the North Carolina General Statutes specifies that zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to protect the public health, safety and general welfare; and

WHEREAS, Section 160D-604 of the North Carolina General Statutes specifies that the Planning Board shall, with any ordinance amendment or zoning map amendment, advise and comment on whether the proposed action is consistent with the adopted comprehensive plan and on other matters as deemed appropriate by the Planning Board, and that the Planning Board shall provide this in the form of a written recommendation to the Town Council; and

WHEREAS, the Planning Board has reviewed the proposed zoning map amendment—which includes the written staff report and application materials showing the proposed district boundaries, and has conducted a public hearing on December 19, 2024, to listen to public comments, ask questions of the Town’s planning staff, and consider zoning map amendment application #Z-06-24.

NOW, THEREFORE BE IT RESOLVED that the Planning Board finds and recommends to the Town Council that the proposed amendment to the Town of Southern Pines Zoning Map is reasonable, in the public interest, and consistent with the criteria set forth in the Town of Southern Pines Unified Development Ordinance §2.17.9. The Planning Board recommends that the Town Council approve the zoning map amendment request with the Applicant’s eighteen proposed conditions with additional information requested for five remaining issues for the five subject parcels—located at 155 Hall Avenue and 901 SW Broad Street identified as Parcel Identification Numbers 20180500, 00048220, 00047570, 00055109, and 00055108—totaling 2.92 acres. The five remaining issues for which the Applicant should provide additional information for the record and Town Council discussion include:

1. A parking plan prior to rezoning approval that includes a shared parking agreement between the property owners at 155 Hall Avenue, 901 SW Broad Street, Bank of America, and any other adjacent properties that follows required standards in UDO Section 4.5.10 for events with high parking demands;
2. Planting of additional street trees along Morganton Road in areas devoid of vegetation prior to rezoning approval;

3. A letter, certified by an engineer, that states that the pre-development and post-development stormwater runoff calculations will be the same with the proposed impervious surface additions prior to rezoning approval;
4. A traffic generation letter that states whether additional proposed uses are within the study parameters of the 2020 traffic design analysis, which should be reviewed by the Town Engineer prior to rezoning approval; and
5. The addition of the walk-in cooler at 155 Hall Avenue to be added to site layout plans (rather than “car port”) and all violations reconciled and permitting approved prior to issuance of rezoning approval.

Additionally, the proposed General Business conditional zoning district for the expansion of Red’s Corner should not preclude potential future public-private partnerships that improve the public realm and hybrid zone surrounding the development as described in the Pinedene Design Guidebook for the Southern Pines Complete Community Focus Area C, such as sidewalks along Morganton, Old U.S. 1/SW Broad Street, and Hall Avenue, pedestrian connectivity with future public parking within Pinedene, and a crosswalk across Old U.S. 1 prior to rezoning approval. This may be addressed in conversations during the public hearing before the Town Council or in another planning process.

The application with the Applicant’s proposed conditions for a General Business Conditional Zoning District is consistent with Policy 9.3 (i.e., continuing to support local business and entrepreneurship in the community) and Policy 9.4 (i.e., promoting micro-retail businesses in the community). The application and Applicant’s proposed conditions are also consistent with the intent of the Areas to Transform and Community Activity Centers designations on the General Framework Map, Mixed-Use Areas on the Conservation and Development Map, and Complete Communities character district. With the Applicant’s proposed conditions and the above issues addressed prior to final decision, the Planning Board finds that reasonably foreseeable adverse impacts on neighboring lands or on general health, safety, and welfare would be appropriately addressed.

The Planning Board recommends the Town Council adopt this zoning amendment (i.e., #Z-06-24), which rezones the properties from General Business with a Special Use Permit to General Business Conditional Zoning District with the following conditions to which the applicant has consented:

Condition 1. This conditional zoning district shall supersede the Conditional Use Permit (i.e., Moore County Register of Deeds Book 5334 Pages 278 to 280)

Condition 2. Permitted land uses shall be limited to the following:

- Cafeteria or limited service restaurant (LBCS 2520),
- Bar or drinking place (LBCS 2540),
- Mobile food services (LBCS 2550),
- Food truck campus (LBCS 2551),
- Caterer (LBCS 2560),
- Multipurpose facility open to the general public (i.e., “Banquet Hall,” LBCS 5371), and

- Temporary uses (LBCS 9920) and Special events (LBCS 9910), which do not require additional permitting:
 - Vendor markets, such as those with up to thirty (30) vendors using 10x10, 12x12 tents to sell items; and
 - Charity Events, such as fundraisers that include up to thirty (30) related vendors and 10x10, 12x12 tents ; and
 - Themed events hosted either by Red's or someone wanting to use some or most of the Red's premises (this would include larger dining tents that will follow tent permitting requirements).
- Temporary uses (LBCS 9920) and Special events (LBCS 9910) other than those listed above shall require Special Event permits.

The following accessory uses and structures shall also be permitted:

- One stage outdoor stage for up to 400 square feet, and
- One concrete slab patio for up to 825 square feet to be used as outdoor seating, and
- No more than one shed for storage purposes; and
- No more than one drive-through coffee bar; etc.

Condition 3. Cross Use of Properties.

- Allowing the cross use of 155 Hall Ave as an ancillary property to 801/901 SW Broad is a primary goal of this application. Cross Use includes, but is not limited to shared restrooms, parking, and reciprocal access. When not being privately rented, Suite A is intended as an ancillary/alternative site to Red's Corner seating areas.
- Pedestrian access:
 - Morganton and SW Broad frontages: the existing sidewalk systems recently installed allow sufficient access to the site from these streets. Once accessed, pedestrians self direct to various points of interest on site. For example, someone headed to a restroom may take a different path than heading to the food trucks.
 - Hall Ave frontage: access from Hall Ave will see minimal foot traffic as Hall Ave is dead end road and not a main thoroughfare.
 - Access between the properties is clearly defined with marked walkways or open area where vehicular traffic is excluded.

Condition 4. Noise. 155 Hall Ave: There shall be no change in permitted noise levels. The outdoor stage shall be permitted to have live outdoor music performances with amplification, subject to the local noise code, until 11PM.

Condition 5. Hours of Operation. The hours of operation shall be 6:00 AM to 11:00 PM.

Condition 6. Architecture. Renovations of the exterior architecture of the existing buildings shall be designed in the same character or complement the existing architecture as was submitted in architectural compliance permit file #AR-03-20. Some key character-defining elements include:



Condition 7. Landscaping. Current landscaping and buffering shall be retained except for sod installed in and around the highlighted area in Section 1d (Pocket Park). The perimeter vehicle use area landscaping shall continue to be waived between the property lines of 901 SW Broad Street and 155 Hall Avenue. A vegetative barrier/hedge shall be added between the gravel commonly known as the food truck parking and the sodded area to prevent illegal parking.

Condition 8. The 20 x 30 tent shall be permitted to remain, permanently. A pavilion-type structure of similar size and without walls will be permitted in the event Red's replaces the tent.

Condition 9. Site Access. Site access shall remain at the current locations and no parking shall be permitted in the access easement between 901 SW Broad Street and 155 Hall Avenue.

Condition 10. Parking. Total Combined Parking Spaces shall be 66. The 37 parking spaces at 155 Hall Ave may remain gravel and unmarked. 901 SW Broad shall provide all 29 existing parking spaces.

Condition 11. Bicycle Parking. Bicycle racks shall be provided with a minimum of six spaces.

Condition 12. Signage. Temporary "Coming Soon" sign facing Red's Corner interior of the two properties to notify Red's customers and shall be permitted for 90 days and shall follow UDO standards for dimensions. Any additional street fronting or building signs shall follow UDO standards.

Condition 13. Traffic Patterns. 901 SW Broad: Traffic Patterns will coincide with the existing traffic patterns. 155 Hall Ave: Site access shall remain at the current locations.

Condition 14. Fats, Oils, Grease, Odors. No fats, oils, grease, or odors shall be generated from the business' operations. Prepared food may be provided by Red's Corner food trucks or caterers.

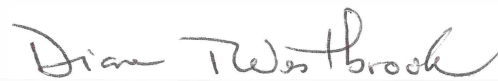
Condition 15. Lighting. Existing lighting at the property shall remain in place. Lights may be added to increase safety and security on site but shall follow standards in the UDO.

Condition 16. Utilities & Trash. Existing dumpsters shall remain on site.

Condition 17. Outdoor Storage shall be prohibited.

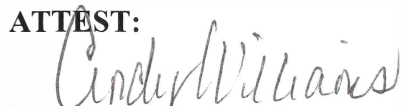
Condition 18. Fencing. No new fencing shall be permitted.

ADOPTED this the 19th day of December, 2024.



Diane T. Westbrook, Chairwoman

ATTEST:



Cindy Williams

Secretary to the Planning Board



Conditional Zoning District Application

Fee: \$1,500.00

Date Received: _____

Case No.: Z-____-____

Project Information:

Street Address: Red's Corner Expansion: 801/901 SW Broad Street adding 155 Hall Avenue

PIN: 858100061104 / 858100061061 (Red's) 20180500 / 00048220 (Red's)
858109051976/ 8581090050947/858109051859 Parcel ID: 00055107/00055108/00055109 (155 Hall Ave)

Site Size: 2.92 AC 1.86 AC = 1.76 + 0.1 AC (Red's)
1.057 AC (155 Hall Ave) Current Zoning: CZ (Food truck campus) & GB

Applicant:

Name(s): RCPESP, LLC c/o Scott Bertrand

Email: scott.m.bertrand@gmail.com

Phone: 910-420-0048

Mailing Address: 901 SW Broad Street, Southern Pines, NC 28387

Authorized Agent, if different from Applicant:

Name(s): Rachel Jurgens for B&R Holdings Company, LLC

Email: _____

Phone: _____

Mailing Address: _____

Legal Property Owner(s), if different from Applicant:

Name(s): B&R Holdings Company, LLC (Red's); 155 Hall SP, LLC

Email: jurg1102@gmail.com; donkinney99@gmail.com

Phone: 910-603-5641; 910-585-5265

Mailing Address: 205 E Illinois Ave, Southern Pines, NC 28374; 50 Gingham Lane, Pinehurst, 28374

5/1/24

APPOINTMENT OF AGENT

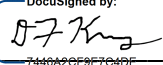
The undersigned owner(s), 155 Hall SP, LLC, hereby appoint(s) Scott Bertrand as the exclusive agent for the purpose of making an application to the Town of Southern Pines for an amendment to the zoning of the property described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Planning Board and Town Council for a rezoning of the subject property to a Conditional Zoning District; and
4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with, or arising out of, any application for an amendment to the zoning of the subject property under the Town of Southern Pines Unified Development Ordinance.

This Appointment of Agent shall remain in effect until final resolution of the attached application.

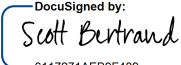
Signed this 14th day of October, 2024.

155 Hall SP, LLC

DocuSigned by:

7440A20F9E704DE...

Property Owner

Property Owner

DocuSigned by:

0117271AE09F409...

Agent

5/1/24

APPOINTMENT OF AGENT

The undersigned owner(s), B&R Holdings Company, LLC, hereby appoint(s) myself
Robert B. Blandford
as the exclusive agent for the purpose of making an application to the Town of Southern Pines for an amendment to the zoning of the property described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Planning Board and Town Council for a rezoning of the subject property to a Conditional Zoning District; and
4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with, or arising out of, any application for an amendment to the zoning of the subject property under the Town of Southern Pines Unified Development Ordinance.

This Appointment of Agent shall remain in effect until final resolution of the attached application.

Signed this 12 day of November 2024

B&R Holdings Company, LLC

*I will remain
agent for Land*

Robert B. Blandford
Property Owner

Property Owner

Agent

5/1/24



Appointment of Agent

PLEASE PRINT. INFORMATION MUST BE LEGIBLE.

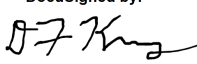
The undersigned property owner(s), 155 Hall SP, LLC, hereby appoint(s) Scott Bertrand and Mike Ratkowski as the exclusive agent for the purpose of making an application to the Town of Southern Pines for Conditional Zoning District on the property described in the foregoing application. The property owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the property owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Planning Department staff for the issuance of a Conditional Zoning District on the subject property; and
4. to act on behalf of the property owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for Conditional Zoning District under the Southern Pines Unified Development Ordinance.

This Appointment of Agent agreement shall remain in effect until final resolution of this application.

**Property Owner or Authorized Representative of
Property Owner:**

Date: 12/19/2024

DocuSigned by:

7140A2CF9E7C4DE...

Signature

Don Kinney

Printed Name of Signatory

Authorized Agent:

Date: 12/19/2024

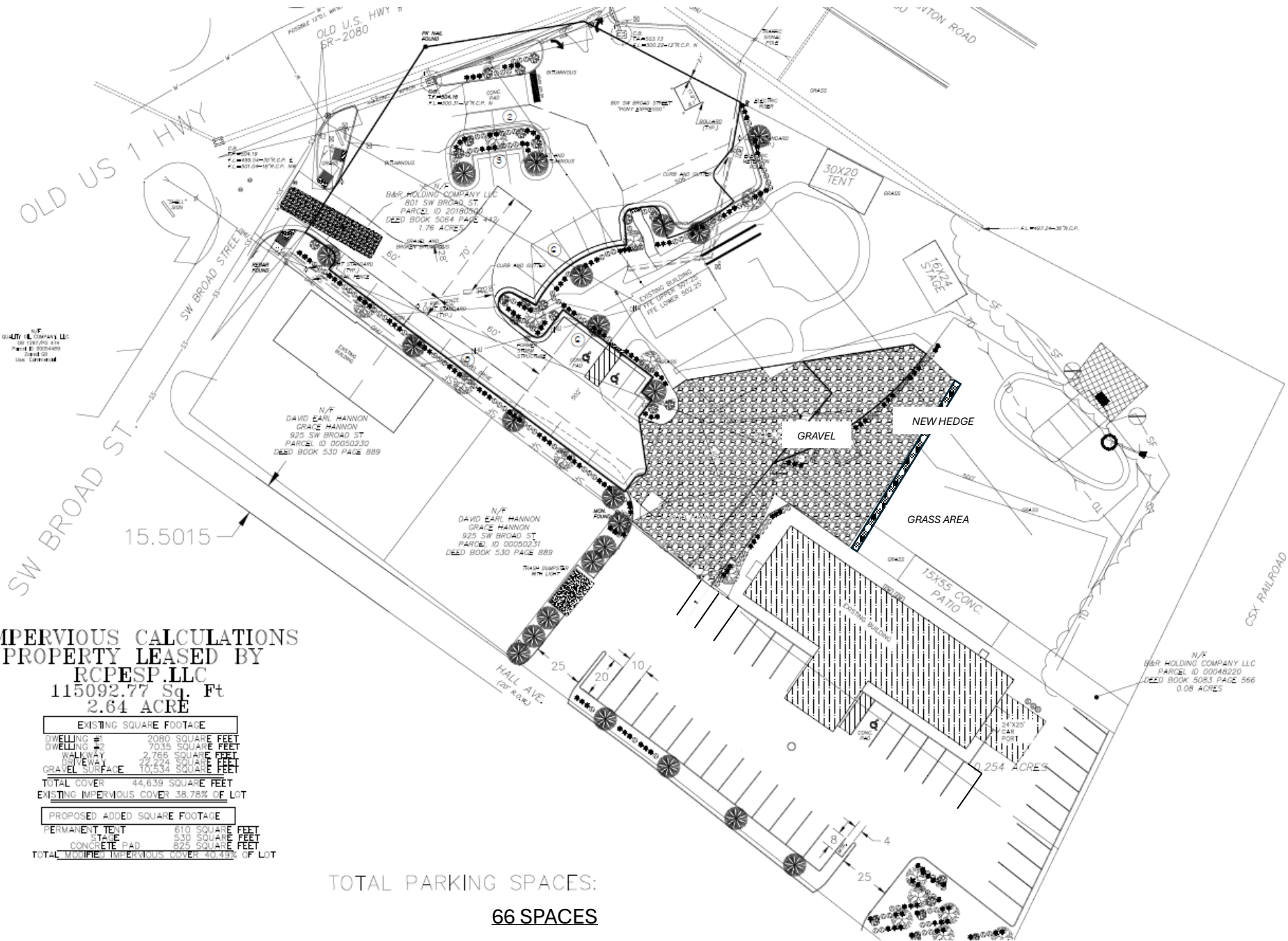
DocuSigned by:

A3F688DA34DC408...

Signature

Michael Ratkowski

Printed Name of Signatory



IMPERVIOUS CALCULATIONS
PROPERTY LEASED BY
RCPEP.LLC
115092.77 Sq. Ft
2.64 ACRE

EXISTING SQUARE FOOTAGE	
DWELLING #1	2080 SQUARE FEET
DWELLING #2	7035 SQUARE FEET
WALKWAY	2,786 SQUARE FEET
DRIVEWAY	24,424 SQUARE FEET
GRAVEL SURFACE	10,534 SQUARE FEET
TOTAL COVER	44,639 SQUARE FEET
EXISTING IMPERVIOUS COVER 38.78% OF LOT	
PROPOSED ADDED SQUARE FOOTAGE	
PERMANENT TENT	610 SQUARE FEET
STAGE	530 SQUARE FEET
CONCRETE PAD	825 SQUARE FEET
TOTAL MODIFIED IMPERVIOUS COVER	40.43% OF LOT

TOTAL PARKING SPACES:
66 SPACES

JOB #1131
F. B. 5-23-07

RECOMBINATION SURVEY FOR
RICHARD FRYE AND TED JORDAN
SANDHILL TOWNSHIP, MOORE COUNTY,
SOUTHERN PINES, NORTH CAROLINA
NOVEMBER 1, 2018 SCALE 1" = 40'



901 SW Broad Street
Southern Pines, NC 28387
Tel: 910-246-0205

Improvements Aerial:



APPLICATION SUMMARY:

Applicant RCPESP, LLC (“Red’s Corner” or “Red’s”) will accomplish a few items with this application:

1. Annex the adjacent property, 155 Hall Ave, into the existing Food Truck Campus zoning with minimal language edits.
2. Physical improvements include a 15’ x 55’ patio and 16’ x 24’ stage.
3. Define events that are permitted.



NARRATIVE:

Red’s Corner has leased all of 155 Hall Avenue and will include the property’s amenities with Red’s existing operations. 155 Hall consists of Suite A (former Pollywog’s Play Space; daycare) and Suite B (former Thyme and Place Café; full-service restaurant):

- **Suite A** (“The Paddock at Red’s” or “The Paddock”) will operate as a rentable event space and otherwise a dining room/drinking establishment, further described below.
- **Suite B** operates as a food preparation commissary or cafeteria/limited-service restaurant.

With exclusive use for Red’s, 155 Hall Ave provides additional parking, multimodal access, and restrooms to the Campus. Further, offering an indoor gathering space provides a significant benefit to the public as well as the numerous small businesses that Red’s supports. Meaning, Red’s is currently a seasonal outdoor business and low attendance during weather extremes negatively impacts everyone’s business at Red’s. When it’s not nice outside, The Paddock offers a comfortable place for visitors to enjoy their food.

Along with assimilating 155 Hall into the Food Truck Campus, Red’s will construct the patio and stage which will enhance the area behind the food trucks. This area shown below is being treated as a quasi-Pocket Park further described on pg. 91 of the 2040 Comprehensive Plan. Along with new sod, a vegetative barrier will be installed to exclude vehicle parking.



NARRATIVE – INTENSITY:

Red's is at its busiest on fair weather Saturdays from 6-8PM. During those times, the 29 existing spots will likely be filled and turned over at least once. Annexing the 37 additional parking at 155 Hall on a long-term basis is a significant benefit to the public and all those involved with Red's business. Attached is the Emergency Access Management plan submitted to the Fire Department ensuring Red's manages the emergency access points. Effective management will result in the campus staying clear so Fire and Rescue personnel and equipment can service the site.

When considering a rare scenario where Red's and The Paddock are busy at the same time, peak activity may coincide with the 2 hours mentioned above for dinner service on a Saturday with perfect weather. For those few hours, Red's visitors will need to rely more on carpooling, public, and multimodal transportation. Motorcycle and bicycle parking, plus additional access points and circulation from Hall Avenue will provide lasting support for this rare occurrence.

Building the stage and related intensity: live music is a celebrated occurrence throughout Southern Pines. Providing a proper stage will shelter artists and their equipment from the elements. Red's will hire local and regional acts that customers can enjoy as part of Red's normal offerings. Live music will mostly occur on evenings and weekends.

On the vast majority of days, the assimilation of 155 Hall will reduce the Campus's intensity. In addition to normal Monday to Saturday operations, the daycare would occasionally host birthday parties on those days. The site will be less intense in the absence of the drop-offs, parties and parking of the employees and parents at the daycare.

Due to the nature of an outdoor business, Red's has lower attendance on hot, cold and rainy days. Opening The Paddock during those days will have similar intensity at best. For private rentals at The Paddock, we expect a similar intensity as the daycare. When both were open, Red's Corner and the daycare had busy days at the same time and the daycare was welcome to park at Red's. Occasionally, we would cone off a few spots for their events, but we don't find that necessary now as we can directly interact with people renting 155 Hall. The patio at 901 SW Broad can be rented or provide seating alternatives to Red's customers, but is subject to the same foul weather concerns.

ENCLOSURES:

- Seating chart – 155 Hall Ave
- Emergency Access Management

1. CONSISTENCY:

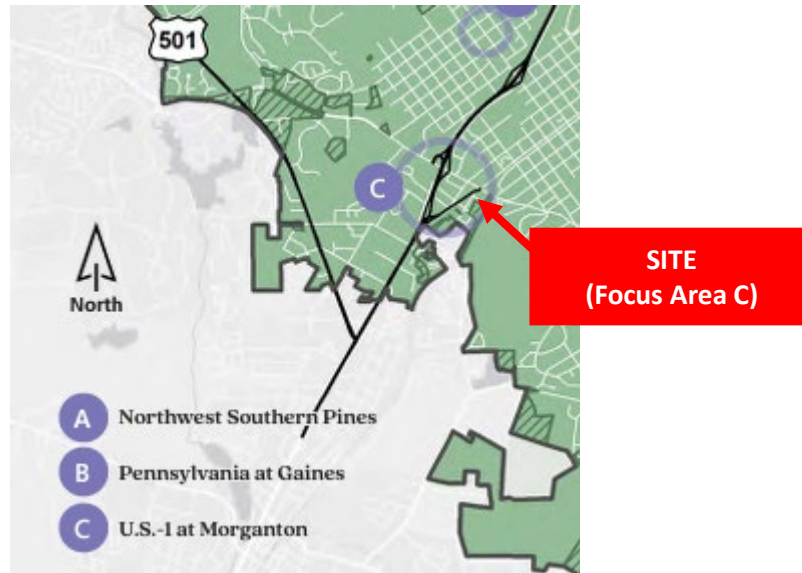
When reviewing Southern Pines 2040 Comprehensive Plan, expanding compatible uses along with creating “highly sociable places for the community” is a shared vision of the Town and applicant. In support, the items captioned below are the Plan’s Guiding Principles, the site being within Focus Area C, the Town’s primary goal of Sociable Places, incorporating Pocket Parks.

a. Guiding Principles:

Page 33 of 2040 Comprehensive Plan (Page 17 of PDF)

Land Use: *“Promote sense of place, social interaction, community-building.”*

b. Focus Area C: US 1-South of Morganton



Page 97 of Comprehensive Plan (Page 49 of PDF)

“As the southern entrance into the heart of the town, the area presents an opportunity for transformational change to create a new identity in this space, better utilize the land within for an expanded range of compatible uses, and offer a new experience for residents, workers, and visitors.”

c. Sociable Places:

Page 153 of Comprehensive Plan (Page 77 of PDF)

“One primary goal for the 2040 Comprehensive Plan is to create “highly sociable places” for the community.”

d. Quasi Pocket Park:

Page 91 of Comprehensive Plan (Page 46 of PDF)

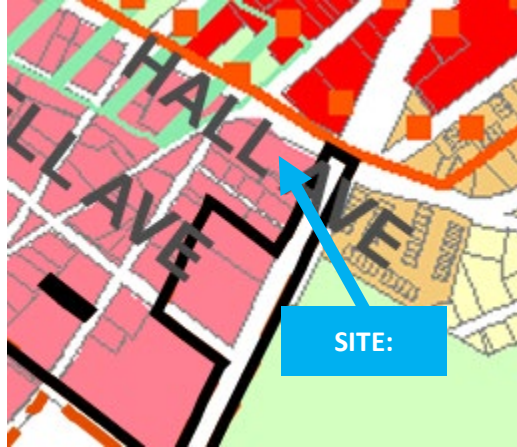
The green/open space mostly emulates a desirable pocket park which *“may include small event space, play areas for children, spaces for relaxing or meeting friends, or places to take lunch breaks.”*

2. ADVERSE IMPACTS ON NEIGHBORING LANDS:

The intended use of 155 Hall conforms with its existing GB zoning designation. As it relates to 901 SW Broad, these neighboring properties can now work together to provide space and parking for Red’s Corner customers. No other impact from the minimal physical improvements of the small stage and patio. For example, neither can be viewed from neighboring lands.

3. SUITABILITY AS PRESENTLY ZONED:

Zoning: Map:



Zoning Classification: 155 Hall Ave

GB, General Business

CZ, Food Truck Campus: 901 SW Broad & 155 Hall

- 901 SW Broad: Red's Corner, the property, and its Food Truck Campus designation remains the same, subject to conditions set forth in this application.
- 155 Hall: When applying the Food Truck Campus zoning to 155 Hall Avenue and its intended uses summarized below, 155 Hall Ave doesn't deviate from its current General Business designation. Allowing cross-use of these adjacent properties is consistent with Red's Corner's current use as Food Truck Campus and 155 Hall Avenue's existing GB zoning.

For example, Suite A will be used as a banquet hall, bar or drinking place, and caterer. Suite B as a cafeteria or limited service restaurant.

Zoning Table showing intended uses at 155 Hall as permitted uses under GB:

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Cafeteria or limited service restaurant	2520	Provide services to patrons who order or select items and pay before eating; may be consumed on Premises, taken out, or delivered								Z	Z				
Bar or drinking place	2540	Bars, taverns, nightclubs primarily serving alcoholic beverages; may provide limited food and entertainment								Z	Z				
Caterer	2560	Provide single event-based food services, including banquet halls with catering for wedding receptions, etc.								Z	Z	Z		Z	

4. PUBLIC POLICY:

Allowing cross-use of these adjacent properties will provide more consistent service to the community, regardless of weather conditions. During weather extremes, the public struggles to enjoy the outdoor amenities of Red's Corner. Allowing for customer-friendly uses at 155 Hall Ave will encourage the public to socialize and support the various small business food trucks and caterers with less seasonal variability.

5. SIZE OF TRACT:

±2.92 AC. Calculated by combining the land commonly known as Red's Corner (1.86 AC) and the 1.057 AC associated with 155 Hall Ave.

6. OTHER FACTORS:

- The existing water/sewage infrastructure is sufficient for the intended use.
- The existing stormwater improvements are sufficient for combining these sites.

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From: [Scott Bertrand](#)
To: [Alaina Mallette](#)
Cc: [Mike Ratkowski](#); [Rachel Jurgens](#); [BJ Grieve](#); [Gene Ruiz](#)
Subject: Re: Z-06-24 Red's Corner Expansion Completeness Review
Date: Sunday, January 5, 2025 6:27:26 PM
Attachments: [image001.jpg](#)
[Updated Conditions - Red's Corner CZ.redline.pdf](#)
[Updated Conditions - Red's Corner CZ.docx](#)

Hi Everyone,

ADDITIONAL INFORMATION ITEMS:

1. Parking Plan:

- Normal Business: the proposed parking is sufficient for the majority of days of operation.
- Above Normal: the parking constraints are self-regulating. People leave if there is no parking available.
- Planned Events with high parking demands: In this scenario, we won't overlap multiple events. The result will be all facilities and parking being allocated for this. Single-use parking agreements will need to be procured and provided with a special event permit. Meaning, if we want to advertise a unique event at Red's that we can reasonably expect high parking demands, we'll get and submit parking agreements and not have anything else going on. These are single-day parking agreements and should be allowed to be in writing without signatures (E.G. email confirmation from a manager not objecting to us using their parking lot for an afternoon).
- We still need the language to not include "Bank of America, and any adjacent properties." We cannot control who parks across the street, nor get BofA to provide a parking agreement encumbering the property in perpetuity, but we can work to provide evidence confirming they don't object for an afternoon. In the unlikely event they don't, we can't be hamstrung based on this one property. They would just exclude people in their own civil matters. In most cases we don't expect events like this to exceed your maximum parking figures. In which case, it may make sense to provide these one-off agreements to nearby properties, not specifically adjacent, which can still provide the needed spots.

2. Street Trees: RCPESP, LLC will plant a minimum of two (2) longleaf pines along the property boundary fronting Morganton (with enthusiasm!!)

3. Stormwater: Their holiday office hours affected our ability to perform on this and we are currently in the proposal stage with the engineering firm. A letter is forthcoming. We'll produce a letter and perform any pond work prior to building the stage, reinstalling the walk-in cooler, occupying the patio or opening 155 Hall beyond the agreed to interim use conditions. What they did say and what we understand is there is no percent or minimum square footage difference to trigger for new stormwater runoff certification. The reality is the runoff produced from the new structures will be sub-1% change. If the pond needs to be expanded, it won't be by much and won't make a big difference in an otherwise large and sodded area.

4. Traffic: Town engineer extinguished this item.

5. Walk In: Extinguished. The walk-in cooler and shelter have been removed. We will re-engage to reinstall it in the next few months.

UPDATED CONDITIONS: Attached is a redlined PDF and clean MSWord doc of our updated conditions. These were taken from the signed Planning letter verbatim. Here is a

summary of edits:

1. Adopt the language of Red's original CUP except where there is a conflict. In which case these conditions supersede.
2. Red's can revert to its original zoning in the event the uses are no longer commingled.
3. Added future walk in cooler. It's temporarily being stored outside.
4. Clarified that the food trucks and caterers generate fats, oils and grease. Further, we provide infrastructure sufficient for this.

Any concerns, questions or clarifications, please call or schedule a meeting ASAP and we'll make it a priority.

Scott Bertrand
910-420-0048

Updated Applicant's Conditions

Condition 1. This conditional zoning district shall adopt the language of the Conditional Use Permit (i.e., Moore County Register of Deeds Book 5334 Pages 278 to 280) and in the event of any conflict, these conditions shall supersede the Conditional Use Permit.

- In the event an application is submitted and approved for a change in use with the parcels associated with 155 Hall Avenue, the Conditional Use Permit shall be reinstated. To clarify, the original Red's Corner prior to this conditional zoning district can revert to its original zoning.

Condition 2. Permitted land uses shall be limited to the following:

- Cafeteria or limited service restaurant (LBCS 2520),
- Bar or drinking place (LBCS 2540),
- Mobile food services (LBCS 2550),
- Food truck campus (LBCS 2551),
- Caterer (LBCS 2560),
- Multipurpose facility open to the general public (i.e., "Banquet Hall," LBCS 5371),
- Temporary uses (LBCS 9920) and Special events (LBCS 9910), which do not require additional permitting:
 - Vendor markets, such as those with up to thirty (30) vendors using 10x10, 12x12 tents to sell items; and
 - Charity Events, such as fundraisers that include up to thirty (30) related vendors and 10x10, 12x12 tents ; and
 - Themed events hosted either by Red's or someone wanting to use some or most of the Red's premises (this would include larger dining tents that will follow tent permitting requirements).
- Temporary uses (LBCS 9920) and Special events (LBCS 9910) other than those listed above shall require Special Event permits.

The following accessory uses and structures shall also be permitted:

- One ~~stage~~ outdoor stage for up to 400 square feet, and
- One concrete slab patio for up to 825 square feet to be used as outdoor seating, and
- No more than one shed for storage purposes; and
- No more than one walk in cooler and overhead shelter for up to 600 square feet; and
- No more than one drive-through coffee bar; etc.

Condition 3. Cross Use of Properties.

- Allowing the cross use of 155 Hall Ave as an ancillary property to 801/901 SW Broad is a primary goal of this application. Cross Use includes, but is not limited to shared restrooms, parking, and reciprocal access. When not being privately rented, Suite A is intended as an ancillary/alternative site to Red's Corner seating areas.
- Pedestrian access:
 - Morganton and SW Broad frontages: the existing sidewalk systems recently installed allow sufficient access to the site from these streets. Once

accessed, pedestrians self direct to various points of interest on site. For example, someone headed to a restroom may take a different path than heading to the food trucks.

- Hall Ave frontage: access from Hall Ave will see minimal foot traffic as Hall Ave is dead end road and not a main thoroughfare.
- Access between the properties is clearly defined with marked walkways or open area where vehicular traffic is excluded.

Condition 4. Noise. 155 Hall Ave: There shall be no change in permitted noise levels. The outdoor stage shall be permitted to have live outdoor music performances with amplification, subject to the local noise code, until 11PM.

Condition 5. Hours of Operation. The hours of operation shall be 6:00 AM to 11:00 PM.

Condition 6. Architecture. Renovations of the exterior architecture of the existing buildings shall be designed in the same character or complement the existing architecture as was submitted in architectural compliance permit file #AR-03-20. Some key character defining elements include:



Condition 7. Landscaping. Current landscaping and buffering shall be retained except for sod installed in and around the highlighted area in Section Id (Pocket Park). The perimeter vehicle use area landscaping shall continue to be waived between the property lines of 901 SW Broad Street and 155 Hall Avenue. A vegetative barrier/hedge shall be added between the gravel commonly known as the food truck parking and the sodded area to prevent illegal parking.

Condition 8. The 20 x 30 tent shall be permitted to remain, permanently. A pavilion-type structure of similar size and without walls will be permitted in the event Red's replaces the tent.

Condition 9. Site Access. Site access shall remain at the current locations and no parking shall be permitted in the access easement between 901 SW Broad Street and 155 Hall Avenue.

Condition 10. Parking. Total Combined Parking Spaces shall be 66. The 37 parking spaces at 155 Hall Ave may remain gravel and unmarked. 901 SW Broad shall provide all 29 existing parking spaces.

Condition 11. Bicycle Parking. Bicycle racks shall be provided with a minimum of six spaces.

Condition 12. Signage. Temporary "Coming Soon" sign facing Red's Corner interior of the two properties to notify Red's customers and shall be permitted for 90 days and shall follow UDO standards for dimensions. Any additional street fronting or building signs shall follow UDO standards.

Condition 13. Traffic Patterns. 901 SW Broad: Traffic Patterns will coincide with the existing traffic patterns. 155 Hall Ave: Site access shall remain at the current locations.

Condition 14. Fats, Oils, Grease, Odors. No fats, oils, grease, or odors shall be generated from the business' operations. Prepared food may be provided by Red's Corner food trucks or caterers who do generate fats, oils, and grease. The existing infrastructure is sufficient to support these food trucks and caterers.

Condition 15. Lighting. Existing lighting at the property shall remain in place. Lights may be added to increase safety and security on site but shall follow standards in the UDO.

Condition 16. Utilities & Trash. Existing dumpsters shall remain on site.

Condition 17. Outdoor Storage shall be prohibited.

Condition 18. Fencing. No new fencing shall be permitted.



Southern Pines Fire Department

500 W. Pennsylvania Ave.
Southern Pines, N.C. 28387
910-692-2720



Fire Inspection Inspection Result

Inspection Status

Completed

Inspected by

Stephen D Russell

Completed at

12/31/2024 15:41:40

"ORDER TO COMPLY: Whoever fails to comply with any order by the Fire Marshal or his authorized representative may be charged with a misdemeanor as provided by G.S. 143-139 and G.S. 160A-175, Each day's continuing violation of the code is a separate and distinct offense as provided by G.S. 160D-1127. Civil penalties may also be assessed. Town of Southern Pines Code of Ordinances: § 95.038 INSPECTIONS FOR FIRE/LIFE SAFETY PURPOSES"

Address	Suite	City	State	Zip
155 HALL AVE	#MEET AND GREEK FOOD	SOUTHERN PINES	NC	28387
		Business Name	Building Type	
		Meet and Greek Food Truck Commisary	Unknown	

Electrical/ Utilities:

✓ Corrected

ITEM: Electrical hazards shall be abated

REMARK:

EXPOSED WIRING NOTED ON EXTERIOR OF BUILDING ON D SIDE.

CODE: NCFC2018 - 605.1 - Abatement of electrical hazards. - Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used.



Fire Protection Systems:

✓ Corrected

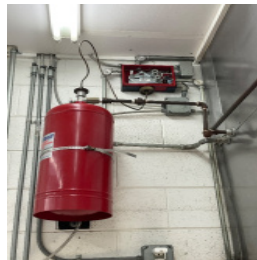
ITEM: Has the cooking fire suppression system been serviced within the past 6 months by a certified company with report on site

REMARK:

IT IS CURRENTLY BEING WORKED ON TO REPAIR SOME DEFICIENCIES.

ALL ISSUES REPAIRED. SDR. 12/31/2024

CODE: NCFC2018 - 904.12.6.2 - Extinguishing system service. - Automatic fire-extinguishing systems shall be serviced at least every six months and after activation of the system. Inspection shall be by qualified individuals, and a certificate of inspection shall be forwarded to the fire code official upon completion.



Next inspection scheduled to be conducted on or after 07/01/2025.

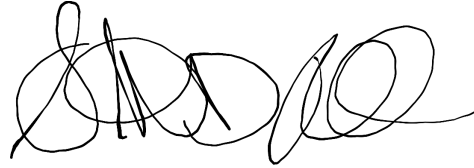
Inspection Signatures

Occupancy Contact Signature



Scott Bertrand
Business Owner
scott.m.bertrand@gmail.com

Inspector Signature



Stephen D Russell
--
Assistant Fire Marshal
--
russell@southernpines.net

From: [Stephen Russell](#)
To: [Ken Skipper](#)
Subject: FW: 155 Hall Ave.
Date: Thursday, October 31, 2024 5:07:06 PM
Attachments: [Permit - John Bullock.pdf](#)
[Emergency Access Management for Red's Corner.pdf](#)
[Seating Plan - 155 Hall Avenue - Paddock at Red's Corner.pdf](#)

From: Scott Bertrand <scott.m.bertrand@gmail.com>
Sent: Thursday, October 31, 2024 4:07 PM
To: Stephen Russell <Russell@southernpines.net>
Cc: Mike Ratkowski <mikeratkowski77@gmail.com>
Subject: Re: 155 Hall Ave.

Good afternoon, Mr. Russell,

To have at your fingertips, attached are all three items on the list below.

1. Emergency Access Management
2. Tent permit (issued 10/29)
3. Seating Chart

Please advise on when we will receive the Occupancy Placard.

Thank you,

Scott Bertrand
910-420-0048

On Tue, Oct 22, 2024 at 12:52 PM Scott Bertrand <scott.m.bertrand@gmail.com> wrote:

Mr. Russell,

Per our earlier conversation, here are the updates for the two action items you had for us.

1. We need something in writing stating that you will manage the ***existing*** parking at both properties. That the access to both buildings stay open so we are able to get fire apparatus to those buildings.
 - Please see attached
2. A building permit needs to be applied for the current tent. This will satisfy until the zoning permit can be settled.
 - Permit application submitted through SmartGove this afternoon.

3. A seating chart of the building as you plan to use it. ***I already have this chart. I have the one you sent earlier.***

- OK, sounds good.

Scott Bertrand
910-420-0048

On Thu, Oct 3, 2024 at 1:55 PM Stephen Russell <Russell@southernpines.net> wrote:

Mr. Bertrand,

Good afternoon. Thank you for meeting me this morning. As we discussed, I have spoken with Fire Marshal Skipper and it seems we are all on the same page. He has asked for you to do the following and we can get back on track and get you an Occupancy number for your space.

1. We need something in writing stating that you will manage the **existing** parking at both properties. That the access to both buildings stay open so we are able to get fire apparatus to those buildings.
2. A building permit needs to be applied for the current tent. This will satisfy until the zoning permit can be settled.
3. A seating chart of the building as you plan to use it. ***I already have this chart. I have the one you sent earlier.***

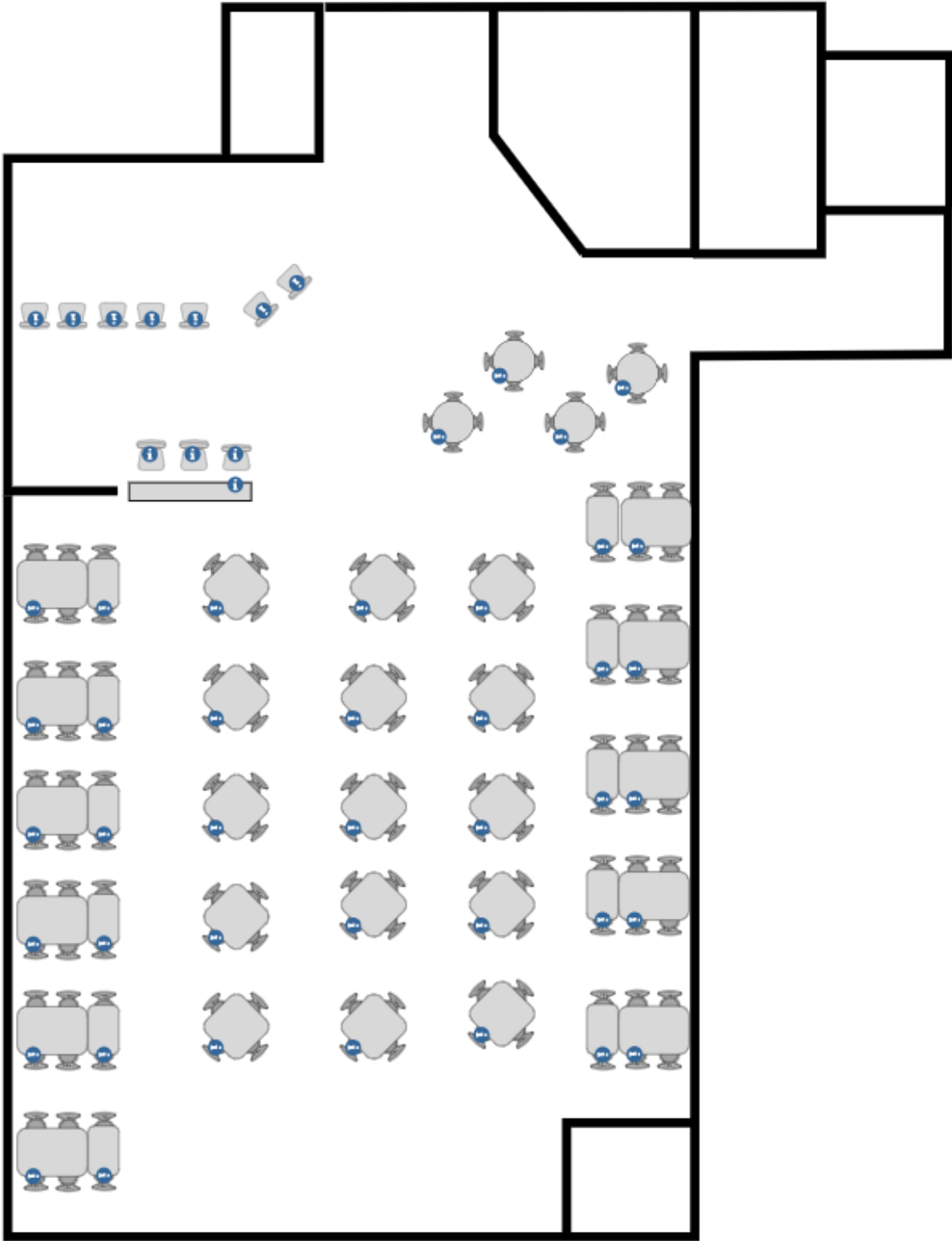
Once we have received the other two items I can then send/bring you an Occupancy Placard that you can use to move things along in the process. If you have any questions please do not hesitate to contact us at any time.

In service,
Stephen D. Russell
Assistant Fire Marshal
Southern Pines Fire and Rescue
O: 910-692-2720
russell@southernpines.net



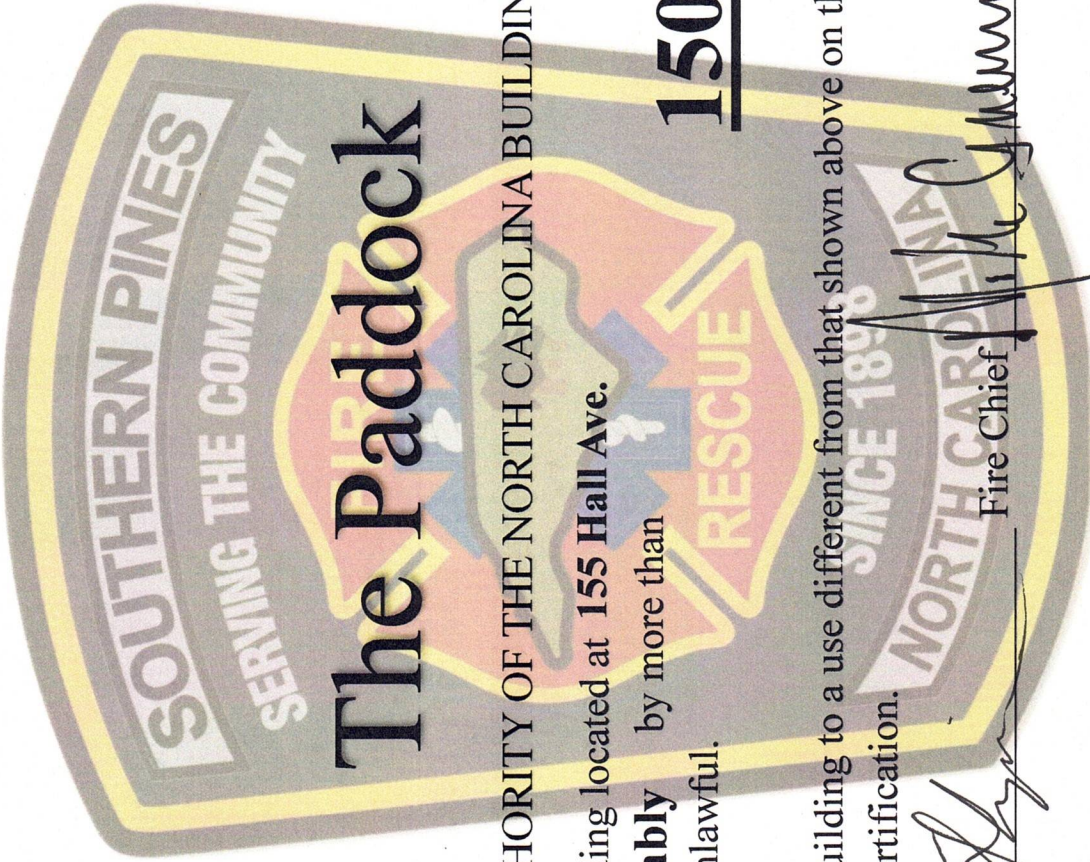
SEATING PLAN

The Paddock at Red's Corner
155 Hall Avenue, Southern Pines, NC



Contact Info:
Scott Bertrand
910-420-0048
Red's Corner / RCPESP, LLC

MAXIMUM OCCUPANCY LOAD



The Paddock

150

BY THE AUTHORITY OF THE NORTH CAROLINA BUILDING CODE:

The occupancy of this building located at **155 Hall Ave.**
and used for **A-2 Assembly** by more than
persons is dangerous and unlawful.

The change of use of this building to a use different from that shown above on the date shown below
will require occupancy recertification.

Fire Marshal

Fire Chief

Date: 11/01/2024

THIS NOTICE MUST BE KEPT POSTED AND VISIBLE AT ALL TIMES



901 SW Broad Street
Southern Pines, NC 28387
Tel: 910-246-0205

10/22/2024

Mr. Stephen Russell
Assistant Fire Marshal
Southern Pines Fire and Rescue

CC: Mike Ratkowski, Red's Corner

RE: Emergency Access Management for Red's Corner

Mr. Russell,

Red's Corner (RCPESP, LLC) has recently leased all of 155 Hall Avenue. Per your request, this note confirms we will manage the emergency access points and throughways to/from both 901 SW Broad Street and 155 Hall Avenue. Effective management will result in both properties staying open so Fire and Rescue personnel and equipment can service our sites.

Sincerely,
RED'S CORNER

Scott Bertrand
Managing Member / General Manager
RCPESP, LLC
(910) 420-0048
scott.m.bertrand@gmail.com

PARKING AGREEMENT

Agreement to Lease and Share Parking Spaces (the “Agreement”), dated **4/11/2024**, **RCPESP, LLC**, a North Carolina Limited Liability Company (the “Company”), with its principal office located at 901 SW Broad Street, Southern Pines, NC 28387, and shared parking between adjacent and simultaneously-leased properties.

Whereas, the Company leases property at 901 SW Broad Street owned by B&R Holdings Company, LLC and 155 Hall Avenue owned by 155 Hall SP, LLC (the “Properties”), which, as of April 30, 2024, includes exclusive use of all facilities and parking areas; and

Whereas, the Company desires to share parking between the Properties with

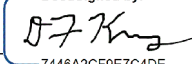
Now, therefore, for and in consideration of the covenants contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Company hereby allows the Company to share all available parking areas within the Properties pursuant to the following terms and conditions.

- I. **Use:** Parking
- II. **Payment:** This is an inter-company transaction without monetary consideration.
- III. **Term:** The term of this agreement shall commence as of the date set forth above and shall continue so long as the Company occupies the Properties.
- IV. **Hours:** The Company has 24-hour, 365-day access without restriction for Company business, customers and visitors. The hours of operation on the Properties are from 6AM to 11PM, with occasional exceptions for earlier baking or extended cleanings.

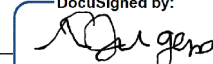
Agreed and Approved:

Landlords

155 Hall SP, LLC

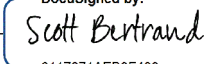
By:  _____ Dated: 12/13/2024
DocuSigned by: 7446A2CF9E7C4DE...
 Don Kinney, Owner

B&R Holdings Company, LLC

By:  _____ Dated: 12/13/2024
DocuSigned by: 6A6F413D17AE466...
 Rachel J. Dargatzis

Tenant

RCPESP, LLC

By:  _____ Dated: 12/13/2024
DocuSigned by: 6117271AEB9F489...
 Scott Bertrand, Member

shared with

RCPESP, LLC

By:  _____ Dated: 12/13/2024
DocuSigned by: 6117271AEB9F489...
 Scott Bertrand, Managing Member

From: [James Michel](#)
To: [Scott Bertrand](#); [Alaina Mallette](#)
Subject: Trip Generation Letter for Red's Corner
Date: Friday, December 20, 2024 4:47:24 PM

Alaina,

I spoke with Scott earlier about the trip generation letter. I found the old estimates prepared by Neal Smith and was able to see the original baseline. The additional added traffic from the expansions of the site do not exceed the TIA or TDA thresholds, so no additional information is needed at this time.

Thanks

James Michel, PE, MBA

Town Engineer/Asst. Public Works Director

801 SE Service Road

Southern Pines, NC 28387

(910)692-1983



LL

FOR REGISTRATION REGISTER OF DEEDS
 Judy D. Martin
 Moore County, NC
 May 27, 2020 02:02:27 PM
 Book 5334 Page 278-280
 FEE: \$26.00
 INSTRUMENT # 2020008770



INSTRUMENT # 2020008770

Town of Southern Pines
CONDITIONAL USE PERMIT

On the dates as listed below, the Town Council of the Town of Southern Pines met and held a public hearing to consider, and met to act upon, the following application:

Applicant: Ms. Rachel Jurgens, B & R Holding Company, LLC

Property Location: The subject property is a 1.86-acre parcel located on the southeastern quadrant of the intersection at West Morganton Road and Southwest Broad Street. The subject property is identified by the following Moore County PIN: 858100061104 (PARID 20180500) and the property owner is listed as B & R Holding Company, LLC.

File Number: CU-02-20

Proposed Use of Property: The proposed use is to develop a food truck campus (Land Based Classification Standard Code #2550) is a Conditional Use in the General Business (GB) zoning district and therefore requires a Conditional Use Permit. The design of the campus shall be consistent with the application materials and correspondence submitted and reviewed by the Town Council and entered into the public record as exhibits of CU-02-20 and modified by two (2) conditions of approval.

Meeting Dates: Public Hearing(s) on the application:
 Planning Board: February 20, 2020
 Town Council: March 10, 2020

Final action on the application:
 Town Council: April 8, 2020

*Town of Southern Pines
 180 SW Broad St
 Southern Pines, NC 28387*

Having heard all evidence and arguments presented at the hearing and having considered other relevant factors, the Town Council found that the application is complete and that the application complies with, or specific deviations have been granted to the applicable requirements of the Town of Southern Pines Unified Development Ordinance (UDO). The Town Council approved and issued the Conditional Use Permit, subject to all applicable provisions of the Unified Development Ordinance and two (2) conditions of approval as follows:

- 1.) The sidewalk proposed in The Town of Southern Pines Existing Park Inventory and Service Area Map be built by the developer to Town Standard. The amount of sidewalk required to be constructed will be that which is equivalent to the frontage on SW Broad Street that is shown on the Park Inventory and Service Area Map. However, the sidewalk may be located on or adjacent to the proposed development in a manner deemed most appropriate by the applicant and Town of Southern Pines staff.
- 2.) A deviation from the standards in UDO§ 4.3.6 Perimeter Landscaping for Vehicle Use Areas, specifically the requirement for large trees every thirty (30) linear feet along the portion of the property line shared with 155 Hall Ave (also identified by PARID 00055107 and Moore County PIN 858109051976) directly in front of the existing sign for Thyme & Place Café.

**THIS CONDITIONAL USE PERMIT MUST BE RECORDED AND PROOF OF
RECORDATION PROVIDED TO THE TOWN OF SOUTHERN PINES PRIOR TO THE
ISSUANCE OF ANY PERMITS.**

The undersigned owners of the above-described property acknowledge the receipt and issuance of the Conditional Use Permit and the conditions as set forth in this document.

B & R HOLDING COMPANY, LLC

Rachel Jurgens, Executive Manager

By: 

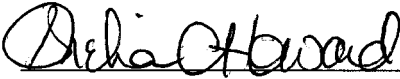
When recording show owner as B & R Holding Company, LLC.

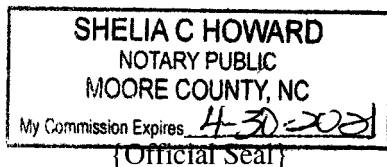
STATE OF NORTH CAROLINA

COUNTY OF MOORE

I certify that the following person personally appeared before me this date, acknowledging to me that HE/SHE voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Executive Manager

Date: 5-27-2020


Notary Public



Shelia C. Howard

Printed name of Notary Public

My Commission Expires: 4-30-2021

When recording show owner(s) as B & R Holding Company, LLC.

STATE OF NORTH CAROLINA

COUNTY OF MOORE

I, Shelia C. Howard, a notary public, certify that Rachel Jurgens either personally known to me or proven by satisfactory evidence (said evidence being driver license), personally came before me this day and acknowledged that serving in the capacity of MEMBER of B & R Holdings, LLC, A North Carolina registered Limited Liability Company, and they, being authorized to do so, executed the foregoing on behalf of the company.

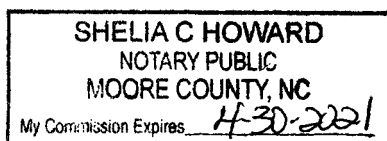
Witness my hand and official seal, this the 27th day of May, 2020

Shelia C Howard

Notary Public

Shelia C. Howard

Printed name of Notary Public



{Official Seal}

My Commission Expires: 4-30-2021



ORDINANCE #3103
AMENDING THE ZONING MAP OF THE TOWN OF SOUTHERN PINES
Z-06-24

THAT WHEREAS, after notice duly given according to law, a public hearing was held before the Town of Southern Pines Town Council at its regular business meeting on January 14, 2025 at 6:00 PM for the purpose of considering and passing of an ordinance amending the Zoning Map of the Town of Southern Pines, North Carolina; and

WHEREAS, after the completion of said public hearing, and upon consideration of the reasonableness of the request, compliance with the criteria for a zoning map amendment found in UDO §2.17.9, as well as consistency with the adopted 2040 Comprehensive Plan, the Southern Pines Town Council approved petition Z-06-24 to amend the Zoning Map of the Town of Southern Pines;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Town of Southern Pines Town Council, in regular session assembled on the 14th day of January, 2025:

Section 1. That the Zoning of the Town of Southern Pines on file in the office of the Town Clerk be amended to reflect that the subject parcels totaling 2.92 acres—identified as PIN 858100061104 (PARID 20180500) and PIN 858100061061 (PARID 00048220) owned by B & R Holding Company, LLC; and PIN 858109051976 (PARID 00055107), PIN 8581090050947 (PARID 00055108) and PIN 858109051859 (PARID 00055109) owned by 155 Hall SP, LLC in Moore County tax records—is zoned General Business (GB) Conditional Zoning District with the following final list of conditions on that district:

Condition 1. This conditional zoning district shall adopt the language of the Conditional Use Permit (i.e., Moore County Register of Deeds Book 5334 Pages 278 to 280) and in the event of any conflict, these conditions shall supersede the Conditional Use Permit.

Condition 2. Permitted land uses shall be limited to the following:

- Cafeteria or limited service restaurant (LBCS 2520),
- Bar or drinking place (LBCS 2540),
- Mobile food services (LBCS 2550),
- Food truck campus (LBCS 2551),
- Caterer (LBCS 2560),
- Multipurpose facility open to the general public (i.e., “Banquet Hall,” LBCS 5371),
- Temporary uses (LBCS 9920) and Special events (LBCS 9910), which do not require additional permitting:
 - Vendor markets, such as those with up to thirty (30) vendors using 10x10, 12x12 tents to sell items; and
 - Charity Events, such as fundraisers that include up to thirty (30) related vendors and 10x10, 12x12 tents ; and
 - Themed events hosted either by Red’s or someone wanting to use some or most of the Red’s premises (this would include larger dining tents that will follow tent permitting requirements).
- Temporary uses (LBCS 9920) and Special events (LBCS 9910) other than those listed above shall require Special Event permits.

The following accessory uses and structures shall also be permitted:

- One outdoor stage for up to 400 square feet; and
- One concrete slab patio for up to 825 square feet to be used as outdoor seating; and
- No more than one shed for storage purposes; and
- No more than one walk in cooler and overhead shelter for up to 600 square feet; and
- No more than one drive-through coffee bar; etc.

Condition 3. Cross Use of Properties.

- Allowing the cross use of 155 Hall Ave as an ancillary property to 801/901 SW Broad is a primary goal of this application. Cross Use includes, but is not limited to shared restrooms, parking, and reciprocal access. When not being privately rented, Suite A is intended as an ancillary/alternative site to Red's Corner seating areas.
- Pedestrian access:
 - Morganton and SW Broad frontages: the existing sidewalk systems recently installed allow sufficient access to the site from these streets. Once accessed, pedestrians self direct to various points of interest on site. For example, someone headed to a restroom may take a different path than heading to the food trucks.
 - Hall Ave frontage: access from Hall Ave will see minimal foot traffic as Hall Ave is dead end road and not a main thoroughfare.
 - Access between the properties is clearly defined with marked walkways or open area where vehicular traffic is excluded.

Condition 4. Noise. 155 Hall Ave: There shall be no change in permitted noise levels. The outdoor stage shall be permitted to have live outdoor music performances with amplification, subject to the local noise code, until 11PM.

Condition 5. Hours of Operation. The hours of operation shall be 6:00 AM to 11:00 PM.

Condition 6. Architecture. Renovations of the exterior architecture of the existing buildings shall be designed in the same character or complement the existing architecture as was submitted in architectural compliance permit file #AR-03-20. Some key character defining elements include:



Condition 7. Landscaping. Current landscaping and buffering shall be retained except for sod installed in and around the highlighted area in Section Id (Pocket Park). The perimeter vehicle use area landscaping shall continue to be waived between the property lines of 901 SW Broad Street and 155 Hall Avenue. A vegetative barrier/hedge shall be added between the gravel commonly known as the food truck parking and the sodded area to prevent illegal parking.

Condition 8. The 20 x 30 tent shall be permitted to remain, permanently. A pavilion-type structure of similar size and without walls will be permitted in the event Red's replaces the tent.

Condition 9. Site Access. Site access shall remain at the current locations and no parking shall be permitted in the access easement between 901 SW Broad Street and 155 Hall Avenue.

Condition 10. Parking. Total Combined Parking Spaces shall be 66. The 37 parking spaces at 155 Hall Ave may remain gravel and unmarked. 901 SW Broad shall provide all 29 existing parking spaces.

Condition 11. Bicycle Parking. Bicycle racks shall be provided with a minimum of six spaces.

Condition 12. Signage. Temporary "Coming Soon" sign facing Red's Corner interior of the two properties to notify Red's customers and shall be permitted for 90 days and shall follow UDO standards for dimensions. Any additional street fronting or building signs shall follow UDO standards.

Condition 13. Traffic Patterns. 901 SW Broad: Traffic Patterns will coincide with the existing traffic patterns. 155 Hall Ave: Site access shall remain at the current locations.

Condition 14. Fats, Oils, Grease, Odors. No fats, oils, grease, or odors shall be generated from the business' operations. Prepared food may be provided by Red's Corner food

trucks or caterers who do generate fats, oils, and grease. The existing infrastructure is sufficient to support these food trucks and caterers.

Condition 15. Lighting. Existing lighting at the property shall remain in place. Lights may be added to increase safety and security on site but shall follow standards in the UDO.

Condition 16. Utilities & Trash. Existing dumpsters shall remain on site.

Condition 17. Outdoor Storage shall be prohibited.

Condition 18. Fencing. No new fencing shall be permitted.

Condition 19. A letter, certified by an engineer, that states that the pre-development and post-development stormwater runoff calculations will be the same with the proposed impervious surface additions shall be submitted to the Town Engineer prior to Certificate of Occupancy.

The subject parcels are as recorded in the Moore County Registry as follows:

- (1) Lot as recorded in Deed Book 5064, Page 442 and as identified as Parcel Identification Number 20180500

Being all of that "1.76 acres remaining" as shown on map entitled "Recombination Survey for Richard Frye and Ted Jordan, Sandhill Township, Moore County, Southern Pines, North Carolina", dated November 1, 2018 by Travis L. Nickens and recorded in the Office of the Register of Deeds of Moore County in Plat Cabinet 17, Slide 923.

This Tract is conveyed TOGETHER WITH the perpetual right and easement in and to the use of that certain "proposed access easement" consisting of .10 of an acre as shown on the aforementioned recorded survey. This perpetual and non-exclusive easement shall provide vehicular, pedestrian and utility line rights of way from and to Hall Avenue which is a 20' wide right of way depicted on the aforementioned recorded plat. Such access easement description is hereby incorporated by reference as if fully set forth herein.

- (2) Lot as recorded in Deed Book 5083, Page 566 and as identified as Parcel Identification Number 00048220

Tract One

BEGINNING at an iron bolt, a corner of the Shaw Estate and the Northwest corner of Lot No. 74; and runs thence with the line of the Shaw Estate South 60-26½ East 377.0 feet to an iron stake on the right of way line of the Seaboard Air Line Railway main line; thence with said right of way line of Seaboard Air Line Railway, as defined by monuments, fences and records plats, South 28-10½ West 186.0 feet to an iron stake; thence North 54-13½ West along the northern line of Lot 78, 200 feet to an iron pipe, the corner of Lots 71, 72, 77 and 78 of the J.N. Powell and M.N. Suggs Subdivision; thence South 18-35 West 53 .0 feet to an iron stake, a corner of the William Bushby property; thence with the line of said Bushby property North 50-35 West 297.8 feet to an iron stake on the south line of West Broad Street Extension; thence with the south line of West Broad Street Extension North 35-00 East 123.1 feet to an iron stake; thence North 83-15½ East 77.12 feet to the BEGINNING, being all of Lots 71-77 inclusive, as shown by map of the Powell-Sugg Subdivision recorded in Map Book 2, Page 21, Moore County Registry.

EXCEPTING THEREFROM such right of way and privileges as may be claimed by Seaboard Air Line Railway and that portion conveyed to the Department of Transportation recorded in Book 675, Page 95, Moore County Registry.

Tract Two

That tract or parcel of land described in Book 1877, Page 139, Moore

LESS AND EXCEPTING THEREFROM, HOWEVER, that property already conveyed to Grantee which is more particularly described at Deed Book 5064, Page 442, Moore County Public Registry, the descriptions of which properties are hereby incorporated by reference as if fully set forth herein.

Being all of that "1.76 acres remaining" as shown on map entitled "Recombination survey for Richard Frye and Ted Jordan, Sandhill Township, Moore County, Southern Pines, North Carolina", dated November 1, 2018 by Travis L. Nickens and recorded In the Office of the Register of Deeds of Moore County In Plat cabinet 17, Slide 923.

This Tract is conveyed TOGETHER WITH the perpetual right and easement in and to the use of that certain "proposed access easement" consisting of .10 of an acre as shown on the aforementioned recorded survey. This perpetual and non-exclusive easement shall provide vehicular, pedestrian and utility line rights of way from and to Hall Avenue which is a 20' wide right of way depicted on the aforementioned recorded plat. Such access easement description is hereby incorporated by reference as if fully set forth herein.

(3) Lot as recorded in Deed Book 5964, Page 458 and as identified as Parcel Identification Number 00047570

A certain lot or parcel of land in the Town of Southern Pines, Sandhill Township, Moore County, North Carolina, fronting on the southwest line of Hall Avenue, about 300 feet southeast of the intersection of Hall Avenue and Broad Street, bounded on the northeast by Hall Avenue, on the southwest by C. D. May, and on the southeast by the Seaboard Coastline Railroad, described as follows: BEGINNING at an iron stake in the southwest line of Hall Avenue (20 feet wide), said iron stake being in the southeast line of Lot No. 69 of the J. N. Powell and M. N. Sugg property and being further located as being South 40° 17' West 20.00 feet from the south corner of Lot No. 12 of the Gaeb Subdivision recorded in the Moore County Registry; running thence from the Beginning, as the southwest line of Hall Avenue South 50° 36' East 188.46 feet to a corner in the southwest line of Hall Avenue in the Seaboard Coastline Railroad right-of-way; thence South 28° 09' West 89.08 feet to an iron stake in the Seaboard Coastline right-of-way; thence as the southwest line of Hall, North 50° 27' West 207.19 feet to an iron stake near a fence, a corner of Hall; thence North 40° 17' East 86.90 feet to the BEGINNING, containing 17,240 square feet, more or less.

And being the same and identical property conveyed to Norris Wayne Camarena and wife, Carolyn Smith Camarena, by deed dated May 8, 1986 and recorded in Deed Book 546 at Page 117, Moore County Registry. See also Deed recorded in Record Book 3135, Page 394, Moore County Registry (Tract 4).

(4) Lot as recorded in Deed Book 5176, Page 299 and as identified as Parcel Identification Number 00055109

Tract 1, Tract 2 and Tract 3, including +/-0.80 acres in total, as set forth on a plat recorded in Plat Cabinet 15, Slide 266, Moore County Register of Deeds. This conveyance is made subject to: (i) ad valorem taxes for the current year; (ii) utility easements of record; and (iii) restrictions enforceable against the property.

For further reference see Book 5139, Page 92, Moore County Register of Deeds. This property is not the primary residence of Grantor.

(5) Lot as recorded in Deed Book 5176, Page 299 and as identified as Parcel Identification Number 00055108

Tract 1, Tract 2 and Tract 3, including +/-0.80 acres in total, as set forth on a plat recorded in Plat Cabinet 15, Slide 266, Moore County Register of Deeds. This conveyance is made subject to: (i) ad valorem taxes for the current year; (ii) utility easements of record; and (iii) restrictions enforceable against the property.

For further reference see Book 5139, Page 92, Moore County Register of Deeds. This property is not the primary residence of Grantor.

Section 2. That this Ordinance shall be and shall remain in full force and effect from the date of its adoption until otherwise amended.

Adopted this 14th day of January, 2025.

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on January 14, 2025 as shown in the Minutes of the Town Council meeting for that date.

Elizabeth Robertson, Town Clerk

DRAFT

Agenda Item

To: Reagan Parsons

From: Alaina Mallette, Senior Planner

Via: BJ Grieve, Planning Director

Subject: PD-07-24: Planned Development District – Preliminary Development Plan for +/- .8 Acres on the West Side of S. Bennett Street Between New York Avenue and Pennsylvania Avenue (New York Place)

Date: January 14, 2025

I. SUMMARY OF APPLICATION REQUEST

Colin Webster and John Spurrell, on behalf of Grosvenor Land, LLC (“Applicant”), have submitted a Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance for a mixed-use development to include 40 residential condominiums and 9,100 square feet of retail, restaurant and office space. The subject parcels are currently zoned to Planned Development (PD) pursuant to an approved Conceptual Development Plan (i.e., PD-02-23) and are identified as PIN 858105282734 (PARID 00032263) and PIN 858105281747 (PARID 00031983). Per the Moore County tax records, the parcels are owned by Grosvenor Land, LLC.

Street Address

The subject parcels are addressed 164 S. Bennett Street and 235 W. New York Avenue. Additional addresses may be assigned by Moore County upon approval of a development plan.

Size of Property

164 S. Bennett Street = approx. 0.3 ac.
235 New York Avenue = approx. 0.5 ac.

II. PLANNING BOARD REVIEW

On December 19, 2024, the Planning Board held a Preliminary Forum regarding PD-07-24 to accept public comments and compose a list of issues to forward to the Town Council for their consideration. Following a presentation by Town staff, the Applicant, John Spurrell representing Grosvenor Land, LLC, took questions from the Planning Board. The Planning Board’s questions included, layout of internal businesses and communal spaces, loading/unloading zones, and building height. One comment was received from Mr. Tom McCabe who stated that he likes the overall development, and thinks that parking and traffic is not an issue for this development as people can walk to and from the site. He further stated that the Applicant should restrict businesses’ uses due to intense uses’ parking demands, and that speed should be reduced on S Bennett Street, perhaps by increasing on-street parking.

The Applicant stated that the Developer is aiming for “low-impact” businesses (i.e., boutiques) for ground-floor retail and that a four-restaurant scenario would be a “no-go.”

The Applicant further stated that the vision for the project is to encourage walkability to and from the development. The Applicant also stated that the apartments/studios are not intended for families or roommate scenarios, rather for older, single residents. The Applicant confirmed that the building would be under 45 feet.

On a unanimous vote of 5-0, the Planning Board moved to transmit the following issues to the Town Council to consider in applying the criteria for a PDP while reviewing application PD-07-24:

1. Applicant is in excess of permitted 70% built-upon area maximum permitted under their watershed protection permit. Permeable pavement and/or similar permeable technology must be used to bring the built-upon area from 77.9% of total acreage to 70%.
2. The PDP section 3.0.3 Allowable Uses should be limited to these Land-Based Classification Standard codes mentioned in the December 19, 2024, staff report. Restricting businesses based on assumption that everyone will need to park. Automobile trip generation may not truly be what the survey predicts.
3. An additional section of the narrative and/or a standard trip generation letter is needed to confirm whether the proposed scope of development and mix of land uses is within the scope of the original traffic design analysis.
4. Commercial loading and unloading areas will be on the street, unclear whether on S Bennett St or W New York Ave.

In addition, the following concerns were raised during the forum, but do not seem to apply in determining whether the PDP criteria are satisfied:

All easements should be confirmed and shown on the engineering plans to ensure safe design of the site.

1. Labels should be cleared up as described in the December 19, 2024 staff report.
2. Parking density and potential for overflow into public parking areas.
3. Reducing the speed on S Bennett Street [for pedestrian safety].
4. Extending on-street parallel parking along S Bennett Street southwest of E Pennsylvania Avenue

Pursuant to NCGS §160D-301(b)(6), the Town Council is reminded that although the Planning Board forwarded a list of issues for Council consideration, no part of the Preliminary Forum held by the Planning Board may be used as a basis for the Council's decision on PD-07-24, but may be used to prompt questions during the evidentiary hearing.

III. PROJECT INFORMATION

A. Property Owner(s)

Grosvenor Land, LLC
PO Box 1872
Southern Pines, NC 28388

B. Applicant & Authorized Agent

Grosvenor Land, LLC
PO Box 1872
Southern Pines, NC 28388

C. Property Information

The subject property is vacant, with significant change of grade and overgrowth. Though no identified wetlands or floodplain exist on the property, it does lie within the Little River Intake No. 2 Water Supply Watershed, and has received allocation credit under PD-02-23.

Figure 1: Vicinity Aerial Image



Figure 2: Vicinity Zoning Map



Legend

Parcels (Yellow Lines)

Parcels PARID Number

Streets

Overlay - Downtown Zoning District

Zoning Text

CB Zoning

CB, Central Business

Figure 3: Oblique Aerial Image of Present Condition of Subject Property (February 3, 2023)



Figure 4: Oblique Aerial Image of Subject Property with Approximate Boundaries (February 3, 2023)



[illegible][illegible]

Figure 9 and 10: Conceptual Landscaping Plan



Figure 11 and 12: Conceptual Landscaping Plan

CDP Architecture

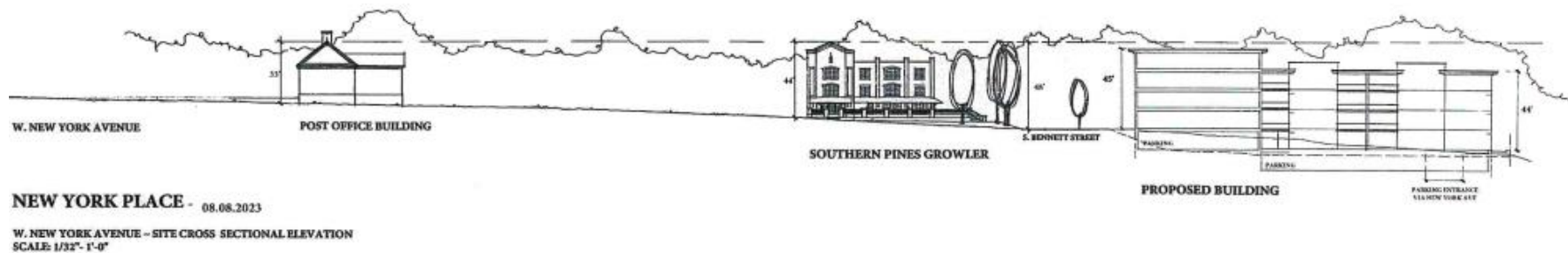


PDP Architecture



Figure 13: CDP Proposed Block Cross Section

APPENDIX H - NEW YORK ST ELEVATIONS



IV. STAFF REVIEW

A. Review Process

The procedures for review and approval of a Planned Development district are established within Chapter 2 of the Town of Southern Pines Unified Development Ordinance. Chapter 2 describes a three-step process of Conceptual Development Plan (“CDP”; i.e., PD-02-23), Preliminary Development Plan (“PDP”; i.e., PD-07-24), and Final Development Plan to complete a Planned Development district. This application is for a PDP.

B. Summary of Procedural Requirements

- Approval of CDP (PD-02-23): **September 12, 2023**
- Preliminary Development Plan Application Submitted: **November 13, 2024**
- Application Deemed Complete: **November 18, 2024**
 - Additional Information Submitted: **January 7, 2024**
- Notice of December 19, 2024, Planning Board Preliminary Forum:
 - Posted On-site: **December 05, 2024**
 - Mailed: **December 05, 2024**
 - Internet: **December 03, 2024**
 - Published: **December 11 and 18, 2024**
- Consultation with the Technical Review Committee: **December 03, 2024**
- Planning Board Regular Meeting/Preliminary Forum: **December 19, 2024**
- Notice of **January 14, 2025**, Town Council Evidentiary Hearing:
 - Mailed: **December 20, 2024**
 - Internet: **December 20, 2024**
 - Published: **January 1 and January 8, 2025**

C. Applicable Criteria for Review

The criteria for review and approval of a PDP are found in Chapter 2, §2.18.5(H), of the Town of Southern Pines Unified Development Ordinance. Staff analysis of how the application addresses these criteria begins on the following page of this document.

Preliminary Development Plan - UDO §2.18.5(H):

1. *The application demonstrates that it will achieve the purposes of the PD and this section;*
2. *The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;*
3. *The proposed Development is located in an area of the Town that is appropriate; and*
4. *The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.*

For reference, the following excerpt describes the **purpose of Planned Development districts (UDO §3.5.14A))**:

*“The **PD** district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational Development, and where consistent with the future land use map, light manufacturing and*

assembly uses that comply with the employment center Development Patterns in section 6.5 of this UDO. This district is intended to allow mixed-use Developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can be readily improved) to handle the projected traffic volumes generated by the Development. The regulations of this district are intended to:

- 1. Encourage planned, large-tract Development, including service, office, commercial, residential, public or private recreational Development or light industrial uses;*
- 2. Exclude heavy commercial and heavy industrial land uses;*
- 3. Encourage Development in areas located on major thoroughfares and collector streets;*
- 4. Encourage vehicular access from service drive and other local streets;*
- 5. Provide performance standards to help ensure Compatible land uses;*
- 6. Encourage common or shared parking;*
- 7. Promote creativity and innovation in the design that leads to more appropriate relationships between land uses and features;*
- 8. Facilitate clustering of Development thereby increasing the amount of saved land;*
- 9. Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;*
- 10. Improve connectivity within and between Developments to promote mobility and enhance walkability;*
- 11. Integrate public spaces and amenities to promote community gatherings and activities;*
- 12. Establish coordinated land plan and consistent treatment of common design elements;*
- 13. Provide the flexibility to respond to market conditions over longer projected Development periods due to the scale of such Developments; and*
- 14. If residential land uses are proposed, provide a variety of Lot sizes and Dwelling types to expand the spectrum of housing choices for households of various type, size, income and age.”*

D. Town Staff Review and Comments

Planning staff have reviewed the PDP application materials for consistency with each of the four (4) criteria for Preliminary Development Plans.

Vagueness of Proposed Land Uses. The Applicant’s Preliminary Development Plan/Plat map’s land use building label states “Commercial” as opposed to the Applicant’s narrative, which states “Office Space/Retail/Restaurant” not “commercial”; both of which are vague. Although the CDP, procedurally, has a purpose of establishing a mix and intensity of land uses that are consistent with the Comprehensive Plan, it did not establish specific land uses—rather general categories (see UDO §2.18.4(A) and screenshot of Section 4.1 of the New York Place CDP).

4.1 Allowable Uses

Residential/Multifamily/Office Space/Retail/Restaurant defined by UDO.

The purpose of a PDP, procedurally, is to (1) demonstrate that the proposed land use mix and intensity are consistent with the Comprehensive Plan, the purposes of Planned Developments, and the approved Conceptual Development Plan; (2) meet the mobility needs of the Town and proposed development; and (3) provide and maintain public facilities and services on which the development, neighborhood, and Town depend (see UDO §2.18.5(A)). Furthermore, the approval of a PDP is effectively the approval of specific land uses. Knowing this information during PDP may avoid misunderstandings in the future. For instance, land uses potentially interpreted not to be within these broad categories would have to go through a PDP amendment in the future.

Additionally, not knowing more detail about the proposed land uses makes it difficult to anticipate traffic generation counts and types of on-site operations, such as loading and unloading demands, hours of operations for different businesses, and applicability of supplemental regulations. For instance, is a motorcycle dealer, tobacconist establishment or pawn shop considered in “Retail”? Is a preschool, day care center, and home occupations considered “Office”? May the building and site be modified at site plan review to accommodate a drive-through since restaurants are allowed? This is an issue that is familiar to staff because new multi-unit commercial structures rarely have all tenants secured at the time of zoning entitlement, but the land uses of the tenants have a bearing on appropriate design. For example, imagine if the developer intends to lease to a bakery and a sandwich shop, but later gets an attractive lease rate from an attorney’s office and a real estate office. The character and activation of the hybrid zone (area between building and street) as well as traffic and parking demands are dramatically different.

James Michel, Town Engineer, stated in his January 8th email (see Attachment 5) that the Traffic Design Analysis (TDA) created for the CDP is based on technical assumptions for the “Strip Retail Plaza” land use category. He further stated that if ultimate uses (whether immediately or in the future) are more intense, then the TDA would be invalid. The Applicant’s concern is establishing the requirement for “perpetual TDA revisions and review.” Regarding loading and unloading, note that the Applicant’s legal counsel has proposed PDP narrative language that addresses loading and unloading concerns, which Planning staff believe to be appropriate (See Attachment 3).

Planning staff consider the Applicant’s legal counsel’s proposed prohibited land use list—with the land uses’ associated Land-Based Classification Standard, LBCS, codes—submitted on January 7, 2025, and included by staff in the Applicant’s narrative (see Attachment 3) is an acceptable condition to address the mix and intensity of land uses typically reviewed during CDP review, but with the

Planning Department’s reservations about how some intensive uses not listed might render the TDA invalid. Otherwise, the PDP is appropriate to address foreseeable impacts and site design considerations.

Built-Upon Area/Impervious Surfaces. The built-upon area shown on the preliminary plan says 77.9% of total parcel, but that the impervious surface calculation will be reduced to 70% through “permeable pavement and/or other measure...” However, we did not find anything in the narrative that speaks to what features will be permeable. Town engineering staff stated that the Applicant will need to have an engineer properly design it and provide details in the site plan during site plan review. Planning recommends a condition of approval to ensure the site does not exceed 70% impervious surfaces: *“The final approved site plan shall either (1) provide for 70% or less impervious surface or (2) include permeable pavement and/or other measures similar permeable technology to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine’s Town Engineer or other applicable approval authority prior to approval of the site plans.”* The Applicant’s legal counsel proposed this condition language via email on January 7, 2025 (see Attachment 3).

E. Cooperating Agency and Technical Review Committee Review and Comments

A request for comments was emailed to agencies on December 3, 2024. Agencies notified include Town of Southern Pines Streets, Utilities, Fire, Recreation and Parks, and Engineering departments, the Regional Land Use Advisory Commission, U.S. Fish and Wildlife Service, Moore County Airport and the North Carolina Department of Transportation. As of the writing of this staff report, comments received from the Technical Review Committee are in the previous sections of this report, and no additional comments were received from other agencies. Any agency comments received between the writing of this report and the preliminary forum will be presented at the forum.

V. PLANNING DEPARTMENT RECOMMENDATION

The Planning Department recommends approval of PD-07-24 with the following two conditions, considering staff’s review of compliance with applicable purposes and provisions within the Town’s UDO (i.e., PDP Criterion 2). The following recommended conditions have been proposed by Town staff, and reviewed and modified by the Applicant’s legal counsel (see Attachment 3).

Condition 1. The following land uses shall be prohibited:

- 1) 1210, 1220, 1230, 1240, or 1250, care facilities;
- 2) 2110 series, automobile sales;
- 3) 2124, department store;
- 4) 2143, tobacco store;
- 5) 2260, pawn shop;
- 6) 2418, veterinary services;
- 7) 2521, drive-through restaurants;

- 8) 2550, Food trucks;
- 9) 2652, tattoo parlor;
- 10) 2653, adult establishment;
- 11) 2654, adult cabaret;
- 12) 2721 series, animal services and kennels;
- 13) 5370, gyms and event venues (except gym and fitness ancillary to the residential units);
- 14) 6110, nursery/preschool (except minor nursery uses as ancillary to the residential units);
- 15) 6120 series, grade schools;
- 16) 6562, day care center; and
- 17) 6600 series, religious institutions.

Condition 2. The final approved site plan shall either (1) provide for 70% or less impervious surface or (2) include permeable pavement and/or other measures similar permeable technology to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine's Town Engineer or other applicable approval authority prior to approval of the site plans.

VI. ATTACHMENTS

The following materials are provided as attachments to this staff memorandum:

1. Planning Staff's Draft Findings of Fact
2. Applicant's Application
3. Applicant's Narrative and Correspondence
4. Applicant's Plans
5. Town Engineer's Email Regarding Traffic Design Analysis and Vague Land Uses

Additional documents related to this application including (but not limited to) property deeds, Authorization of Agent forms, email correspondence, meeting minutes and adjacent property notification records are on file in the Town of Southern Pines Planning Office and available for public inspections during normal business hours.

VII. TOWN COUNCIL ACTION:

To either approve or deny a Preliminary Development Plan application, the Town Council must make findings of fact and conclusions to the applicable standards.

I move to¹:

- 1. Adopt Attachment 1 of the staff report, as drafted, as Findings of Fact regarding the proposed Preliminary Development Plan PD-07-24.**

- OR -

¹ The Town Council shall first vote on whether the application is complete and whether the facts presented are relevant to the case. The Town Council shall then vote on whether the application complies with the criteria as set forth in Section 2.18.5(H) Criteria for a Preliminary Development Plan, Criteria 1-4. Staff has drafted a finding of fact for consideration in Attachment 1. The Town Council may make modifications or provide an alternative to the draft findings of fact and related motions at their discretion

2. Adopt Attachment 1 of the staff report as Findings of Fact regarding the proposed Preliminary Development Plan PD-07-24, with the following changes:
-

I move to²:

1. **Approve the Preliminary Development Plan for PD-07-24 with two conditions, as written in section V of the January 14, 2025, Town Council staff report.**

- OR -

2. Deny the Preliminary Development Plan for PD-07-24.

² Next, the Town Council shall vote on whether to approve, deny, or approve with conditions the proposed Preliminary Development Plan. The Town Council may choose one of the following motions, or any alternative they wish.

ATTACHMENT 1
Draft Findings of Fact, Decision of the Council, and Order in the Matter of a Preliminary Development Plan Application for New York Place Mixed Use Development
Case Number PD-07-24

1. The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines Unified Development Ordinance (UDO) Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.
2. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 1 (i.e., the application demonstrates that it will achieve the purposes of the PD districts), in that the proposed development promotes creative and innovative design that is in character with the Downtown area, includes usable open space, and includes an activated public realm along S. Bennett Street—effectively enhancing walkability and mobility in the area. Furthermore, with the addition of dwelling units created a variety of housing types in the Downtown Adjacent neighborhood. The condition prohibiting specific land uses acceptably mitigate concerns regarding the purpose of establishing an appropriate land mix and intensity, especially considering potentially applicable UDO standards. Therefore, according to §3.5.14 and §2.18 of the UDO, Town Council does not find significant inconsistency between the Preliminary Development Plan and the purpose of the PD district, generally, considering the commitments made in the narrative and in the conditions.
3. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 2 (i.e., the Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO), in that the application and commitments contain enough information to be deemed generally consistent with the CDP and UDO. The two conditions acceptably mitigate concerns regarding compliance with UDO standards. Further detailed analysis of compliance with both the CDP and the UDO will involve representatives from all other Community Development departments (such as Streets, Engineering, Fire, etc.) and will occur during site plan review.
4. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 3 (i.e., proposed Development is located in an area of the Town that is appropriate), in that the proposed density of development is located in an area of town with sufficient public services and utilities and the proposed architecture is consistent with the surrounding area. With the commitments made, the proposed development is located in an appropriate area of town.
5. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 4 (i.e., proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services), in that there are sufficient utilities available to the site and the cost of extensions to the site of said utilities will be borne by the Applicant. The cost of any transportation-related improvements will be borne by the Applicant and the Property Owner. Development of the

subject property in the manner proposed is an efficient way to increase commercial and residential units within the community.



Planned Development District Preliminary Development Plan Application

Fee: \$ _____ Date Received: _____ Case No.: PD- _____ - _____

Project Information:

Project Name: NEW YORK PLACE

Physical Address: 164 S. BENNETT ST.

PIN: 858105282734/858105281747 Parcel ID: 00032263/00031983

Site Size: 0.786 ACRES Zoning: PD

Applicant:

Name(s): GROSSEVENOR LAND, LLC

Email: COLIN@ASCOTGRP.COM Phone: 910-688-7361

Mailing Address: _____

Authorized Agent, if different from Applicant:

Name(s): _____

Email: _____ Phone: _____

Mailing Address: _____

Legal Property Owner(s), if different from Applicant:

Name(s): _____

Email: _____ Phone: _____

Mailing Address: _____

1/12/22

TO THE TOWN OF SOUTHERN PINES PLANNING BOARD AND TOWN COUNCIL:

I, the undersigned, do hereby make application to and petition the Planning Board and Town Council for approval of a Planned Development District – Preliminary Development Plan as required by the Town of Southern Pines Zoning Ordinance. The following information is submitted in support of this application:

The property which is the subject of this application is located on the West side of S. BENNETT ST. (St./Ave.), between NEW YORK (St./Ave.) and PENNSYLVANIA (St./Ave.). The property has a frontage of 201 feet and a depth of 200 feet.

The request is based upon **Section 2.18.5** of the **Town of Southern Pines Unified Development Ordinance**. The proposed use of the property is as follows:

Residential, Office Space and General Business Services as outlined
in PD-02-23

Date: 6-13-2024

C. S. COUN NEEBSTER AS MGR
Applicant GROSVENOR LAND, LLC

PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES
801 SE Service Road, Southern Pines, NC 28387
plan@southernpines.net (910) 692-4003 www.southernpines.net

PD - APPLICATION
PLANNED DEVELOPMENT PLAN
NEW YORK PLACE – MIXED USE DEVELOPMENT

1.0 Narrative

2.0 Consistency with Purpose of PDP

3.0 Consistency with Approved Development Standards

3.0.1 Elevation

3.0.2 Size/Density

3.0.2.1 Table

3.0.3 Allowable Uses

3.0.4 Parking

3.0.4.1 Table

3.0.5 Landscaping and Open Spaces

3.0.5.1 Table

1.0 New York Place PD Application Narrative

The purpose of this PD – Preliminary Development Plan is to fully describe the proposed single-phase development for New York Place that meets all standards of the New York Place Conceptual Development Plan (CDP). As stated in the Town of Southern Pines Unified Development Ordinance (UDO) in Section 2.18.5(A), the PDP is intended to show, with greater detail, the development and illustrate how the proposed land use mix and intensity is consistent with the approved Conceptual Development Plan.

The property is indicated as Mixed Use in the Town's CLRP. The single Phase described in this PDP application, is the only Phase in this development and includes 40 single-family apartments and 9,100 sqft of retail/restaurant/office space on the ground floor. No road or utility extensions are required and as previously submitted with the CDP application there is adequate utility capacity and impact on traffic will be negligible. Driveway access shall be on New York Ave. thus avoiding any safety concerns for Bennett St Traffic.

This development conforms with the Development Program in Section 5.1 and Table 1.0 of the CDP booklet as well as all standards indicated in the CDP document.

This three-quarter acre project will be developed as a single Phase because of its small footprint as well as to avoid extended construction downtown. Parking facilities as described in the CDP application will include additional public parking on New York Ave., as well as both covered and uncovered parking on the site accessible from New York Ave. All vehicular traffic and parking will be constructed in accordance with DOT standards.

2.0 Consistency with purpose of the CDP

Below are listed the five (5) purposes of the Preliminary Development Plan (PDP) application as described in Section 2.18.5(A) of the Town of Southern Pines Unified Development Ordinance (UDO). Following the individual criteria is an explanation describing how the project demonstrates compliance with each. A Preliminary Development Plan is permitted if the Applicant demonstrates that:

(1) The proposed land use mix and intensity are consistent with the Comprehensive Plan, the purposes of the PD and the approved Conceptual Development Plan.

This proposed New York Place PD Application is consistent with the project submitted as a CDP and approved by Ordinance #2091 last September 12, 2023. It is a mixed-use development with approximately 46,000 Square Feet (Sq Ft) (40 units) of residential condominiums, and approximately 9,100 Sq Ft of mixed office/retail space facing S. Bennett St. It provides needed space to live, work and play, reflecting a trend toward how residents are choosing to live. Closer to work, schools, restaurants, shopping, entertainment, and friends while minimizing the time and cost of commuting. It provides the town with a better investment return on infrastructure (consistent with the new CLRP Infrastructure Assessment objectives) and supports local businesses.

The project is consistent with the Town's current CLRP and zoning map. It is also consistent with the objectives of the PD (Planned Development District). Its purpose among others is to:

- Encourage planned development, including service, office, commercial, residential, public, or private recreation.
- Promote creativity and innovation in a design that leads to more appropriate relationships between land uses and features.
- Facilitate clustering of development thereby increasing the amount of saved land
- Promote both physical and fiscal health.

(2) Proposed system of streets, trails and greenways are consistent with this UDO, as well as the mobility needs of the Town and the proposed development.

This project is an in-fill project that utilizes existing roadways and pedestrian corridors that enhance the downtown appearance and experience for residents and visitors. The project will add greater pedestrian access by the building of additional sidewalks around the project area.

Conceptually, it provides needed space to live, work and play, reflecting a trend toward how residents are choosing to live. Closer to work, schools, restaurants, shopping, entertainment, and friends while minimizing the time and cost of commuting. It provides the town with a better investment return on infrastructure (consistent with the new CLRP Infrastructure Assessment objectives) and supports local businesses.

(3) The proposed development is consistent with the ability to provide and maintain public facilities and services on which the development, area and Town depend.

As demonstrated during the CDP approval process for this project, water and sewer utilities are readily available at the project site with adequate capacity (see Appendix for copies of materials presented with the CDP application). The PD is consistent with the utilities and roads requirements of the CDP.

As stated above, the project will add pedestrian access by building more sidewalks, and additional commercial space providing greater retail options for residents and revenue for the Town.

(4) The proposed development is well integrated with the protection of natural features, including Watersheds, woodlands and other natural features.

Since this is an in-fill development, there are intrinsic environmental benefits to a design that leads to more appropriate relationships between land uses and features that facilitate clustering of development thereby increasing the amount of land saved from greenfield developments. In addition, a development like this one promotes both physical and fiscal health of residents by encouraging walking rather than driving. This also contributes towards decluttering traffic and reduction of carbon emissions.

On site, stormwater will be conveyed in an appropriate way so as to avoid downstream issues, and site landscaping will improve an area in town that is blighted by an invasive vine species.

(5) The proposed development patterns and development products are compatible with the character and vitality of the neighborhood and community

The proposed CDP for New York Place is consistent with the Town's Comprehensive Long-Range Plan (CLRP) and promotes its objectives. As covered during the CDP review the property is in the Central Business area of the Town's zoning Map. The proposal is consistent with the approved CB zoning uses, the approved CDP, as well as the CLRP which has designated this zoning as suitable for mixed Residential and Commercial use.

- 3.0 Consistency with approved Development standards
- 3.0.1 Elevations

Commitment was made during the CDP approval process to submit a final elevation that would substantially conform with the sketch submitted as part of the CDP application. The elevation below is shown compared to the original conceptual elevation and is substantially the same based on its proportions, size and materials used. The architectural elevation is sharper compared to the artist's rendition but both are substantially the same.

Final Proposed Front Elevation



Artist rendition of front elevation submitted with the CDP Application



Final proposed side elevation from New York Ave



As approved:

- The building will have an articulated façade with projections of less than 5 feet.
- Many, but not all units shall have access to a private balcony.
- There are two ground entrances to the unit. One on S. Bennett and the other from the parking lot on NY Avenue. Ground floor Retail/Office/Restaurant Units Residential Ground shall have private entrances. Upper floor units shall share common entrances.
- 10% open space of which 6% shall be active for the residents of the building which shall otherwise be exempt from the requirements of UDO 3.5.14(G) due to the nature of the building's location and configuration as approved in the CDP.

• 3.0.2 Size/Density

The roof height shall not exceed 45' from the ground facing Bennett St. As requested by the Council a few architectural devices have been added such as the parapet walls that project 2' above the roof height on the front of the building. Total number of floors including the ground floor is four (4).

The total square footage of the building is shall not exceed 60,000 sqft vs the 73,000 sqft approved in the CDP.

Table 3.0.2.1

Design Element	CDP Approved Standards	PD Proposed Standards
Recreation Areas & Amenities	+/- 0.04 acres (10%)	6% shall be active and landscaped.
Residential	41 Max – 25 Min	Up to 40 Units
Office	Up to 12,500 sqft	Up to 10'000 sqft heated

Retail/Restaurant	Up to 10,000 sqft	Up to 10'000 sqft heated
Total	64,000 Sqft	Up to 60,000 Sqft heated
Maximum Roof Height	45'	45' plus 2' where parapet is present per CDP.
Maximum Ceiling Height	44'	44'
Number of Floor	4 Floors	4 Floors
Maximum Front setback	5'	5'
Minimum Side setback	No Minimum	No minimum
Minimum Rear setback	No Minimum	No minimum

Note #1: Ground floor office square footage shall be limited to 2500 sqft per CDP.

Note #2: Office space limited to 2nd floor on the section of building facing Bennett St.

3.0.3 Allowable Uses

Residential/Multifamily/Office Space/Retail/Restaurant defined by UDO and approved in the CDP.

3.0.4 Parking

Parking Space requirements are shown in Table 2.0.4.1 below and consistent with those approved in the CDP. This PD includes the creation of 45 spaces for onsite residents. It also includes 14 spaces on-site for use by the commercial occupants. An additional 8 spaces shall be created on W. New York Ave.

Table 3.0.4.1

Land Use	CDP Approved Parking	PD Proposed Parking
Residential on-site	45 Approved	45 Proposed
Office/ Commercial/Restaurant	14 Approved	14 Proposed
Offsite Parking	8 Approved	8 Proposed

3.0.5 Landscaping and Open Space

Landscaping shall comply with the approved standards in the CDP. Details in Table 2.0.5.1 below. The proposed project meets the 10% Useable Open Space Requirement for Multifamily projects in the PD Zone and as approved in the CDP. The plan provides an overall of 17% Open Space. 6% of the property footprint shall be active Open space for the benefit of the building residents.

Table 3.0.5.1

Landscaping	CDP Approved Standard	PD Proposed Standard
STREET TREES	Total 14	Total 14
New York St SW Side	5	5
S. Bennett St. SE side	6	6
Parking Lot NE side	0	0
Marsh Property NW Side	3	3
STREET SHRUBS	Total 75	Total 75
New York St SW Side	0	0
S. Bennett St. SE side	13	13
Parking Lot NE side	0	0
Marsh Property NW Side	10	10
VEHICLE AREA TREES		
New York St SW Side	5	5
VEHICLE AREA SHRUBS	63	63
INTERNAL AREA TREES	4	4
INTERNAL AREA SHRUBS	73	73
CLEARED AREA TREES	8	8
CLEARED AREA SHRUBS	43	43
Total Trees Required	31	31
Total Shrubs Required	202	202

From: [Colin Webster](#)
To: [Nick Robinson](#); [BJ Grieve](#); [Alaina Mallette](#); [Mason Mattox](#); [John Spurrell](#); [Neil Salmon](#); [Erin Govea](#)
Subject: RE: New York Place PDP
Date: Tuesday, January 7, 2025 8:20:48 AM

Fine w me. My only comment would be to the last item on impervious surface to point out this was already part of the approved CDP and shown on the site plan.

Rgds

From: Nick Robinson <robinson@bradshawrobinson.com>
Sent: Tuesday, January 7, 2025 7:59 AM
To: BJ Grieve <BJGrieve@southernpines.net>; Alaina Mallette <amallette@southernpines.net>; Mason Mattox <MMattox@southernpines.net>; Colin Webster <colin@ascotgrp.com>; John Spurrell <john@ascotgrp.com>; Neil Salmon <neil.salmon@ascotgrp.com>; Erin Govea <EGovea@davenportworld.com>
Subject: New York Place PDP

Good Morning BJ, Alaina and Mason,

[Trying to meet the request to get this out by 8 am today so excuse any typos or brevity!]

Although BJ and I have worked on several matters in the past, by way of introduction for Alaina and Mason, my name is Nick Robinson. I am a land use lawyer at Bradshaw Robinson Slawter & Rainer LLP in Pittsboro. I have handled several Planned Development quasi-judicial hearings in Southern Pines over the years.

I have been asked to walk the Grosvenor entity through the quasi-judicial PDP hearing on January 14th, 2025.

They shared with me the proposed 4 items that you have inquired about adding to the PDP narrative, as follows:

1. The future proposed land uses within the building shall remain within the trip generation estimates of the Traffic Design Analysis, and any combination of land uses exceeding the stated trip generation maximum shall be reviewed and may require future modification to the Preliminary Development Plan, as determined by the Town Engineer.
2. The following land uses shall be prohibited:
 - 1) 1210, 1220, 1230, 1240, or 1250, care facilities;
 - 2) 2110 series, automobile sales;
 - 3) 2124, department store;

- 4) 2143, tobacco store;
- 5) 2260, pawn shop;
- 6) 2416, scientific R&D services
- 7) 2418, veterinary services;
- 8) 2521, drive-through restaurants;
- 9) 2550, Food trucks;
- 10) 2652, tattoo parlor;
- 11) 2653, adult establishment;
- 12) 2654, adult cabaret;
- 13) 2721 series, animal services and kennels;
- 14) 5370, gyms and event venues;
- 15) 6110, nursery/preschool;
- 16) 6120 series, grade schools;
- 17) 6562, day care center; and
- 18) 6600 series, religious institutions.

3. Commercial loading and unloading areas shall be on W New York Avenue and the Developer shall establish a proper loading and unloading zone on W New York Avenue to include a time element that prohibits these activities during peak traffic period prior to approval of the site plans.

4. The final approved site plan shall include permeable pavement and/or similar permeable technology to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine's Town Engineer prior to approval of the site plans.

I have reviewed CDP, the proposed PDP and the various emails that have recently been exchanged and I have also met with the Applicant to review those four items in great detail. I think what we are proposing below should work so I wanted to convey that to you per your request to get it to you early today.

The important context for the Applicant is that they have an approved CDP and the inquiry for the Town Council is whether the PDP is "consistent with the Conceptual Development Plan and conforms to all applicable provisions of [the] UDO." (*UDO, Section 2.18.5(H)(2)*). Also, the UDO provides that the "effect of Approval" of the CDP includes:

"Approval of a Conceptual Development Plan constitutes acceptance that the proposed type, density and intensity of land use; the classification and arrangement of streets; the proposed phasing plan; and the nature of utility service proposed are consistent with the Comprehensive Plan." (*UDO, Section 2.18.4(I)(1)*)).

Despite the fact that we believe the land uses allowed and the intensity of the uses has already been approved per the CDP, the applicant is willing to agree as follows with respect to adding some limitations into the PDP Narrative. Our belief is that these concessions, though not required, meet the spirit and intent of what Staff is seeking.

We analyzed **items 1 and 2** above together because they really play into one another. Although Applicant cannot agree to condition number 1 (because it sets up the possibility of perpetual TDA revisions and reviews), Applicant is willing to accept the proposed elimination of all but one of the 18 uses you laid out above with the clarifications set out below in red:

1) 1210, 1220, 1230, 1240, or 1250, care facilities;

2) 2110 series, automobile sales;

3) 2124, department store;

4) 2143, tobacco store;

5) 2260, pawn shop;

~~6) 2416, scientific R&D services~~

7) 2418, veterinary services;

8) 2521, drive-through restaurants;

9) 2550, Food trucks;

10) 2652, tattoo parlor;

11) 2653, adult establishment;

12) 2654, adult cabaret;

- 13) 2721 series, animal services and kennels;
- 14) 5370, gyms and event venues (except gym and fitness ancillary to the residential units)
- 15) 6110, nursery/preschool (except minor nursery uses as ancillary to the residential units);
- 16) 6120 series, grade schools;
- 17) 6562, day care center; and
- 18) 6600 series, religious institutions.

We think agreeing to these limitations will address the traffic concerns given that the high traffic uses have been eliminated. Further, the TDA (approved as part of the CDP) took into account all of the NC DoT trip generation averages for the "Strip Retail Plaza" category such that the approved CDP already allows whatever mix of commercial uses that is eventually realized.

Regarding item #3 (loading and unloading areas). Applicant can agree to the following additional PDP Narrative language: "Applicant will install signage on S. Bennett Street requiring all loading and unloading for New York Place to occur on W. New York Avenue. In addition, Applicant will follow other Town loading and unloading regulations that are applicable in the downtown area."

Regarding Item #4 (Impervious Surface), the applicant can agree to the following language: "The final approved site plan shall either (1) provide for 70% or less impervious surface or (2) include permeable pavement and/or other measures similar permeable technology to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine's Town Engineer or other applicable approval authority prior to approval of the site plans."

Hopefully, these proposed additions will be deemed satisfactory to the Staff to address the issues raised.

Thanks.

Nick

--

Nicolas P. Robinson
Bradshaw Robinson Slawter & Rainer LLP
P.O. Box 607
128 Hillsboro St.
Pittsboro, NC 27312
(919) 542-2400 (f) (919) 542-1319

Alaina Mallette

From: John Spurrell <john@ascotgrp.com>
Sent: Tuesday, December 10, 2024 4:21 PM
To: Alaina Mallette
Cc: Mason Mattox; BJ Grieve; Colin Webster; Neil Salmon
Subject: RE: PD-07-24 New York Place PDP Completeness Review

Alaina - Here are responses to some of your comments. Please give me a call to discuss.

John Spurrell

Director of Land Acquisition and Development



The Ascot Corporation, LLC

540 SW Broad Street
Southern Pines, NC 28387
(919) 475-4320
john@ascotgrp.com
www.ascotgrp.com

>>>>>>>>

From: Alaina Mallette <amallette@southernpines.net>
Sent: Wednesday, December 4, 2024 5:20:02 PM
To: Colin Webster <colin@ascotgrp.com>
Cc: BJ Grieve <BJGrieve@southernpines.net>; Mason Mattox <MMattox@southernpines.net>
Subject: RE: PD-07-24 New York Place PDP Completeness Review

Hi Colin,

I just left you a voicemail. Mason and I are reviewing your New York Place PDP application and were going to sharing the following information based on our review of your application and our meeting with the Technical Review Committee yesterday. These are things that will be going in the staff report, and if you can provide us information on each item by 5:00 p.m. on Tuesday, December 10, then we'll be able to adjust the Planning Board staff report, accordingly. Feel free to call us back, and we can discuss in more detail.

General

- **Vagueness of proposed land uses.** Not knowing more detail about the proposed land uses makes it difficult to anticipate traffic generation counts and types of on-site operations, such as loading and unloading demands. We need clearer language on what land uses are being proposed. "Commercial" on the Preliminary Development Plan and "Office Space/Retail/Restaurant" are very broad. Is a motorcycle dealer, lumber yard, beer/liquor store

considered in “Retail”? Can the restaurant be a drive through, somehow, or a bar/drinking place? We want to avoid misunderstandings in the future if a tenant occupies a space in the building, but Planning may interpret the tenant’s use to not be under these broad land use categories. We can consider both an update to the narrative that lists the proposed land uses and their LBCS codes, or a condition of approval that lists of a specific list of proposed land uses and their LBCS codes.

I would resist limiting it to certain LBCS codes considering that many low-impact businesses that are compatible with downtown development exist in many code categories. However, there are natural categories that are thought of as consistent with existing uses around the area. These may include:

LBCS code **2100**, which refers to **Retail Sales and Services**. This category includes a wide range of establishments that sell goods and services directly to consumers. Here are some examples of what falls under this code:

- **Retail Stores:** Clothing stores, electronics shops, grocery stores, and specialty shops.
- **Personal Services:** Hair salons, dry cleaners, and repair services.
- **Financial Services:** Banks, credit unions, and insurance agencies.

These types of businesses are commonly found in downtown areas, contributing to the vibrant and dynamic atmosphere.

LBCS code **2200**, which refers to **Restaurant-type activity**

1. This category includes establishments that serve food and beverages to be consumed on or off the premises, such as:

- **Full-service restaurants**
- **Fast food restaurants**
- **Cafes and coffee shops**
- **Bars and pubs**

These establishments are essential components of commercial areas, especially in downtown districts, contributing to the local economy and social life.

- **Built-Up Area/Impervious Surfaces.** The built-upon area shown on the preliminary plan says 77.9% of total parcel, but that the impervious surface calculation will be reduced to 70% through “permeable pavement and/or other measure...” However, we did not find anything in the narrative that speaks to what features will be permeable. Engineering stated that you will need to have an engineer properly design it and provide details in the site plan during site plan review. Are you comfortable with a condition of approval that states something along the lines of:
 - “The final approved site plan shall include permeable pavement and/or similar permeable technology to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine’s Town Engineer prior to approval of the site plans.”

Fine by that wording, but it was assumed all along that this was the intention. Nothing has changed from the CDP.

- **PDP Labelling/Notes**
 - There is a label that says “57.9% 20,547 Sq. Ft.” but it is not clear what was being measured. Please let us know what this is referring to either by adding additional context to the label, or removing it altogether.
 - The notes on the preliminary plan should be updated for item #3 Zoning, which is PD-02-23 New York Place Conceptual Development Plan. The property is no longer zoned Central Business and it is not within the Historic District.

- Total acreage of the parcel is not stated on the plan, rather square footage of sub-parts. Please provide the total acreage or confirm that it is indeed still +/- 0.8 acres that were considered within PD-02-23, as it appears to be.
- Are all easements being shown on the site?

It is believed that all easements are shown, but will definitely be shown on a preliminary plat submitted as part of site plan approval.

Parking

An inconsistency was noted in the proposed parking space count; CDP Table 4.3.1 lists more than PDP Table 3.0.4.1. Clarify if parking standards are minimums or maximums, presumed maximums. Furthermore, we assumed the wider space along the parking spaces on W. New York Ave. is for ADA compliance/passenger loading and unloading zone, but noticed it was a parking island on the Conceptual Landscaping Plan. Can you confirm what the space, as shown in my November 18th email, is to become? Worth adding a site note or striping to clarify on the plan.

To my knowledge the parking count noted and shown on the CDP has not changed. Perhaps this is a revision error.

There's always been zero disabled spaces indicated, thus far. UDO Section 4.5.3 (C) refer us to the NC State Building Code in respect of Handicapped parking provisions. This is relative to the end uses, types and designs of units, building use classifications and **IF** they are deemed to be accessible Types A or Type B unit designs. The area mentioned as thought to be a wider disabled access margin **IS** a landscaped zone to accord with the provisions of locating street trees, per the UDO.

Traffic

It is not clear whether what is being proposed is within the scope of the original traffic design analysis. If so, then an added section of the narrative or a trip generation letter would suffice in documenting consistency with the original analysis.

Nothing has changed. Not sure why this would be necessary?

Stormwater

A Conceptual Stormwater Plan has been provided that proposes alterations to an existing stormwater pipe, allowing conveyance to a proposed onsite stormwater collection area that is immediately adjacent to land that appears to be a narrow unimproved Town right-of-way running north to S. Page Street. We need you to confirm that the stormwater is still planned to be underground. Furthermore, our Engineering team stated that the size of the stormwater facility on the conceptual drainage plan is likely too small, however, will be hammered out at site plan review.

Water Meters

Each individually plumbed unit will need to be metered, which will be dealt with at site plan review. See code references below my signature.

Dumpster

Dumpster location is not being shown on the plans, and will need to be identified, especially considering the impervious surface being proposed in excess of the maximum permitted.

There is a designated building located in the parking lot which will house the dumpster / compacter with its own entrance (*labelled on the Landscaping plan*) via N Y Ave. Same design as the CDP.

This structure is also illustrated in the 3D renderings.



Loading and Unloading Zones

Where are the loading and unloading areas for retail/commercial development? Is the parking lot (underground and exterior) designed to accommodate tractor trailers or large box trucks?

There are no specific loading and unloading zones. Parking lots are not designed for tractor trailers. Any such large deliveries would have to be done on the street, as is done for most downtown establishments.

We look forward to receiving the additional information to ensure that correct and complete information is be shared and documented in our staff report prior to the preliminary forum in front of the Planning Board on December 19th.

Regards,
Alaina

Alaina Mallette, MSc

Senior Planner

Town of Southern Pines

801 SE Service Road

Southern Pines, NC 28387

Office: (910) 692-4003

<http://www.southernpines.net/>



CODE OF ORDINANCE

- § 50.032 SEPARATE METERS, MASTER METERS AND YARD METERS.
 - (A) Water furnished for a given lot shall be used on the lot only. Each consumer's service must be separately metered at a single delivery and metering point.
 - (B) Master meters may be required to serve apartment buildings, duplex buildings, bulk purchasers, or Town Housing Authority developments.
 - (C) Water used for purposes that do not result in the water entering the Town's sanitary sewer system may be metered by a separate yard meter.
- § 50.007 SEPARATE CONNECTION REQUIRED; EXCEPTIONS.

- (A) Every house, apartment, trailer, building, condominium, or independently owned or plumbed unit requiring a water or sewer connection pursuant to this chapter shall be separately and independently connected, except in those case where laterals have already been laid in asphalt or improved streets from the main, provision being made for the house or building, in which case the connection may be made for the house or building, in which case the connection may be made to an existing lateral. Minimum size for multiple service laterals are 1 inch for water and 6 inches for sewer or larger as may be required by the Town in specific situations. When 2 or more houses or units are connected with the same water lateral, a separate meter shall be provided for each house or unit.

PARKING CDP TABLE

Table 4.3.1

Land Use	Parking Standard	Discussion
Dedicated Residential on-site	65 Proposed	79 required by UDO
Residential/Office/ Commercial/Restaurant (Fex spaces) On-Site	19 Proposed* See Note #2	30 Required by UDO

Note #1: Angled parking allowed on public roads but only proposed for NY Avenue based on Planning Board input.

Note #2: Eight (8) spaces added on New York.

PARKING PDP TABLE

Table 3.0.4.1

Land Use	CDP Approved Parking	PD Proposed Parking
Residential on-site	45 Approved	45 Proposed
Office/ Commercial/Restaurant	14 Approved	14 Proposed
Offsite Parking	8 Approved	8 Proposed

From: Alaina Mallette

Sent: Monday, November 18, 2024 4:31 PM

To: 'Colin Webster' <colin@ascotgrp.com>

Cc: Cindy Williams <CWilliams@southernpines.net>; BJ Grieve <BJGrieve@southernpines.net>; Mason Mattox <MMattox@southernpines.net>

Subject: PD-07-24 New York Place PDP Completeness Review

Good afternoon, Colin,

On November 12, 2024, the Planning Department received your submittal of the New York Place Preliminary Development Plan (PDP) for PARIDs 00031983 (i.e., 235 W. New York Ave.) and 00032263 (i.e., 164 S. Bennett St.) to develop a mixed use building with 45 residential units and 9,107 square feet of commercial (i.e., residential/multifamily/office space/retail/restaurant) space. The application includes off-street and on-street parking and 5,868 square feet of open space. Upon reviewing all the information submitted November 12, 2024, for preliminary development plan review—and in accordance with the Town of Southern Pines UDO §2.6 Completeness Review, §2.18 Planned Development, and page A-11 and A-12 of UDO Appendix A—the application PD-07-24 for New York Place (PDP) is deemed **complete** for review.

Review for completeness of application forms is solely for the purpose of determining whether preliminary information required for submission with the application is complete to allow further processing, and shall not constitute a decision as to whether application complies with the provisions of the UDO. In fact, Planning did notice some issues with the preliminary development plan, which are bulleted below.

- We need clearer language on what land uses are being proposed. “Commercial” on the Preliminary Development Plan and “Office Space/Retail/Restaurant” are very broad. Is a motorcycle dealer, lumber yard, beer/liquor store considered in “Retail”? Can the restaurant be a drive through, somehow, or a bar/drinking place? We want to avoid misunderstandings in the future if a tenant occupies a space in the building, but Planning may interpret the

tenant's use to not be under these broad land use categories. We can consider both an update to the narrative that lists the proposed land uses and their LBCS codes, or a condition of approval that lists of a specific list of proposed land uses and their LBCS codes.

- I assumed the wider space along the parking spaces on W. New York Ave. is for ADA compliance/passenger loading and unloading zone, but noticed it was a parking island on the Conceptual Landscaping Plan. Can you confirm what the space, as marked "H" in the image below, is to become? Worth adding a site note or stripping to clarify on the plan.



- Total acreage of the parcel is not stated on the plan, rather square footage of sub-parts. Please provide the total acreage or confirm that it is indeed still +/- 0.8 acres that were considered within PD-02-23, as it appears to be.
- The built-upon area shown on the preliminary plan says 77.9% of total (assumed) 0.8-acre parcels, but that the impervious surface calculation will be reduced to 70% through "permeable pavement and/or other measure..." However, we did not find anything in the narrative that speaks to what features will be permeable. Are you comfortable with a condition of approval that states something along the lines of:
 - "The final approved site plan shall include permeable pavement and/or similar permeable technology to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine's Town Engineer prior to approval of the site plans."
- There is a label that says "57.9% 20,547 Sq. Ft." but it is not clear what was being measured. Please let us know what this is referring to either by adding additional context to the label, or removing it altogether.
- The notes on the preliminary plan should be updated for item #3 Zoning, which is PD-02-23 New York Place Conceptual Development Plan. The property is no longer zoned Central Business and it is not within the Historic District.
- Are all easements being shown on the site?

Furthermore, it is not clear whether what is being proposed is within the scope of the original traffic design analysis. If so, then a section of the narrative or a trip generation letter would suffice in confirming consistency with the original analysis.

The above issues were identified in an initial, cursory review by Planning staff. We will be bringing this application before the Technical Review Committee on December 3, 2024. So, there may be some additional feedback received during the full review period, which I will communicate to you prior to completing the staff report. In the meantime, if you wish to address or send additional information regarding the issues above, please do send that information as soon as you have it compiled and I will add it to the file.

This application is currently scheduled for a preliminary forum before the **Planning Board** at its **regular meeting** on **December 19, 2024 at 6:00 p.m.** in the **E.S. Douglass Community Center, 1185 W Pennsylvania Ave, Southern Pines, NC 28387.**

Best wishes,
Alaina

Alaina Mallette, MSc
Senior Planner

PROPOSED SITE DATA:
 "OFF-STREET PARKING: 37 SPACES
 "TOTAL PARKING CREATED: 65 SPACES
 "TOTAL OPEN SPACE: 2,200 SQ. FT. (3.1% OF TOTAL)
 "USABLE" OPEN SPACE: 2,200 SQ. FT. (3.1% OF TOTAL)
 "IMPERVIOUS SURFACE STRUCTURES: 20,547 SQ. FT. (97.9% OF TOTAL)
 "IMPERVIOUS SURFACE HARDSCAPES: 7,052 SQ. FT. (20% OF TOTAL)
 "TOTAL IMPERVIOUS SURFACE: 24,600 SQ. FT. (77.9% OF TOTAL)" "To be reduced to 70% through use of permeable pavement and/or other measures
 "ZERO LOT SETBACKS

GRID TO GROUND SCALE POINT:
 Nty: 518,863.33897797 US SURVEY FEET
 E(x): 1,882,164.23733337 US SURVEY FEET

NOTES:
 1. ACREAGE DETERMINED BY COORDINATE METHOD
 2. TAX PARCEL ID: 00032203 & 00031893
 3. ZONING: CB, Central Business & Historic District per June 2022 Zoning Map
 4. PUBLIC WATER SUPPLY WATERSHED: WS-III
 5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH AND IS SUBJECT TO ANY EASEMENTS OR CONVEYANCES OF RECORD
 6. NO ATTEMPTS MADE TO LOCATE UNDERGROUND UTILITIES

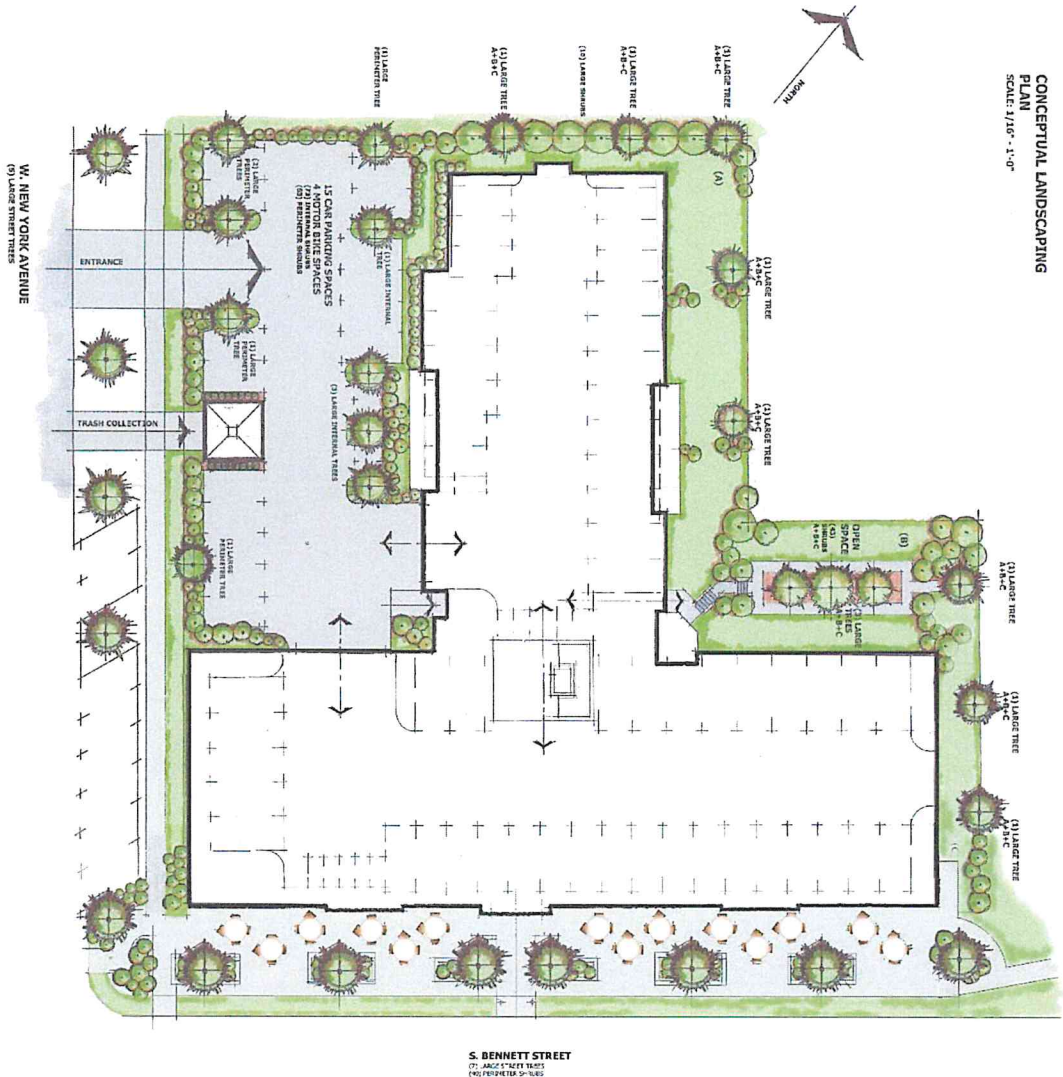
CONCEPTUAL SITE PLAN FOR:
"NEW YORK PLACE"
BY: ASCOT
 April 14, 2023
 TOWN OF SOUTHERN PINES
 MCNEILL TOWNSHIP
 MOORE COUNTY, NORTH CAROLINA

REFERENCE TABLE:
 DEED BOOK 5249, PAGE 45
 MB 1, PG. 70, SECTION 2
 MOORE COUNTY REGISTRY

OWNER'S ADDRESS:
 THE COTTAGES AT LEGACY LAKES LLC
 1015 ASHES ST.
 WILMINGTON, NC 28405

PROPERTY ADDRESS:
 164 S BENNETT ST.
 SOUTHERN PINES, NC 28387

DZT
 LAND SURVEYING, PLLC NC FIRM #2056
 SUITE 5 7500 NC HWY 155-61 WEST END, NC 27276



From: [James Michel](#)
To: [Alaina Mallette](#)
Cc: [BJ Grieve](#); [Mason Mattox](#)
Subject: RE: New York Place PDP
Date: Wednesday, January 8, 2025 1:23:27 PM

Alaina,

The comment is born out of an apprehension that council has indicated in some recent projects with “approving the unknown”. I don’t think this really changes anything. The trip generations is still based on an assumption of uses, and if the ultimate uses end up being different and more intense, then the TDA would not be valid, and this is what I believe Town council is apprehensive about. Essentially approving based on wrong assumptions. Without the condition in place, the last time staff would have an opportunity to address traffic generation from this project is at site plan, which we would still unlikely know what the eventual uses are going to be. Seems like the applicant wants it both ways, to be vague (even with limitations noted below, there are still a lot of uses out there) and to not worry about whether his assumptions were right and/or deal with the eventual impact for his wrong assumptions.

Happy to talk more once your back in the office.

Thanks

James Michel, PE, MBA

Town Engineer/Asst. Public Works Director
801 SE Service Road
Southern Pines, NC 28387
(910)692-1983



From: Alaina Mallette <amallette@southernpines.net>
Sent: Tuesday, January 7, 2025 6:32 PM
To: James Michel <JMichel@southernpines.net>
Cc: BJ Grieve <BJGrieve@southernpines.net>; Mason Mattox <MMattox@southernpines.net>
Subject: FW: New York Place PDP

Good evening, James,

I got the below response from the NY Complex PDP project’s retained attorney ahead of the evidentiary hearing next Tuesday. Do you believe that the prohibition of the listed land uses are acceptable in lieu of trip generation estimates prior to CO of initial uses and changes in use analyses over time?

We can discuss further if needed. I can be reached tomorrow at 315-778-0571, in the office on Thursday, or any time by email.

Thanks for reviewing last minute!

Best,
Alaina

Alaina Mallette, MSc
Senior Planner
Town of Southern Pines
801 SE Service Road
Southern Pines, NC 28387
Office: (910) 692-4003
<http://www.southernpines.net/>



From: Colin Webster <colin@ascotgrp.com>
Sent: Tuesday, January 7, 2025 8:21 AM
To: Nick Robinson <robinson@bradshawrobinson.com>; BJ Grieve <BJGrieve@southernpines.net>; Alaina Mallette <amallette@southernpines.net>; Mason Mattox <MMattox@southernpines.net>; John Spurrell <john@ascotgrp.com>; Neil Salmon <neil.salmon@ascotgrp.com>; Erin Govea <EGovea@davenportworld.com>
Subject: RE: New York Place PDP

Fine w me. My only comment would be to the last item on impervious surface to point out this was already part of the approved CDP and shown on the site plan.

Rgds

From: Nick Robinson <robinson@bradshawrobinson.com>
Sent: Tuesday, January 7, 2025 7:59 AM
To: BJ Grieve <BJGrieve@southernpines.net>; Alaina Mallette <amallette@southernpines.net>; Mason Mattox <MMattox@southernpines.net>; Colin Webster <colin@ascotgrp.com>; John Spurrell <john@ascotgrp.com>; Neil Salmon <neil.salmon@ascotgrp.com>; Erin Govea <EGovea@davenportworld.com>
Subject: New York Place PDP

Good Morning BJ, Alaina and Mason,

[Trying to meet the request to get this out by 8 am today so excuse any typos or brevity!]

Although BJ and I have worked on several matters in the past, by way of introduction for Alaina and Mason, my name is Nick Robinson. I am a land use lawyer at Bradshaw Robinson Slawter & Rainer

LLP in Pittsboro. I have handled several Planned Development quasi-judicial hearings in Southern Pines over the years.

I have been asked to walk the Grosvenor entity through the quasi-judicial PDP hearing on January 14th, 2025.

They shared with me the proposed 4 items that you have inquired about adding to the PDP narrative, as follows:

1. The future proposed land uses within the building shall remain within the trip generation estimates of the Traffic Design Analysis, and any combination of land uses exceeding the stated trip generation maximum shall be reviewed and may require future modification to the Preliminary Development Plan, as determined by the Town Engineer.

2. The following land uses shall be prohibited:

1) 1210, 1220, 1230, 1240, or 1250, care facilities;

2) 2110 series, automobile sales;

3) 2124, department store;

4) 2143, tobacco store;

5) 2260, pawn shop;

6) 2416, scientific R&D services

7) 2418, veterinary services;

8) 2521, drive-through restaurants;

9) 2550, Food trucks;

10) 2652, tattoo parlor;

11) 2653, adult establishment;

12) 2654, adult cabaret;

13) 2721 series, animal services and kennels;

14) 5370, gyms and event venues;

15) 6110, nursery/preschool;

16) 6120 series, grade schools;

17) 6562, day care center; and

18) 6600 series, religious institutions.

3. Commercial loading and unloading areas shall be on W New York Avenue and the Developer shall establish a proper loading and unloading zone on W New York Avenue to include a time element that prohibits these activities during peak traffic period prior to approval of the site plans.

4. The final approved site plan shall include permeable pavement and/or similar permeable technology to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine's Town Engineer prior to approval of the site plans.

I have reviewed CDP, the proposed PDP and the various emails that have recently been exchanged and I have also met with the Applicant to review those four items in great detail. I think what we are proposing below should work so I wanted to convey that to you per your request to get it to you early today.

The important context for the Applicant is that they have an approved CDP and the inquiry for the Town Council is whether the PDP is "consistent with the Conceptual Development Plan and conforms to all applicable provisions of [the] UDO." (*UDO, Section 2.18.5(H)(2)*). Also, the UDO provides that the "effect of Approval" of the CDP includes:

"Approval of a Conceptual Development Plan constitutes acceptance that the proposed type, density and intensity of land use; the classification and arrangement of streets; the proposed phasing plan; and the nature of utility service proposed are consistent with the Comprehensive Plan." (*UDO, Section 2.18.4(I)(1)*).

Despite the fact that we believe the land uses allowed and the intensity of the uses has already been approved per the CDP, the applicant is willing to agree as follows with respect to adding some limitations into the PDP Narrative. Our belief is that these concessions, though not required, meet the spirit and intent of what Staff is seeking.

We analyzed **items 1 and 2** above together because they really play into one another. Although Applicant cannot agree to condition number 1 (because it sets up the possibility of perpetual TDA revisions and reviews), Applicant is willing to accept the proposed elimination of all but one of the 18 uses you laid out above with the clarifications set out below in red:

1) 1210, 1220, 1230, 1240, or 1250, care facilities;

2) 2110 series, automobile sales;

- 3) 2124, department store;
- 4) 2143, tobacco store;
- 5) 2260, pawn shop;
- 6) 2416, scientific R&D services
- 7) 2418, veterinary services;
- 8) 2521, drive-through restaurants;
- 9) 2550, Food trucks;
- 10) 2652, tattoo parlor;
- 11) 2653, adult establishment;
- 12) 2654, adult cabaret;
- 13) 2721 series, animal services and kennels;
- 14) 5370, gyms and event venues (except gym and fitness ancillary to the residential units);
- 15) 6110, nursery/preschool (except minor nursery uses as ancillary to the residential units);
- 16) 6120 series, grade schools;
- 17) 6562, day care center; and
- 18) 6600 series, religious institutions.

We think agreeing to these limitations will address the traffic concerns given that the high traffic uses have been eliminated. Further, the TDA (approved as part of the CDP) took into account all of the NC DoT trip generation averages for the "Strip Retail Plaza" category such that the approved CDP already allows whatever mix of commercial uses that is eventually realized.

Regarding item #3 (loading and unloading areas). Applicant can agree to the following additional PDP Narrative language: "Applicant will install signage on S. Bennett Street requiring all loading and unloading for New York Place to occur on W. New York Avenue. In addition, Applicant will follow other Town loading and unloading regulations that are applicable in the downtown area."

Regarding Item #4 (Impervious Surface), the applicant can agree to the following language: "The final approved site plan shall either (1) provide for 70% or less impervious surface or (2) include

permeable pavement and/or **other measures** ~~similar permeable technology~~ to bring the built-upon area from 77.9% of total acreage to 70%. Such materials and methodologies for calculating perviousness shall be acceptable to the Town of Southern Pine's Town Engineer **or other applicable approval authority** prior to approval of the site plans."

Hopefully, these proposed additions will be deemed satisfactory to the Staff to address the issues raised.

Thanks.

Nick

--

Nicolas P. Robinson
Bradshaw Robinson Slawter & Rainer LLP
P.O. Box 607
128 Hillsboro St.
Pittsboro, NC 27312
(919) 542-2400 (f) (919) 542-1319

Agenda Item

To: Reagan Parsons, Town Manager

From: James Broadwell, Planner I

Subject: PD-08-24: Planned Development District – A Revised Preliminary Development Plan for Phase 2 of the Ace Hardware Planned Development located SW of the Airport Rd. & NC Hwy 22 Traffic Circle; Petitioner: Southern Pines Ace Land Company, LLC by KoontzJones Design, Agent

Date: January 14, 2025

I. SUMMARY OF APPLICATION REQUEST

Mr. Paul Saathoff, on behalf of Southern Pines Ace Land Company, LLC, has submitted a revised Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance (UDO) for Ace Hardware Phase 2, 14,500 square feet of Retail, Restaurant, Professional Office, Personal Services, Gym, Other Office, Medical Office, or Health and Human Services space on 1.87 acres on parcels identified as PIN 857300963887 (PARID 00033603) and PIN 857300974451 (PARID 00033604). Per the Moore County tax record, the subject property is owned by Southern Pines Ace Land Company, LLC.

II. PLANNING BOARD REVIEW

On December 19, 2024, the Planning Board held a Preliminary Forum regarding PD-08-24 to accept public comments and compose a list of issues to forward to the Town Council for their consideration. Following a presentation by town staff, Mr. Paul Saathoff with KoontzJones Design presented an overview of the revisions to the Ace Phase 2 site plan. Members of the Planning Board asked Mr. Paul Saathoff and Planning staff a series of questions regarding the project's previous phase, new proposed land uses, and possible Frontage Zone design of each building.

Mr. Saathoff articulated the challenge with typical Frontage Zone design being applied next to parking spaces, and his plan for an alternate design. Planning Board member Enrique Herrera expressed his thought that ample seating and shade trees would benefit the design. The Planning Board also asked questions about 4-sided architectural compliance, and how the Phase 2 buildings would lend to the current Ace building. Finally, the board asked if future tenants had been identified – Mr. Saathoff commented that they have not.

With a unanimous vote of 5-0, the Planning Board moved to transmit the following issue to the Town Council to consider while reviewing application PD-08-24:

- The recommendation highlighted by planning staff in the staff report, being that the conditions of approval from the previously approved Ace Phase 2 (under PD-03-24) should transfer to this PDP with the exact same wording. Staff highlighted that applying the exact same conditions would prevent any ambiguity in their ties to this development approval. As for the purpose of these conditions of approval, they ensure that this phase of development complies with multiple purposes of the Planned Development, pursuant to UDO §3.5.14.

Pursuant to NCGS §160D-301(b)(6), the Town Council is reminded that although the Planning Board forwarded a list of issues for Council consideration, no part of the Preliminary Forum held by the Planning Board may be used as a basis for the Council's decision on PD-08-24.

III. PROJECT INFORMATION

A. Property Owner & Applicant Information:

- 1. Property Owners:**
Southern Pines Ace Land Company, LLC
215 Capital Drive
Whispering Pines, NC 28327
- 2. Applicant**
Rhetson Companies, Inc.
2075 Juniper Lake Road
West End, NC 27376
- 3. Authorized Agent:**
Koontz Jones Design, PLLC – Attn: Paul Saathoff
140 Applecross Road, Suite B
Pinehurst, NC 28374

B. Property Information:

- 1. Street Address:** No addresses assigned yet.
- 2. Size of Property**
Total Size of Existing Parcels: 13.4 acres (deed acres)
Total Project Acreage: 1.87 acres
- 3. Existing Infrastructure:**
The subject property is accessed by Airport Road to the northwest, NC-22 (Central Drive) to the northeast, and Capital Drive internally. From prior development, sanitary sewer and water lines exist within the parcel to the immediate East (Parcel ID: 20110245) along Capital Drive. Sidewalks internal to the Ace Planned Development provide internal pedestrian access, access to

the Tyler's Ridge apartment complex to the southeast, and access to the Southern Pines Greenway System (see Figure 2: Existing Infrastructure below).

4. Property Zoning and Comprehensive Plan Classification:

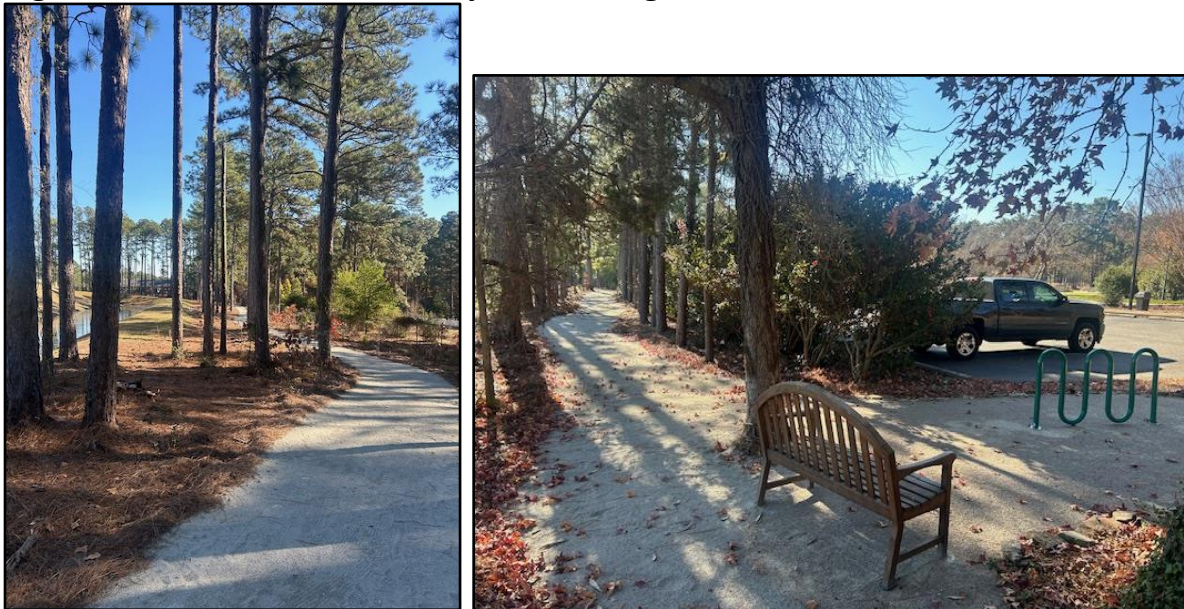
The current zoning of the subject property is PD (Planned Development). Adjoining properties are FRR (Facilities, Resource and Recreation) and the same PD classification as the subject property (see Figure 3: Existing Zoning below). The Southern Pines Ace Hardware Conceptual Design Plan (CDP) was adopted, during the tenure of the Southern Pines Comprehensive Long-Range Plan in April 2022, as a "Traditional Mixed-Use" development. Under the Town's current 2040 Comprehensive Plan, the area is designed as a "Retail Center" and "Area to Transform." This development is compliant with zoning and Comprehensive Plan classification.

C. Planned Development History & Current Project Description:

1. Planned Development History:

The subject property is part of the 13.4-acre Southern Pines Ace Hardware CDP that was approved by the Town of Southern Pines on April 12, 2022 (PD-01-22). Phase 1, which was reviewed concurrently with the CDP, includes the "Provision Ace Hardware" and its parking lot, the primary stormwater pond, and a Greenway Trail to the building's South and West. The Ace Hardware team completed the Greenway Trail construction in December 2024, and two final product photos are shown in figure 1 below:

Figure 1: Ace Hardware Greenway Trail – Progress as of 12/4/2024



Phase 2 and 3A were previously reviewed and approved as PD-03-24 in July and August of 2024. Phase 3 was split into Phase 3A and 3B. Phase 3A was approved for a retail/office and warehouse use (for ABC Liquor) in a written

decision at the August 27, 2024 Town Council Work Session. Phase 3B has yet to undergo review.

The original Phase 2 under PD-03-24, which was approved at the August 27, 2024 Town Council Work Session, was approved for retail, restaurant, and office uses. The approval decision also included two conditions from the Town Council associated with the Phase 2 site:

1. The Phase 2 Usable Open Space shall include four prescribed character defining features.
2. No parking shall be permitted in association with Phase 3B. That phase shall share all of its parking with prior approved phases pursuant to the purpose of a PD – incorporating shared parking.

(See Attachment 1 – PD-03-24 Written Decision – Filed 8/30/24)

The reason the applicant has resubmitted Phase 2 under a new PDP (PD-08-24) is to accommodate additional uses beyond office, retail, or restaurant. The applicant has expanded the uses for these buildings in PD-08-24 to include 8 overarching use types: **Retail, Restaurant, Professional Office, Other Office Services, Personal Services, Gym, Medical Office, or Health and Human Services uses.** These use types are authorized as part of the Ace CDP.

Phase 3A from PD-03-24 remains an active development approval. If PD-08-24 is ultimately approved, then it will become the active development approval for Phase 2 only. For reference, the PD-03-24 site plan that includes the original Phase 2 and 3A can be found below in Figure 4.

2. Current Project Description:

This 1.87-acre portion of property is being proposed for development as:

- **Building A:** One 6,000 SF retail, restaurant, office, personal services, gym, medical office, or health and human services building.
- **Building B:** One 8,500 SF retail, restaurant, office, personal services, gym, medical office, or health and human services building.

The proposed uses are consistent with the “General Sales or Services”, “Food Services,” and land use designation on the approved Southern Pines Ace Hardware CDP. Access to both developments will be from Capital Drive (private road), which meets Airport Road on the West side and NC Hwy 22 via Olive Tree Lane on the East side (see Figure 5 for this PDP’s overall site plan). The buildings will require separate reviews for compliance with the Town’s Architectural Standards for commercial buildings, as well as all Town development standards prior to construction. The applicant has provided a narrative and original Traffic Impact Analysis (from PD-03-24) for initial review, which are attached with this report.

Figure 2: Existing Infrastructure (Subject Property Outlined in **Red**, Phase 2 in **Dashed-Red**)



Figure 3: Existing Zoning (Subject Property Outlined in Red)

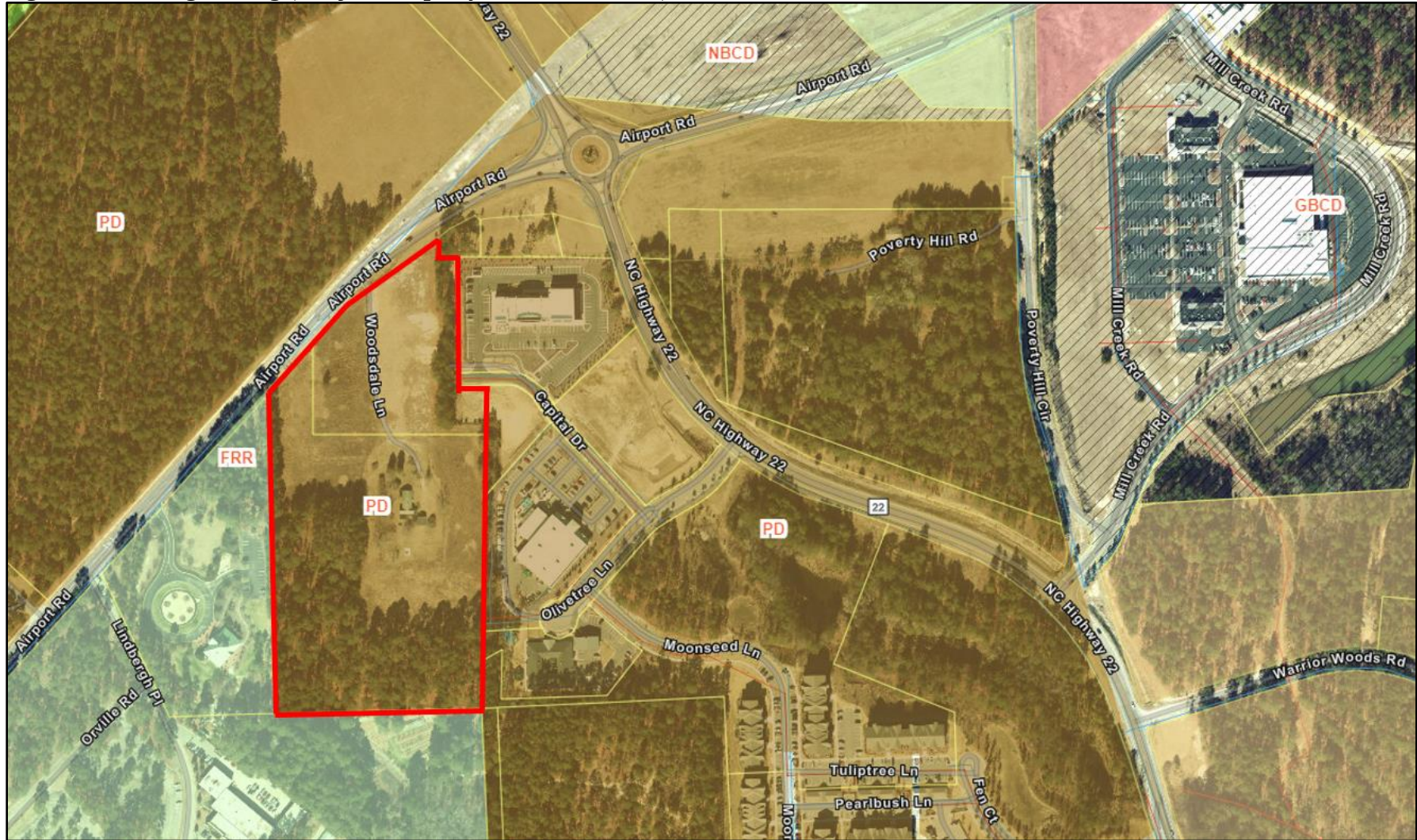


Figure 4: *(Historical Reference)* PD-03-24, Phase 2 and 3A, PDP Site Plan – Approved August 27, 2024

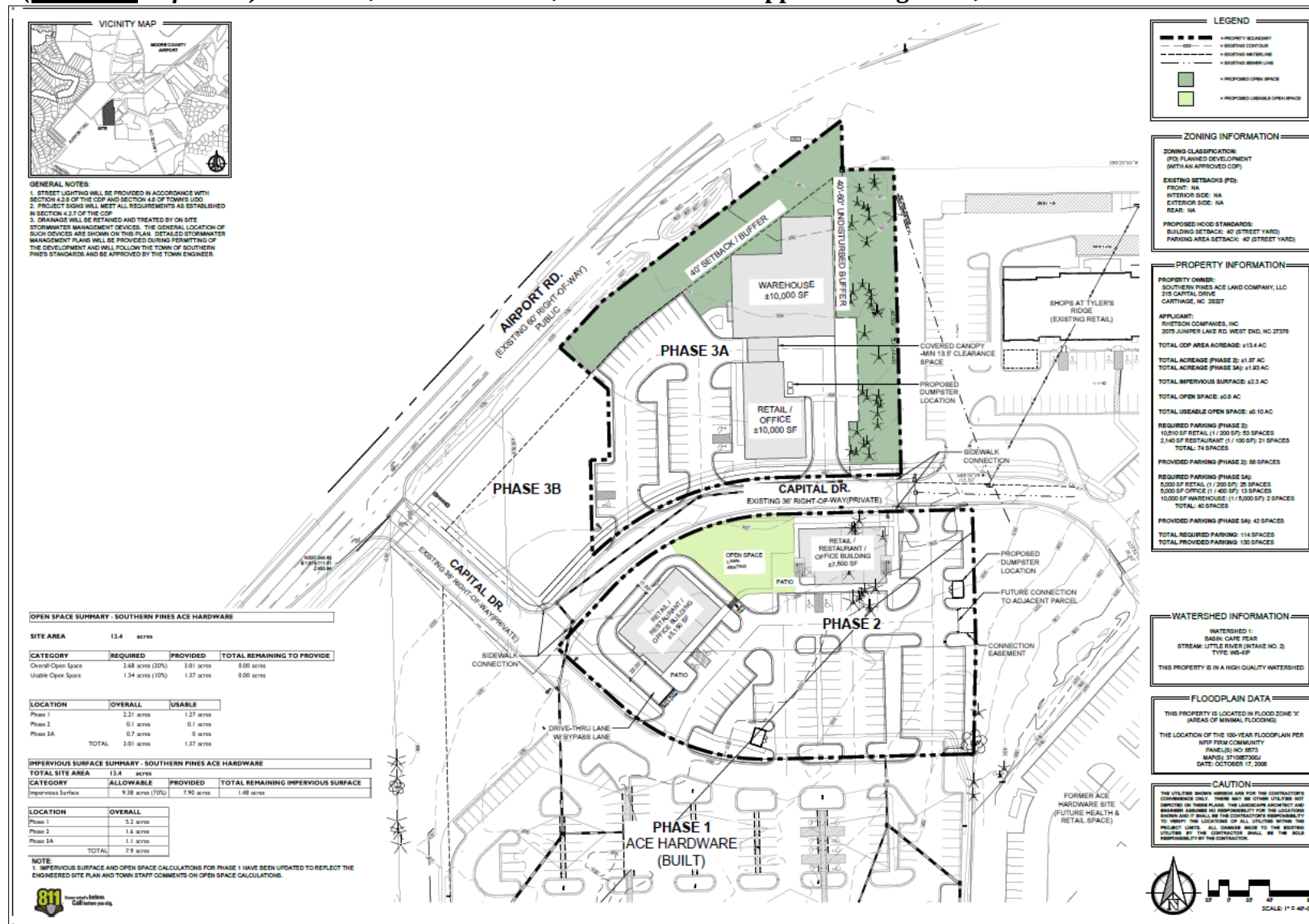
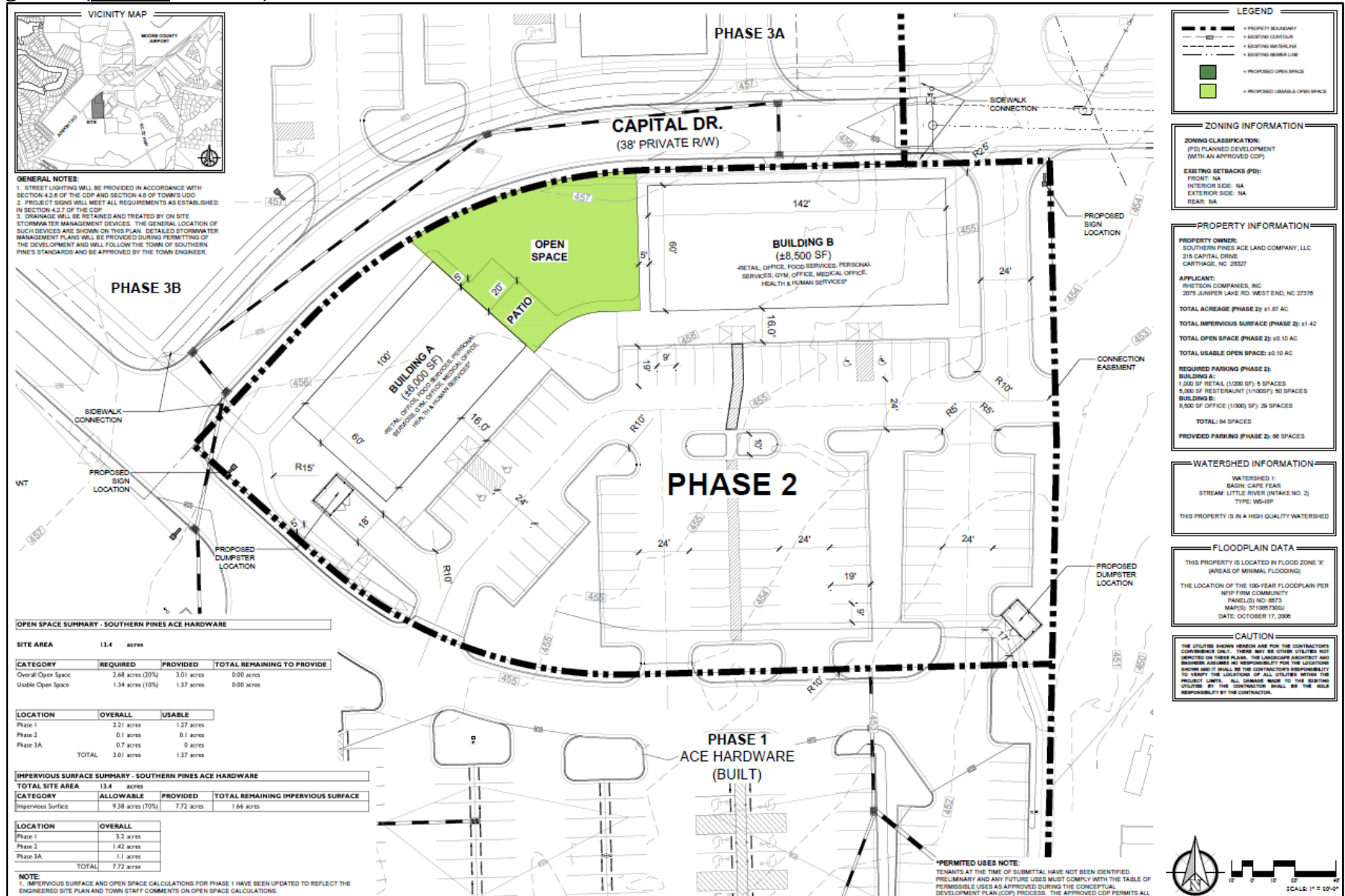


Figure 5: (Current Site Plan) PD-08-24, Phase 2 PDP Site Plan



IV. STAFF REVIEW

A. Review Process

The procedures for review and approval of a Planned Development (PD) District are established within Chapter 2 of the Town of Southern Pines Unified Development Ordinance (UDO). Chapter 2 describes a three-step process of Conceptual Development Plan (CDP), Preliminary Development Plan (PDP), and Final Development Plan to complete a PD District. This application is for a PDP.

B. Summary of Procedural Requirements

- PD-03-24 approved (with two conditions): **August 27, 2024**
- PDP (PD-08-24) application submitted: **November 12, 2024**
- Application deemed incomplete: **November 19, 2024**
- Application deemed complete: **November 20, 2024**
- Notice of December 19, 2024, Planning Board Preliminary Forum:
 - Posted On-site: **December 3, 2024**
 - Mailed: **December 5, 2024**
 - Internet: **December 3, 2024**
 - Publication Dates: Emailed to The Pilot on November 22, 2024, for publication on **December 4** and **December 11, 2024**
- Consultation with the Technical Review Committee: **December 3, 2024**
- Call between staff and the applicant to discuss issues: **December 6, 2024**
- Additional materials submitted: **December 10, 2024**
- Planning Board Regular Meeting/Preliminary Forum: **December 19, 2024**
- Town Council Regular Business Meeting: **January 14, 2025**

C. Applicable Criteria for Review

The criteria for review and approval of a PDP are found in Chapter 2, §2.18.5(H), of the Town of Southern Pines UDO. Staff analysis of how the application addresses these criteria begins on the following page of this document.

Preliminary Development Plan Criteria - UDO §2.18.5(H):

1. *The application demonstrates that it will achieve the purposes of the PD and this section;*
2. *The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;*
3. *The proposed Development is located in an area of the Town that is appropriate; and*
4. *The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.*

D. Town Staff Review and Comments

Planning staff have reviewed the PDP application materials for consistency with each of the four criteria for PDPs. The applicant has also provided a document entitled “Justification” addressing compliance with each of the four criteria for a PDP. A copy of the applicant’s Justification document is attached to this staff report.

i. Achieving the purposes of the Planned Development:

The Southern Pines Ace Hardware CDP is a General Business and General Business / Office Service development that was approved in 2022. The CDP establishes a vision for this property as a “high-quality commercial and office center that will be carefully integrated into the surrounding development areas.” The prior phase 1 of development has resulted in a large retail center and greenway trail in the southern-most portion of the property. According to §3.5.14 of the UDO:

*“The **PD** district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational Development, and where consistent with the future land use map, light manufacturing and assembly uses that comply with the employment center Development Patterns in section 6.5 of this UDO. This district is intended to allow mixed-use Developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can be readily improved) to handle the projected traffic volumes generated by the Development. The regulations of this district are intended to:*

- 1. Encourage planned, large-tract Development, including service, office, commercial, residential, public or private recreational Development or light industrial uses;*
- 2. Exclude heavy commercial and heavy industrial land uses;*
- 3. Encourage Development in areas located on major thoroughfares and collector streets;*
- 4. Encourage vehicular access from service drive and other local streets;*
- 5. Provide performance standards to help ensure Compatible land uses;*
- 6. Encourage common or shared parking;*
- 7. Promote creativity and innovation in the design that leads to more appropriate relationships between land uses and features;*
- 8. Facilitate clustering of Development thereby increasing the amount of saved land;*
- 9. Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;*
- 10. Improve connectivity within and between Developments to promote mobility and enhance walkability;*
- 11. Integrate public spaces and amenities to promote community gatherings and activities;*

12. *Establish coordinated land plan and consistent treatment of common design elements;*
13. *Provide the flexibility to respond to market conditions over longer projected Development periods due to the scale of such Developments; and*
14. *If residential land uses are proposed, provide a variety of Lot sizes and Dwelling types to expand the spectrum of housing choices for households of various type, size, income and age.”*

Following review of the Southern Pines Ace Hardware CDP and the Planned Development District section in the UDO, planning staff do not find significant inconsistency between the proposed land uses and design in Ace Hardware Phase 2 and the text of either document. If the two conditions of approval from PD-03-24 (prescribe the four usable open space components and prohibit additional parking with phase 3B) are transferred to this PDP exactly, then staff assess the application complies with Criterion 1. See Attachment 1 – *PD-03-24 Written Decision* – for the precise conditions mentioned.

ii. Consistency with the Conceptual Development Plan (CDP) and the Unified Development Ordinance (UDO):

Planning staff reviewed the initial PDP application materials (including project narrative and justification) and discussed topics related to compliance with the approved CDP and the UDO on December 6, 2024. Topics included:

- The conditions of approval associated with Phase 2, under PD-03-24 approval, need to transfer as the same conditions under PD-08-24:
 - **Phase 2 Usable Open Space incorporating four prescribed components** (*Reference Attachment 1 – PD-03-24 Written Decision, Condition 1*).
 - **Shared parking must remain an overall priority**, and that Phase 3B (when reviewed for development) shall not include any additional parking in excess of Phase 2 and 3A approved parking (*Reference Attachment 1 – PD-03-24 Written Decision, Condition 2*).

Additionally, should condition #2 not transfer, staff find that the current proposed parking for Phase 2 of 86 spaces exceeds the appropriate level for a PD pursuant to UDO 3.5.14(A)(6), “*encourage common or shared parking.*”

- Inadequate space at the entrance of each building for frontage zone requirements pursuant to UDO §4.10.5. Only 8’ was shown in front of building A, and 8.5’ in front of building B. Total frontage zone width is 16’ with three delineated sections in §4.10.5.

The applicant revised the application materials, to include the space required to incorporate frontage zone requirements at site plan review, and resubmitted materials on December 10, 2024. Based on the revised application materials

(see attachment 5), planning staff feel that the application contains enough information to be consistent with the CDP and UDO. With the inclusion of the two conditions of approval from PD-03-24 (open space requirements and no parking associated with Phase 3B), staff assess this project is consistent with Criterion 2.

Additional detailed analysis of compliance with both the CDP and the UDO will involve representatives from all other Community Development departments (such as Streets, Engineering, Fire, etc.) and will occur during site plan and Architectural Compliance Permit review.

iii. Location in an area of town that is appropriate:

The proposed development is Phase 2 of the Southern Pines Ace Hardware CDP. The area being developed is within an “Area to Transform” under the Comprehensive Plan’s General Framework Map. The proposed land use will provide additional commercial uses and will further expand a growing retail and service industry job base. The proposed development will also be within walking distance of a large apartment complex, Sandhills Community College, a traditional residential community, restaurants, a grocery store, and the Southern Pines Greenway System.

Planning staff finds that given the prior phase of development, the connectivity to residential and commercial uses, the Comprehensive Plan designation, and the relative convenience of the location near a variety of existing and planned land uses, the proposed development is located in an appropriate area of town and compliant with Criterion 3.

iv. Efficient extensions and expansions of public facilities, utilities and services:

The property is served by all necessary utilities and transportation infrastructure and the development will bear the cost of all infrastructure modifications and/or extensions. Development of the subject property in the manner proposed is an efficient way to increase jobs and tax base, while providing for a more vibrant community atmosphere. For these reasons, staff assess the application is consistent with Criterion 4.

v. General Comments:

- **Transfer Two PD-03-24 Conditions of Approval.** To prevent any ambiguity or confusion, staff highly recommend including the exact same conditions of approval, verbatim, associated with Phase 2 under PD-03-24 in this PD-08-24 (as approved with the Town Council’s written decision on August 27, 2024). For reference, those conditions are:

Condition 1 – Phase 2 Usable Open Space Usage.

The Phase 2 Usable Open Space shall include a minimum of these four featured components:

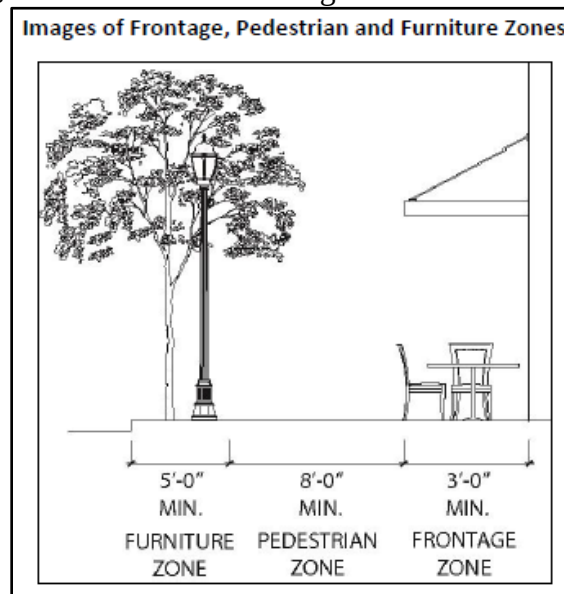
1. A grass lawn, as depicted on the PDP, to be maintained by the Phase 2 lessees, developer, or property owner's association.
2. Three separate planting beds that encompass at least 30 square feet each OR eight planters at least 3½ feet in diameter, to be maintained by the Phase 2 lessees, developer, or property owner's association.
3. Permanent seating as depicted on the PDP, directly on or adjacent to the lawn. The developer can opt for picnic tables, benches, stand-alone chairs, or a combination of these, all rated for outdoor use.
4. One pergola structure, similar shade structure, or two (2) shade trees, including adjacent landscaping, located within the Open Space. The structure or tree locations will be at the developer's discretion.

Condition 2 – Phase 2 and 3A Parking Volume.

No parking will be permitted with the development of Parcel 3B to encourage shared parking throughout the development. All parking to serve parcel 3B will be shared with all other parcels within the Ace Hardware CDP area. Any uses on parcel 3B will not be required to meet minimum parking standards for their particular use as it is understood that all parking for this parcel will be shared parking.

Please see Attachment 1 (PD-03-24 Written Decision – Filed 8/30/24) for reference. Both of these conditions are consistent with and essential to achieving the purpose of a PD, specifically §3.5.14(A)(6) and §3.5.14(A)(11).

- **Frontage Zone Requirements.** Pursuant to Ace CDP §4.2.3 and UDO §4.10.5, a frontage zone of 16 total feet is required in front of buildings A and B. UDO §4.10.5 reflects the frontage zone broken into 3 sections:



Staff recognize that the purpose of a frontage zone is to give development pedestrian-friendly character and to create a sense of place in the Hybrid Zone where one transitions between buildings and the Public Realm. The UDO's frontage zone depiction is prescriptive and may not always be the best fit for every site. A quintessential frontage zone should incorporate multiple elements like seating, shade trees, shrubs, flower planters or natural plantings, bike racks, and/or creative lighting. For that reason, frontage zone design has been historically modified for what the best fit for a site turns out to be.

Though confirming frontage zone design is typically a site plan review task, planning staff wish to highlight that negotiating and approving more detail in this design – from the applicant and/or the Town Council – during PDP is also appropriate. A mutually agreed upon frontage zone design that best meets the town's and the applicant's vision for the site holds potential for a positive outcome in line with the PD purpose and Ace Hardware CDP vision.

- **Traffic Impact Analysis (TIA).** The original TIA for the Ace Planned Development covers the entire Ace Hardware CDP development. In the interest of realigning to new conditions, the applicant updated the original TIA with PD-03-24 in June 2024. The Town Engineer reviewed that update, noting that the traffic was projected as less than expected, and subsequently approved it. The applicant has resubmitted that TIA with this Phase 2 application. See Attachment #6 (Traffic Impact Analysis) for reference.
- **Watershed Exemption Allocation.** This project falls within the Cape Fear, Little River (Intake No. 2) watershed, which is designated as a high-quality watershed. A High-Quality Watershed Protection Exemption allocation has been given to the project, so they can build upon 70% of the site. The project is currently below that percentage threshold.
- **Open Space Usage.** 20% Open Space is called for in the CDP for this project overall. The overall tabulation for 20% will be met with the development of Phase 2.

Regarding the Usable Open Space between the Phase 2 buildings, the applicant's narrative generally reflects PD-03-24's condition #2. However, to prevent any ambiguity in transferring the Phase 2 Usable Open Space's condition of approval from PD-03-24 to PD-08-24, staff (as mentioned above) highly recommend including the same wording, verbatim, as a condition of approval for this PDP.

For reference, below is the purpose statement for open space in a PD:

- UDO 3.5.14(A)(9): *Foster Development of a network of open space to serve a variety of recreational and environmental*

purposes designed and located with respect to existing unique natural features and environmentally sensitive areas.

- UDO 3.5.14(A)(11): *Integrate public spaces and amenities to promote community gathering and activities.*

- **Stormwater.** The applicant stated that the stormwater infrastructure is adequate to accommodate Phase 2. The Phase 2 stormwater will flow into the primary Stormwater Management (SWM) Pond behind the Phase 1 “Provision Ace” building. Stormwater management will ultimately be reviewed and approved by the town’s Engineering Department at the time of site plan review.
- **Pedestrian Connectivity.** Phase 2 provides internal sidewalks and connections to sidewalks along streets. Phase 1 also provides a greenway connection. Staff feel that the sidewalks and sidewalk connections as depicted on the PDP meet the general purpose of a PD having pedestrian connectivity.

Figure 6: Sidewalk and Street Crossing on Capital Drive
(Private Right-of-Way)



- **Parking.** The applicant has proposed 86 parking spaces for Phase 2. This is in addition to the 176 spaces in Phase 1 and 42 in Phase 3A.

If the parking rates for each of the 8 possible uses listed by the applicant for Phase 2 are averaged (pursuant to UDO Exhibit 4-6), the average rate is 1 space per 218.75 square feet. With 14,500 square feet of total building area, that rate would call for **67 spaces**.

The applicant has requested in their narrative an above-minimum number of parking spaces to provide flexibility for possible restaurant uses. UDO 3.5.14(A)(6) describes a Planned Development (PD) District's purpose, encouraging common or shared parking. Staff recognizes that commercial lease agreements typically place a high value on committed guaranteed parking for each unit. However, staff feel this development should prioritize shared parking everywhere possible pursuant to the PD's purpose.

If the second condition of approval from PD-03-24, prohibiting additional parking with Phase 3B (and requiring shared parking with other phases only), is applied to this PDP, then staff feel the 86 spaces the applicant has proposed is reasonable. Staff find this condition is essential in meeting this aspect of the Planned Development purpose. If PD-03-24 condition #2 is not applied to this PD-08-24, then staff assess only 67 spaces should be approved for Phase 2.

- **Landscape Standards.** Phase 2 and 3A must conform to all applicable standards outlined in UDO Chapter 4, with the exception of the Planned Development specific standards mentioned in UDO section 3.5.14(H).
- **Connection Easement.** To ensure future parking lot connectivity, a connection easement is provided within the Phase 2 parking lot on its east side.
- **Architectural Review.** The buildings associated with this plan required 4-sided architecture that complies with UDO §4.10, per section 4.2.3 of the CDP (due to visibility from multiple angles). An Architectural Compliance Permit will not be granted until the architecture complies with the standards. If all renderings meet Architectural Compliance standards, then the buildings will qualify for administrative review (as they are under 10,000 square feet).

The applicant has submitted architectural renderings for both buildings (see attachment 7 of this staff report). The renderings generally meet architectural requirements, with the exception of the grey Exterior Insulation and Finish System (EIFS) appearing material on the second building. Staff informed the applicant in a call on December 11 that, in order to comply with UDO §4.10 standards, those facades must be of an 80% brick or brick appearing material. For instance, the EIFS material may remain as such – but use a brick veneer for its facade.

As long as the final materials meet §4.10 standards during Architectural Review, staff do not foresee any issues with project architecture.

- **TRC Review.** The Technical Review Committee reviewed the current PDP application at their December 3, 2024 meeting. Topics of discussion included architectural compliance and the original stormwater report. The

Engineering Technician noted that the applicant will need to recalculate their impervious surface calculations as they related to stormwater pond capacity. This detail is one that can be ironed out during site plan review, but the applicant should be aware and taking steps to address this concern in the meantime.

A list of planning staff and Technical Review Committee comments were subsequently discussed with the applicant on December 6, 2024. The applicant then addressed these comments by amending and sending a new PDP site plan on December 10, 2024. Further site plan review and Architectural Compliance Permit approval will be required prior to issuance of any building permits for development, if approved.

E. Cooperating Agency and Technical Review Committee Review and Comments

- A request for comments was emailed to agencies on December 3, 2024. Agencies notified include Town of Southern Pines Streets, Utilities, Fire, Recreation and Parks, and Engineering departments, the Regional Land Use Advisory Commission (RLUAC), U.S. Fish and Wildlife Service (USFWS), Moore County Airport, and the North Carolina Department of Transportation (NCDOT).
- The Regional Land Use Advisory Commission replied on December 11, 2024 indicating they have no comment for this project.

V. ATTACHMENTS

The following materials are provided as attachments to this staff memorandum:

1. PD-03-24 Written Decision (Original Phase 2 Entitlement filed 8/30/24)
2. Preliminary Development Plan Application
3. Preliminary Development Plan Narrative
4. Preliminary Development Plan Justification
5. Preliminary Development Plan Site Plan
6. Traffic Impact Analysis
7. Phase 2 Building Elevations (Renderings)
8. Purchase Agreement
9. Purchase Agreement Amendment

Additional documents related to this application including (but not limited to) property deeds, Authorization of Agent forms, email correspondence, meeting minutes and adjacent property notification records are on file in the Town of Southern Pines Planning Office and available for public inspections during normal business hours.

VI. TOWN COUNCIL ACTION:

To either approve or deny a Preliminary Development Plan application, the Town Council must make findings of fact and conclusions to the applicable standards.

- *The Town Council shall first vote on whether the application is complete and whether the facts presented are relevant to the case.*
- *The Town Council shall then vote on whether the application complies with the criteria as set forth in Section 2.18.5(H) Criteria for a Preliminary Development Plan, Criteria 1-4. Staff has drafted a finding of fact for consideration in Attachment 1. The Town Council may make modifications or provide an alternative to the draft findings of fact and related motions at their discretion.*

I move to:

1. Adopt **Attachment 1** of the staff report, as drafted, as Findings of Fact regarding the proposed Preliminary Development Plan PD-08-24.

- OR -

2. Adopt **Attachment 1** of the staff report as Findings of Fact regarding the proposed Preliminary Development Plan PD-08-24, with the following changes:

Next, the Town Council shall vote on whether to approve, deny, or approve with conditions the proposed Preliminary Development Plan. The Town Council may choose one of the following motions, or any alternative they wish.

I move to:

1. Approve the Preliminary Development Plan for PD-08-24;
2. Deny the Preliminary Development Plan for PD-08-24;
3. Approve the Preliminary Development Plan for PD-08-24 with the following additional conditions:

Condition 1 – Phase 2 Usable Open Space Usage.

The Phase 2 Usable Open Space shall include a minimum of these four featured components:

1. A grass lawn, as depicted on the PDP, to be maintained by the Phase 2 lessees, developer, or property owner's association.
2. Three separate planting beds that encompass at least 30 square feet each OR eight planters at least 3½ feet in diameter, to be maintained by the Phase 2 lessees, developer, or property owner's association.
3. Permanent seating as depicted on the PDP, directly on or adjacent to the lawn. The developer can opt for picnic tables, benches, stand-alone chairs, or a combination of these, all rated for outdoor use.

4. One pergola structure, similar shade structure, or two (2) shade trees, including adjacent landscaping, located within the Open Space. The structure or tree locations will be at the developer's discretion.

Pursuant to UDO §3.5.14(A)(9) and §3.5.14(A)(11).

Condition 2 – Phase 2 Parking Volume.

No parking will be permitted with the development of Parcel 3B to encourage shared parking throughout the development. All parking to serve parcel 3B will be shared with all other parcels within the Ace Hardware CDP area. Any uses on parcel 3B will not be required to meet minimum parking standards for their particular use as it is understood that all parking for this parcel will be shared parking.

Pursuant to UDO §3.5.14(A)(6).

ATTACHMENT 1
Draft Town Council Findings of Fact
Preliminary Development Plan Application PD-08-24

FINDINGS OF FACT

- A. The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.
- B. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 1 (*the application demonstrates that it will achieve the purposes of the PD district and this section*) in that the proposed development aligns with the purpose of a PD district only with the imposition of integrated open space and shared parking measures. The Town Council finds that the two conditions of approval tied to the PD-03-24 development approval were necessary to achieve the purpose of a PD. The inconsistencies found in the PD-03-24 application were regarding:
1. **Usable Open Space Usage.** The Usable Open Space depicted in Phase 2 left too much ambiguity and room for a lessee to deviate from what UDO §3.5.14(A)(9) calls for - *Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas*. Lessees could employ large portions of the open space for graveled-over seating or leave it as a largely unutilized space.
 2. **Parking Volume.** The Phase 2 and 3A parking spaces amounted to 130, with the UDO parking standards calling for a minimum of 114. Phase 1 has 176 spaces, with Phase 3B yet to be determined, leaving well over 306 spaces for the Ace development. UDO §3.5.14(A)(6) reads *to encourage common or shared parking*. This development should improve its design by anticipating peak hours of customer traffic per business, sharing parking according to those hours, and ultimately eliminating some spaces.

The Town Council finds that this Preliminary Development Plan achieves the purposes of the PD and UDO by including these two conditions of approval, related to the development of Usable Open Space and parking volume, with PD-08-24 just the same as with PD-03-24. These two conditions of approval will align the PDP with the purposes of a Planned Development (as set forth in UDO §3.5.14(A)(6), §3.5.14(A)(9), and §3.5.14(A)(11)) and eliminate any ambiguity for what conditions are tied to the Phase 2 development approval between PD-03-24 and PD-08-24.

- C. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 2 (*the Preliminary Development Plan is consistent with the Conceptual Development Plan and*

conforms to all applicable provisions of this UDO) in that the application contains enough information and commitments to be deemed generally consistent. The PDP is appropriate given the potential list of uses and character of the development; it also achieves an efficient, safe, and economical land use without detracting from the quality of the overall Ace Hardware development or the community as a whole.

- D. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 3 (*The proposed Development is located in an area of the Town that is appropriate*) in that proposed development is Phase 2 of the Ace Hardware CDP – within an “Area to Transform” and “Retail Center” under the Comprehensive Plan. The proposed land use will provide additional commercial uses that further expand a growing retail and service industry job base. The proposed development is also within walking distance of a large apartment complex, Sandhills Community College, a traditional residential community, restaurants, a grocery store, and the Southern Pines Greenway System. The Town Council finds that given the prior phase of Ace Hardware’s development and the relative convenience of the location near a variety of existing and planned land uses, the proposed development is located in an appropriate area of town. Furthermore, the development is located in an area of town with existing access to necessary infrastructure and where the street system is adequate, or will be improved to be adequate, to accommodate the projected traffic volumes.
- E. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 4 (*The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities, and services*) in that the proposed PDP is served by all necessary utilities and transportation infrastructure and the development will bear the cost of all infrastructure modifications and/or extensions. Development of the subject property in the manner proposed is an efficient way to increase jobs and tax base, while providing for a more vibrant community atmosphere.



CASE NUMBER: PD-03-24

**FINDINGS OF FACT, DECISION OF THE BOARD, AND ORDER IN THE MATTER
OF A PRELIMINARY DEVELOPMENT PLAN APPLICATION FOR THE ACE
HARDWARE PLANNED DEVELOPMENT**

DESCRIPTION OF MATTER

Mr. Bob Koontz, on behalf of Southern Pines Ace Land Company, LLC submitted a Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance for 32,650 square feet of Retail, Restaurant, Office, and Warehouse space on 13.4 total acres on parcels identified as PIN 857300963887 (PARID 00033603) and PIN 857300974451 (PARID 00033604). Phase 1 of this Planned Development District has already been constructed, and this Preliminary Development Plan, being Phase 2 and 3A, will expand on the District’s establishments and uses. Per the Moore County tax record, the subject property is owned by Southern Pines Ace Land Company, LLC.

A public evidentiary hearing regarding a proposed Preliminary Development Plan (PDP) for the Ace Hardware Planned Development was called to order with five members present on August 13, 2024. The oath was administered to all witnesses choosing to speak. Planning staff entered the August 13, 2024 Staff Report as Exhibit A and staff’s August 13, 2024 presentation as Exhibit B. The authorized agent, Bob Koontz of KoontzJones Design, entered their presentation as Exhibit C. Qualified witnesses entered a Traffic Assessment as Exhibit D, an Appraisal Impact Assessment as Exhibit E, and the applicant’s alternative conditions proposal as Exhibit F. After closing the hearing, Town Council discussed and voted on the draft findings of fact. Detailed discussion during the evidentiary hearing can be found in the meeting minutes on record in the Town Clerk’s office and online.

FINDINGS OF FACT

Finding of Fact #1:

The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.

Finding of Fact #2:

The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan (Criteria 1-4), with the imposition of conditions of approval, in that:

1. The application demonstrates that it will achieve the purposes of the PD district and the UDO.

The Ace Hardware CDP is a Traditional Mixed-Use development that was approved in April 2022. The CDP does not set forth a clear “purpose” for the development but does describe allowable land uses as General Business and Office Services. Prior phases of development have resulted in a hardware store and stormwater pond, and a proposed Greenway Trail that is still undergoing development.

The purposes of a PD district are described in UDO §3.5.14. Based on the planning staff’s review of this section and based on testimony and evidence presented at the evidentiary hearing held on August 13, 2024, the Town Council finds two inconsistencies between the proposed site plan in the Ace Hardware Phases 2 and 3A PDP and the overall purpose and intent of a Planned Development:

1. **Usable Open Space Usage.** The Usable Open Space depicted in Phase 2 leaves too much ambiguity and room for a lessee to deviate from what UDO §3.5.14(A)(9) calls for - *Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas*. Lessees could employ large portions of the open space for graveled-over seating or leave it as a largely unutilized space.
2. **Parking Volume.** The Phase 2 and 3A parking spaces amount to 130, with the UDO parking standards calling for a minimum of 114. Phase 1 has 176 spaces, with Phase 3B yet to be determined. This will amount to well over 306 spaces for the Ace development. UDO §3.5.14(A)(6) reads *to encourage common or shared parking*. This development should improve its design by anticipating peak hours of customer traffic per business, sharing parking according to those hours, and ultimately eliminating some spaces.

The Town Council finds that the Preliminary Development Plan achieves the purposes of the Planned Development and UDO by including two conditions of approval related to the development of Usable Open Space and parking volume. This is because the conditions of approval will align the PDP with the purposes of a Planned Development as set forth in UDO §3.5.14(A)(6), §3.5.14(A)(9), and §3.5.14(A)(10).

With the inclusion of these conditions, the Town Council finds the Phase 2 and 3A PDP is consistent with the purpose of the Planned Development District and the UDO.

2. The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO.

Based on statements made in the revised application materials attached to the Planning Department's staff report dated August 13, 2024, the Town Council finds that with the conditions set forth under Criteria 1 above, the application contains enough information and commitments to be deemed generally consistent with the CDP and UDO. Therefore, the PDP is appropriate given the specific mix of uses and character of the development and achieves an efficient, safe, and economical land use without detracting from the quality of the overall Ace Hardware development or the community as a whole.

3. The proposed Development is located in an area of the Town that is appropriate.

The proposed development is Phase 2 and 3A of the Ace Hardware CDP. The area being developed is designated "Traditional Mixed-Use" in the Comprehensive Long-Range Plan (CLRP), the predecessor of the 2040 Comprehensive Plan, under which this project is vested. The proposed land use will provide additional retail, restaurant, and office services and will further expand a growing retail and service industry job base within walking distance of a large apartment complex, Sandhills Community College, a traditional residential community, restaurants, a grocery store, and the Southern Pines Greenway System. Building heights are restricted to 50'.

The Town Council finds that given the prior phase of Ace Hardware's development, the CLRP designation, and the relative convenience of the location near a variety of existing and planned land uses, the proposed development is located in an appropriate area of town. Furthermore, the development is located in an area of town with existing access to necessary infrastructure and where the street system is adequate, or will be improved to be adequate, to accommodate the projected traffic volumes.

4. The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.

Town Council finds that the proposed PDP is served by all necessary utilities and transportation infrastructure and the development will bear the cost of all infrastructure modifications and/or extensions. Development of the subject property in the manner proposed is an efficient way to increase jobs and tax base, while providing for a more vibrant community atmosphere.

CONCLUSION AND DECISION

Therefore, by a vote of 5-0, the Town Council voted to approve with conditions the Ace Hardware Preliminary Development Plan PD-03-24 with the following additional conditions as drafted by the applicant and submitted as Exhibit F:

Condition 1 – Phase 2 Usable Open Space Usage.

The Phase 2 Usable Open Space shall include a minimum of these four featured components:

1. A grass lawn, as depicted on the PDP, to be maintained by the Phase 2 lessees, developer, or property owner's association.

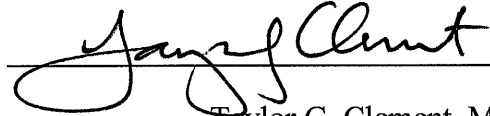
2. Three separate planting beds that encompass at least 30 square feet each OR eight planters at least 3½ feet in diameter, to be maintained by the Phase 2 lessees, developer, or property owner's association.
3. Permanent seating as depicted on the PDP, directly on or adjacent to the lawn. The developer can opt for picnic tables, benches, stand-alone chairs, or a combination of these, all rated for outdoor use.
4. One pergola structure, similar shade structure, or two (2) shade trees, including adjacent landscaping, located within the Open Space. The structure or tree locations will be at the developer's discretion.

Condition 2 – Phase 2 and 3A Parking Volume.

No parking will be permitted with the development of Parcel 3B to encourage shared parking throughout the development. All parking to serve parcel 3B will be shared with all other parcels within the Ace Hardware CDP area. Any uses on parcel 3B will not be required to meet minimum parking standards for their particular use as it is understood that all parking for this parcel will be shared parking.

This is the 27th day of August, 2024.

FOR THE TOWN COUNCIL:


Taylor G. Clement, Mayor



**Planned Development District -
Preliminary Development Plan**

Fee: \$ _____ Date Received: _____ Case No.: PD- _____ - _____

Project Information:

Project Name: ACE Hardware PHASE 2

Physical Address: 445 Capital Dr. Carthage, NC 28327

PIN: 857300974451, 857300963887

Parcel ID: 00033604, 00033603

Site Size: ±1.87 AC

Zoning: PD

Applicant:

Name(s): Rhetson Companies, INC.

Email: permits@rhetson.com

Phone: (910) 944-0881

Mailing Address: 2075 Juniper Lake Rd. West End, NC 27376

Authorized Agent, if different from Applicant:

Name(s): Koontz Jones Design

Email: bkoontz@kootnzjones.com

Phone: (910) 684-8487

Mailing Address: 140 Applecross Rd, Pinehurst, NC 28374

Legal Property Owner(s), if different from Applicant:

Name(s): Southern Pines Ace Land Company, LLC.

Email: rsaunders@southernpinesace.com

Phone: (910) 684-8817

Mailing Address: 215 Capital Dr. Carthage, NC 28327

TO THE TOWN OF SOUTHERN PINES PLANNING BOARD AND TOWN COUNCIL:

I, the undersigned, do hereby make application to and petition the Planning Board and Town Council for approval of a Planned Development District – Preliminary Development Plan as required by the Town of Southern Pines Zoning Ordinance. The following information is submitted in support of this application:

The property which is the subject of this application is located on the SOUTH side of CAPITAL DR., between CAPITAL DR. and ACE HARDWARE (BUILT). The property has a frontage of 454' FEET and a depth of 240' FEET.

The request is based upon Section 2.18.5 of the Town of Southern Pines Unified Development Ordinance. The proposed use of the property is as follows: ±14,500 SF of building space to accommodate a mixture of uses.

Date: 11/11/2024


Applicant

PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES
801 SE Service Road, Southern Pines, NC 28387
plan@southernpines.net (910) 692-4003 www.southernpines.net

4.17.24

APPOINTMENT OF AGENT

The undersigned owner(s), Southern pines Ace Land Company, LLC, hereby appoint(s) Rhetson Companies INC. & Koontz Jones Design as the exclusive agent for the purpose of making an application to the Town of Southern Pines for the approval of the Planned Development District – Preliminary Development Plan described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Town Council for the approval of a Planned Development District – Preliminary Development Plan; and
4. to act on behalf of the property owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for a Planned Development District -Preliminary Development Plan under the Southern Pines Unified Development Ordinance.

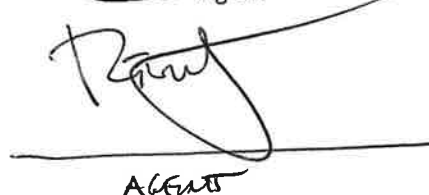
This Appointment of Agent shall remain in effect until final resolution of the attached application.

Signed this 12th day of November, 2024.



Property Owner

Property Owner


Agent
AGENTS

4.17.24

ADJACENT PROPERTY OWNERS

PARID	PIN	DEED_BOOK	DEED_PAGE	NAME	NAME2	ADDRESS	CITY	STATE	ZIP
00033604	857301000000	5782	400	SOUTHERN PINES ACE LAND	COMPANY LLC	215 CAPITAL DR	CARTHAGE	NC	28327
00035777	8583000000000	3918	351	TYLER'S RIDGE PHASE II LLC		211 TRIMBLE PLANT ROAD	SOUTHERN PINES	NC	28387
00035939	857301000000	5746	327	MDC NC3 LP		11995 EL CAMINO REAL	SAN DIEGO	CA	92130
00037050	857301000000	937	262	SANDHILLS COMMUNITY COLLEGE	BOARD OF TRUSTEES	3395 AIRPORT RD	PINEHURST	NC	28374
00991683	857301000000	270	375	MOORE COUNTY COMMUNITY COLLEGE	BOARD OF TRUSTEES	2200 AIRPORT RD	PINEHURST	NC	28374
10001650	857313000000	905	544	SANDHILLS COMMUNITY COLLEGE	BOARD OF TRUSTEES	3395 AIRPORT RD	PINEHURST	NC	28374
20150296	857301000000	6071	458	CAPITAL DRIVE PARTNERS LLC		2075 JUNIPER LAKE ROAD	WEST END	NC	27376
20190158	857301000000	3914	109	TYLER'S RIDGE BUSINESS PARK LLC		211 TRIMBLE PLANT ROAD	SOUTHERN PINES	NC	28387-3445
00032134	857301000000	4047	117	COUNTY OF MOORE		PO BOX 905	CARTHAGE	NC	28327
00033603	857301000000	5749	375	SOUTHERN PINES ACE LAND	COMPANY LLC	215 CAPITAL DR	CARTHAGE	NC	28327
20110245	857301000000	3914	109	TYLER'S RIDGE BUSINESS PARK LLC		211 TRIMBLE PLANT ROAD	SOUTHERN PINES	NC	28387
20190157	857301000000	5159	43	THE SHOPS AT TYLERS RIDGE LLC		35 MARTIN DR	CARTHAGE	NC	28327
20190158	857301000000	3914	109	TYLER'S RIDGE BUSINESS PARK LLC		211 TRIMBLE PLANT ROAD	SOUTHERN PINES	NC	28387-3445

SOUTHERN PINES ACE HARDWARE – PHASE 2

PRELIMINARY DEVELOPMENT PLAN (PDP) NARRATIVE

The development of the property described as Southern Pines Ace Hardware – Phase 2 in the submitted exhibits will be completed as a mixed use development which could include a mixture of uses including, but not limited to, restaurant, retail, office, or medical uses. Future uses must be compliant with the CDP and the approved list of uses. Uses not included in this document but approved in the CDP may be permitted. Overall, the project will cover a total of approximately 1.87 acres. All information, descriptions and calculations included in this application are related to the development of this parcel of property.

Phase 2 of the project will include the development of ±14,500 SF of mixed-use space with the construction of two buildings and adequate parking facilities. Phase 2 will be accessed from Capital Drive and from the Ace Hardware parking area that was built with Phase 1 of the project. The overall character of the development will provide a high-quality commercial center that will be carefully integrated into the surrounding area and compatible with the surrounding development areas. Architectural themes, landscaping and design elements common to Southern Pines will be utilized as described in the Town of Southern Pines UDO or in the CDP document.

The project falls within the Cape Fear, Little River (Intake No. 2) watershed which is designated as a high-quality watershed. A watershed protection permit was approved by the Town of Southern Pines during Phase 1 of the development. The project also falls within foraging partitions of one active and one abandoned red-cockaded woodpecker (RCW) cluster. Dr. J. H. Carter III and Associates have conducted a foraging habitat analysis for the property which has been reviewed by the US Fish and Wildlife Service (USFW). The review letter from USFW was submitted during previous phases of the project. The phase 2 area has been generally cleared of existing vegetation prior to the current development. There are no floodplains or wetlands located on the property. The project will fully comply with all general notes and standards included in the approved Southern Pines Ace Hardware Conceptual Development Plan (CDP).

Design standards for individual elements of the development are described below.

- **Pedestrian Connectivity**
 - Pedestrian access will be provided throughout the site. Parking areas throughout the site will connect to sidewalks leading to the building entrances and provide accessible access as required by state and federal standards. Sidewalk connections will be provided connecting to the sidewalk on the north side of Capital drive which will provide pedestrian connections to phase 3 of the development as well as previously developed neighboring retail areas.
- **Parking**
 - Parking areas will be designed and landscaped per Town of Southern Pines Unified Development Ordinance standards in Section 4.5.



- Required and provided parking tabulations have been included on Sheet L-1.1 with this application. At the time of this application submittal, uses within the proposed buildings located in Phase 2 have yet to be identified. Excess parking over the minimum parking space requirement is intended to provide flexibility for future uses. For example, if additional restaurant space is leased within the proposed buildings, the minimum parking requirement calculations would increase and could potentially provide a number of spaces below the minimum required number of spaces. Parking is intended to be shared within the overall development including possible future phases.
- **Streets and Access**
 - Main access to the property as described in this PDP will be provided from Capital Drive. Access to the property from NC Highway 22 and Airport Rd is also available via Olivetree Lane and the Capital Drive.
 - A Traffic Impact Analysis (TIA) has been submitted during previous phases of the development.
- **Landscaping**
 - Landscaping will be provided as required by the Town of Southern Pines UDO in Section 4.3. This will include tree islands, parking lot landscaping and streetscape plantings.
 - Buffer plantings will follow the guidelines and standards as approved in the CDP.
- **Lighting**
 - All lighting on the property will follow Section 4.8 of the CDP and Section 4.2.6 of the CDP. Lighting levels along streets and in parking areas will be provided to meet the UDO standards for safety and match the existing community. Proposed lighting fixtures will match previous phases of development. All light will be projected downward to limit any light spilling onto adjacent properties.
- **Open Space**
 - Required open space for the overall Southern Pines Ace Hardware development per section 4.2.2 of the CDP is 20%. A minimum of 10% of the provided open space shall be usable open space as described in section 3.5.14 of the UDO. While no open space is required for each individual phase of the development, the overall development must meet the open space requirements.
 - The area identified as useable open space between the proposed buildings in Phase 2 is intended to provide a mixture of lawn and outdoor seating space. This area will include at minimum the following:
 - A grass lawn, as depicted on the PDP, to be maintained by the Phase 2 lessees, developer, or property owner's association
 - Three separate planting beds that encompass at least 30 square feet each OR eight planters at least 3.5 feet in diameter, to be maintained by the Phase 2 lessees, developer, or property owner's association.
 - Permanent seating as depicted on the PDP, directly on or adjacent to the lawn. The developer can opt for picnic tables, benches, stand-alone chairs, or a combination of these, all rated for outdoor use
 - One pergola structure, similar shade structure, or two (2) shade trees, including adjacent landscaping, located within the open space. The structure or tree locations will be at the developers discretion.
 - An updated 'running' tabulation for the overall Southern Pines Ace Hardware property has been provided on Sheet L.1.1 of the submission set.

- **Stormwater**

- The property is located within a state regulated and protected drainage basin. As such stormwater design will fully comply with all aspects of applicable local and state standards and regulations for storm water management and watershed protection, including specific requirements for erosion and sedimentation control. Best management practices at the time of development for each phase shall be utilized in accordance with NCDEQ guidance. Stormwater must be maintained on the overall property to meet the Town of Southern Pines, NCDEQ, and any other stormwater regulations.
- It was intended that the stormwater management device located in Phase 1 would be a regional facility that would accomodate the runoff from all phases of the overall Southern Pines Ace Hardware property shown in the CDP.
- Detailed plans and calculations will be provided during the detailed site engineering process.

- **Utility Service**

- Adequate water and sewer service can be provided by the Town of Southern Pines to service this development. Utility extensions were installed with the completion of Capital Drive that was part of Phase 1 of the project. All utilities on the site will be located underground and installed per the policies of the local utility providers and the Town of Southern Pines.

- **Architectural Character**

- The proposed buildings will be required to meet the standards of the commercial building design guidelines described in Section 4.10 of the Town of Southern Pines UDO. Furthermore, all buildings are required to have four (4) sided architecture as described in the CDP

- **Signage**

- All signage will be designed in conformance with the requirements of the Town of Southern Pines UDO in Section 4.6. Signs for “Shopping Centers” will follow Section 4.6.13 and maintain a Unified Sign Plan.
- Sign locations as shown on Sheet L-1.1 of the submission set are permitted in the CDP. Signage, internal to the development, may be provided throughout the property for purposes of identification and wayfinding.
- Overall Shopping Center signs, along Airport Road, may include signage for businesses from the adjoining retail buildings and shopping center area for parcels with access along Capital Drive and Olivetree Lane.

The descriptions and conditions described above will apply to the development as indicated in the Preliminary Development Plan document. The proposed plan utilizes the CDP's development standards and implements the second and third phases of development within the Southern Pines Ace Hardware development. These phases of development meet the standards of the Southern Pines Ace Hardware CDP. Should the CDP be amended, any standards indicated on the attached plans may be amended to accommodate the revised standard, without requiring amendment to these PDP documents.

In summary, the proposed PD – PDP and surrounding development is consistent with the Town's Comprehensive Long-Range Plan (CLRP) and promotes its objectives. The CLRP designates the property as Traditional Mixed-Use. This PDP contains retail buildings within the overall and adjacent mixed-use development, and will be similar in scale and size to these developments. The approved CDP describes a master planned mixed-use development. The proposed PDP complies with the standards as established in the CDP and Southern Pines UDO.

EXHIBIT A

Southern Pines Ace Hardware – Phase 2 Preliminary Development Plan Justification

Below are listed the four (4) criteria required to approve a Preliminary Development Plan (PDP) application as described in Section 2.18.5(H) of the Town of Southern Pines Unified Development Ordinance (UDO). Following the individual criteria is an explanation, indicated in red, describing how the project demonstrates compliance with each of these criteria.

A Preliminary Development Plan is permitted if the Applicant demonstrates that:

- (1) The application demonstrates that it will achieve the purposes of the PDD and this section;

The PDP conforms to all standards set forth in the Conceptual Development Plan (CDP) and the standards set forth in the UDO. The plans included with the CDP demonstrates the overall compliance with the UDO and this PDP follows the standards of the CDP. The PD District, Comprehensive Long-Range Plan (CLRP) and the CDP all encourage a traditional mixed-use development that reflects the standards of the existing area that surrounds the phase of development described in the PDP. The PDP submitted meets these goals.

- (2) The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;

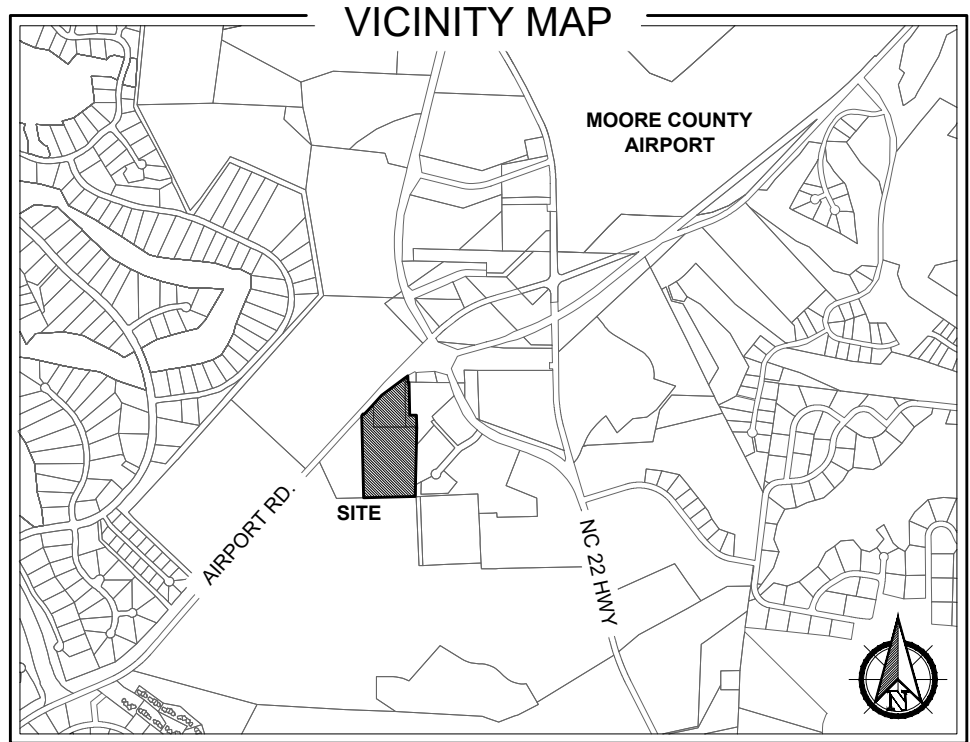
The PDP is consistent with and meets all standards and requirements provided in the CDP plans and conforms to the standards of the UDO. The mixed-use development proposed with Phase 2 is consistent with the Conceptual Land Use Plan shown on Sheet L 1.1 of the CDP master plan. Any future uses must comply with the list of uses that were approved with the CDP.

- (3) The proposed Development is located in an area of the Town that is appropriate; and

The PDP is consistent with the CDP and the surrounding community which includes a mixed-use building (office, medical office, and restaurant), hardware supply store, multi-family apartment, and child day care center. The CLRP, which takes into account surrounding land uses, designates this property as traditional mixed-use. The development of the commercial, retail, and office space included in the PDP is consistent with the surrounding land uses and appropriate for this area. With the development standards set forth in the UDO and CDP, the PDP will be compatible with the surrounding neighborhoods and land uses.

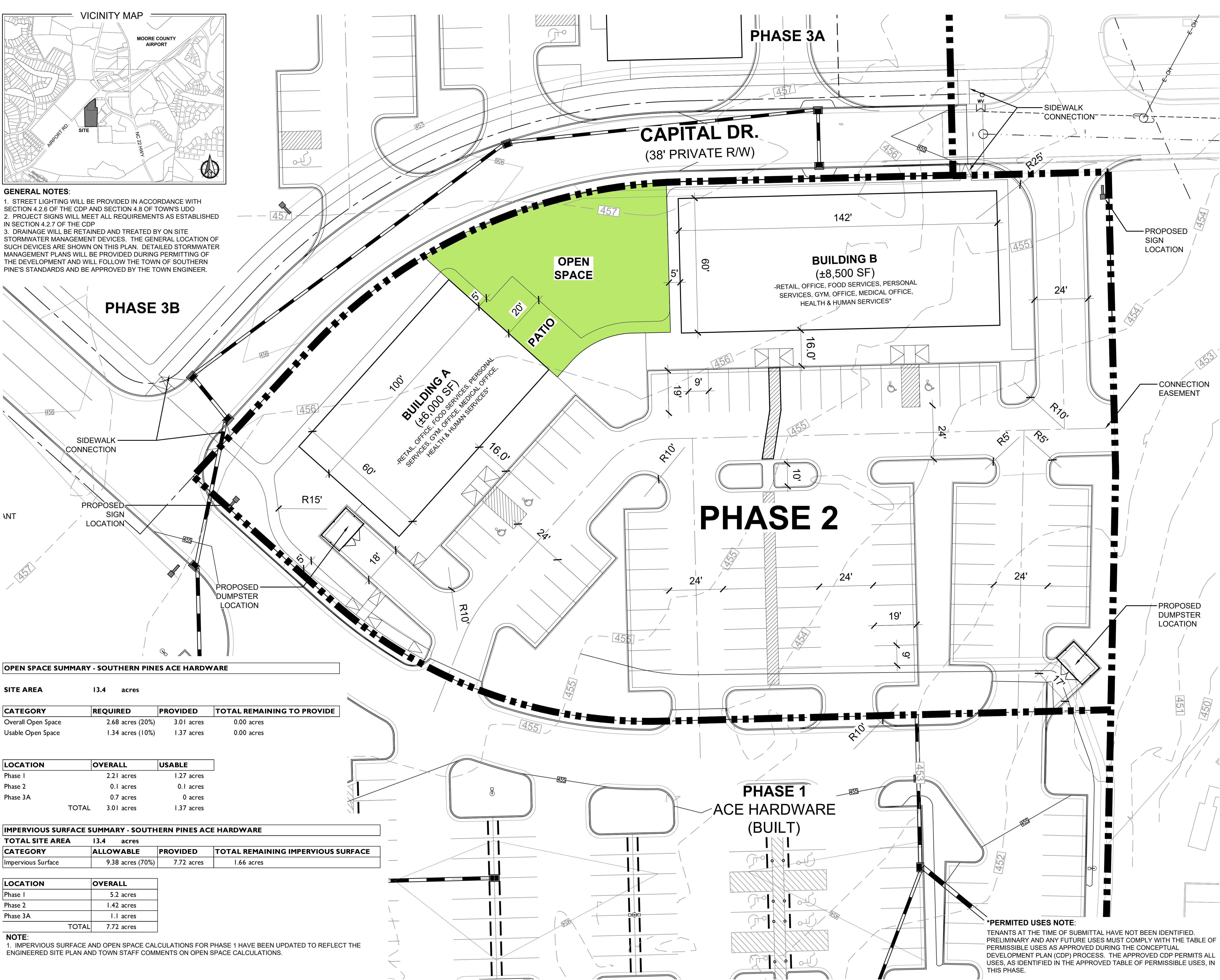
- (4) The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services

Water and sewer utilities are readily available for the project. Water and sewer utilities are located in Captial Drive, Olivetree Lane, and Airport Road. Capital Drive was extended to Airport Rd during Phase 1 of the project and included utility extensions that will serve Phase 2. Stormwater management devices will be provided as necessary and required to control stormwater runoff for the property. Stormwater will be piped to the stormwater management device that was built with Phase 1. Detailed plans and calculations will be provided during the detailed site engineering process.



- GENERAL NOTES:**
1. STREET LIGHTING WILL BE PROVIDED IN ACCORDANCE WITH SECTION 4.2.6 OF THE CDP AND SECTION 4.8 OF TOWN'S UDO
 2. PROJECT SIGNS WILL MEET ALL REQUIREMENTS AS ESTABLISHED IN SECTION 4.2.7 OF THE CDP
 3. DRAINAGE WILL BE RETAINED AND TREATED BY ON SITE STORMWATER MANAGEMENT DEVICES. THE GENERAL LOCATION OF SUCH DEVICES ARE SHOWN ON THIS PLAN. DETAILED STORMWATER MANAGEMENT PLANS WILL BE PROVIDED DURING PERMITTING OF THE DEVELOPMENT AND WILL FOLLOW THE TOWN OF SOUTHERN PINE'S STANDARDS AND BE APPROVED BY THE TOWN ENGINEER.

PHASE 3B



OPEN SPACE SUMMARY - SOUTHERN PINES ACE HARDWARE

SITE AREA 13.4 acres

CATEGORY	REQUIRED	PROVIDED	TOTAL REMAINING TO PROVIDE
Overall Open Space	2.68 acres (20%)	3.01 acres	0.00 acres
Usable Open Space	1.34 acres (10%)	1.37 acres	0.00 acres

LOCATION	OVERALL	USABLE
Phase 1	2.21 acres	1.27 acres
Phase 2	0.1 acres	0.1 acres
Phase 3A	0.7 acres	0 acres
TOTAL	3.01 acres	1.37 acres

IMPERVIOUS SURFACE SUMMARY - SOUTHERN PINES ACE HARDWARE

TOTAL SITE AREA		13.4 acres	
CATEGORY	ALLOWABLE	PROVIDED	TOTAL REMAINING IMPERVIOUS SURFACE
Impervious Surface	9.38 acres (70%)	7.72 acres	1.66 acres

LOCATION	OVERALL
Phase 1	5.2 acres
Phase 2	1.42 acres
Phase 3A	1.1 acres
TOTAL	7.72 acres

NOTE:

1. IMPERVIOUS SURFACE AND OPEN SPACE CALCULATIONS FOR PHASE 1 HAVE BEEN UPDATED TO REFLECT THE ENGINEERED SITE PLAN AND TOWN STAFF COMMENTS ON OPEN SPACE CALCULATIONS.

LEGEND

- — — — — = PROPERTY BOUNDARY
- - - - - = EXISTING CONTOUR
- - - - - = EXISTING WATERLINE
- - - - - = EXISTING SEWER LINE
- = PROPOSED OPEN SPACE
- = PROPOSED USEABLE OPEN SPACE

ZONING INFORMATION

ZONING CLASSIFICATION:
(PD) PLANNED DEVELOPMENT
(WITH AN APPROVED CDP)

EXISTING SETBACKS (PD):
FRONT: NA
INTERIOR SIDE: NA
EXTERIOR SIDE: NA
REAR: NA

PROPERTY INFORMATION

PROPERTY OWNER:
SOUTHERN PINES ACE LAND COMPANY, LLC
215 CAPITAL DRIVE
CARTHAGE, NC 28327

APPLICANT:
RHETSON COMPANIES, INC
2075 JUNIPER LAKE RD. WEST END, NC 27376

TOTAL ACREAGE (PHASE 2): ±1.87 AC
TOTAL IMPERVIOUS SURFACE (PHASE 2): ±1.42
TOTAL OPEN SPACE (PHASE 2): ±0.10 AC
TOTAL USABLE OPEN SPACE: ±0.10 AC

REQUIRED PARKING (PHASE 2):
BUILDING A:
1,000 SF RETAIL (1/200 SF); 5 SPACES
5,000 SF RESTAURANT (1/100SF); 50 SPACES
BUILDING B:
8,500 SF OFFICE (1/300) SF; 29 SPACES
TOTAL: 84 SPACES
PROVIDED PARKING (PHASE 2): 86 SPACES

WATERSHED INFORMATION

WATERSHED 1:
BASIN: CAPE FEAR
STREAM: LITTLE RIVER (INTAKE NO. 2)
TYPE: WS-IIIP

THIS PROPERTY IS IN A HIGH QUALITY WATERSHED

FLOODPLAIN DATA

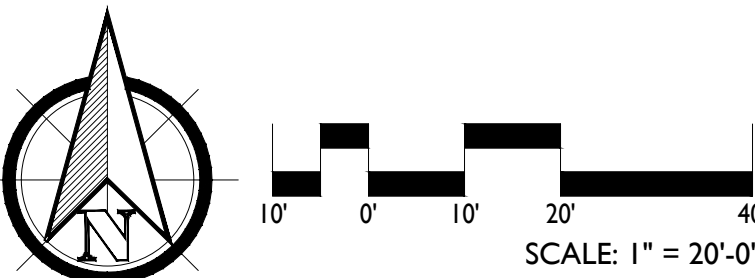
THIS PROPERTY IS LOCATED IN FLOOD ZONE 'X'
(AREAS OF MINIMAL FLOODING)

THE LOCATION OF THE 100-YEAR FLOODPLAIN PER
NFIP FIRM COMMUNITY
PANEL(S) NO: 8573
MAP(S): 3710857300J
DATE: OCTOBER 17, 2006

CAUTION

THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT DEPICTED ON THESE PLANS. THE LANDSCAPE ARCHITECT AND ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATIONS OF ALL UTILITIES WITHIN THE PROJECT LIMITS. ALL DAMAGE MADE TO THE EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY BY THE CONTRACTOR.

***PERMITTED USES NOTE:**
TENANTS AT THE TIME OF SUBMITTAL HAVE NOT BEEN IDENTIFIED. PRELIMINARY AND ANY FUTURE USES MUST COMPLY WITH THE TABLE OF PERMISSIBLE USES AS APPROVED DURING THE CONCEPTUAL DEVELOPMENT PLAN (CDP) PROCESS. THE APPROVED CDP PERMITS ALL USES, AS IDENTIFIED IN THE APPROVED TABLE OF PERMISSIBLE USES, IN THIS PHASE.



REVISIONS:

June 21, 2024

DRMP Job #:24507

James Michel, PE, MBA
Town Engineer/Asst. Public Works Director
Town of Southern Pines
801 SE Service Road
Southern Pines, NC 28387
E: JMichel@southernpines.net

Subject: Traffic Assessment for Phases 2 and 3
Ace Hardware Development – Southern Pines

Dear Mr. Michel:

This letter provides a Traffic Assessment for Phase 2 and Phase 3 of the Ace Hardware Development located at Airport Road and NC 22 (Central Drive) in Southern Pines. Phase 2 and Phase 3 are part of the overall Ace Hardware development that has an approved Concept Development Plan (CDP). Phase 2 is the parcel immediately north of the existing Ace Hardware store and is proposed to include two buildings with a total of approximately 12,650 s.f. of space. Phase 3 is the parcel adjacent to Airport Road and is proposed to include an ABC store along with a Food Truck area. The ABC store (Phase 3A) includes 10,000 s.f. of retail/office space and 10,000 s.f. of warehouse space.

A Traffic Impact Analysis (TIA) for the overall development (named Southern Pines Retail) was prepared in February 2022. The TIA assumed the overall development would include a 53,271 s.f. Ace Hardware store, 45,300 s.f. of retail space, and a 4,800 s.f. fast-food restaurant with drive-through. This TIA was reviewed by NCDOT and required transportation improvements were identified for the overall development in the April 11, 2022 letter (see attached). These improvements are required based on the TIA that was prepared for the overall development.

A TIA Addendum was prepared in June 2022 as part of the PDP process for the Ace Hardware store (phase 1). The TIA Addendum was prepared to better identify and isolate traffic impacts associated with the Ace Hardware store to determine what improvements should be required of this phase of development. The TIA Addendum included less density for other parcels within this development to help identify impacts specifically of the Ace Hardware store, while still accounting for future development of other parcels. Since the TIA Addendum was completed specifically for the Ace

Hardware store approval (phase 1), the overall TIA for the development is the approved traffic study for the Concept Development Plan (CDP) with improvements required of the overall development.

Site Trip Generation

Average weekday daily, AM peak hour, and PM peak hour trips for the current development plan were estimated using methodology contained within the ITE *Trip Generation Manual*, 11th Edition. Table 1 provides a summary of the trip generation for the current development plan. The trip generation includes the already approved and constructed Ace Hardware store since it is part of the overall development and is needed to accurately calculate internal capture trips. Phase 1 is shown in blue, phase 2 uses in orange, and phase 3 uses in green in Table 1.

Table 1: Trip Generation Summary – Overall Ace Hardware Development

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
Hardware Store (816)	58,182 s.f.	470	42	39	31	33
Liquor Store (899)	5,000 s.f.	726	13	13	47	47
General Office (710)	5,000 s.f.	86	11	2	2	12
Warehousing (150)	10,000 s.f.	54	19	6	8	20
Retail (<40 KSF) (822)	10,510 s.f.	674	18	12	40	41
Fast-Food Restaurant w/ Drive-Thru (934)	2,140 s.f.	1,000	49	46	37	34
Total Trips		3,010	152	118	165	187
<i>Internal Capture (12% AM & 16% PM)</i>			-19	-15	-26	-30
Total External Trips			133	103	139	157
<i>Pass-By Trips: Hardware Store (26% PM)</i>			--	--	-7	-7
<i>Pass-By Trips: Retail (29% PM)</i>			--	--	-10	-10
<i>Pass-By Trips: Fast-Food Restaurant w/ Drive-Thru (50% AM, 55% PM)</i>			-21	-21	-16	-16
Total Primary Trips			112	82	106	124

Internal capture trips were calculated for the overall development based on the NCHRP Report 684. In addition, pass-by trips were calculated for the appropriate land uses based on pass-by percentages

from ITE. After reductions for internal capture and pass-by trips, the proposed development plan will generate approximately 194 new weekday AM peak hour trips (112 entering and 82 exiting), and 230 new weekday PM peak hour trips (106 entering and 124 exiting).

Trip generation used in the original TIA report for the development was higher than the total trip generation for the current development plan. The original TIA report included trip generation for more retail density than is currently proposed with Phases 2 and 3. Table 2 provides a comparison of the trip generation for the current proposed development plan and the trip generation used in the TIA report.

**Table 2: Trip Generation Comparison
Current Proposed Development Plan vs. TIA**

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
Ace Hardware Development Plan (Full Build Out)						
Total Primary Trips		3,010	112	82	106	124
TIA Development Plan (from February 2022 TIA)						
Total Primary Trips		6,260	177	130	125	131
DIFFERENCE		-3,250	-65	-48	-19	-7

As shown in Table 2, the current development plan will generate over 3,200 fewer daily trips, approximately 113 fewer AM peak hour trips, and approximately 26 fewer PM peak hour trips than was assumed in the original TIA report. All improvements required for the development (in the NCDOT TIA approval letter) were based on the higher trip generation in the TIA report. The overall impact of development trips will be less than assumed in the original TIA report.

Summary

The proposed plans for Phase 2 and Phase 3 of the Ace Hardware development will result in a lower trip generation in the overall development than was shown in the previous TIA report prepared for the overall development. Since the trip generation is lower for the overall development with the current proposed plans for Phase 2 and Phase 3, an additional traffic study is not necessary.



Improvements identified as part of the TIA review are required of the development and would be expected as part of completion of the overall development.

If you should have any questions or comments regarding this letter, please feel free to contact me at rstephenson@drmp.com or by phone at 919-872-5115.

Sincerely,

A handwritten signature in black ink, appearing to read "Rynal Stephenson".

Rynal Stephenson, P.E.
Chief Traffic Analysis Engineer
DRMP, Inc.

Corporate License #F-1524



Attachments: NCHRP Internal Capture Tables

TIA Trip Generation Table

NCDOT TIA Review Letter (April 11, 2022)

Concept Development Plan for Overall Development

Phases 2 and 3 Preliminary Development Plans

cc: DeAngelo Jones (NCDOT)
Bob Koontz, PLA, Koontz Jones Design
Dagoberto Juarez Pozos, PE (NCDOT)
Nicholas Lineberger, PE (NCDOT Congestion Management)

NCHRP 684 Internal Trip Capture Estimation Tool					
Project Name:	Southern Pines Retail		Organization:	DRMP	
Project Location:	Southern Pines, NC		Performed By:	RS	
Scenario Description:			Date:	6/20/2024	
Analysis Year:	Buildout		Checked By:		
Analysis Period:	AM Street Peak Hour		Date:		

Table 1-A: Base Vehicle-Trip Generation Estimates (Single-Use Site Estimate)						
Land Use	Development Data (For Information Only)			Estimated Vehicle-Trips ³		
	ITE LUCs ¹	Quantity	Units	Total	Entering	Exiting
Office				0		
Retail	816/822/899	182 , 10,510, 50	sq. ft.	137	73	64
Restaurant	934	2,140	sq. ft.	95	49	46
Cinema/Entertainment				0		
Residential				0		
Hotel				0		
All Other Land Uses ²				0		
				232	122	110

Table 2-A: Mode Split and Vehicle Occupancy Estimates						
Land Use	Entering Trips			Exiting Trips		
	Veh. Occ. ⁴	% Transit	% Non-Motorized	Veh. Occ. ⁴	% Transit	% Non-Motorized
Office	1.10	0%	0%	1.10	0%	0%
Retail	1.10	0%	0%	1.10	0%	0%
Restaurant	1.10	0%	0%	1.10	0%	0%
Cinema/Entertainment	1.10	0%	0%	1.10	0%	0%
Residential	1.10	0%	0%	1.10	0%	0%
Hotel	1.10	0%	0%	1.10	0%	0%
All Other Land Uses ²	1.10	0%	0%	1.10	0%	0%

Table 3-A: Average Land Use Interchange Distances (Feet Walking Distance)						
Origin (From)	Destination (To)					
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel
Office						
Retail						
Restaurant						
Cinema/Entertainment						
Residential						
Hotel						

Table 4-A: Internal Person-Trip Origin-Destination Matrix*						
Origin (From)	Destination (To)					
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel
Office		0	0	0	0	0
Retail	0		9	0	0	0
Restaurant	0	6		0	0	0
Cinema/Entertainment	0	0	0		0	0
Residential	0	0	0	0		0
Hotel	0	0	0	0	0	

Table 5-A: Computations Summary			
	Total	Entering	Exiting
All Person-Trips	255	134	121
Internal Capture Percentage	12%	11%	12%
External Vehicle-Trips ⁵	204	108	96
External Transit-Trips ⁶	0	0	0
External Non-Motorized Trips ⁶	0	0	0

Table 6-A: Internal Trip Capture Percentages by Land Use		
Land Use	Entering Trips	Exiting Trips
Office	N/A	N/A
Retail	8%	13%
Restaurant	17%	12%
Cinema/Entertainment	N/A	N/A
Residential	N/A	N/A
Hotel	N/A	N/A

¹Land Use Codes (LUCs) from *Trip Generation Manual* , published by the Institute of Transportation Engineers.

²Total estimate for all other land uses at mixed-use development site is not subject to internal trip capture computations in this estimator.

³Enter trips assuming no transit or non-motorized trips (as assumed in ITE *Trip Generation Manual*).

⁴Enter vehicle occupancy assumed in Table 1-A vehicle trips. If vehicle occupancy changes for proposed mixed-use project, manual adjustments must be made to Tables 5-A, 9-A (O and D). Enter transit, non-motorized percentages that will result with proposed mixed-use project complete.

⁵Vehicle-trips computed using the mode split and vehicle occupancy values provided in Table 2-A.

⁶Person-Trips

*Indicates computation that has been rounded to the nearest whole number.

Estimation Tool Developed by the Texas A&M Transportation Institute - Version 2013.1

NCHRP 684 Internal Trip Capture Estimation Tool					
Project Name:	Southern Pines Retail			Organization:	DRMP
Project Location:	Southern Pines, NC			Performed By:	RS
Scenario Description:				Date:	6/20/2024
Analysis Year:	Buildout			Checked By:	
Analysis Period:	PM Street Peak Hour			Date:	

Table 1-P: Base Vehicle-Trip Generation Estimates (Single-Use Site Estimate)						
Land Use	Development Data (<i>For Information Only</i>)			Estimated Vehicle-Trips ³		
	ITE LUCs ¹	Quantity	Units	Total	Entering	Exiting
Office				0		
Retail	816/822/899	182 , 10,510, 50	sq. ft.	239	118	121
Restaurant	934	2,140	sq. ft.	71	37	34
Cinema/Entertainment				0		
Residential				0		
Hotel				0		
All Other Land Uses ²				0		
				310	155	155

Table 2-P: Mode Split and Vehicle Occupancy Estimates						
Land Use	Entering Trips			Exiting Trips		
	Veh. Occ. ⁴	% Transit	% Non-Motorized	Veh. Occ. ⁴	% Transit	% Non-Motorized
Office	1.10	0%	0%	1.10	0%	0%
Retail	1.10	0%	0%	1.10	0%	0%
Restaurant	1.10	0%	0%	1.10	0%	0%
Cinema/Entertainment	1.10	0%	0%	1.10	0%	0%
Residential	1.10	0%	0%	1.10	0%	0%
Hotel	1.10	0%	0%	1.10	0%	0%
All Other Land Uses ²	1.10	0%	0%	1.10	0%	0%

Table 3-P: Average Land Use Interchange Distances (Feet Walking Distance)						
Origin (From)	Destination (To)					
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel
Office		4000	4000		4000	
Retail					4000	
Restaurant					4000	
Cinema/Entertainment					4000	
Residential		4000	4000			
Hotel					4000	

Table 4-P: Internal Person-Trip Origin-Destination Matrix*						
Origin (From)	Destination (To)					
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel
Office		0	0	0	0	0
Retail	0		12	0	0	0
Restaurant	0	15		0	0	0
Cinema/Entertainment	0	0	0		0	0
Residential	0	0	0	0		0
Hotel	0	0	0	0	0	

Table 5-P: Computations Summary			
	Total	Entering	Exiting
All Person-Trips	341	171	170
Internal Capture Percentage	16%	16%	16%
External Vehicle-Trips ⁵	261	131	130
External Transit-Trips ⁶	0	0	0
External Non-Motorized Trips ⁶	0	0	0

Table 6-P: Internal Trip Capture Percentages by Land Use		
Land Use	Entering Trips	Exiting Trips
Office	N/A	N/A
Retail	12%	9%
Restaurant	29%	41%
Cinema/Entertainment	N/A	N/A
Residential	N/A	N/A
Hotel	N/A	N/A

¹ Land Use Codes (LUCs) from <i>Trip Generation Manual</i> , published by the Institute of Transportation Engineers.
² Total estimate for all other land uses at mixed-use development site is not subject to internal trip capture computations in this estimator.
³ Enter trips assuming no transit or non-motorized trips (as assumed in ITE <i>Trip Generation Manual</i>).
⁴ Enter vehicle occupancy assumed in Table 1-P vehicle trips. If vehicle occupancy changes for proposed mixed-use project, manual adjustments must be
⁵ Vehicle-trips computed using the mode split and vehicle occupancy values provided in Table 2-P.
⁶ Person-Trips
*Indicates computation that has been rounded to the nearest whole number.
Estimation Tool Developed by the Texas A&M Transportation Institute - Version 2013.1

4. SITE TRIP GENERATION AND DISTRIBUTION

4.1. Trip Generation

The proposed development is expected to consist of a 53,271 sq. ft. hardware store, 45,300 sq. ft. of general retail, and a 4,800 sq. ft. fast-food restaurant with drive-thru. Average weekday daily, AM peak hour, and PM peak hour trips for the proposed development were estimated using methodology contained within the ITE *Trip Generation Manual*, 10th Edition. Table 3 provides a summary of the trip generation potential for the site.

Table 3: Trip Generation Summary

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
Hardware Store (816)	53,271 sq. ft.	490	37	35	30	30
Shopping Center (820)	45,300 sq. ft.	3,510	108	66	145	157
Fast-Food Restaurant w/ Drive-Thru (934)	4,800 sq. ft.	2,260	98	95	82	75
Total Trips		6,260	243	196	257	262
<i>Internal Capture (11% AM & 21% PM)*</i>			-24	-24	-55	-54
Total External Trips			219	172	202	208
<i>Pass-By Trips: Hardware Store (49% AM, 50% PM)</i>			--	--	-6	-6
<i>Pass-By Trips: Shopping Center (43% PM)</i>			--	--	-40	-40
<i>Pass-By Trips: Fast-Food Restaurant w/ Drive-Thru (36% PM)</i>			-42	-42	-31	-31
Total Primary Trips			177	130	125	131

*Utilizing methodology contained in the NCHRP Report 684.

It is estimated that the proposed development will generate approximately 6,260 total site trips on the roadway network during a typical 24-hour weekday period. Of the daily traffic volume, it is anticipated that 439 trips (243 entering and 196 exiting) will occur during the



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

April 11, 2022

Nate Bouquin, P.E.
Ramey Kemp and Associates, Inc.
5808 Faringdon Place, Suite 100
Raleigh, NC 27609

SUBJECT: Traffic Impact Analysis
Southern Pines Retail, Moore County

Dear Mr. Bouquin,

Thank you for submitting the Traffic Impact Analysis for the subject development. The preliminary site plan and traffic impact analysis have been reviewed by District, Division, and Congestion Management staff in accordance with the Policy on Street and Driveway Access to North Carolina Highways. We have the following comments for the subject access permit.

Airport Road and Site Drive 1

- Construct the northbound approach with one (1) ingress lane and two (2) egress lanes, striped as exclusive right turn and left turn lanes as well as provide a minimum of 100 feet of internal protected stem.
- Construct an eastbound right-turn lane with 100 feet of storage and appropriate taper.
- Construct a westbound left turn lane with 150 feet of storage and appropriate taper.

Airport Road and NC 22 Roundabout

- Construct an exclusive eastbound right-turn slip lane with a minimum of 150 feet of storage and appropriate taper.

NC 22 and Olive Tree Lane

- Monitor intersection for future eastbound congestion movements and convert entrance to a right in-right out once warranted by NCDOT.

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DISTRICT 2, DIVISION 8
902 NORTH SANDHILLS BLVD.
ABERDEEN, NC 28315

Telephone: (910) 944-7621
Fax: (910) 944-5623
Customer Service: 1-877-368-4968

Website: www.ncdot.gov

Location:
902 NORTH SANDHILLS BLVD.
ABERDEEN, NC 28315

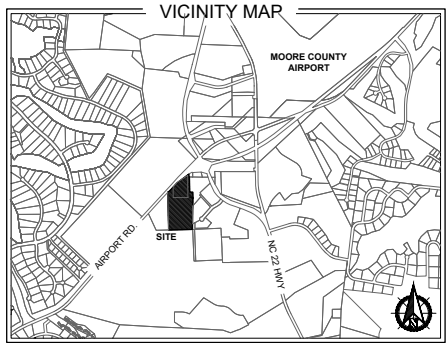
Please incorporate the above comments into your planning. When the above comments have been addressed, please submit site plans along with applicable permits to this office for review. If further information is needed, please advise.

Sincerely,

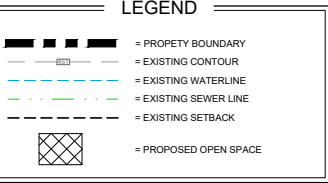
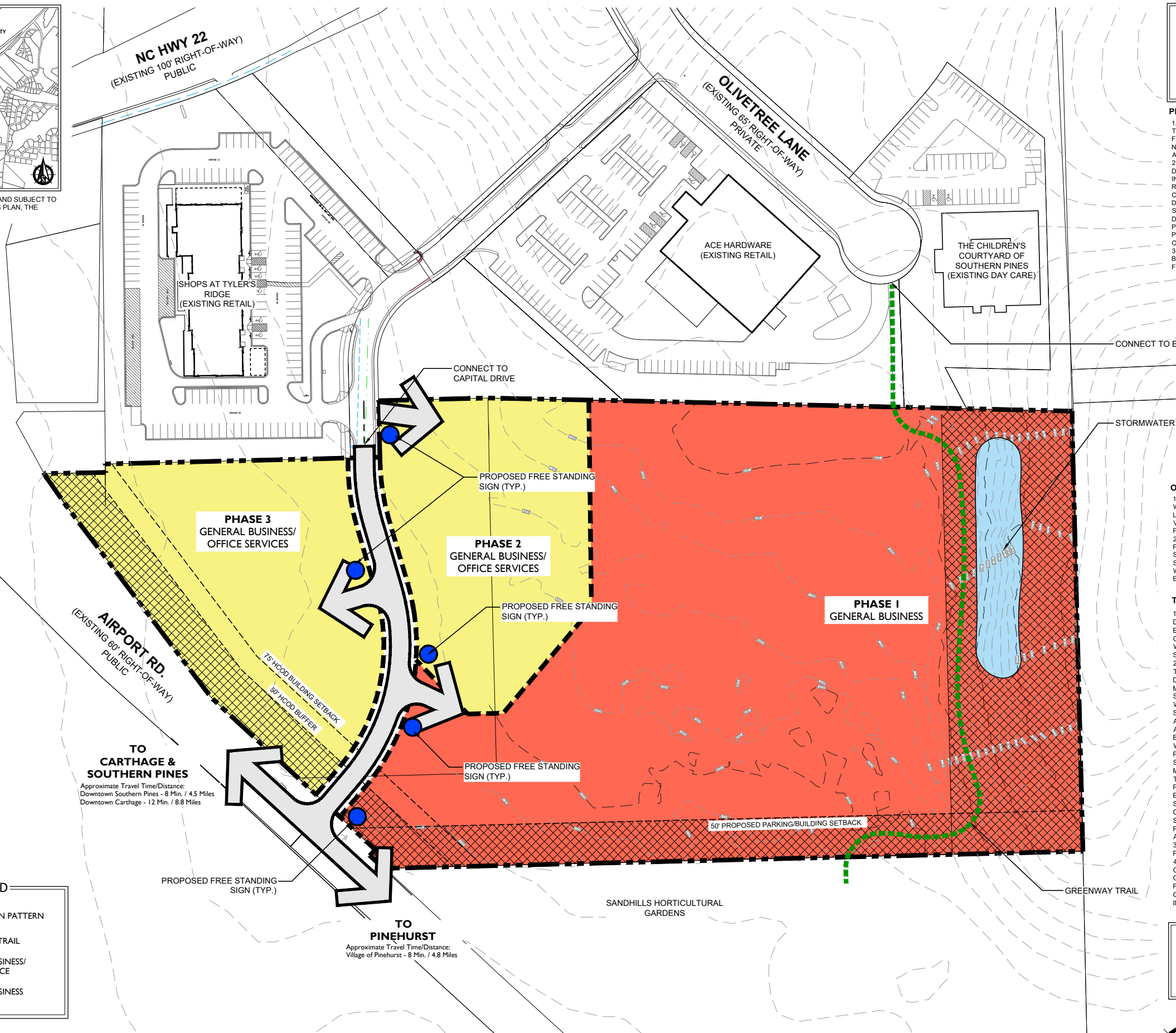
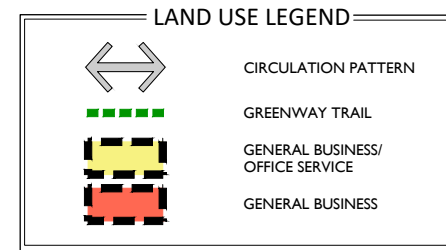
A handwritten signature in black ink, appearing to read 'Matthew Kitchen', written in a cursive style.

Matthew Kitchen, PE
District Engineer

CC: Patrick Norman, PE
John Grant, PE
David Willett
Josh Brooks, PE
File



* THIS PLAN IS FOR CONCEPTUAL PURPOSES ONLY AND SUBJECT TO CHANGE. THE PROPERTY OWNER MAY MODIFY THIS PLAN, THE ILLUSTRATED USES AND ANY PHASING.



PHASING PLAN NOTES:

1. DUE TO THE UNCERTAINTY OF ECONOMIC FACTORS THAT INFLUENCE LAND DEVELOPMENT, SOME FLEXIBILITY IN THE SEQUENCING OF PHASES IS NECESSARY AND IS TO BE BASED ON MARKET DEMANDS AND NECESSARY INFRASTRUCTURE IMPROVEMENTS.
2. RATHER THAN TYING THE PHASING TO SPECIFIC DATES AND SEQUENCING, PHASING IS TIED TO REQUIRED INFRASTRUCTURE IMPROVEMENTS INCLUDING ROADWAY, WATER LINE, AND SEWER LINE CONSTRUCTION ADEQUATE TO SERVE THE PHASE TO BE DEVELOPED. PHASES ARE NOT REQUIRED TO DEVELOP SEQUENTIALLY WITHIN THIS PLAN BUT COULD NOT DEVELOP UNTIL THE ADEQUATE INFRASTRUCTURE IS PROVIDED TO ACCOMMODATE THE PROPOSED PHASE. PHASES MAY ALSO BE DEVELOPED AND COMBINED WITH OTHER PHASES AND SUBPHASES.
3. PHASING AND REQUIREMENTS FOR EACH PHASE WILL BE REVIEWED AT SUCH TIME AS A PDP IS SUBMITTED FOR AN INDIVIDUAL PHASE.

OPEN SPACE NOTES:

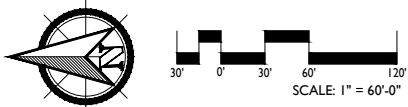
1. THE GENERAL LOCATION OF OPEN SPACES AND WATER BODIES IS SHOWN ON SHEET L-1.1. THESE LOCATIONS ARE CONCEPTUAL IN NATURE AND MAY VARY IN SIZE AND LOCATION DURING THE DETAILED SITE PLAN PROCESS.
2. A MINIMUM OF 20% OF TOTAL OPEN SPACE SHALL BE PROVIDED. A MINIMUM 10% OF THE PROVIDED OPEN SPACE SHALL BE USABLE OPEN SPACE AS DESCRIBED IN SECTION 3.5.14 OF THE UDO. A RUNNING TABULATION WILL BE PROVIDED DURING THE PDP PROCESS FOR EACH INDIVIDUAL PHASE.

TRANSPORTATION PLAN NOTES:

1. ALL STREETS AND PARKING AREAS WILL BE DESIGNED TO MEET THE TOWN OF SOUTHERN PINES ENGINEERING STANDARDS OR ADDITIONAL GEOTECHNICAL ENGINEERING RECOMMENDATIONS WILL BE PROVIDED AS AN ALTERNATIVE BASED ON THE SPECIFIC SOIL CONDITIONS ON THE PROPERTY
2. STORMWATER MANAGEMENT FOR THE TRANSPORTATION FACILITIES AND FUTURE DEVELOPMENT WILL BE PROVIDED USING BEST MANAGEMENT PRACTICES, IN REGIONAL STORMWATER DETENTION FACILITIES. FACILITIES WILL BE LOCATED IN THE GENERAL LOCATIONS SHOWN ON THE CONCEPTUAL DEVELOPMENT PLAN. AS ILLUSTRATED ON THIS SHEET, THE DRAINAGE FLOW ARROWS DESIGNATE THE GENERAL FLOW OF WATER BASED ON THE EXISTING TOPOGRAPHY. DRAINAGE WILL FLOW TOWARDS THE GENERAL AREA WHERE THE PROPOSED STORMWATER MANAGEMENT DEVICE IS SHOWN. THE LOCATION OF STORMWATER MANAGEMENT DEVICES ARE SUBJECT TO CHANGE THROUGHOUT THE CONTINUED DEVELOPMENT OF THE PROPERTY BASED ON DETAILED ENGINEERING PLANS. EACH INDIVIDUAL SITE MAY ALSO ELECT TO PROVIDE STORMWATER ON-SITE DEPENDING UPON THE SITE CONDITIONS AND ENGINEERING STANDARDS. STORMWATER MUST BE MAINTAINED ON THE OVERALL PROPERTY TO MEET THE TOWN OF SOUTHERN PINES AND ALL STATE AND FEDERAL STANDARDS.
3. NO ENDANGERED SPECIES ARE LOCATED ON THE PROPERTY.
4. TRAVEL DISTANCES & TIMES WERE OBTAINED FROM GOOGLE MAPS AND REFLECT TYPICAL DRIVING TIMES OBSERVED FROM 9-5 PM. TRAVEL TIMES MAY FLUCTUATE BASED ON TIME, WEATHER, CONSTRUCTION, TRAFFIC ACCIDENTS, AND INCREASES IN TRAFFIC DUE TO HOLIDAYS AND SPECIAL EVENTS.

CAUTION

THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT DEPICTED ON THESE PLANS. THE LANDSCAPE ARCHITECT AND ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATIONS OF ALL UTILITIES WITHIN THE PROJECT LIMITS. ALL DAMAGE MADE TO THE EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY BY THE CONTRACTOR.



PRELIMINARY PLANS - NOT RELEASED FOR CONSTRUCTION (FOR REVIEW ONLY)

KOONTZJONESDesign
LAND PLANNING | LANDSCAPE ARCHITECTURE

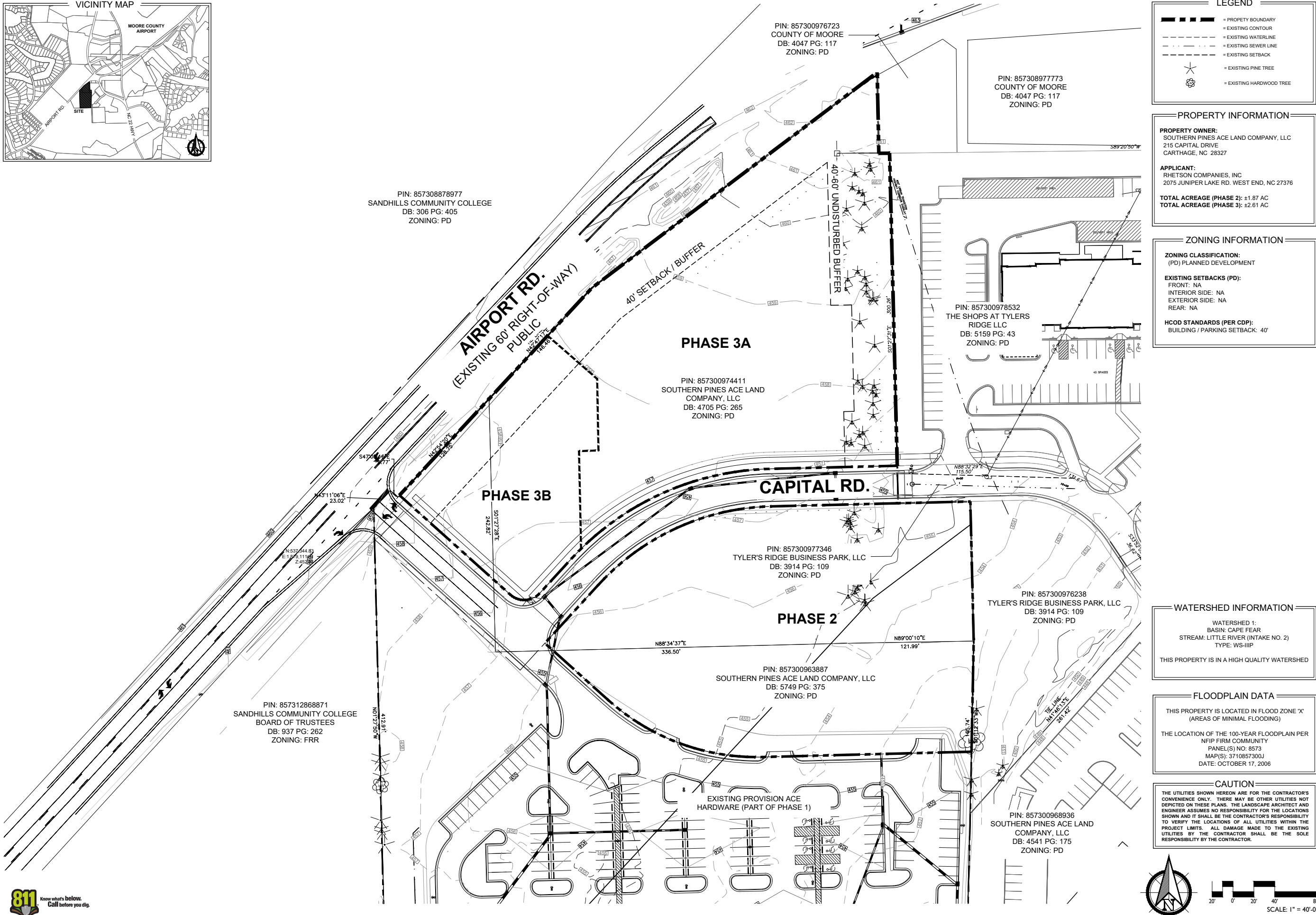
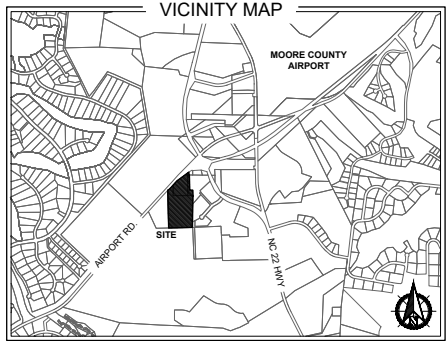
150 S PAGE STREET
SOUTHERN PINES, NC 28387
P: (910) 684-9487
W: www.koontzjonesdesign.com

REVISIONS:

SOUTHERN PINES ACE HARDWARE
CONCEPTUAL DEVELOPMENT PLAN
SOUTHERN PINES, NORTH CAROLINA

CONCEPTUAL LAND USE PLAN / TRANSPORTATION PLAN

DATE: 04-05-2022
DESIGNED BY: JCK
DRAWN BY: PJS
CHECKED BY: REK
Q.C. BY: REK
PROJECT #: 60'-0"
SHEET NUMBER:
L-1.1



LEGEND

- — — — — = PROPERTY BOUNDARY
- - - - - = EXISTING CONTOUR
- - - - - = EXISTING WATERLINE
- - - - - = EXISTING SEWER LINE
- - - - - = EXISTING SETBACK
- * = EXISTING PINE TREE
- ⊗ = EXISTING HARDWOOD TREE

PROPERTY INFORMATION

PROPERTY OWNER:
SOUTHERN PINES ACE LAND COMPANY, LLC
215 CAPITAL DRIVE
CARTHAGE, NC 28327

APPLICANT:
RHETSON COMPANIES, INC
2075 JUNIPER LAKE RD. WEST END, NC 27376

TOTAL ACREAGE (PHASE 2): ±1.87 AC
TOTAL ACREAGE (PHASE 3): ±2.61 AC

ZONING INFORMATION

ZONING CLASSIFICATION:
(PD) PLANNED DEVELOPMENT

EXISTING SETBACKS (PD):
FRONT: NA
INTERIOR SIDE: NA
EXTERIOR SIDE: NA
REAR: NA

HCOD STANDARDS (PER CDP):
BUILDING / PARKING SETBACK: 40'

WATERSHED INFORMATION

WATERSHED 1:
BASIN: CAPE FEAR
STREAM: LITTLE RIVER (INTAKE NO. 2)
TYPE: WS-IIIIP

THIS PROPERTY IS IN A HIGH QUALITY WATERSHED

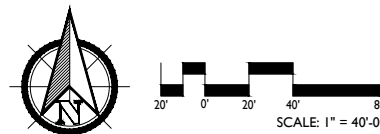
FLOODPLAIN DATA

THIS PROPERTY IS LOCATED IN FLOOD ZONE 'X'
(AREAS OF MINIMAL FLOODING)

THE LOCATION OF THE 100-YEAR FLOODPLAIN PER
NFIP FIRM COMMUNITY
PANEL(S) NO: 8573
MAP(S): 3710857300J
DATE: OCTOBER 17, 2006

CAUTION

THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S
CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT
DEPICTED ON THESE PLANS. THE LANDSCAPE ARCHITECT AND
ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS
SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY
TO VERIFY THE LOCATIONS OF ALL UTILITIES WITHIN THE
PROJECT LIMITS. ALL DAMAGE MADE TO THE EXISTING
UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE
RESPONSIBILITY BY THE CONTRACTOR.



PRELIMINARY PLANS - NOT RELEASED FOR CONSTRUCTION (FOR REVIEW ONLY)

REVISIONS:

ACE HARDWARE - PHASES 2 & 3
PRELIMINARY DEVELOPMENT PLAN
SOUTHERN PINES, NORTH CAROLINA
EXISTING CONDITIONS

DATE: 04-05-2024
DESIGNED BY: JPK
DRAWN BY: PJS
CHECKED BY: REK
Q.C. BY: REK
PROJECT # 40-0"
SHEET NUMBER:
L-1.0

















21'-4"

PURCHASE AND SALE AGREEMENT

For valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Buyer offers to purchase and Seller upon acceptance agrees to sell and convey the Property on the terms and conditions of this Purchase and Sale Agreement and any addendum or modification made in accordance with its terms (collectively, the "Contract").

1. TERMS AND DEFINITIONS: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "Seller": Tyler's Ridge Business Park, LLC, 35 Martin Drive, Whispering Pines, North Carolina 28327

JBO (b) "Buyer": Southern Pine ACE Land, LLC 215 Capital Drive, Carthage, North Carolina 28327.

(c) "Property": 3.812 acres as shown on plat recorded in Plat Cabinet 19, Slide 193, Moore County Registry (the Property shall include all that real estate described thereon together with all appurtenances thereto including the improvements located thereon).

(d) "Purchase Price":

\$700,000.00

paid in U.S. Dollars upon the following terms:

BY EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by personal check within five (5) days of the Effective Date of this Contract.

BALANCE of the Purchase Price in cash at Settlement (some or all of which may be paid with the proceeds of a new loan)

JBO Should Buyer fail to deliver the Earnest Money Deposit by its due date, or should any check or other funds paid by Buyer be dishonored, for any reason, by the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice to deliver cash, official bank check, wire transfer or electronic transfer to the payee. In the event Buyer does not timely deliver the required funds, Seller shall have the right to terminate this Contract upon written notice to Buyer.

(e) "Earnest Money Deposit": The Earnest Money Deposit shall be deposited and held in escrow by Escrow Agent until Closing, at which time it will be credited to Buyer, or until this Contract is otherwise terminated. In the event: (1) this offer is not accepted; or (2) a condition of any resulting contract is not satisfied, then the Earnest Money Deposit shall be refunded to Buyer. In the event of breach of this Contract by Seller, the Earnest Money Deposit shall be refunded to Buyer upon Buyer's request, but such return shall not affect any other remedies available to Buyer for such breach. In the event of breach of this Contract by Buyer, the Earnest Money Deposit shall be paid to Seller. The payment of the Earnest Money Deposit to Seller (without regard to the amount thereof) together shall serve as liquidated damages ("Liquidated Damages") and as Seller's sole and exclusive remedy for such breach, but without limiting Seller's rights under Paragraphs 4(d) and 4(e) for damage to the Property. It is acknowledged by the parties that the amount of the Liquidated Damages is compensatory and not punitive, such amount being a reasonable estimation of the actual loss that Seller would incur as a result of a breach of this Contract by Buyer. The payment to Seller and/or retention by Seller of the Liquidated Damages shall not constitute a penalty or forfeiture but actual compensation for Seller's anticipated loss, both parties acknowledging the difficulty determining Seller's actual damages for such breach. If legal proceedings are brought by Buyer or Seller against the other to recover the Earnest Money Deposit, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

(f) "Escrow Agent": Standard Title LLC, Raleigh, North Carolina. Buyer and Seller consent to disclosure by the Escrow Agent of any material facts pertaining to the Earnest Money Deposit to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

(g) "Effective Date": The date that: (1) the last one of Buyer and Seller has signed this offer or the final counteroffer, if any, and (2) such signing is communicated to the party making the offer or counteroffer, as the case may be.

(h) "Due Diligence": Buyer's opportunity to investigate the Property and the transaction contemplated by this Contract, including but not necessarily limited to the matters described in Paragraph 2 below, to decide whether Buyer, in Buyer's sole discretion, will proceed with or terminate the transaction.

(i) [reserved].

JBO (j) "~~Due Diligence Period~~": ~~The period beginning on the Effective Date and extending through 5:00 p.m. on~~
None, time being of the essence.

(k) "Settlement": The proper execution and delivery to the closing attorney of all documents necessary to complete the transaction contemplated by this Contract, including the deed, settlement statement, deed of trust and other loan or conveyance documents, and the closing attorney's receipt of all funds necessary to complete such transaction

(l) "Settlement Date": The parties agree that Settlement will take place on December 21, 2021 JBO RBS (the "Settlement Date"), unless otherwise agreed in writing, at a time and place designated by Buyer.

(m) "Closing": The completion of the legal process which results in the transfer of title to the Property from Seller to Buyer, which includes the following steps: (1) the Settlement (defined above); (2) the completion of a satisfactory title update to the Property following the Settlement; (3) the closing attorney's receipt of authorization to disburse all necessary funds; and (4) recordation in the appropriate county registry of the deed(s) and deed(s) of trust, if any, which shall take place as soon as reasonably possible for the closing attorney after Settlement. Upon Closing, the proceeds of sale shall be disbursed by the closing attorney in accordance with the settlement statement and the provisions of Chapter 45A of the North Carolina General Statutes. If the title update should reveal unexpected liens, encumbrances or other title defects, or if the closing attorney is not authorized to disburse all necessary funds, then the Closing shall be suspended and the Settlement deemed delayed under Paragraph 9 (Delay in Settlement/Closing).

(n) "Special Assessments": A charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners' association in addition to any regular assessment (dues), either of which may be a lien against the Property. A Special Assessment may be either proposed or confirmed.

"Proposed Special Assessment": A Special Assessment that is under formal consideration but which has not been approved prior to Settlement. Whether payable in a lump sum or future installments.

"Confirmed Special Assessment": A Special Assessment that has been approved prior to Settlement whether payable in a lump sum or future installments.

2. BUYER'S DUE DILIGENCE PROCESS:

(a) **Loan:** Buyer, at Buyer's expense, shall be entitled to pursue qualification for and approval of the Loan if any.

(b) **Property Investigation:** Buyer or Buyer's agents or representatives, at Buyer's expense, shall be entitled to conduct all desired tests, surveys, appraisals, investigations, examinations and inspections of the Property as Buyer deems appropriate, including but not limited to the following:

- (i) **Soil And Environmental:** Reports to determine whether the soil is suitable for Buyer's intended use and whether there is any environmental contamination, law, rule or regulation that may prohibit, restrict or limit Buyer's intended use.
- (ii) **Septic/Sewer System:** Any applicable investigation(s) to determine: (1) the condition of an existing sewage system, (2) the costs and expenses to install a sewage system approved by an existing Improvement Permit, (3) the availability and expense to connect to a public or community sewer system, and/or (4) whether an Improvement Permit or written evaluation may be obtained from the County Health Department for a suitable ground absorption sewage system.
- (iii) **Water:** Any applicable investigation(s) to determine: (1) the condition of an existing private drinking water well, (2) the costs and expenses to install a private drinking water well approved by an existing Construction Permit, (3) the availability, costs and expenses to connect to a public or community water system, or a shared private well, and/or (4) whether a Construction Permit may be obtained from the County Health Department for a private drinking water well.
- (iv) **Review of Documents:** Review of the Declaration of Restrictive Covenants, Bylaws, Articles of Incorporation, Rules and Regulations, and other governing documents of any applicable owners' association and/or subdivision. If the Property is subject to regulation by an owners' association, it is recommended that Buyer review the completed Owners' Association And Addendum (Standard Form 2A12-T) provided by Seller prior to signing this offer. It is also recommended that the Buyer determine if the owners' association or its management company charges fees for providing information required by Buyer's lender or confirming restrictive covenant compliance.
- (v) **Appraisals:** An appraisal of the Property
- (vi) **Survey:** A survey to determine whether the property is suitable for Buyer's intended use and the location of easements, setbacks, property boundaries and other issues which may or may not constitute title defects.
- (vii) **Zoning and Governmental Regulation:** Investigation of current or proposed zoning or other governmental regulation that may affect Buyer's intended use of the Property, adjacent land uses, planned or proposed road construction, and school attendance zones.
- (viii) **Flood Hazard:** Investigation of potential flood hazards on the Property, and/or any requirement to purchase flood insurance in order to obtain the Loan.
- (ix) **Utilities and Access:** Availability, quality, and obligations for maintenance of utilities including electric, gas, communication services, storm water management, and means of access to the Property and amenities.
- (x) **Streets/Roads:** Investigation of the status of the street/road upon which the Property fronts as well as any other street/road used to access the Property, including: (1) whether any street(s)/road(s) are public or private, (2) whether any street(s)/road(s) designated as public are accepted for maintenance by the State of NC or any municipality, or (3) if private or not accepted for public maintenance, the consequences and responsibility for maintenance and the existence, terms and funding of any maintenance agreements.
- (xi) **Sale/Lease of Existing Property:** As noted in paragraph 3(b), this Contract is not conditioned upon the sale/lease or closing of other property owned by Buyer. Therefore, if Buyer must sell or lease other real property in order to qualify for

a new loan or to otherwise complete the purchase of the Property, Buyer should seek to close on Buyer's other property prior to the end of the Due Diligence Period or be reasonably satisfied that closing on Buyer's other property will take place prior to the Settlement Date of this Contract.

(c) **Buyer's Obligation to Repair Damage:** Buyer shall, at Buyer's expense, promptly repair any damage to the Property resulting from any activities of Buyer and Buyer's agents and contractors, but Buyer shall not be responsible for any damage caused by accepted practices applicable to any N.C. licensed professional performing reasonable appraisals, tests, surveys, examinations and inspections of the Property. This repair obligation shall survive any termination of this Contract.

(d) **Indemnity:** Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property except for any loss, damage, claim, suit or cost arising out of pre-existing conditions of the Property and/or out of Seller's negligence or willful acts or omissions. This indemnity shall survive this Contract and any termination hereof.

(e) **Buyer's Right to Terminate:** Buyer shall have the right to terminate this Contract for any reason or no reason, by delivering to Seller written notice of termination (the "Termination Notice") during the Due Diligence Period (or any agreed-upon written extension of the Due Diligence Period), time being of the essence. If Buyer timely delivers the Termination Notice, this Contract shall be terminated and the Earnest Money Deposit shall be refunded to Buyer.

(f) **CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION UNLESS PROVISION IS OTHERWISE MADE IN WRITING.**

3. BUYER REPRESENTATIONS:

(a) **Loan:** Buyer ☐ does ☐ does not intend to obtain a new loan in order to purchase the Property. If Buyer is obtaining a new loan, Buyer intends to obtain a loan as follows: ☐ Conventional ☒ Other: Line of Credit at First Citizens Bank loan at a ☐ Fixed Rate ☐ Adjustable Rate in the principal amount of \$95,000.00 for a term of _____ year(s), at an initial interest rate not to exceed _____ % per annum (the "Loan").

(b) [reserved].

(c) **Performance of Buyer's Financial Obligations:** To the best of Buyer's knowledge, there are no other circumstances or conditions existing as of the date of this offer that would prohibit Buyer from performing Buyer's financial obligations in accordance with this Contract, except as may be specifically set forth herein.

4. BUYER OBLIGATIONS:

(a) **Responsibility for Proposed Special Assessments:** Buyer shall take title subject to all Proposed Special Assessments.

(b) **Responsibility for Certain Costs:** Buyer shall be responsible for all costs with respect to:

- (i) any loan obtained by Buyer, including charges by an owners' association and/or management company as agent of an owners' association for providing information required by Buyer's lender;
- (ii) charges required by an owners' association declaration to be paid by Buyer for Buyer's future use and enjoyment of the Property, including, without limitation, working capital contributions, membership fees, or charges for Buyer's use of the common elements and/or services provided to Buyer, such as "move-in fees";
- (iii) determining restrictive covenant compliance;
- (iv) appraisal;
- (v) title search;
- (vi) title insurance;
- (vii) any fees charged by the closing attorney for the preparation of the Closing Disclosure, Seller Disclosure and any other settlement statement;
- (viii) recording the deed; and
- (ix) preparation and recording of all instruments required to secure the balance of the Purchase Price unpaid at Settlement.

(c) **Authorization to Disclose Information:** Buyer authorizes the Buyer's lender(s), the parties' real estate agent(s) and closing attorney: (1) to provide this Contract to any appraiser employed by Buyer or by Buyer's lender(s); and (2) to release and disclose any buyer's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

5. SELLER REPRESENTATIONS:

(a) **Ownership:** Seller represents that Seller has owned the Property for at least one year.

(b) **Assessments:** To the best of Seller's knowledge there are not any Proposed Special Assessments.

Seller warrants that there are not any Confirmed Special Assessments.

(c) **Owners' Association(s) and Dues:** To best of Seller's knowledge, ownership of the Property subjects Buyer to regulation by one or more owners' association(s) and governing documents, which impose various mandatory covenants, conditions and restrictions upon the Property and Buyer's enjoyment thereof, including but not limited to obligations to pay regular assessments (dues) and Special Assessments.

(d) **Sewage System Permit:** (☐ Applicable ☒ Not Applicable) Seller warrants that the sewage system described in the Improvement Permit attached hereto has been installed, which representation survives Closing, but makes no further representations as to the system.

(e) **Private Drinking Water Well Permit:** (☐ Applicable ☒ Not Applicable) Seller warrants that a private drinking water well has been installed, which representation survives Closing, but makes no further representations as to the well. (If well installed after July 1, 2008, attach Improvement Permit hereto).

6. SELLER OBLIGATIONS:

(a) **Evidence of Title, Payoff Statement(s) and Non Foreign Status:**

(i) Seller agrees to use best efforts to provide to the closing attorney as soon as reasonably possible after the Effective Date, copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust, leases, and easements relating to the Property.

(ii) Seller shall provide to the closing attorney all information needed to obtain a written payoff statement from any lender(s) regarding any security interest in the Property as soon as reasonably possible after the Effective Date, and Seller designates the closing attorney as Seller's agent with express authority to request and obtain on Seller's behalf payoff statements and/or short-pay statements from any such lender(s).

(iii) If Seller is not a foreign person as defined by the Foreign Investment in Real Property Tax Act, Seller shall also provide to the closing attorney a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act). In the event Seller shall not provide a non-foreign status affidavit, Seller acknowledges that there may be withholding as provided by the Internal Revenue Code.

(b) **Authorization to Disclose Information:** Seller authorizes: (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys, and (3) the closing attorney to release and disclose any seller's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

(c) **Access to Property:** Seller shall provide reasonable access to the Property through the earlier of Closing or possession by Buyer, including, but not limited to, allowing the Buyer and/or Buyer's agents or representatives an opportunity to (i) conduct Due Diligence, (ii) verify the satisfactory completion of negotiated repairs/improvements, and (iii) conduct a final walk-through inspection of the Property. Seller's obligation includes providing existing utilities operating at Seller's cost including any connections and de-winterizing. To the extent applicable, Seller shall also be responsible for timely clearing that portion of the Property required by the County to perform tests, inspections and/or evaluations to determine the suitability of the Property for a sewage system and/or private drinking water well.

(d) **Removal of Seller's Property:** Seller shall remove from the Property, by the date possession is delivered, (i) all personal property which is not a part of the purchase and (ii) unless otherwise agreed, all garbage and debris.

(e) **Affidavit And Indemnification Agreement:** Seller shall furnish at Settlement an affidavit(s) and indemnification agreement(s) in form satisfactory to Buyer and Buyer's title insurer, if any, executed by Seller and any person or entity who has performed or furnished labor, services, materials or rental equipment to the Property within 120 days prior to the date of Settlement and who may be entitled to claim a lien against the Property as described in N.C.G.S. §44A-8 verifying that each such person or entity has been paid in full and agreeing to indemnify Buyer, Buyer's lender(s) and Buyer's title insurer against all loss from any cause or claim arising therefrom.

(f) **Designation of Lien Agent, Payment and Satisfaction of Liens:** If required by N.C.G.S. §44A-11.1, Seller shall have designated a Lien Agent, and Seller shall deliver to Buyer as soon as reasonably possible a copy of the appointment of Lien Agent.

All deeds of trust, deferred ad valorem taxes, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at Settlement such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.

(g) **Good Title, Legal Access:** Seller shall execute and deliver a general warranty deed for the Property in recordable form no later than Settlement, which shall convey fee simple marketable and insurable title, without exception for mechanics' liens, and free of any other liens, encumbrances or defects, including those which would be revealed by a current and accurate survey of the Property, except: ad valorem taxes for the current year (prorated through the date of Settlement); utility easements and unviolated covenants, conditions or restrictions that do not materially affect the value of the Property; and such other liens, encumbrances or defects as may be assumed or specifically approved by Buyer in writing. The Property must have legal access to a public right of way.

(h) **Deed, Taxes, and Fees:** Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Contract, and for state and county excise taxes, and any deferred, discounted or rollback taxes, and local conveyance fees required by law.

(i) [reserved].

(j) **Owners' Association Fees/Charges:** Seller shall pay: (i) any fees required for confirming Seller's account payment information on owners' association dues or assessments for payment or proration and (ii) any fees imposed by an owners' association and/or a management company as agent of the owners' association in connection with the transaction contemplated by this Contract other than those fees required to be paid by Buyer under paragraph 4(b) above.

(k) **Payment of Confirmed Special Assessments:** Seller shall pay, in full at Settlement, all Confirmed Special Assessments, whether payable in a lump sum or future installments, provided that the amount thereof can be reasonably determined or estimated. The payment of such estimated amount shall be the final payment between the Parties.

(l) **Late Listing Penalties:** All property tax late listing penalties, if any, shall be paid by Seller.

(m) [reserved].

(n) **Seller's Failure to Comply or Breach:** If Seller fails to materially comply with any of Seller's obligations under this Paragraph 6 or Seller materially breaches this Contract, and Buyer elects to terminate this Contract as a result of such failure or breach, then the Earnest Money Deposit shall be refunded to Buyer and Seller shall reimburse to Buyer the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence without affecting any other remedies. If legal proceedings are brought by Buyer against the Seller to recover the Earnest Money Deposit and/or the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

7. PRORATIONS AND ADJUSTMENTS: Unless otherwise agreed, the following items shall be prorated, with Seller responsible for the prorated amounts through the date of Settlement and either adjusted between the parties or paid at Settlement:

(a) **Taxes on Real Property:** Ad valorem taxes and recurring governmental service fees levied with such taxes on real property shall be prorated on a calendar year basis;

(b) **Rents:** Rents, if any, for the Property;

(c) **Dues:** Owners' association regular assessments (dues) and other like charges.

8. RISK OF LOSS/CONDITION OF PROPERTY AT CLOSING: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller. Seller is advised not to cancel existing insurance on the Property until after confirming recordation of the deed. Buyer's obligation to complete the transaction contemplated by this Contract shall be contingent upon the Property being in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted. If the Property is not in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted, Buyer may terminate this Contract by written notice delivered to Seller and the Earnest Money Deposit shall be refunded to Buyer. If the Property is not in such condition and Buyer does not elect to terminate this Contract, Buyer shall be entitled to receive, in addition to the Property, the proceeds of any insurance claim filed by Seller on account of any damage or destruction to the Property.

9. DELAY IN SETTLEMENT/CLOSING: Absent agreement to the contrary in this Contract or any subsequent modification thereto, if a party is unable to complete Settlement by the Settlement Date but intends to complete the transaction and is acting in good faith and with reasonable diligence to proceed to Settlement ("Delaying Party"), and if the other party is ready, willing and able to complete Settlement on the Settlement Date ("Non-Delaying Party") then the Delaying Party shall give as much notice as possible to the Non-Delaying Party and closing attorney and shall be entitled to a delay in Settlement. If the parties fail to complete Settlement and Closing within fourteen (14) days of the Settlement Date (including any amended Settlement Date agreed to in writing by the

parties) or to otherwise extend the Settlement Date by written agreement, then the Delaying Party shall be in breach and the Non-Delaying Party may terminate this Contract and shall be entitled to enforce any remedies available to such party under this Contract for the breach.

10. **POSSESSION:** Unless otherwise provided herein possession, including all means of access to the Property (keys, codes including security codes, gate openers, electronic devices, etc.) shall be delivered at Closing as defined in Paragraph 1(m). No alterations, excavations, tree or vegetation removal or other such activities may be done before possession is delivered

11. **ACCESS EASEMENTS:** [REDACTED]

12. **ASSIGNMENTS:** This Contract may not be assigned without the written consent of all parties except in connection with a tax-deferred exchange, but if assigned by agreement, then this Contract shall be binding on the assignee and assignee's heirs and successors.

13. **TAX-DEFERRED EXCHANGE:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Buyer and Seller shall execute such additional documents, including assignment of this Contract in connection therewith, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

14. **PARTIES:** This Contract shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

15. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

16. **ENTIRE AGREEMENT:** This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.

17. **NOTICES:** All notices, requests and other communications hereunder shall be in writing and shall be deemed to have been duly given and received (a) when personally delivered or (b) one (1) business day after proper prepaid deposit for next-day delivery to a national overnight courier service providing evidence of delivery, postage prepaid, addressed to the party to whom or which notice is to be given at the address hereinabove set forth therefor. The rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or communication sent. The addresses hereinabove set forth may be changed as to any party upon at least ten (10) days prior notice thereof to the other party.

18. **EXECUTION:** This Contract may be signed in multiple originals or counterparts, all of which together constitute one and the same instrument.

19. **COMPUTATION OF DAYS/TIME OF DAY:** Unless otherwise provided, for purposes of this Contract, the term "days" shall mean consecutive calendar days, including Saturdays, Sundays, and holidays, whether federal, state, local or religious. For the purposes of calculating days, the count of "days" shall begin on the day following the day upon which any act or notice as provided in this Contract was required to be performed or made. Any reference to a date or time of day shall refer to the date and/or time of day in the State of North Carolina.

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This offer shall become a binding contract on the Effective Date. Unless specifically provided otherwise, Buyer's failure to timely deliver any fee, deposit or other payment provided for herein shall not prevent this offer from becoming a binding contract, provided that any such failure shall give Seller certain rights to terminate the contract as described herein or as otherwise permitted by law.

BUYER

 Southern Pine Tree Land Company LLC



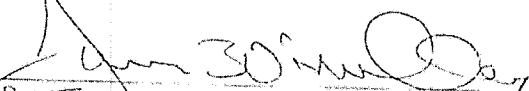
By: 

Its: 

Date: 12/2/2021

SELLER

Tyler's Ridge Business Park, LLC

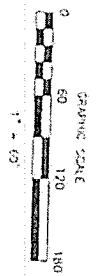


By: James B O'Malley

Its: Sales Manager

Date: 12/2/2021

1-22-21
DATE



CONFIDENTIAL SOURCE REPORT, 11C
 RE: JAMES EARL RAY
 MEMPHIS, TENN. 05/01/68
 (S) AND (C) ONLY
 MEMPHIS, TENN. 05/01/68
 (70-372-208)

AMENDMENT TO PURCHASE AND SALE AGREEMENT

This Amendment to Purchase and Sale Agreement is made as of December 14, 2021 by Tyler's Ridge Business Park, LLC, 35 Martin Drive, Whispering Pines, North Carolina 28327, ("Seller") and Southern Pines Ace Land Company LLC, 215 Capital Drive, Carthage, North Carolina 28327 ("Buyer") in order to amend the Purchase and Sale Agreement therebetween dated as of December 2, 2021.

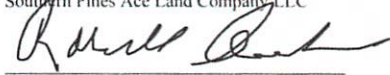
1. Capital Drive. Insert the provision hereinafter set forth as Section 11.

11. **ACCESS:** Seller hereby agrees and covenants with Buyer that (a) Seller shall effectuate the amendment of the Declaration of Easements, Covenants, Conditions, and Restrictions recorded in Book 4541, Page 152, Moore County Registry (the "**Declaration**") pursuant to which (i) the Property shall constitute a "Lot" under the Declaration and shall thus benefit from, inter alia, all rights related to Capital Drive and (ii) the Frye Tract shall constitute a "Lot" under the Declaration and shall thus benefit from, inter alia, all rights related to Capital Drive (provided, however, that Buyer reserves the right to subdivide or reconfigure the Property and the Frye Tract pursuant to which any one or more tracts subdivided therefrom shall constitute a "Lot" under the Declaration and shall thus benefit from, inter alia, all rights related to Capital Drive), (b) the remainder of Capital Drive shall be transferred to Tyler's Ridge Property Owners Association, Inc. (the "**POA**") not later than December 31, 2021, (c) Buyer shall convey a thirty-six-foot-wide portion of the Property (or, at its option, a portion of the Property and a portion of the Frye Tract) to the POA, in a location consistent with Buyer's development plans for the Property and the Frye Tract, in order to extend Capital Drive to Airport Road (the "**Capital Drive Extension**"), (d) Buyer shall convey, and POA shall accept, conveyance of the Capital Drive Extension upon the completion thereof, and (e) the Capital Drive Extension shall, upon its conveyance to the POA, constitute a portion of Capital Drive for purposes of the Declaration. "**Capital Drive**" means the roadway designated as Capital Drive, including complete and incomplete portions thereof, as shown on the Plat. "**Frye Tract**" means the 9.59-acre tract shown on map recorded in Plat Cabinet 15, Slide 772, Moore County Registry.

2. Settlement Date. Strike "December 21, 2021" from Section 1(l) and insert "January ~~4~~21, 2022" in lieu thereof.
3. Capitalized Terms. All capitalized terms otherwise undefined herein shall be defined as set forth in the Agreement.
4. References. All references in the Agreement to "this Agreement" shall be deemed to refer to the Agreement as amended hereby.
5. No Other Changes. Except as explicitly amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect.
6. Conflict. This Amendment shall, in the event of a conflict between this Amendment and the Agreement, control.

BUYER

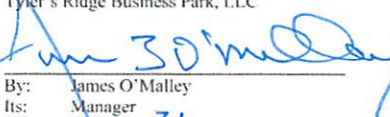
Southern Pines Ace Land Company LLC



By: Randall Saunders
Its: Manager
Date: December __, 2021

SELLER

Tyler's Ridge Business Park, LLC



By: James O'Malley
Its: Manager
Date: December 21, 2021

Agenda Item

To: Reagan Parsons, Town Manager

From: James Broadwell, Planner I

Subject: **MAPP-04-24: Major Subdivision Preliminary Plat for four commercial lots on the North side of the Morganton Park South Planned Development; Petitioner: Midland Atlantic Properties, by Koontz Jones Design, PLLC, Agent**

Date: January 14, 2025

I. SUMMARY OF APPLICATION REQUEST

Mr. Bob Koontz of KoontzJones Design, LLC, on behalf of Midland Atlantic Properties and Morganton Road Enterprises, LLC, has submitted a Major Subdivision Preliminary Plat application pursuant to the Town of Southern Pines Unified Development Ordinance (UDO) §2.20. The plat intends to subdivide one parent tract into four smaller commercial out-parcels and one larger parcel (20.69 acres) to the south. The parent tract contains natural wooded areas, an existing stormwater pond, the northern portion of Carolina Green Pkwy, and part of the Morganton Park South Linear Park. The subject property is surrounded by W Morganton Road to the north and Old Morganton Road to the west. Per the Moore County tax records, the property identified as PARID 98000749 is owned by Morganton Road Enterprises, LLC.

II. PLANNING BOARD REVIEW

On December 19, 2024, the Planning Board held a Preliminary Forum for MAPP-04-24 to accept public comments and compose a list of issues to forward to the Town Council for consideration. Following the staff presentation, Mr. John Silverman, with Midland Atlantic Properties, made one clarification on the proposed traffic pattern, answered additional questions from the Planning Board, and clarified one concern from the public.

Preserving the mature pine trees that will fall within the 40' Urban Village Highway yard buffer and the 40' Linear Park buffer was an important topic of discussion, initially raised by staff. Three members of the public also asked questions about how and why the development would cut down mature trees, and expressed their concerns about the project removing natural character. One member of the public, Mr. Tom McCabe, expressed concerns about pedestrian connectivity, and that the project should be very walkable both internally and externally. He also expressed that the connection easement via the proposed outparcel 4 was a positive addition to the plat.

Additionally, the adjacent neighbor of 704 W Morganton Rd expressed an ongoing issue about a traffic light being previously installed within his property's boundary by Midland Atlantic. Mr. Silverman clarified that this was a mistake, and Midland Atlantic has been

trying to rectify the issue. Diana Westbrook noted that this issue is a civil matter that each party should work together to resolve.

With a unanimous vote of 5-0, the Planning Board moved to transmit the following issues to the Town Council to consider while reviewing application MAPP-04-24:

The concerns highlighted in the staff report:

1. **Preserve Existing Trees within the Required 40-foot Buffer on W Morganton Road.** Pursuant to MAPP Criterion 1, major subdivisions must demonstrate compliance with the Comprehensive Plan. Comprehensive Plan Policies 4.9 and 4.10 call for minimizing environmental impacts during development, minimizing tree loss during development, and preserving the natural character of Southern Pines. Preserving mature trees within this 40' buffer clearly aligns with Criterion 1 and the Comprehensive Plan.
2. **Delay Site Disturbance of the 40' Linear Park Buffer and 20' to its West (critical root zone protection) to after PDP Review.** The 40' Linear Park Buffer is a direct product of the MPS CDP. Because the Linear Park amenities must be installed pursuant to the CDP, and this buffer is a product of the CDP, reviewing it during Outparcel 1's PDP is more appropriate. Delaying any clearing in its vicinity ensures that tree preservation can be right-sized pursuant to the purpose of a PDP (*UDO 2.18.5(A)*). The additional 20' distance from the buffer ensures no critical root zones may be affected in the interim time period. Delaying clearing in this section will also ensure that site design harmonizes with the Linear Park amenities, site grading challenges cited by the applicant, and mature tree protection.

Other concerns:

1. **Pedestrian Infrastructure.** Pedestrian connectivity was an issue raised by the public. Though a sidewalk and 10' trail are shown on the plat, the developer should consider additional external and internal pedestrian infrastructure.

Pursuant to NCGS §160D-301(b)(6), the Town Council is reminded that although the Planning Board forwarded a list of issues for Council consideration, no part of the Preliminary Forum held by the Planning Board may be used as a basis for the Council's decision on MAPP-04-24.

III. PROJECT INFORMATION

A. Property Owner & Applicant Information

Property Owner/Applicant	Authorized Agent
Morganton Road Enterprises, LLC	Bob Koontz
PO Box 1389	Koontz Jones Design, PLLC
Pinehurst, NC 28374	140 Applecross Road, Suite B
	Pinehurst, NC 28374

B. Project History and Site Information

i. Location, Zoning, Comprehensive Plan Designations

The subject property is located at the corner of West Morganton Road and Carolina Green Parkway. The property's is zoned PD (planned development) and is also located with the Urban Village Highway Corridor Overlay (HCO). The General Framework Map and Conservation and Development Maps from the Comprehensive Plan categorize the site as an "Area to Transform" and "Mixed-Use Area" respectively. The Mixed-Use Area is intended to serve a broad mix of economic, entertainment, and housing needs, and especially "missing middle" home choices. Walkability and well-connected open spaces should be incorporated.

Figure 1: Immediate Vicinity Map. Parent tract boundary indicated by thick orange line.



Figure 2: Zoning and HCO Map. The parent tract is outlined in orange.

- The brown zoning color indicates PD (planned development) zoning (being within the Morganton Park South CDP).
- The green zoning color to the east indicates FRR (facilities resource and recreation) zoning.
- The green lines mark the Urban Village HCO (300 feet on each side of the W Morganton Rd right-of-way).

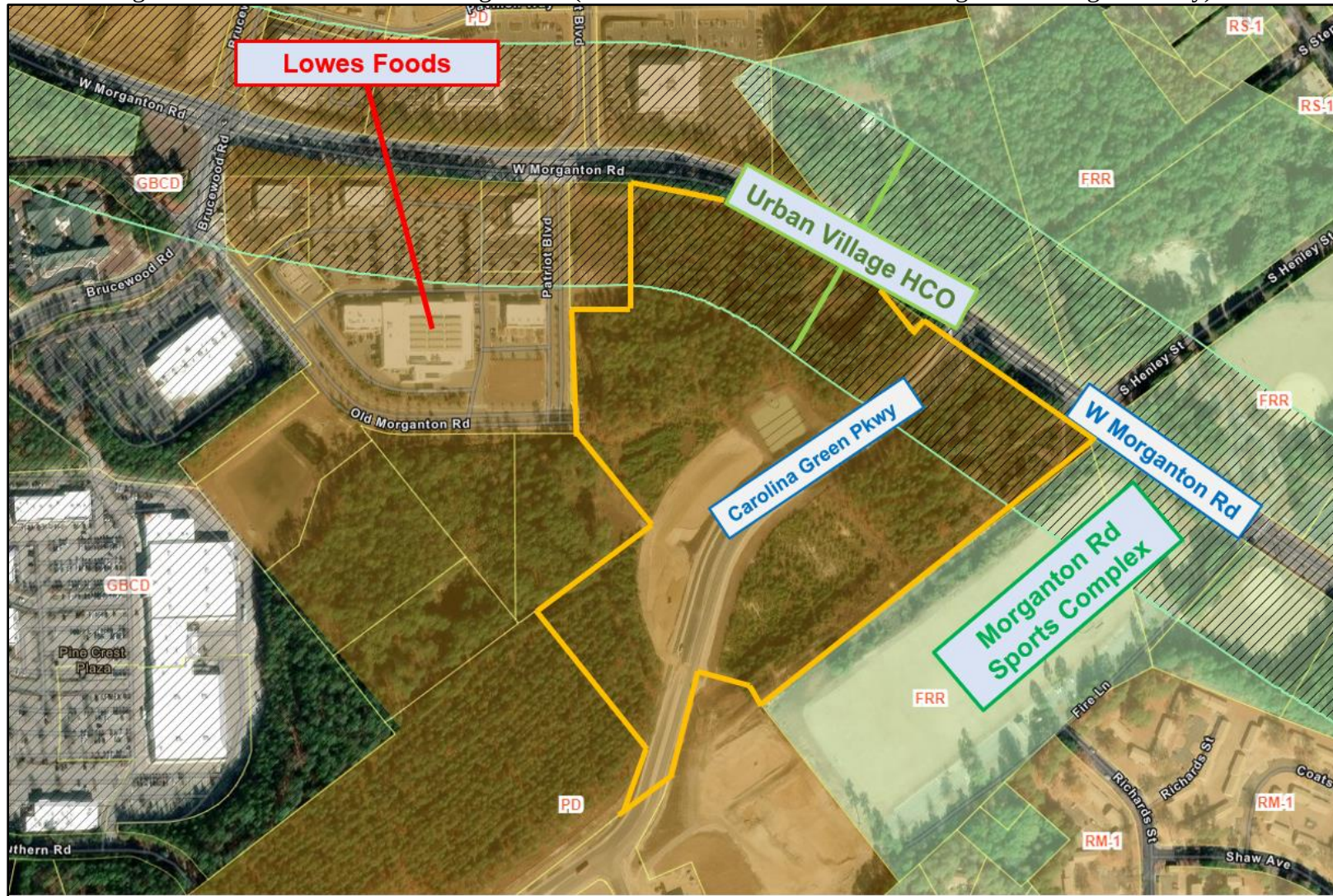
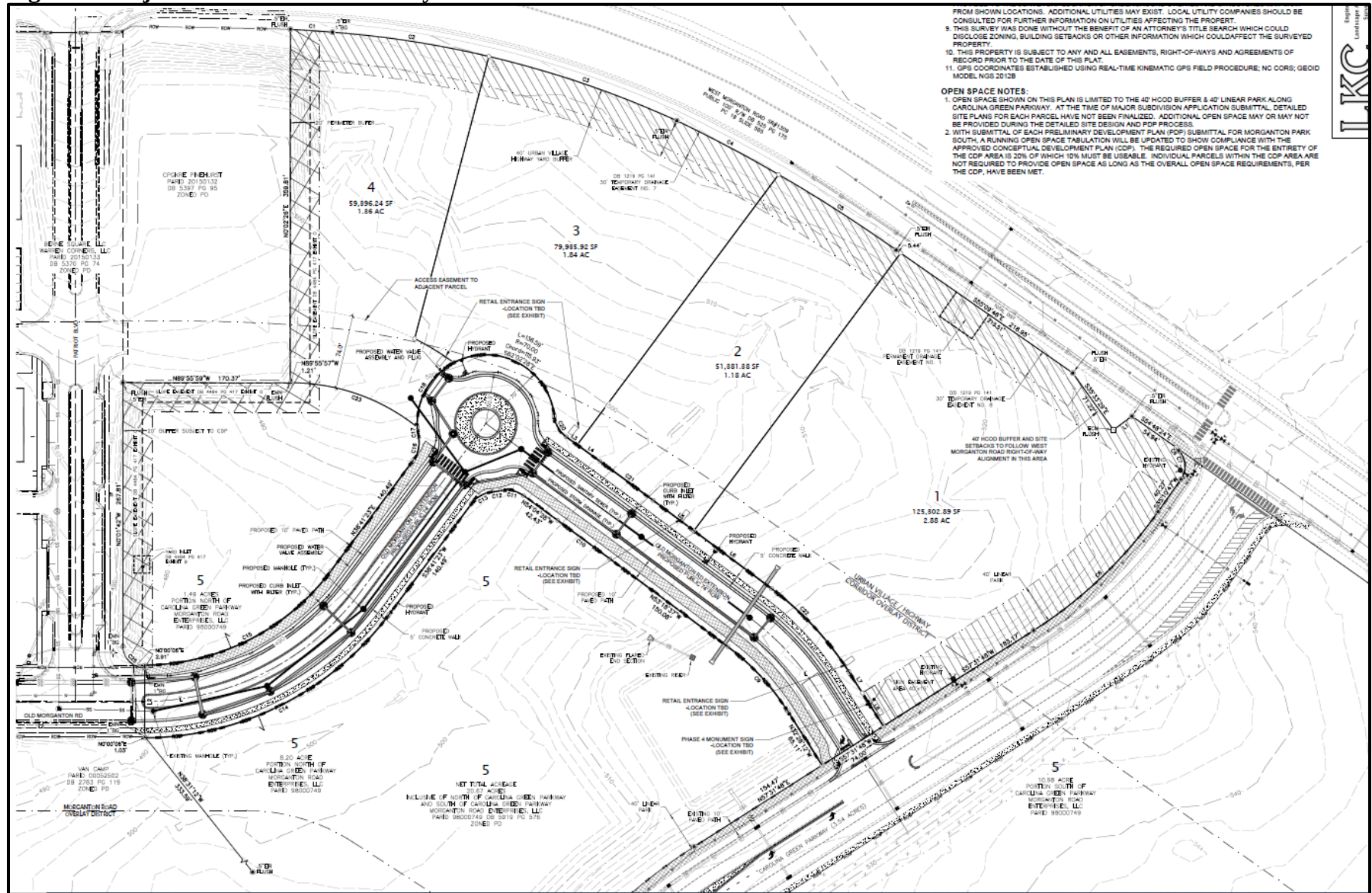


Figure 3: Major Subdivision Preliminary Plat.



IV. STAFF REVIEW

A. Application Review Dates

- MAPP Application Submitted: **November 13, 2024**
- Application Deemed Incomplete: **November 19, 2024**
- Application Deemed Complete: **November 26, 2024**
- TRC Staff Review: **December 3, 2024**
- Notice of Planning Board Preliminary Forum:
 - Posted On-site: **December 3, 2024**
 - Mailed: **December 5, 2024**
 - Internet: **December 3, 2024**
- Consultation with the Technical Review Committee: **December 3, 2024**
- Call with the applicant to review issues: **December 6, 2024**
- Revised materials submitted: **December 10, 2024**
- Call with the applicant to review issues: **December 11, 2024**
- Additional revised materials submitted: **December 12, 2024**
- Planning Board Preliminary Forum: **December 19, 2024**
- Additional revised materials submitted: **January 6, 2025**
- Additional revised materials submitted: **January 7, 2025**
- Call with the applicant to review issues: **January 8, 2025**
- Town Council Public Hearing: **January 14, 2025**

B. Process of Review

Per UDO §2.19 General Subdivision Regulations and §2.20 Major Subdivision, the procedures for review and approval of a major subdivision require adherence to supplemental conditions. These sections of the UDO establish a process and standards to plat and approve new commercial lots.

C. Standards for Review

UDO standards for Criteria for a Major Subdivision Preliminary Plat are found in UDO §2.20.4(G), and apply to the review of this Major Subdivision Preliminary Plat.

D. Compliance with UDO §2.20.4(G) Major Subdivision Preliminary Plat Criteria. A major subdivision is permitted only if the applicant demonstrates that:

1. *The application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities;*

Planning staff generally agree with the applicant's narrative that the proposed subdivision is consistent with the Comprehensive Plan's vision, and will ultimately (following PDP review) provide additional mixed commercial land use in the area. It is also consistent with the General Framework Map and Conservation and Development Maps, which each categorize the site as an "Area to Transform" and "Mixed-Use Area."

In line with the applicant's narrative, all site design details will be reviewed, modified as needed, and approved during each sub-phase's Preliminary Development Plan (PDP) and site plan review.

This major subdivision sets conditions for the subdivision of land. Once the lots are created, one or more PDPs within the Morganton Park South (MPS) Conceptual Development Plan (CDP) – PD-08-21 will be required. The PDP reviews will address site design, while this major subdivision review addresses infrastructure and lot boundary plat specifics common to all four northern outparcels, primarily being:

- The Old Morganton Rd extension, traffic circle, and future connections,
- Vehicular and pedestrian access,
- The 40' HCO buffer fronting W Morganton Rd, the 40' Linear Park along Carolina Green Pkwy, and the 20' perimeter buffer on the west side of the subject property, and
- The precise parcel lines to inform subsequent site design for PDP review.

Pursuant to this criterion, staff recommend a condition of approval that the developer retain existing trees, 6-inch caliper and greater¹, within the 40' HCO buffer. *Comprehensive Plan policies 4.9 and 4.10* call for safeguarding natural areas, minimizing development's impact on the environment, and minimizing tree loss during development. Staff assess these existing trees within the Urban Village HCO are emblematic of the town's natural character, and that this condition directly ties to Criterion 1 and the Comprehensive Plan.

If the applicant retains these existing trees along the W Morganton Rd highway buffer, then staff assess this criterion of being consistent with the Comprehensive plan will be met.

2. *The proposed Subdivision complies with the UDO and applicable state and federal regulations;*

The application is compliant with federal Endangered Species Act regulation by providing a Red Cockaded Woodpecker and endangered species study.

The subject property is within the Urban Village Highway Corridor Overlay (HCO), which requires a 40' landscaping buffer, 40' building setback, and 40' parking area setback. The plat reflects those measurements, and other HCO requirements will be reviewed during the PDP process.

UDO Open Space standards pursuant to UDO §4.9 call for 20% open space in Planned Developments. This means the entirety of the MPS development requires 20% open space. The applicant has not submitted an overall open

¹ Per Town Arborist

space tabulation for this phase, and instead will submit the tabulation with each subsequent PDP. For the major subdivision application, the applicant has depicted 1.26 acres of open space associated with the major subdivision—as the HCO buffers and linear park (both 40’ wide or greater) are required regardless of specific lot site design. Additionally, staff will review all other applicable UDO and applicable regulatory standards during PDP and site plan review. These include, but are not limited to, UDO §4.3 Landscaping Code, §4.8 Lighting Code, and §4.10 Development Design Standards.

The applicant also intends to execute a Minor Subdivision of approximately 9 acres following the approval of this proposed Major Subdivision. The Minor Subdivision will separate the proposed four outparcels from the current 32.65-acre parent tract as one approximately 9.03-acre parcel. This intends to facilitate the sale and transfer of control of the proposed outparcel area in the meantime – prior to applying for a Final Plat and/or PDP. Though an atypical series of events, staff agree the applicant’s plan does not violate subdivision statutes or standards.

Finally, to comply with this criterion, staff recommend a second condition of approval to preserve all existing trees and their critical root zones, 6-inch caliper and greater, within the 40’ Linear Park. Additionally, the condition should allow for clearing to install the Old Morganton Road Extension and Linear Park amenities, as the Linear Park is a product of the MPS CDP. One of the PDP purpose criteria (UDO §2.18.5(A)) says: *“The proposed development is well integrated with the protection of natural features, including Watersheds, woodlands and other natural features.”* Though staff originally intended to recommend addressing this criterion during PDP review, the applicant informed staff that rough grading must take place in the time between MAPP approval and PDP review. For these reasons, staff recommend this condition to ensure their preservation at the time of MAPP approval; this condition is essential to ensuring that natural features and woodlands may ultimately be integrated into Outparcel 1’s PDP and design.

By preserving mature trees within the Linear Pak, and their critical root zones, staff agree the Major Subdivision application complies with Criterion 2.

3. *The proposed Subdivision, including its lot sizes, density, access, and circulation, is compatible with the existing and/or permissible zoning and future land use of adjacent property;*

Planning staff concur that the proposed development is compatible with the PD zoning. It’s also compliant with the area’s vision and generally gives proper access and circulation alongside the existing PD and FRR developments. Additionally, with the inclusion of an access easement that traverses outparcel 4, this Major Subdivision meets criterion 3. The easement will ensure that a future roadway connects between the proposed traffic circle and Patriot Blvd (see attachment 5).

Finally, given the location of the development, future retail/office uses will be within walking/biking distance of Morganton Park South, Morganton Park North, and some neighborhoods.

4. *The proposed Subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties;*

The Technical Review Committee noted at its December 3, 2024 meeting that vehicular path control measures ensuring traffic can only take right turns (when moving from the proposed Old Morganton Rd Extension to Carolina Green Parkway) must be present. The TIA calls for this control measure, using hard medians, barriers, etc., to ensure a viable traffic pattern within the MPS development. The committee also noted that a stub out for a street connection between the proposed traffic circle and Patriot Blvd., also including an access easement, is required for this development in line with the CDP. Staff informed the applicant of these notes during their call on December 6, 2024, and to anticipate them during the road's site plan review.

With the modifications mentioned above being verified during PDP and site plan review, staff feel the application meets Criterion 4.

5. *The proposed public facilities are adequate to serve the normal and emergency demands of the proposed Development, and to provide for the efficient and timely extension to serve future Development.*

Site access is sufficient to address safety at this site and town utilities are readily available for extension to these proposed units. The Town Engineer has also confirmed that by the applicant adhering to all requirements in the provided TIA (attachment 9) that public access will be adequate to meet routine and emergency demands. Town staff confirm that the application is compliant with Criterion 5.

E. General Staff Comments

○ Existing Trees Preservation:

40' HCO Buffer – W. Morganton Road

Staff recommend a condition that the developer retain existing trees, 6-inch caliper and greater, along the required 40' highway buffer parallel to W Morganton Road. MAPP Criterion 1 requires compliance with the Comprehensive Plan. *Comprehensive Plan policies 4.9 and 4.10* call for safeguarding natural areas, minimizing development's impact on the environment, and minimizing tree loss during development. The existing trees along W Morganton Rd are emblematic of the town's natural character and provide invaluable natural relief to a growing commercial district. For these reasons, staff feel this condition is essential to meeting Criterion 1.

The applicant, when speaking with staff on December 19, generally agrees with this condition, but wishes to clear underbrush within the buffer. After

discussion with the Town Arborist, staff assess that clearing underbrush and trees below 6-inch caliper will not present a detriment to the buffer. However, all trees at or above the condition's prescribed 6-inch caliper must be retained, and no grading may occur inside the critical root zone.

Figure 4: Natural Tree Stand – HCO Buffer Fronting W Morganton Rd.



40' Linear Park

Staff recommend a second condition of approval to preserve all mature trees, 6-inch caliper and greater, within the 40' Linear Park. One of the PDP purpose criteria (UDO §2.18.5(A)) says: *"The proposed development is well integrated with the protection of natural features, including Watersheds, woodlands and other natural features."* Though staff originally intended to recommend addressing this criterion during PDP review, the applicant informed staff that rough grading must take place in the time between MAPP approval and PDP review. For these reasons, staff recommend this condition to ensure their preservation at the time of MAPP approval, as is essential to ensuring that natural features and woodlands may ultimately be integrated into Outparcel 1's PDP and design. Additionally, the condition should allow for clearing to accommodate the Old Morganton Road Extension and required Linear Park amenities.

If the applicant retains existing trees greater than or equal to 6-inch caliper within the 40' HCO buffer and 40' Linear Park (and protects their critical root zones), then staff assess Criterion 1 and 2—consistency with the Comprehensive plan and UDO—will be met. To ensure this occurs, staff highly recommend the above conditions of approval. Additionally, the conditions should include the requirement of Tree Protection Fencing installation pursuant to UDO §4.3.11(D) and §4.3.13.

Figure 5: Natural Tree Stand within the 40' Linear Park.



- **Access Easement to Connect Patriot Blvd and the Proposed Traffic Circle**

The applicant has included an access easement that will connect Patriot Blvd to the proposed traffic circle, traversing Outparcel 4 (see attachment 5). This easement will ensure necessary site access and circulation to all future commercial sites – pursuant to the *MPS CDP Conceptual Transportation Plan*, *MAPP Criterion 3*, and *UDO Exhibit 3-13 and §4.11.6*.

The applicant also noted on a phone call on 12/11/24 that they have contacted the property owner of PARID 20150132 (to the immediate west of outparcel 4) to discuss future roadway connections. With this easement in place, staff find that the right access conditions are set to facilitate the future connection.

- **Old Morganton Rd Extension and Traffic Impact Analysis (TIA)**

The applicant intends to extend Old Morganton Rd Extension to Carolina Green Pkwy. The applicant has also provided a Traffic Impact Analysis (TIA) detailing the effects of this addition on the surrounding community and developments (attachment 9). The street extension will connect to Old Morganton Road, behind Lowes Foods, and Carolina Green Parkway. Eventually, as mentioned above, an additional connection between the proposed traffic circle and patriot Blvd. should also be installed (see figure

6 below for those stub outs on Old Morganton Rd and Patriot Blvd as they are today).

The TIA also calls for only right turns for traffic moving from the Old Morganton Rd Extension to Carolina Green Parkway. Staff will verify that physical barriers (medians, etc.) obstruct left turns and direct right turns during site plan review of the design for the roadway.

Figure 6: Patriot Blvd (left) and Old Morganton Rd Ext Connection (right)



○ **20' Linear Park Along Old Morganton Rd Extension**

The applicant's original application included a 20' Linear Park along Old Morganton Rd (figure 7) as a voluntary addition to the project. Staff agreed that the addition would further align the development with Criterion 1 (*the application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities*).

Staff also find that the 20' Linear Park would align with:

- Comprehensive Plan Policy 4.12 (*Lead a town-wide initiative to encourage "active living" in Southern Pines, including plans and policies that promote more walkable development*),
- UDO §3.5.14(9) (*Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas*), and
- The purpose of a CDP (*The Conceptual Development Plan represents an overall development pattern that is consistent with the*

After discussions between the applicant and staff on December 10th and 11th, the applicant decided to address the 20' Linear Park addition during PDP review(s). Though staff would appreciate seeing this Linear Park on the plat, staff also respect that its inclusion is voluntary and at the applicant's discretion.

To ensure the project adheres to MAPP criterion 2 (*the proposed Subdivision complies with the UDO and applicable state and federal regulations*), the applicant submitted a RCW and environmental impact assessment from Dr. JH Carter III & Associates, Inc. The assessment, dated August 9, 2024, reflects that no negative impacts on the RCW or endangered species will result from development on the subject property (see attachment 7 and 8).

Pursuant to MPS CDP §5.5.4, “A 20’ perimeter landscape buffer will be required along the boundaries of the CDP that abut adjoining properties.”

For that reason, the applicant has included a 20' buffer on the western side of this MPS phase (see attachment 5).

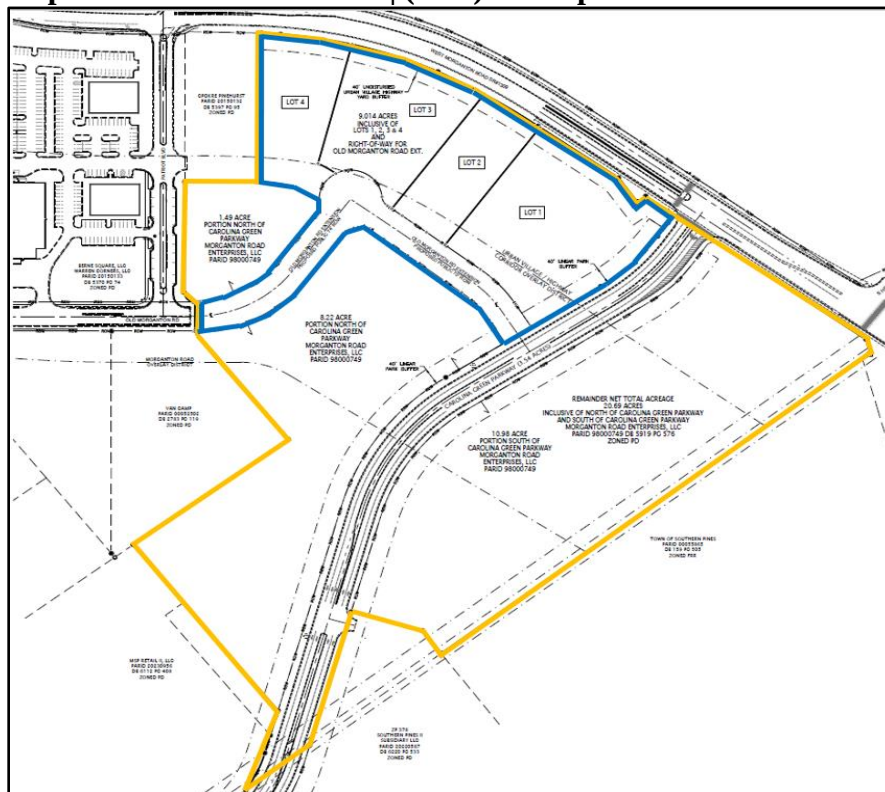
- **Minor Subdivision Following Preliminary Plat Approval**

To facilitate the sale and transfer of project control (in the time between preliminary plat approval and final plat & PDP approval) the applicant intends to execute a 9.03-acre Minor Subdivision following MAPP-04-24 approval. The current parent tract is 32.65-acres; the minor will separate the 9.03 acres, comprising the four proposed outparcels along W Morganton Rd. This will result in a 20.69-acre tract and a 9.03-acre tract – the total area for the four northern outparcels and Old Morganton Rd extension within MAPP-04-24 (see figure 8 below).

The 9.03-acre parcel will only exist in the timeframe between preliminary plat approval and final plat / PDP approval. The minor plat will fall precisely in line with this proposed MAPP-04-24. Though atypical, staff do not assess this plan violates any subdivision regulations or processes. It also will not negatively impact the project's process or ultimate outcome.

Figure 8: Proposed 9.03-acre Minor Subdivision (to Follow MAPP-04-24 Approval)

- Current parent tract in **orange**.
- Proposed Minor Subdivision in **blue**.
- Original parent tract: 32.65 acres | (blue) x4 outparcel area: 9.03 acres



F. Outside Agency and Neighborhood Meeting Comments:

Staff provided information on the project to outside agencies and received the following responses:

- A response from the Town Engineer highlighted that the applicant has omitted the median in the 74' right-of-way within Old Morganton Rd Extension (from Carolina Green Pkwy to the proposed traffic circle). This omission deviates from the prescribed 74' cross section in the MPS CDP. The applicant provided a reasoning for the omission in their narrative (attachment 2). Staff do not find any technical issues with the change, so do not object to removing the median in this roadway section.
- The Regional Land Use Advisory Commission replied on December 11, 2024 indicating they have no comment for this project.
- The Technical Review Committee reviewed the Preliminary Plat at their December 3, 2024 meeting and noted the following:
 - Traffic moving from the proposed Old Morganton Rd Extension onto Carolina Green Pkwy must be restricted to right turns only (pursuant to the provided TIA in attachment 9). Turning left must be restricted by a physical means – curbs or other path obstructing measures. This detail can be reviewed and confirmed during site plan review.
 - The proposed 40' linear park buffer on the east side of the subdivision is currently undisturbed and should retain trees in line with the purpose of the PDP.
 - The traffic circle must include a stub out for a street connection between Patriot Blvd and the traffic circle, via outparcel 4. A stub out should also be present on the traffic circle to connect a driveway to outparcel 3. Both of these can be addressed during site plan review.
- A list of Technical Review Committee comments was provided to the applicant on December 6, 2024. The applicant returned amended application documents on December 10, 2024. Further PDP and site plan review and approval will be required prior to issuance of any development, if approved.

V. ATTACHMENTS:

The following materials are provided as attachments to this staff memorandum:

1. Preliminary Plat Application, Agent Authorizations, and List of Adjacent Landowners
2. Narrative
3. Justification

4. Preliminary Plat Sheet 1 – Parent Tract
5. Preliminary Plat Sheet 2 – 4 Outparcels Specifics
6. Preliminary Plat Sheet 3 – Utilities
7. Red Cockaded Woodpecker Survey Letter
8. Red Cockaded Woodpecker Survey Map
9. Traffic Impact Analysis – Executive Summary
10. Duke Energy Letter
11. Piedmont Natural Gas Letter
12. Legal Description for 9.03 Minor Subdivision (4 Outparcels)

VI. TOWN COUNCIL ACTION:

To either approve or deny a Preliminary Plat application, the Town Council must make findings of fact and conclusions to the applicable standards.

- *The Town Council shall first vote on whether the application is complete and whether the facts presented are relevant to the case.*
- *The Town Council shall then vote on whether the application complies with the criteria as set forth in Section 2.20.4(G) Criteria for a Preliminary Plat, Criteria 1-5. Staff have drafted a finding of fact for consideration in Attachment 1. The Town Council may make modifications or provide an alternative to the draft findings of fact and related motions at their discretion.*

I move to:

1. Adopt **Attachment 1** of the staff report, as drafted, as Findings of Fact regarding the proposed Preliminary Plat MAPP-04-24.

- OR -

2. Adopt **Attachment 1** of the staff report as Findings of Fact regarding the proposed Preliminary Plat MAPP-04-24, with the following changes:

Next, the Town Council shall vote on whether to approve, deny, or approve with conditions the proposed Preliminary Plat. The Town Council may choose one of the following motions, or any alternative they wish.

I move to:

1. Approve the Preliminary Plat MAPP-04-24;
2. Deny the Preliminary Plat MAPP-04-24;
3. Approve the Preliminary Plat MAPP-04-24 with the following additional conditions:

Condition 1 – W. Morganton Road – Highway Corridor Overlay Buffer

Within the 40' Highway Buffer adjacent to W. Morganton Road, the project developer shall retain all existing trees greater than or equal to 6-inch caliper, subject to the following:

- No grading shall occur within the buffer or within the critical root zone of buffer trees. The critical root zone is defined by the Town Arborist as a tree's respective drip line.
- Tree protection fencing shall be installed to protect the critical root zone of all retained trees within the buffer at a minimum distance of 6-feet or a tree's drip line, whichever is greater. The exact tree protection fence locations shall be reviewed and approved during the Old Morganton Road Extension site plan review.
- If the above required standoff distance directly prevents necessary site design, then the project developer may request a standoff reduction of tree protection fences. Any approved reduction is contingent on the assessment and concurrence from the Town of Southern Pines Arborist.
- The project developer may remove underbrush within the buffer, such as vines and small trees less than 6-inch caliper.
- Additional plantings necessary to meet UDO Exhibit 4-4 standards, such as required shrubs count, will be reviewed and approved during site plan review.

This condition is pursuant to UDO Exhibit 3-13, MAPP Criterion 1, Comprehensive Plan Policy 4.9, Comprehensive Plan Policy 4.10, and UDO §3.5.14(A)(9).

Condition 2 – Carolina Green Parkway – Linear Park

The Linear Park along Carolina Green Parkway, within Outparcel 1, shall be 40' wide and developed in accordance with the MPS CDP. Within the 40' Linear Park, the project developer shall retain all existing trees greater than or equal to 6-inch caliper, subject to the following:

- No grading shall occur within the buffer or within the critical root zone of buffer trees; however, the project developer may clear area necessary to grade and install the Old Morganton Rd Extension and install required Linear Park elements and amenities pursuant to the MPS CDP. The critical root zone is defined by the Town Arborist as a tree's respective drip line.
- Tree protection fencing shall be installed to protect the critical root zone of all retained trees within the Linear Park at a minimum distance of 6-feet or a tree's drip line, whichever is greater. The exact tree protection fence locations shall be reviewed and approved during the Old Morganton Road Extension site plan review.
- If the above required standoff distance directly prevents necessary site design, then the project developer may request a standoff reduction of tree protection fences. Any approved reduction is contingent on the assessment and concurrence from the Town of Southern Pines Arborist.
- The project developer may remove underbrush within the buffer, such as vines and small trees less than 6-inch caliper.
- Trees retained within this buffer may be counted toward satisfying Linear Park landscape requirements pursuant to the MPS CDP.

This condition is pursuant to MAPP Criterion 2, UDO §2.18.5(A)(4), and UDO §3.5.14(A)(9).

ATTACHMENT 1
Draft Town Council Findings of Fact
Preliminary Plat Application MAPP-04-24

FINDINGS OF FACT

- A. The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Major Subdivision Preliminary Plat approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Plat, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.
- B. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 1 (the application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities) in that the Preliminary Plat aligns with the 2040 Comprehensive Plan only with the imposition of protection measures to the existing tree stand within the 40' highway buffer along W Morganton Rd. These trees provide distinct natural character to the surrounding community, which directly aligns with MAPP Criterion 1, Comprehensive Plan policies 4.9 and 4.10, and UDO §3.5.14(A)(9). The proposed subdivision is consistent with the General Framework Map and Conservation and Development Maps, which each categorize the site as an Area to Transform and Mixed-Use Area. Site access and utility connections, provided by Town of Southern Pines Public Works, are both readily available. Therefore, the project is also compatible with its surrounding infrastructure.
- C. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 2 (the proposed subdivision complies with the UDO and applicable state and federal regulations) in that the Preliminary Plat complies with the UDO only with the imposition of a protection measure for the existing trees within the 40' Linear Park along Carolina Green Parkway. A protection measure for the existing trees and their critical root zones ensures that the PDP purpose criteria, under UDO §2.18.5(A), of integrating natural features and woodlands may be adequately applied to this project. The proposal complies with federal regulations in that the applicant has provided a biological assessment reflecting no impact on the Red Cockaded Woodpecker or other endangered species.
- D. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 3 (the proposed Subdivision, including its Lot sizes, density, access, and circulation, is compatible with the existing and/or permissible zoning and future land use of adjacent property) in that the four commercial lots and their respective dimensions meet density standards. The proposed Old Morganton Road Extension depicted on the plat will also provide sufficient access and circulation within the development.
- E. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 4 (the proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties) in that the project does not present a safety or viability concern for the surrounding area. The Old Morganton Road Extension connects Old Morganton

Road, Carolina Green Parkway, and the proposed outparcels in a way that's safe and accommodates both vehicular and pedestrian traffic. Additionally, with the imposition of specific traffic control measures as prescribed in this project's Traffic Impact Analysis (TIA), the proposed lots and land uses will fall within the TIA's mandated parameters.

- F. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 5 (the proposed public facilities are adequate to serve the normal and emergency demands of the proposed development, and to provide for the efficient and timely extension to serve future development) in that the proposed utility plan adequately meets water, fire flow, and sewer requirements. The Town of Southern Pines will provide all utility extensions and connections. This means they will serve this development adequately and efficiently.



Major Subdivision Preliminary Plat

Date Received: _____ Case No.: S-_____-_____-_____

Subdivision Name: Morganton Park South - Phase 4 Street Address: 1700 Old Morganton Rd
PIN: 857100588078 Parcel ID: 98000749 Zoning District: PD
Project acreage in: Lots ±7.28 AC + Roads ±1.74 AC + Open Space _____ + Common Area _____
+ Other (describe) _____ = Total Project Acreage 9.014 AC
Number of Lots: 4 Minimum Lot Size: 1.19 AC Setbacks: NA
Highway Corridor Overlay: Yes/No yes If yes, Urban Village X Urban Transition _____ Rural Hwy _____
Watershed: Yes/No no If yes, LR #2: _____ LR Vass: _____ Nicks Creek: _____ HQW: Yes/No no
Does the site contain a Special Flood Hazard Area: Yes/No no Does the site contain wetlands: Yes/No no

Applicant:

Name: Midland Atlantic Properties
Phone: 513-792-5000 Email: jsilverman@midlandatlantic.com
Mailing Address: 8044 Montgomery Road, Suite 370, Cincinnati, Ohio 45236

Contact Person, if different from Applicant:

Name: Koontz Jones Design - C/O Bob Koontz
Phone: 910-684-8487 Email: bkoontz@koontzjones.com
Mailing Address: 140 Applecross Rd. Suite B, Pinehurst NC, 28374

Legal Property Owner(s), if different from Applicant:

Name(s): MORGANTON ROAD ENTERPRISES, LLC, Thomas M Van Camp Trustee & Others
Phone: 910-295-2525 Email: thomasv@vancamplaw.com
Mailing Address: PO BOX 1389 Pinehurst, NC 28370

Date: November 12, 2024

Midland Atlantic Properties

Signature of Applicant

William M. Mees, Jr.
Director of Development
wmees@midlandatlantic.com

4.17.24

APPOINTMENT OF AGENT

The undersigned owner(s), Midland Atlantic Properties, hereby appoint(s) Koontz Jones Design as the exclusive agent for the purpose of making an application to the Town of Southern Pines for approval of a Major Subdivision of the property described in the attached application. The owner(s) hereby agree that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Planning Board and Town Council for the approval of a Major Subdivision of the property; and
4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for a Major Subdivision under the Southern Pines Unified Development Ordinance.

This Appointment of Agent shall remain in effect until final resolution of the attached application.

Signed this 12th day of November, 2024.

Midland Atlantic Properties



Property Owner

William M. Mees, Jr.
Director of Development

Property Owner


Agent

APPOINTMENT OF AGENT

Morganton Road Enterprises, LLC

The undersigned owner(s), Van Camp, Thomas M Trustee & Others, hereby appoint(s) Koontz Jones Design as the exclusive agent for the purpose of making an application to the Town of Southern Pines for the approval of the Planned Development District – Preliminary Development Plan described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Town Council for the approval of a Planned Development District – Preliminary Development Plan; and
4. to act on behalf of the property owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for a Planned Development District -Preliminary Development Plan under the Southern Pines Unified Development Ordinance.

This Appointment of Agent shall remain in effect until final resolution of the attached application.

Signed this _____ day of _____, _____.

 AIF

Property Owner

Property Owner



Agent

4.17.24

ADJACENT PROPERTY OWNERS										
PARID	PIN	DEED BOOK	DEED PAGE	NAME	NAME2	ADDRESS	ADDRESS2	CITY	STATE	ZIP
00039140	85710770813	159		505 TOWN OF SOUTHERN PINES		PO BOX 870		SOUTHERN PINES	NC	28388
00049222	857100563343	6102		263 MIDLAND SOUTHERN PINES RETAIL LLC		8044 MONTGOMERY ROAD	SUITE 370	CINCINNATI	OH	45236
00052502	857100572972	2783		119 VAN CAMP ROBERT W & JULIE M	TRUSTEES	512 PENICKWOOD LN	APT 9105	SOUTHERN PINES	NC	28387
00055865	857100574447	159		505 TOWN OF SOUTHERN PINES		PO BOX 870		SOUTHERN PINES	NC	28388
00056206	857100478567	2824		397 MLE PROPERTIES LLC		210 FRYE RD		PINEHURST	NC	28374
00991984	857100784375	143		303 SOUTHERN PINES TOWN OF		PO BOX 870		SOUTHERN PINES	NC	28388
00991984801	857100784375			SOUTHERN PINES TOWN OF		C/O TIME WARNER TAX DEPT 070	PO BOX 7467	CHARLOTTE	NC	28241-7467
00991985	857100682988	143		303 SOUTHERN PINES TOWN OF		PO BOX 870		SOUTHERN PINES	NC	28388
20150132	857100583770	5397		95 CPGKRE PINEHURST	LOWES OUTPARCELS LLC	2710 WYCLIFF ROAD	SUITE 100	RALEIGH	NC	27607
20150134	857100479988	4484		74 BERNE SQUARE LLC	WARREN CORNERS LLC	1775 GRAHAM AVE	SUITE 201	HENDERSON	NC	27536
20190271	857100487483	5370		407 MLE PROPERTIES LLC		210 FRYE RD		PINEHURST	NC	28374
20190271	857100590566	5210		279 MORGANTON PARK REALTY LLC		5 FIRST VILLAGE DRIVE		PINEHURST	NC	28374
20190272	857100597408	5210		301 PINEHURST SURGICAL CLINIC		5 FIRST VILLAGE DRIVE		PINEHURST	NC	28374
20200203	857100590157	5297		202 PINEHURST MEDICAL GROUP LLC	REALTY LLC	205 PAGE RD		PINEHURST	NC	28374
20200421	857100581716	6160		207 SOUTHERN WAKE INDUSTRIAL PARK LLC		27 ANNETTE DR	STE 107	BENSON	NC	27504
20220003	857100589930	5774		380 TOWN OF SOUTHERN PINES		PO BOX 870		SOUTHERN PINES	NC	28388
20220587	857100568777	6220		533 ZP 378 SOUTHERN PINES II SUBSIDIARY LLC		6725 MONUMENT DR		WILMINGTON	NC	28405-4558
20230819	857100687987	143		303 SOUTHERN PINES TOWN OF		PO BOX 870		SOUTHERN PINES	NC	28388
20230820	857100781785	6101		200 YMCA OF THE SANDHILLS		2717 FORT BRAGG ROAD		FAYETTEVILLE	NC	28303
20230833	857100467058	6102		257 MIDLAND SOUTHERN PINES RETAIL LLC		8044 MONTGOMERY ROAD	SUITE 370	CINCINNATI	OH	45236
20230956	857100478061	6112		408 MSP RETAIL II LLC		8044 MONTGOMERY ROAD		CINCINNATI	OH	45236
98000748	857107686501	5625		451 RENTAL DERBY LLC		39 SPEARHEAD DRIVE	SUITE 370	WHISPERING PINES	NC	28327
98000749	857100588078	5919		576 MORGANTON ROAD ENTERPRISES LLC	VAN CAMP THOMAS M TRUSTEE & OTHERS	PO BOX 1389		PINEHURST	NC	28370

MORGANTON PARK SOUTH – PHASE 4 MAJOR SUBDIVISION NARRATIVE

The purpose of this Major Subdivision (MS) application is to fully describe the next phase of development for the approved Morganton Park South Conceptual Development Plan (CDP). As stated in the Town of Southern Pines Unified Development Ordinance (UDO) in Section 2.20, the Major Subdivision Preliminary Plat “serves as a guide to future density, intensity, land uses, pedestrian and bicycle ways, trails, parks and open space, as well as Lot, street and drainage patterns.” The following narrative will provide information related to the submitted plans and details of Phase 4 of the proposed development of the Morganton Park South CDP. This narrative will describe how the Major Subdivision Preliminary Plat meets the criteria outlined in Section 2.20 of the UDO. Phase 4 is consistent with the PD zoning district, the approved CDP, and the Town’s 2040 Comprehensive Plan (TCP).

The subject property is currently zoned Planned Development (PD) with an approved Conceptual Development Plan (CDP) PD-08-21. The property is also designated as a Retail Center and a Community Activity Center in the TCP. In addition, the property is designated as a Suburban Settlement Character District. A Suburban Settlement may contain shopping centers, office parks, industrial parks, single-family neighborhoods, or apartment complexes. The proposed outparcel development in this Major Subdivision application follows the guidelines of the TCP and all standards of the approved CDP.

Phase 4, as described in this Major Subdivision application, will include four commercial and/or office outparcels and the Old Morganton Road connector on +/- 9.03 acres. The Old Morganton Road extension will connect to Carolina Green Parkway at a full-motion intersection. All outparcels will have access from Old Morganton Road. The applicant intends to subdivide the 9.03 acres from the current tract (PARID 9800749) through a separate minor subdivision process to allow the applicant to acquire the subject property from the landowner. Following is a description of the individual phase and overall design elements of the Major Subdivision Preliminary Plat.

Retail and/or Office Development

Phase 4 of the Morganton Park South CDP will include four (4) outparcels. The attached preliminary plat shows that the outparcels will be developed within the +/- 9.03 acre outparcel area. The outparcels may be developed with any retail and office uses permitted in Exhibit VII – Land Use Plan of the approved CDP. The outparcels will be required to undergo a Preliminary Development Plan process for each outparcel. The following establishes design standards for the individual outparcels specific to the proposed development included in the preliminary plat and on Sheet L-1.0 of the documents.



Open Space

Phase 4 will include a 40' wide linear park along the Carolina Green Parkway. Sheet L-1.0 provides updated open-space calculations to reflect this phase of development.

Stormwater Management

Each outparcel will provide its own stormwater management to be specifically designed during the site planning process unless it is determined that there is capacity in another regional stormwater facility. In addition, the stormwater system for Old Morganton Road is shown on Sheet L-1.0. Stormwater management for all sites on the property will be provided per Section 5.5.10 of the CDP booklet. Appropriate local stormwater and erosion control permits will be required by the Town before any land disturbance activity on the site. The site is not located in HW or Water Supply Watersheds.

Lighting

Lighting levels along streets will be provided to meet the UDO standards for safety. Parking lot lighting levels will be permitted up to 4.00 lumens per square foot (4 footcandles) and include luminaires with cutoffs less than 90 degrees to prevent the spilling of light onto adjacent properties.

Endangered Species

A report prepared by Dr. JH Carter and Associates on August 9, 2024, has been provided with this application. After a wildlife biologist had surveyed the property, no new cavity trees were found. As a result, the development of this property was determined to have no negative impact on RCW habitat.

Utilities

This Major Subdivision follows the criteria described in Section 5.5.5 of the CDP booklet. Water and sewer utilities are readily available for the project and have been installed during previous phases of development. Utility locations are provided on Sheet L-1.0, illustrating the location of water and sewer utility connections. Water and sewer will be installed along Old Morganton Road to connect the site from the existing Carolina Green Parkway utilities to the existing water and sewer mains located on Old Morganton Road.

Roadways

Section 5.5.1 Vehicular Circulation, Street Cross Sections, and Parking of the approved CDP allows for ingress/egress for the Phase 4 property and requires the extension of Old Morganton Road to connect to Carolina Green Parkway with a 74' wide right-of-way. The CDP states that access points throughout the development can be reviewed during the development process.

Old Morganton Road will be extended to Carolina Green Parkway from the existing intersection with Patriot Boulevard. From the intersection at Patriot and Old Morganton, the roadway will curve to a roundabout and then continue east to intersect with the Carolina Green Parkway at a full-motion intersection. A median will be provided from Patriot Boulevard to the roundabout. No median will be provided from the roundabout to Carolina Green Parkway to allow full motion access to the outparcels.

The curve and roundabout design will provide additional traffic calming to reduce speeds along Old Morganton Road. This design adds to the pedestrian friendly environment being developed for the entirety of Morganton Park South. Each outparcel along Old Morganton Road will be permitted one (1) full-motion access point.

Signage

Signage on the property will follow Section 5.5.7 of the approved CDP document. The sign design will follow the design character established in the CDP and currently constructed within Morganton Park South.

In summary, the proposed Major Subdivision is consistent with the TCP and promotes its objectives. The TCP designates the property as a Suburban Settlement Character District. This Major Subdivision meets the standards of the approved CDP. The proposed Major Subdivision is the fourth development phase for the Morganton Park South area in the Town of Southern Pines. Phase 4 will meet the community vision described in Section 2.2 of the CDP and create new retail development in Southern Pines within the overall mixed-use development of Morganton Park South.

Morganton Park South – Phase 4 Major Subdivision Justification

Below are listed the five (5) criteria required to approve a Major Subdivision application as described in Section 2.20.4 (G) Criteria of the Town of Southern Pines UDO. Following the individual criteria is an explanation, indicated in blue, describing how the project demonstrates compliance with each of these criteria.

- (1) The application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities;

This application is consistent with the Town's Comprehensive Plan (TCP), incorporates many of its goals and objectives, and establishes a development pattern that is consistent with the surrounding neighborhood and approved Conceptual Development Plan (CDP) for the property. The development pattern is compatible with the surrounding area, zoning classifications, and future uses included in the CDP. The Preliminary Plat included in this application is consistent with UDO standards and standards included in the CDP for roadways, open space, and public utilities.

- (2) The proposed Subdivision complies with the UDO and applicable state and federal regulations;

This major subdivision plan complies with the UDO standards and those outlined in the CDP for this property. Uses included in this preliminary plat will be limited to those approved in the CDP for the property. The proposed Major Subdivision Preliminary Plat establishes setbacks and a development pattern consistent with the UDO. The request also complies with all applicable Town of Southern Pines, state, and federal regulations. Roadways and utilities will be provided for the project to adequately serve the property's development. Stormwater management will also meet all local, state, and federal requirements. As required, these items will be permitted with the appropriate agencies during the site planning process.

- (3) The proposed Subdivision, including its Lot sizes, density, access, and circulation, is Compatible with the existing and/or permissible zoning and future land use of adjacent property;

The subject property is currently zoned Planned Development (PD) with an approved Conceptual Development Plan (CDP). The property is also designated as a Retail Center and a Community Activity Center in the TCP. In addition, the property is designated as a Suburban Settlement Character District. A Suburban Settlement may contain shopping centers, office parks, industrial parks, single-family neighborhoods, or apartment complexes. The proposed outparcel development in this PDP follows the guidelines of the TCP and all standards of the approved CDP.

In addition, the applicant has worked with the Town of Southern Pines and NCDOT to ensure safe access and circulation for the property. The Preliminary Plat adjusts the conceptual road design shown in the CDP but retains the original intent for connectivity, pedestrian access, and safe turning movements. Section 2.20.4(A)(1) of the UDO states that the Preliminary Plat "serves as a guide to future density, intensity, land uses, pedestrian and bicycle ways, trails, parks, and open space, as well as Lot, street and drainage patterns." We believe that the alignment included in the Major Subdivision Preliminary Plat application, which is based on more detailed topographic

analysis, engineering information, and site-specific design, demonstrates compliance with the CDP.

The modification (1) reduces the number of curb cuts along the eastern end of Carolina Green Parkway from two curb cuts to one curb cut – now placed between the two original curb cuts; and (2) adjusts the configuration of Old Morganton Road to a design which reduces traffic speed and allows for safer pedestrian utilization by adding curves and a roundabout. The modification also places the Old Morganton Road extension in a location that is physically able to be constructed – the original Conceptual Plan placed the road in the middle of the borrow pit used to construct the Lowe’s Grocery Store Center, presenting a significant grading challenge. We believe the modification is an improvement to the original Conceptual Plan, but moreover, we believe the modification is consistent with the intent of the CDP while creating a safer, more pedestrian-friendly condition for Old Morganton Road and maintaining the overall circulation patterns for the entirety of Morganton Park.

- (4) The proposed Subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties; and

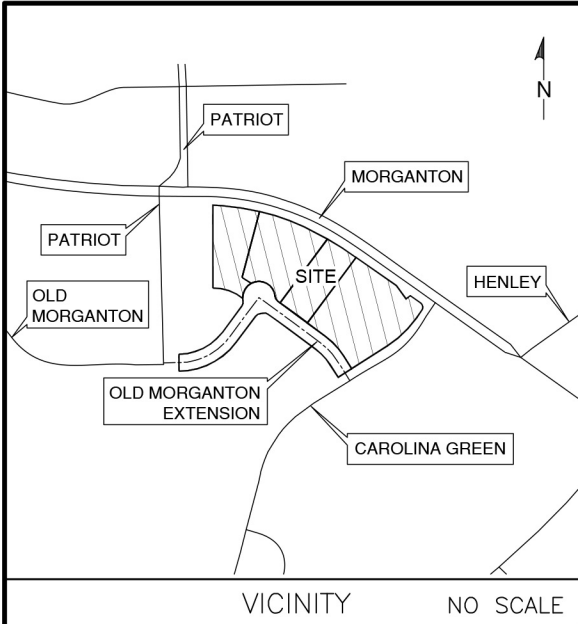
This proposed development is compatible with the adjacent properties. The proposed density, land use, and proposed plan are consistent with standards set forth in the UDO and all Southern Pines zoning documents, including the approved CDP. Based on the approved CDP the proposed development is compatible and consistent with the surrounding neighborhood.

Vehicular access to the property will be from Carolina Green Parkway and through an extension of the existing Old Morganton Road. Individual outparcels will have access directly from Old Morganton Road. Old Morganton Road will include a curved area, and a roundabout will be added for traffic calming purposes and to slow vehicles through the development. In conjunction with the extension of the multi-use trail and sidewalks, these traffic calming measures provide a safer environment for pedestrians and bicyclists. The applicant has worked with the Town and NCDOT to ensure safe ingress and egress to the property.

- (5) The proposed public facilities are adequate to serve the normal and emergency demands of the proposed Development, and to provide for the efficient and timely extension to serve future Development.

Public water and sewer utilities are available for the project and will be extended to serve the property. Extension of these utilities will match the original intent of the Morganton Park South development and are located in a manner consistent with the Town’s requirements for emergency demands. Fire hydrants will be installed as required by the Town of Southern Pines. Upon completion and acceptance by the Town of Southern Pines, all utility improvements will be dedicated to the Town of Southern Pines.

The extension of Old Morganton Road will be constructed to the standards included in this application, which meet the Town’s requirements for emergency demands related to pavement widths, pavement cross-section, and turning radii. All roadways will be designed and permitted through the Town of Southern Pines and reviewed by emergency services for compliance with access and service requirements.



SUBDIVISION OWNER MIDLAND ATLANTIC PROPERTIES
APPLICANT MIDLAND ATLANTIC PROPERTIES
DEVELOPER MIDLAND ATLANTIC PROPERTIES

PRELIMINARY PLAT PREPARED BY:
ROBERTO RODRIGUEZ, JR., PLS
LICENSE # 5428
140 AQUA SHED COURT
ABERDEEN, NC 28315
910-420-1437

SITE DATA:
JURISDICTION: SOUTHERN PINES
ADDRESS: 1700 OLD MORGANTON RD
ZONING: PD (PLANNED DEVELOPMENT)
MRO (MORGANTON ROAD OVERLAY)
URBAN VILLAGE HIGHWAY CORRIDOR

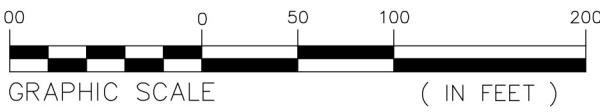
TRACT ACREAGE CALCULATIONS
PARCEL ID 98000749 33.24 ACRES (1,448,112 SF)
SITE TOTAL 9.03 ACRES (393,500 SF)
COMMERCIAL LOTS 7.25 ACRES (316,016 SF)
RIGHT-OF-WAY 1.78 ACRES (77,484 SF)
OPEN SPACE BUFFERS
• URBAN VILLAGE HIGHWAY YARD BUFFER 0.96 ACRES (41,885 SF)
• LINEAR PARK 0.36 ACRES (14,950 SF)

COMMERCIAL LOT DATA:
5 LOTS TOTAL; ONE PHASE
• 4 BUILDABLE LOTS - COMMERCIAL USE 20.67 ACRES
• 1 LOT REMANDER (NOT INCLUSIVE OF CAROLINA GREEN PARKWAY)

TITLE REFERENCE:
PARCEL ID 98000749
DEED BOOK 5919 PAGE 576
MOORE COUNTY REGISTRY

OWNER:
MORGANTON ROAD ENTERPRISES, LLC
PO BOX 1389
PINEHURST, NC 28370

LEGEND:
○ = 5" IRON ROD SET FLUSH
● = EXISTING IRON ROD
○ = EXISTING IRON PIPE
□ = EXISTING MONUMENT
△ = EXISTING MAG NAIL
— = EXISTING RIGHT OF WAY
— = FUTURE RIGHT OF WAY
— = BOUNDARY LINE
— = PROPERTY BARB
— = BOUNDARY NOT SURVEYED
— = EDGE OF PAVEMENT
— = EDGE OF CONCRETE



REVISIONS		
SVM.	DESCRIPTION	DATE
	• OLD MORGANTON ROAD EXTENSION RIGHT-OF-WAY 74 WIDTH EAST OF TRAFFIC CIRCLE - AREA CALCULATIONS UPDATE	12/10/2024
	• 20' BUFFER SUBJECT TO CDP	01/06/2025
		RR

PROJECT LOCATION EXHIBIT
MORGANTON PARK SOUTH
PHASE 4

SOUTHERN PINES, NORTH CAROLINA

LKC

Engineering
Landscape Architecture
Surveying

LKC Engineering, pllc
140 Aqua Shed Court
Aberdeen, NC 28315
O: 910.420.1437

lkceengineering.com
License No. P-1095

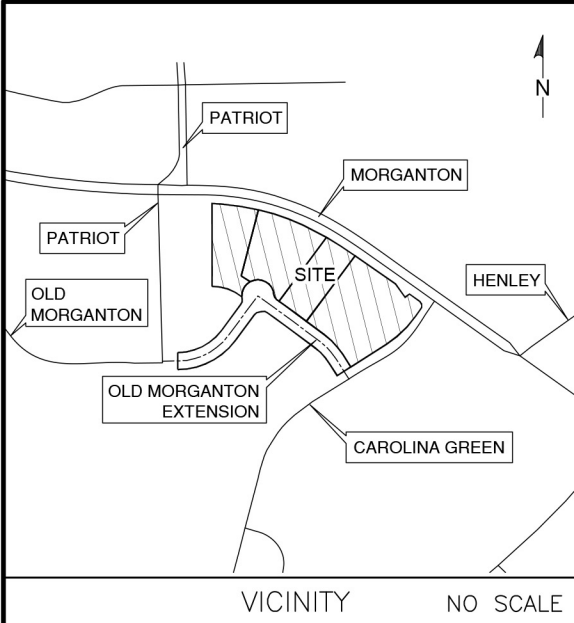
DATE: JANUARY 1, 2025

DESIGNED:

DRAWN: RR

CHECKED:

NO.



TITLE REFERENCE:
PARCEL ID 98000749
DEED BOOK 5919 PAGE 576
MOORE COUNTY REGISTRY

OWNER:
MORGANTON ROAD ENTERPRISES, LLC
PO BOX 1389
PINEHURST, NC 28370

SUBDIVISION OWNER MIDLAND ATLANTIC PROPERTIES
APPLICANT MIDLAND ATLANTIC PROPERTIES
DEVELOPER MIDLAND ATLANTIC PROPERTIES

PRELIMINARY PLAT PREPARED BY:
ROBERTO RODRIGUEZ, JR., PLS
LICENSE # 5428
140 AQUA SHED COURT
ABERDEEN, NC 28315
910-420-1437

SITE DATA:
JURISDICTION: SOUTHERN PINES
ADDRESS: 1700 OLD MORGANTON RD
ZONING: PD (PLANNED DEVELOPMENT)
MRO (MORGANTON ROAD OVERLAY)
URBAN VILLAGE HIGHWAY CORRIDOR

TRACT ACREAGE CALCULATIONS
PARCEL ID 98000749 33.24 ACRES (1,448,112 SF)
SITE TOTAL 9.03 ACRES (393,500 SF)
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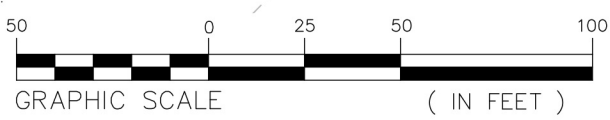
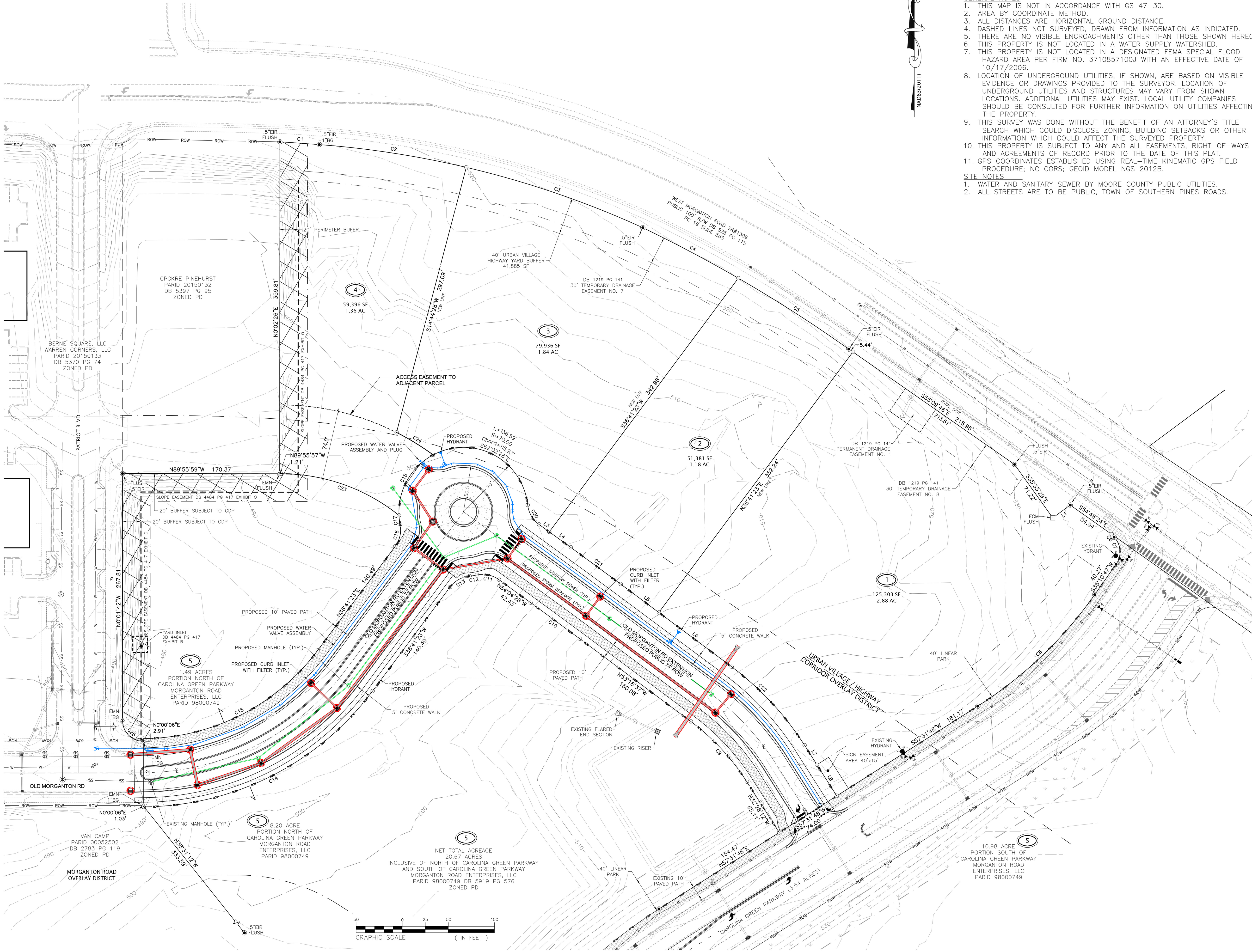
COMMERCIAL LOT DATA
5 LOTS TOTAL ONE PHASE
4 BUILDABLE LOTS - COMMERCIAL USE
1 LOT REMAINDER 20.67 ACRES
(NOT INCLUSIVE OF CAROLINA GREEN PARKWAY)

LEGEND

- 5" IRON ROD SET FLUSH
- EXISTING IRON ROD
- EXISTING IRON PIPE
- EXISTING MONUMENT
- EXISTING MAG NAIL
- EXISTING RIGHT OF WAY
- FUTURE RIGHT OF WAY
- BOUNDARY LINE
- PROPERTY BARB
- BOUNDARY NOT SURVEYED
- EDGE OF PAVEMENT
- EDGE OF CONCRETE
- EXISTING SANITARY SEWER
- EXISTING STORM DRAINAGE
- EXISTING WATERLINE

LINE #	BEARING	DISTANCE
L1	N53°36'33"E	23.46
L2	N0°00'06"E	70.06
L3	S54°04'28"E	13.78
L4	S54°04'28"E	26.65
L5	S53°18'37"E	51.61
L6	S53°18'37"E	98.47
L7	S32°28'12"E	25.11
L8	S32°28'12"E	40.00

CURVE #	LENGTH	RADIUS	CHORD BEARING	CHORD DISTANCE
C1	42.85	2056.05	S86°01'32"E	42.85
C2	161.36	1036.13	S81°11'55"E	161.20
C3	202.61	1036.13	S71°08'06"E	202.28
C4	117.14	1544.46	S62°07'07"E	117.11
C5	142.37	1544.46	S57°18'18"E	142.32
C6	4.19	35.00	S40°13'45"E	4.19
C7	31.88	23.17	S4°14'26"E	29.42
C8	176.32	452.00	S46°21'17"W	175.20
C9	89.84	247.00	N42°53'25"W	89.35
C10	66.18	4963.00	N53°41'33"W	66.17
C11	25.10	30.00	N78°02'27"W	24.37
C12	8.10	70.00	S81°18'27"W	8.10
C13	25.10	30.00	S60°39'22"W	24.37
C14	288.55	312.00	N63°11'05"E	278.38
C15	219.70	238.00	N63°08'05"E	211.98
C16	25.10	30.00	N12°43'23"E	24.37
C17	9.92	70.00	N7°10'56"W	9.92
C18	79.63	70.00	N29°28'08"E	75.41
C20	25.10	30.00	S30°06'28"E	24.37
C21	67.16	5037.00	S53°41'33"E	67.16
C22	116.76	321.00	S42°53'25"E	116.12
C23	138.55	205.31	N70°36'01"W	135.94
C24	46.74	280.00	N58°32'02"W	46.68
C25	35.35	22.50	N44°58'41"W	31.83



REVISIONS			
SYM.	DESCRIPTION	DATE	BY
	TOSP REVIEW COMMENTS (11/19/2024) MAPP-04-24	11/25/2024	RR
	OLD MORGANTON ROAD EXTENSION RIGHT-OF-WAY 74' WIDTH EAST OF TRAFFIC CIRCLE - AREA CALCULATIONS UPDATE	12/10/2024	RR
	20' BUFFER SUBJECT TO CDP	01/06/2025	RR

- GENERAL NOTES
- THIS MAP IS NOT IN ACCORDANCE WITH GS 47-30.
 - AREA BY COORDINATE METHOD.
 - ALL DISTANCES ARE HORIZONTAL GROUND DISTANCE.
 - DASHED LINES NOT SURVEYED, DRAWN FROM INFORMATION AS INDICATED.
 - THERE ARE NO VISIBLE ENCROACHMENTS OTHER THAN THOSE SHOWN HEREON.
 - THIS PROPERTY IS NOT LOCATED IN A WATER SUPPLY WATERSHED.
 - THIS PROPERTY IS NOT LOCATED IN A DESIGNATED FEMA SPECIAL FLOOD HAZARD AREA PER FIRM NO. 3710857100J WITH AN EFFECTIVE DATE OF 10/17/2006.
 - LOCATION OF UNDERGROUND UTILITIES, IF SHOWN, ARE BASED ON VISIBLE EVIDENCE OR DRAWINGS PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND UTILITIES AND STRUCTURES MAY VARY FROM SHOWN LOCATIONS. ADDITIONAL UTILITIES MAY EXIST. LOCAL UTILITY COMPANIES SHOULD BE CONSULTED FOR FURTHER INFORMATION ON UTILITIES AFFECTING THE PROPERTY.
 - THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF AN ATTORNEY'S TITLE SEARCH WHICH COULD DISCLOSE ZONING, BUILDING SETBACKS OR OTHER INFORMATION WHICH COULD AFFECT THE SURVEYED PROPERTY.
 - THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT-OF-WAYS AND AGREEMENTS OF RECORD PRIOR TO THE DATE OF THIS PLAT.
 - GPS COORDINATES ESTABLISHED USING REAL-TIME KINEMATIC GPS FIELD PROCEDURE; NC CORS; GEOID MODEL NGS 2012B.
- SITE NOTES
- WATER AND SANITARY SEWER BY MOORE COUNTY PUBLIC UTILITIES.
 - ALL STREETS ARE TO BE PUBLIC, TOWN OF SOUTHERN PINES ROADS.

LKC Engineering, pllc
140 Aqua Shed Court
Aberdeen, NC 28315
O: 910.420.1437
lkceengineering.com
License No. P-1095

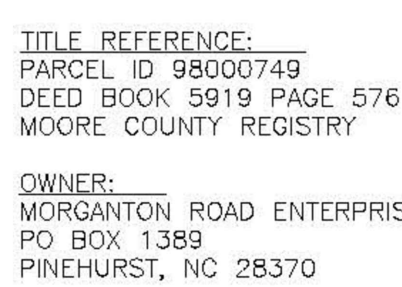
Engineering
Landscape Architecture
Surveying

LKC

PRELIMINARY PLAT
MORGANTON PARK SOUTH
PHASE 4

SOUTHERN PINES, NORTH CAROLINA

DATE: JANUARY 6, 2025
DESIGNED:
DRAWN: RR
CHECKED:
NO.



PRELIMINARY PLAT PREPARED BY:
ROBERTO RODRIGUEZ, JR., PLS
LICENSE # 5428
140 AQUA SHED COURT
ABERDEEN, NC 28315
910-420-1437

SITE DATA:
JURISDICTION: SOUTHERN PINES
ADDRESS: 1700 OLD MORGANTON RD
ZONING: PD (PLANNED DEVELOPMENT)
MRO (MORGANTON ROAD OVERLAY)
URBAN VILLAGE HIGHWAY CORRIDOR

<u>TRACT ACREAGE CALCULATIONS</u>		
PARCEL ID 98000749	33.24 ACRES	(1,448,112 SF)
SITE TOTAL	9.03 ACRES	(393,500 SF)
COMMERCIAL LOTS	7.25 ACRES	(316,016 SF)
RIGHT-OF-WAY	1.78 ACRES	(77,484 SF)
OPEN SPACE BUFFERS		
• URBAN VILLAGE HIGHWAY YARD BUFFER		
	0.96 ACRES	(41,885 SF)
• LINEAR PARK	0.36 ACRES	(14,950 SF)

COMMERCIAL LOT DATA
5 LOTS TOTAL; ONE PHASE
• 4 BUILDABLE LOTS - COMMERCIAL USE
• 1 LOT REMAINDER 20.67 ACRES
(NOT INCLUSIVE OF CAROLINA GREEN PARKWAY)

LEGEND

	= .5" IRON ROD SET FLUSH
EIR 	= EXISTING IRON ROD
EOP 	= EXISTING IRON PIPE
EM 	= EXISTING ENVIRONMENT
EMN 	= EXISTING MAG NAIL
	= EXISTING RIGHT OF WAY
	= FUTURE RIGHT OF WAY
	= BOUNDARY LINE
	= PROPERTY BARB
	= BOUNDARY NOT SURVEYED
	= EDGE OF PAVEMENT
	= EDGE OF CONCRETE
SS 	= EXISTING SANITARY SEWER
SD 	= EXISTING STORM DRAINAGE
W 	= EXISTING WATERLINE
	= OPEN SPACE

USEABLE OPEN SPACE	= ±0.39 AC
OPEN SPACE	= ±0.87 AC
TOTAL OPEN SPACE	= ±1.26 AC

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N53°36'33"E	23.46
L2	N0°00'06"E	70.06
L3	S54°04'28"E	13.78
L4	S54°04'28"E	28.65
L5	S53°18'37"E	51.61
L6	S53°18'37"E	98.47
L7	S32°28'12"E	25.11
L8	S32°28'12"E	40.00

CURVE TABLE				
CURVE #	LENGTH	RADIUS	CHORD BEARING	CHORD DISTANCE
C1	42.85	2056.05	S88°01'32"E	41.80
C2	161.36	1036.13	S81°11'55"E	161.25
C3	202.61	1036.13	S71°08'06"E	202.28
C4	117.14	1544.46	S62°07'07"E	117.11
C5	142.37	1544.46	S57°18'18"E	142.32
C6	4.19	35.00	S40°13'45"E	4.19
C7	31.88	23.17	S4°14'26"E	29.42
C8	176.32	452.00	S46°21'17"W	175.20
C9	89.84	247.00	N42°53'25"W	89.35
C10	66.18	4963.00	N41°41'33"W	66.17
C11	25.10	30.00	N78°02'27"W	24.37
C12	8.10	70.00	S81°18'27"W	8.10
C13	25.10	30.00	S60°39'22"W	24.37
C14	288.55	312.00	N63°11'05"E	278.38
C15	219.70	238.00	N63°08'05"E	211.98
C16	25.10	30.00	N124°43'23"E	24.37
C17	9.92	70.00	N71°05'58"W	9.92
C18	79.63	70.00	N29°28'08"E	75.41
C19	25.10	30.00	S30°06'28"E	24.37
C20	67.16	5037.00	S54°41'33"E	67.16
C22	116.76	321.00	S42°53'25"E	116.12
C23	138.55	205.31	N70°38'01"W	135.94
C24	46.74	280.00	N45°32'02"W	46.68
C25	35.35	22.50	N58°58'41"W	31.83

SITE NOTES:

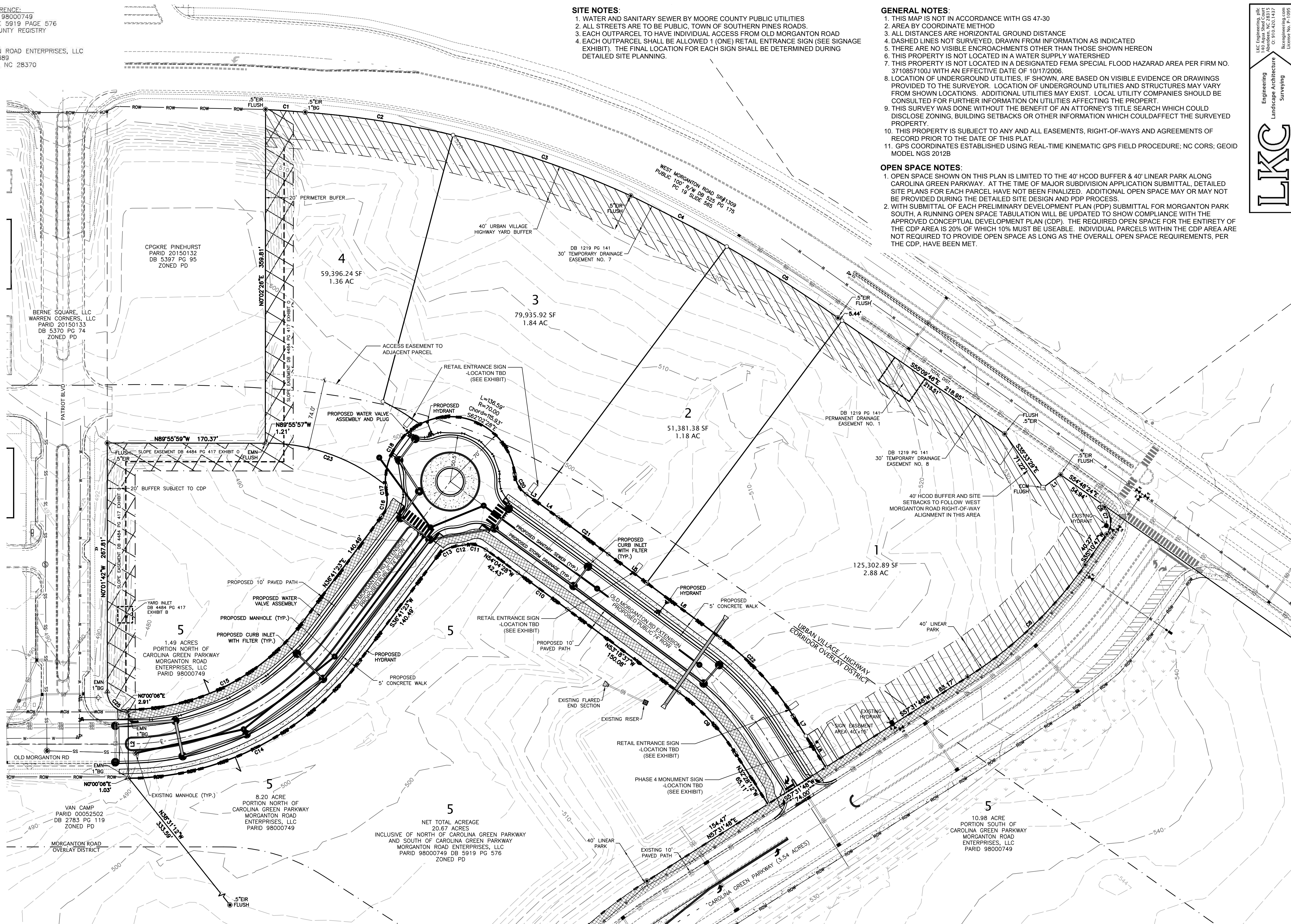
1. WATER AND SANITARY SEWER BY MOORE COUNTY PUBLIC UTILITIES
2. ALL STREETS ARE TO BE PUBLIC, TOWN OF SOUTHERN PINES ROADS.
3. EACH OUTPARCEL TO HAVE INDIVIDUAL ACCESS FROM OLD MORGANTOWN ROAD
4. EACH OUTPARCEL SHALL BE ALLOWED 1 (ONE) RETAIL ENTRANCE SIGN (SEE SIGNAGE EXHIBIT). THE FINAL LOCATION FOR EACH SIGN SHALL BE DETERMINED DURING DETAILED SITE PLANNING.

GENERAL NOTES

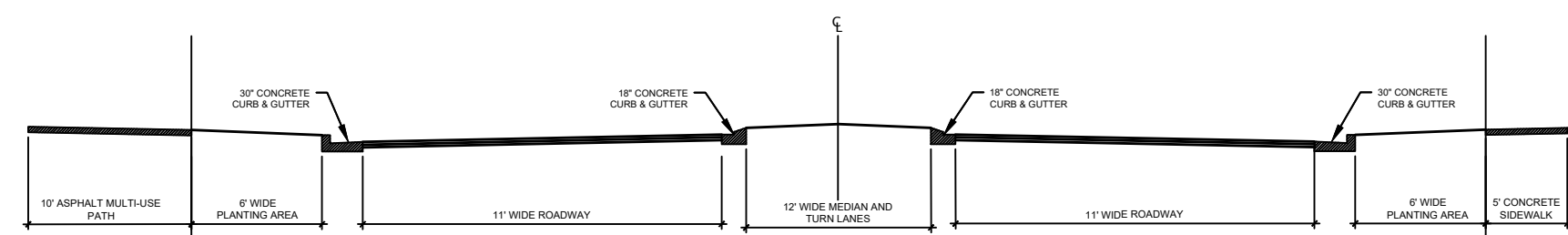
1. THIS MAP IS NOT IN ACCORDANCE WITH GS 47-30
2. AREA BY COORDINATE METHOD
3. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCE
4. DASHED LINES NOT SURVEYED, DRAWN FROM INFORMATION AS INDICATED
5. THERE ARE NO VISIBLE ENCROACHMENTS OTHER THAN THOSE SHOWN HEREON
6. THIS PROPERTY IS NOT LOCATED IN A WATER SUPPLY WATERSHED
7. THIS PROPERTY IS NOT LOCATED IN A DESIGNATED FEMA SPECIAL FLOOD HAZARAD AREA PER FIRM NO. 3710857100J WITH AN EFFECTIVE DATE OF 10/17/2006.
8. LOCATION OF UNDERGROUND UTILITIES, IF KNOWN, ARE BASED ON VISIBLE EVIDENCE OR DRAWINGS PROVIDED BY THE SURVEYOR. LOCATION OF UNDERGROUND UTILITIES AND STRUCTURES MAY VARY FROM SHOWN LOCATION. ADDITIONAL UTILITIES MAY EXIST. LOCAL UTILITY COMPANIES SHOULD BE CONSULTED FOR FURTHER INFORMATION ON UTILITIES AFFECTING THE PROPERTY.
9. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF AN ATTORNEY'S TITLE SEARCH WHICH COULD DISCLOSE ZONING, BUILDING SETBACKS OR OTHER INFORMATION WHICH COULDAFFECT THE SURVEYED PROPERTY.
10. THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT-OF-WAYS AND AGREEMENTS OF RECORD PRIOR TO THE DATE OF THIS PLAT.
11. GPS COORDINATES ESTABLISHED USING REAL-TIME KINEMATIC GPS FIELD PROCEDURE; NC CORS; GEOID MODEL NGS 2012B

OPEN SPACE NOTES:

1. OPEN SPACE SHOWN ON THIS PLAN IS LIMITED TO THE 40' HCOB BUFFER & 40' LINEAR PARK ALONG CAROLINA GREEN PARKWAY. AT THE TIME OF MAJOR SUBDIVISION APPLICATION SUBMITTAL, DETAILED SITE PLANS FOR EACH PARCEL MUST BE FINALIZED. INDIVIDUAL OPEN SPACE MAY OR MAY NOT BE PROVIDED DURING THE DETAILED SITE DESIGN AND CONSTRUCTION PHASES.
2. WITH SUBMITTAL OF EACH PRELIMINARY DEVELOPMENT PLAN (PDP) SUBMITTAL FOR MORGANTON PARK SOUTH, A RUNNING OPEN SPACE TABULATION WILL BE UPDATED TO SHOW COMPLIANCE WITH THE APPROVED CONCEPTUAL DEVELOPMENT PLAN (CDP). THE REQUIRED OPEN SPACE FOR THE ENTIRETY OF THE AREA 20% OF WHICH 10% MUST BE USABLE, INDIVIDUAL PANELS WITHIN THE CDP AREA ARE NOT REQUIRED TO PROVIDE OPEN SPACE AS LONG AS THE OVERALL OPEN SPACE REQUIREMENTS, PER THE CDP, HAVE BEEN MET.

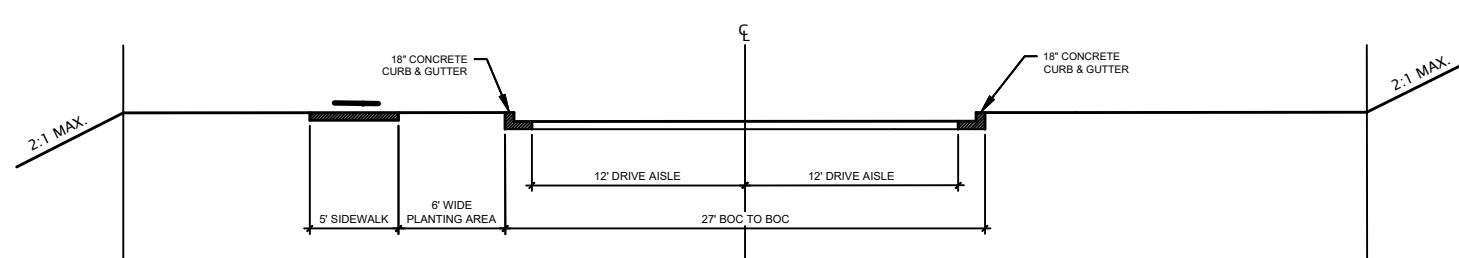


ROADWAY CROSS SECTIONS



74' RIGHT-OF-WAY (OLD MORGNTON RD)

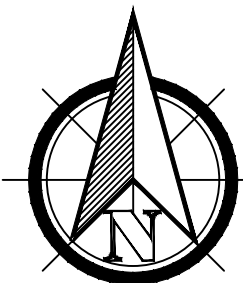
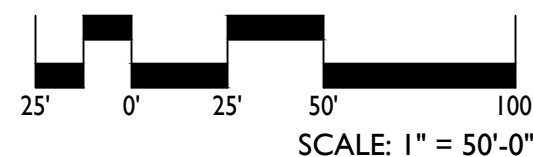
SECTION (NOT TO SCALE)
*OR TO MATCH EXISTING OLD MORGANTON ROAD CROSS SECTION



74' WIDE RIGHT-OF-WAY

74' RIGHT-OF-WAY (OLD MORGANTON RD)

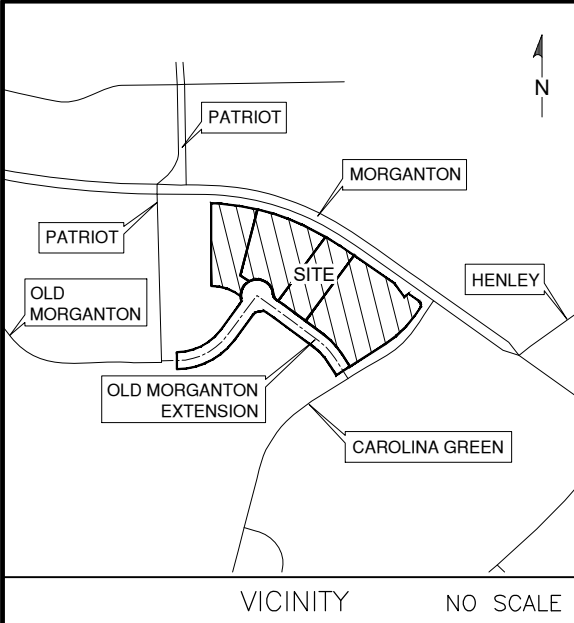
SECTION (NOT TO SCALE)



MORGANTON PARK SOUTH - PHASE 4
MAJOR SUBDIVISION
SOUTHERN PINES, NORTH CAROLINA
PRELIMINARY PLAT

DATE: 01/06/2025
DESIGNED BY: BK
DRAWN BY: BK
CHECKED BY: BK
Q.C. BY: BK
SCALE: 1"=50'
PROJECT #: KD24028
SHEET NUMBER#:

SHEET NUMBER#:
L-1.0



TITLE REFERENCE:
PARCEL ID 98000749
DEED BOOK 5919 PAGE 576
MOORE COUNTY REGISTRY

OWNER:
MORGANTON ROAD ENTERPRISES, LLC
PO BOX 1389
PINEHURST, NC 28370

SUBDIVISION OWNER MIDLAND ATLANTIC PROPERTIES
APPLICANT MIDLAND ATLANTIC PROPERTIES
DEVELOPER MIDLAND ATLANTIC PROPERTIES

PRELIMINARY PLAT PREPARED BY:
ROBERTO RODRIGUEZ, JR., PLS
LICENSE # 5428
140 AQUA SHED COURT
ABERDEEN, NC 28315
910-420-1437

SITE DATA:
JURISDICTION: SOUTHERN PINES
ADDRESS: 1700 OLD MORGANTON RD
ZONING: PD (PLANNED DEVELOPMENT)
MRO (MORGANTON ROAD OVERLAY)
URBAN VILLAGE HIGHWAY CORRIDOR

TRACT ACREAGE CALCULATIONS
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-URBAN VILLAGE HIGHWAY YARD BUFFER (41,885 SF)
-LINEAR PARK 0.36 ACRES (14,950 SF)

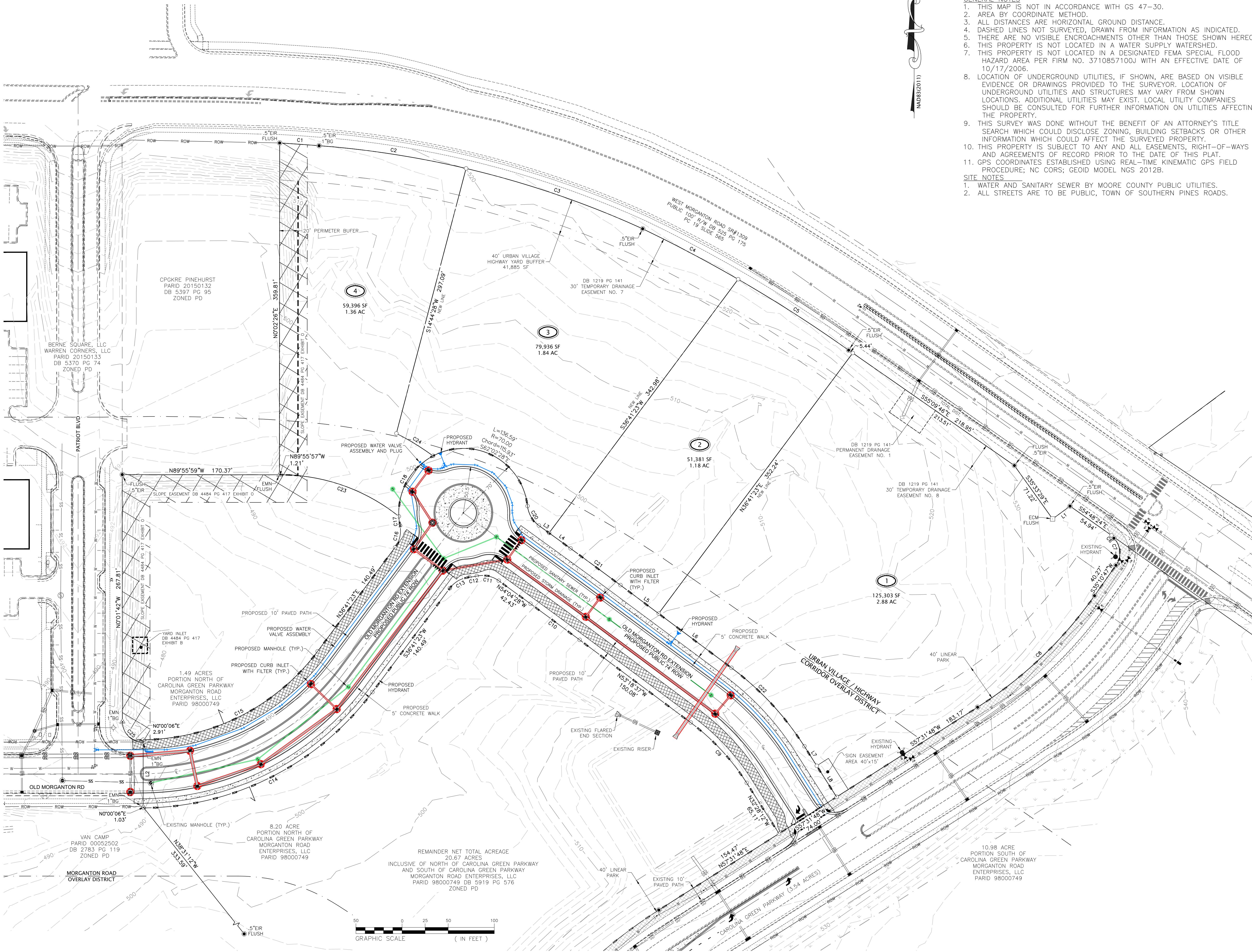
COMMERCIAL LOT DATA
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-4 BUILDABLE LOTS - COMMERCIAL USE
-1 LOT REMAINDER 20.67 ACRES
(NOT INCLUSIVE OF CAROLINA GREEN PARKWAY)

LEGEND

- 5" IRON ROD SET FLUSH
- EXISTING IRON ROD
- EXISTING IRON PIPE
- EXISTING MONUMENT
- EXISTING MAG NAIL
- EXISTING RIGHT OF WAY
- FUTURE RIGHT OF WAY
- BOUNDARY LINE
- PROPERTY BARB
- BOUNDARY NOT SURVEYED
- EDGE OF PAVEMENT
- EDGE OF CONCRETE
- EXISTING SANITARY SEWER
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C10	66.18	4963.00	N53°41'33"W
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C12	8.10	70.00	S81°18'27"W
C13	25.10	30.00	S60°39'22"W
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C16	25.10	30.00	N12°43'23"E
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C20	67.16	5037.00	S53°41'33"E
C21	116.76	321.00	S42°53'25"E
C22	138.55	205.31	N7°36'01"W
C23	46.74	280.00	N58°32'02"W
C24	35.35	22.50	N44°58'41"W



REVISIONS			
SYM.	DESCRIPTION	DATE	BY
	TOSP REVIEW COMMENTS (11/19/2024) MAPP-04-24	11/25/2024	RR
	OLD MORGANTON ROAD EXTENSION RIGHT-OF-WAY 74' WIDTH EAST OF TRAFFIC CIRCLE - AREA CALCULATIONS UPDATE	12/10/2024	RR

- GENERAL NOTES
- THIS MAP IS NOT IN ACCORDANCE WITH GS 47-30.
 - AREA BY COORDINATE METHOD.
 - ALL DISTANCES ARE HORIZONTAL GROUND DISTANCE.
 - DASHED LINES NOT SURVEYED, DRAWN FROM INFORMATION AS INDICATED.
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 - GPS COORDINATES ESTABLISHED USING REAL-TIME KINEMATIC GPS FIELD PROCEDURE; NC CORS; GEOID MODEL NGS 2012B.
- SITE NOTES
- WATER AND SANITARY SEWER BY MOORE COUNTY PUBLIC UTILITIES.
 - ALL STREETS ARE TO BE PUBLIC, TOWN OF SOUTHERN PINES ROADS.

LKC Engineering, PLLC
140 Aqua Shed Court
Aberdeen, NC 28315
O: 910.420.1437
lkceengineering.com
License No. P-1095

Engineering
Landscape Architecture
Surveying

LKC

PRELIMINARY PLAT
MORGANTON PARK SOUTH
PHASE 4
SOUTHERN PINES, NORTH CAROLINA

DATE: DECEMBER 10, 2024
DESIGNED:
DRAWN: RR
CHECKED:
NO.

Dr. J.H. CARTER III & ASSOCIATES, Inc.

Environmental Consultants
515-F Midland Road
Southern Pines, N.C. 28388
910-695-1043 / 910-695-3317 (fax)

9 August 2024

TO: Koontz Jones Design
Attn: Robert E. Koontz
150 South Page Street
Southern Pines, NC 28387

FROM: William Mullin, Wildlife/Wetland Biologist
Dr. J.H. Carter III & Associates, Inc. (JCA)

SUBJECT: Summary of red-cockaded woodpecker survey for the proposed Morganton Park South project in Southern Pines, Moore County, North Carolina.

CC: Raleigh USFWS Field Office
U.S. Fish and Wildlife Service
P.O. Box 33726
Raleigh, NC 27636-3726

Midland Atlantic Development Co., LLC, plans to construct a commercial development within the northeastern portion of the Morganton Park South retail complex on 5 adjacent lots (LRK #s 00052502, 98000749, 00052504, 00056206 and 20150134) on approximately 47.14 acres in Southern Pines, Moore County, North Carolina (NC) (Figure 1). This memorandum evaluates the impacts of this project on the Federally-endangered red-cockaded woodpecker (*Picoides borealis* = *Dryobates borealis*) (RCW) and 3 Federally Endangered plant species, pursuant to Section 9 of the Endangered Species Act (ESA), as amended. The southern portion of the Morganton Park South retail complex is already cleared and construction is underway. This memorandum serves as an update to the July 2023 evaluation for 2 parcels (LRK #s 00052502 and 98000749). Three additional parcels (LRK#s 00052504, 00056206 and 20150134) on the north side of the Morganton Park South retail complex were included in this evaluation, totaling 5 parcels as shown on the attached figure.

The project site is located between US Highway 15-501 and State Route 1309 (Morganton Road), and Brucewood Road north of the north of the Target retail store, in Southern Pines, NC (Figure 1).

The newly added parcels 1, 2 and 3 (Figure 1) total 9.52 ac. All 3 parcels are adjacent to one another and located south of Old Morganton Road. These parcels are similarly vegetated with a dense overstory of loblolly (*Pinus taeda*) and longleaf pine (*P. palustris*), a moderately dense midstory of turkey (*Quercus laevis*), blackjack (*Q. marilandica*) and bluejack (*Q. incana*) oaks and a dense ground cover of muscadine grape (*Muscadinia rotundifolia*), poison ivy (*Toxicodendron radicans*) and Virginia-creeper (*Parthenocissus quinquefolia*).

Lot 4 (LRK #52502) is 3.04 ac. and occurs south of Patriot Boulevard along the northern edge of the project site (Figure 1). Two-thirds of the lot is vegetated with dense, second-growth loblolly pine, a dense 7-ft. tall midstory of bluejack oak and common wax-myrtle (*Morella cerifera*), and a dense ground cover of muscadine grape, poison ivy and Virginia-creeper. The eastern third of the lot was clear-cut between 2013 and 2014. The clear-cut has begun to revegetate and contains a moderately dense shrub layer of loblolly pine saplings, winged sumac (*Rhus copallinum*) and sweetgum (*Liquidambar styraciflua*), and a dense herbaceous layer of dogfennel (*Eupatorium capillifolium*), blackberries (*Rubus* spp.), ragweed (*Ambrosia artemisiifolia*) and broomsedge (*Andropogon virginicus*).

The northern 34 ac. of Lot 5 (LRK #98000749) was included in this evaluation (Figure 1); the southern portions are already developed. Portions of the 34 ac. parcel consist of 38-year old longleaf pine plantation and loblolly pine regeneration, a dense 7-15 ft. tall midstory of sassafras (*Sassafras albidum*), blackjack oak, American persimmon (*Diospyros virginiana*) and red maple (*Acer rubrum*), and a moderately dense ground cover of Carolina wiregrass (*Aristida stricta*), eastern bracken fern (*Pteridium latiusculum*) and Carolina jessamine (*Gelsemium sempervirens*). Dense mats of kudzu (*Pueraria montana*) blanket the pines along Morganton Road. The previously mentioned clear-cut is slightly north of the parcel 5's center.

A wildlife biologist with Dr. J. H. Carter III & Associates, Inc. (JCA) surveyed the project site and vicinity on 7 August 2024 for RCW cavity trees. No RCW cavity trees were found. The nearest RCW cavity tree (#1204) contains a relic enlarged cavity and is located 3,050 feet west of the project site in SOPI Cluster 60 (Figure 1). This project will have no effect on the RCW.

The United States Fish & Wildlife Service (USFWS) lists 3 Federally Endangered plant species that occur in Moore County: rough-leaved loosestrife (*Lysimachia asperulaefolia*), Michaux's sumac (*Rhus michauxii*) and American chaffseed (*Schwalbea americana*) (USFWS 2023). A biologist evaluated the project site for listed plant species on 6 July 2023. No habitat occurred within the project site for rough-leaved loosestrife or American chaffseed. Potentially suitable habitat occurred within the project site for Michaux's sumac in the regenerating clearcut, however, none was observed.

A JCA biologist transected the 5 parcels at 10-foot intervals and noted vegetative characteristics, soil conditions and ecology. The exclusion of fire and habitat conversion were potential contributing factors to the absence of the listed plant species. The closest known record of Michaux's sumac occurs 3.0 miles southeast of the project area (NCNHP 2023). This project will not impact Michaux sumac.

NC Natural Heritage Program. 2023. NC Natural Heritage Program online database at <http://ncnhp.org/Pages/heritagedata.html> (accessed 5 July 2023).

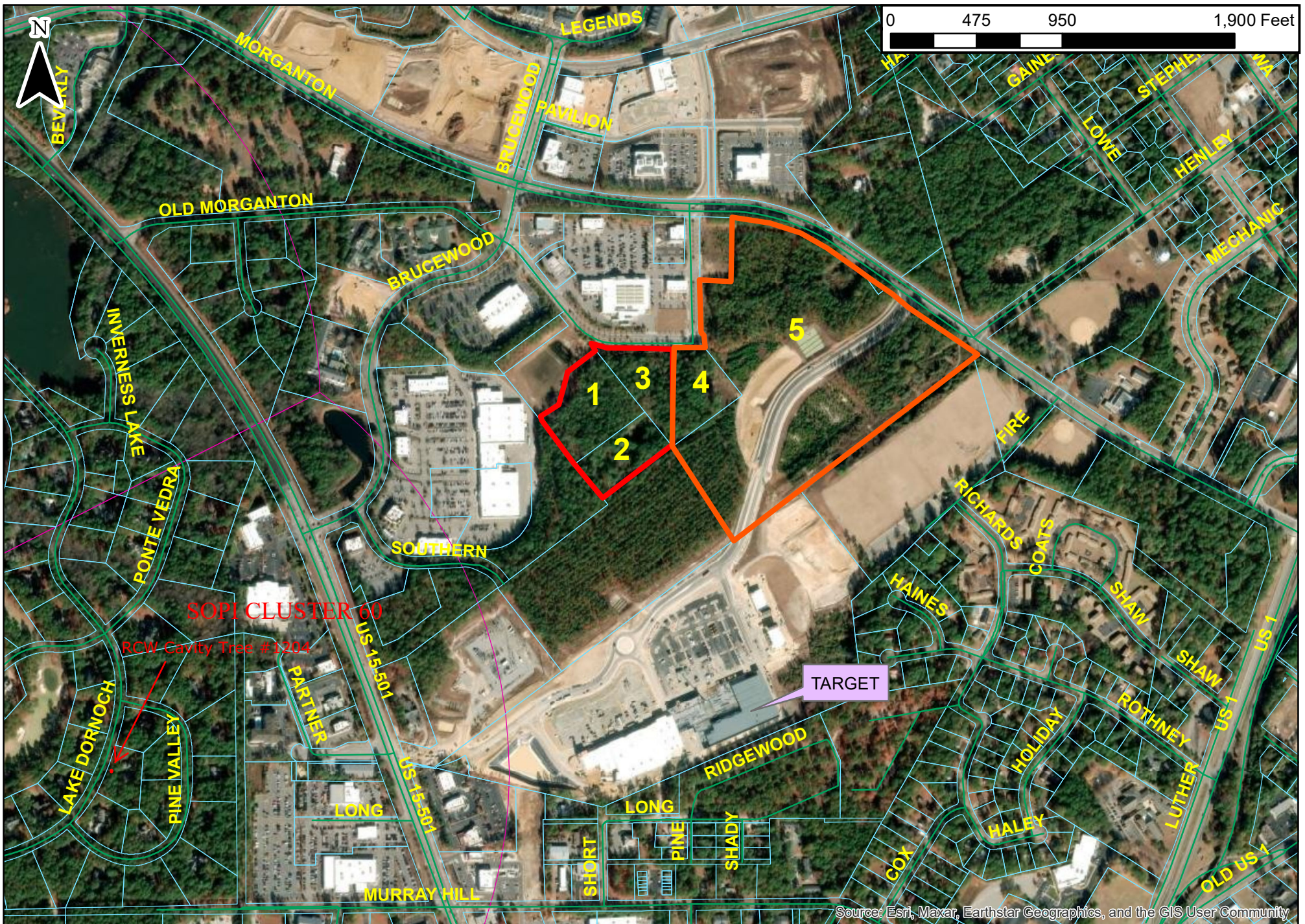


Figure 1. Location of red-cockaded woodpecker clusters and/or partitions impacted by the proposed Morganton Park South project in Southern Pines, Moore County, North Carolina, 2024.

Traffic Impact Analysis

Morganton Park South
Phase 4
Southern Pines, NC

Prepared for:
Midland Atlantic Properties

Kimley»Horn

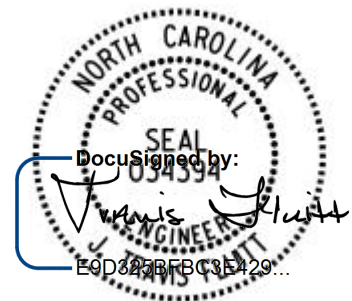
© Kimley-Horn and Associates, Inc. 2024

Traffic Impact Analysis for
Morganton Park South Phase 4
Southern Pines, North Carolina

Prepared for:
Midland Atlantic Properties
Cincinnati, OH

Prepared by:
Kimley-Horn and Associates, Inc.
NC License #F-0102
421 Fayetteville Street, Suite 600
Raleigh, NC 27601
(919) 677-2000

November 2024
011820005



11/21/2024

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Executive Summary

Kimley-Horn and Associates, Inc. has performed a Traffic Impact Analysis (TIA) for the proposed Phase 4 of the Morganton Park South development to be located south of Morganton Road and west of Carolina Green Pkwy in Southern Pines, NC. The site is currently vacant. As currently envisioned, the site will consist of 4 outparcels. Build-out of the development is anticipated in 2027. Access will be provided by the extension of Old Morganton Road to Carolina Green Parkway. All access to the proposed outparcels will be off Old Morganton Road.

This report presents trip generation, distribution, traffic analyses, and recommendations for transportation improvements required to meet anticipated traffic demands in conjunction with the proposed development. The Town of Southern Pines' Unified Development Ordinance (UDO) requires the study of the build-out traffic conditions for both the site build-out and 10-year projections. Therefore, the traffic conditions studied include the existing (2027) and projected (2027 and 2034) background and build-out traffic conditions for the AM and PM peak hours.

While the uses for the outparcels have not been finalized, for purposes of this analysis, they were assumed to consist of a gas station with convenience store (Lot 1), drive-in bank (Lot 2), a car wash (Lot 3), and a quick lube (Lot 4). As shown in [Table ES-1](#), the site has the potential to generate approximately 6,706 net new external daily trips, 444 net new external trips during the AM peak hour, and 381 net new external trips during the PM peak hour.

Table ES-1 ITE Traffic Generation (Vehicles)								
Land Use Code	Land Use	Intensity		Daily Total	AM Peak Hour		PM Peak Hour	
					In	Out	In	Out
912	Drive-In-Bank	3,500	s.f	352	20	15	37	37
941	Quick Lubrication Vehicle Shop	2,500	s.f.	174	11	4	9	13
945	Convenience Store/Gas-Station - VFP (16-24)	6,000	s.f.	7,700	274	274	237	237
948	Automated Car Wash	1	tunnel	780	20	19	39	39
Subtotal				9,006	325	312	322	326
Pass-By Reduction				2,300	97	96	134	133
Total Net New External Trips				6,706	228	216	188	193

Intersection capacity analyses were performed using Synchro/SimTraffic Version 12 software. [Table ES-2](#) summarizes the operation of the overall study intersections for the AM and PM peak hours.

Table ES-2 Level-of-Service Summary		
Condition	AM Peak Hour LOS (Delay)	PM Peak Hour LOS (Delay)
Old Morganton Road at Brucewood Road (Unsignalized)		
Existing (2027) Traffic	EB – B (10.6) WB – A (9.6) NBL – A (7.6) SBL – A (7.5)	EB – C (17.3) WB – B (13.5) NBL – A (8.0) SBL – A (8.3)
Background (2027) Traffic	EB – B (11.2) WB – A (9.8) NBL – A (7.7) SBL – A (7.6)	EB – C (20.3) WB – B (14.7) NBL – A (8.2) SBL – A (8.5)
Build-out (2027) Traffic	EB – B (11.8) WB – A (9.9) NBL – A (7.7) SBL – A (7.6)	EB – C (23.4) WB – C (15.2) NBL – A (8.2) SBL – A (8.6)
Background (2034) Traffic	EB – B (11.8) WB – B (10.2) NBL – A (7.7) SBL – A (7.7)	EB – D (27.3) WB – C (18.3) NBL – A (8.4) SBL – A (8.8)
Build-out (2034) Traffic	EB – B (12.5) WB – B (10.3) NBL – A (7.7) SBL – A (7.8)	EB – D (32.6) WB – C (18.5) NBL – A (8.4) SBL – A (8.8)
Old Morganton Road at Patriot Boulevard (Unsignalized)		
Build-out (2027) Traffic	SB – A (9.8) EBL – A (9.5)	SB – B (10.3) EBL – A (7.6)
Background (2034) Traffic	SB – A (8.7) EBL – A (7.3)	SB – A (9.1) EBL – A (7.4)
Build-out (2034) Traffic	SB – A (9.8) EBL – A (7.6)	SB – B (10.4) EBL – A (7.7)
Morganton Road at Patriot Boulevard (Unsignalized)		
Existing (2027) Traffic	NB – B (10.7) SB – B (11.5) WBL – A (9.1)	NB – B (14.7) SB – B (11.7) WBL – B (11.5)
Background (2027) Traffic	NB – B (11.0) SB – B (11.5) WBL – A (9.4)	NB – C (16.2) SB – B (13.0) WBL – B (12.5)
Build-out (2027) Traffic	NB – B (11.2) SB – B (11.5) WBL – A (9.7)	NB – C (16.5) SB – B (12.8) WBL – B (12.8)
Background (2034) Traffic	NB – B (11.4) SB – B (12.3) WBL – A (9.8)	NB – C (19.2) SB – C (18.4) WBL – B (14.5)
Build-out (2034) Traffic	NB – B (11.6) SB – B (12.1) WBL – B (10.0)	NB – C (19.7) SB – C (17.6) WBL – B (14.9)

Table ES-2 (cont.) Level-of-Service Summary		
Condition	AM Peak Hour LOS (Delay)	PM Peak Hour LOS (Delay)
Morganton Road at Carolina Green Parkway (Signalized)		
Existing (2027) Traffic	Overall - A (4.1) EB - A (7.5) WB - A (1.7) NB - A (8.5)	Overall - B (11.4) EB - B (15.3) WB - A (5.1) NB - B (17.9)
Background (2027) Traffic	Overall - A (5.7) EB - A (9.3) WB - A (3.0) NB - A (9.2)	Overall - B (14.5) EB - B (18.7) WB - A (7.1) NB - C (22.7)
Build-out (2027) Traffic	Overall - A (6.3) EB - B (10.7) WB - A (3.1) NB - A (8.0)	Overall - B (18.6) EB - C (24.2) WB - A (9.3) NB - C (26.4)
Background (2034) Traffic	Overall - A (7.5) EB - B (11.9) WB - A (4.4) NB - A (9.9)	Overall - B (18.1) EB - C (22.4) WB - A (8.8) NB - C (31.1)
Build-out (2034) Traffic	Overall - A (7.9) EB - B (12.9) WB - A (4.6) NB - A (9.3)	Overall - C (23.0) EB - C (28.7) WB - B (12.1) NB - C (33.8)
Morganton Road at Henley Street (Unsignalized)		
Existing (2027) Traffic	SB - C (15.5) EBL - B (10.4)	SB - C (19.0) EBL - B (10.9)
Background (2027) Traffic	SB - C (16.9) EBL - B (11.1)	SB - C (22.0) EBL - B (11.9)
Build-out (2027) Traffic	SB - C (17.2) EBL - B (11.5)	SB - C (22.7) EBL - B (12.3)
Background (2034) Traffic	SB - C (19.1) EBL - B (12.3)	SB - D (27.2) EBL - B (13.3)
Build-out (2034) Traffic	SB - C (19.7) EBL - B (12.8)	SB - D (28.5) EBL - B (13.8)

Table ES-2 (cont.) Level-of-Service Summary		
Condition	AM Peak Hour LOS (Delay)	PM Peak Hour LOS (Delay)
Morganton Road at Fire Lane (Signalized)		
Existing (2027) Traffic	Overall - A (5.5) EB - A (4.8) WB - A (5.5) NB - B (13.8) SB - B (14.8)	Overall - A (7.3) EB - A (8.3) WB - A (5.6) NB - B (17.4) SB - B (20.0)
Background (2027) Traffic	Overall - A (5.4) EB - A (4.6) WB - A (5.4) NB - B (15.0) SB - B (16.3)	Overall - A (7.4) EB - A (8.4) WB - A (5.5) NB - B (19.4) SB - B (22.4)
Build-out (2027) Traffic	Overall - A (6.4) EB - A (5.5) WB - A (6.5) NB - B (16.4) SB - B (17.3)	Overall - A (7.4) EB - A (8.4) WB - A (5.5) NB - B (19.9) SB - B (22.7)
Background (2034) Traffic	Overall - A (6.4) EB - A (5.3) WB - A (6.6) NB - B (17.7) SB - B (18.8)	Overall - A (8.2) EB - A (9.7) WB - A (5.7) NB - C (21.8) SB - C (23.8)
Build-out (2034) Traffic	Overall - A (6.3) EB - A (5.3) WB - A (6.6) NB - B (18.5) SB - B (19.7)	Overall - A (8.5) EB - B (10.1) WB - A (5.8) NB - C (21.8) SB - C (23.8)
Carlina Green Parkway at Pine Ridge Apartments/Pod 2 Apartments (Unsignalized)		
Background (2027) Traffic	WB - A (9.6) SBL - A (7.5)	WB - B (12.4) SBL - A (8.3)
Build-out (2027) Traffic	WB - B (13.3) SBL - A (8.9)	WB - C (22.3) SBL - B (12.2)
Background (2034) Traffic	EB - B (11.1) WB - B (11.5) NBL - A (7.8) SBL - A (7.7)	EB - C (16.5) WB - C (18.8) NBL - A (8.4) SBL - A (8.6)
Build-out (2034) Traffic	EB - B (16.4) WB - C (18.0) NBL - A (7.9) SBL - A (9.6)	EB - D (33.0) WB - E (40.4) NBL - A (8.6) SBL - B (13.2)

Table ES-2 (cont.) Level-of-Service Summary		
Condition	AM Peak Hour LOS (Delay)	PM Peak Hour LOS (Delay)
Carolina Green Parkway at Old Morganton Road/Pod 3 Driveway (Unsignalized)		
Build-out (2027) Traffic	EB – B (11.3) NBL – A (8.4)	EB – B (13.5) NBL – A (9.2)
Background (2034) Traffic	EB – A (9.0) WB – A (9.1) NBL – A (8.2) SBL – A (7.8)	EB – A (8.9) WB – A (9.0) NBL – A (8.2) SBL – A (7.6)
Build-out (2034) Traffic	EB – B (11.6) WB – A (9.6) NBL – A (9.7) SBL – A (8.2)	EB – B (14.0) WB – B (11.0) NBL – B (12.5) SBL – A (9.0)
Old Morganton Road at Lot 1 Driveway (Unsignalized)		
Build-out (2027) Traffic	SB – B (13.5) EBL – A (8.0)	SB – B (14.8) EBL – A (8.1)
Build-out (2034) Traffic	SB – B (13.8) EBL – A (8.0)	SB – C (15.6) EBL – A (8.2)
Old Morganton Road at Lot 2 Driveway/Pod 2 Apartments (Unsignalized)		
Build-out (2027) Traffic	SB – A (9.9) EBL – A (7.6)	SB – B (10.2) EBL – A (7.7)
Background (2034) Traffic	NB – A (8.6) WBL – A (7.3)	NB – A (8.9) WBL – A (7.4)
Build-out (2034) Traffic	NB – A (9.8) SB – B (10.4) EBL – A (9.8) WBL – A (7.4)	NB – B (10.4) SB – B (11.2) EBL – B (10.4) WBL – B (11.2)
Old Morganton Road at Lot 3 Driveway/Lot 4 Driveway (Roundabout)		
Build-out (2027) Traffic	A (3.6) V/C = 0.13	A (3.8) V/C = 0.16
Build-out (2034) Traffic	A (3.6) V/C = 0.14	A (3.8) V/C = 0.17

The following improvements are recommended with the proposed Phase 4 of the Morganton Park South development:

Carolina Green Parkway at Old Morganton Road/Pod 3 Driveway:

- Construct a northbound left-turn lane on Carolina Green Parkway with a minimum of 100 feet of storage and appropriate taper
- Construct this intersection as a directional crossover (left-in/right-in/right-out)

The following improvements are anticipated to be required of and performed by other developments in the study area and were included in the 2034 background and build-out traffic conditions. These improvements would only be constructed if the associated developments move forward and the driveway connections are made:

Carlina Green Parkway at Pine Ridge Apartments/Pod 2 Apartments (with Pod 2 Apartments):

- Construct a northbound left-turn lane on Carolina Green Parkway with a minimum of 100 feet of storage and appropriate taper

Carlina Green Parkway at Old Morganton Road/Pod 3 Driveway (with Pod 3):

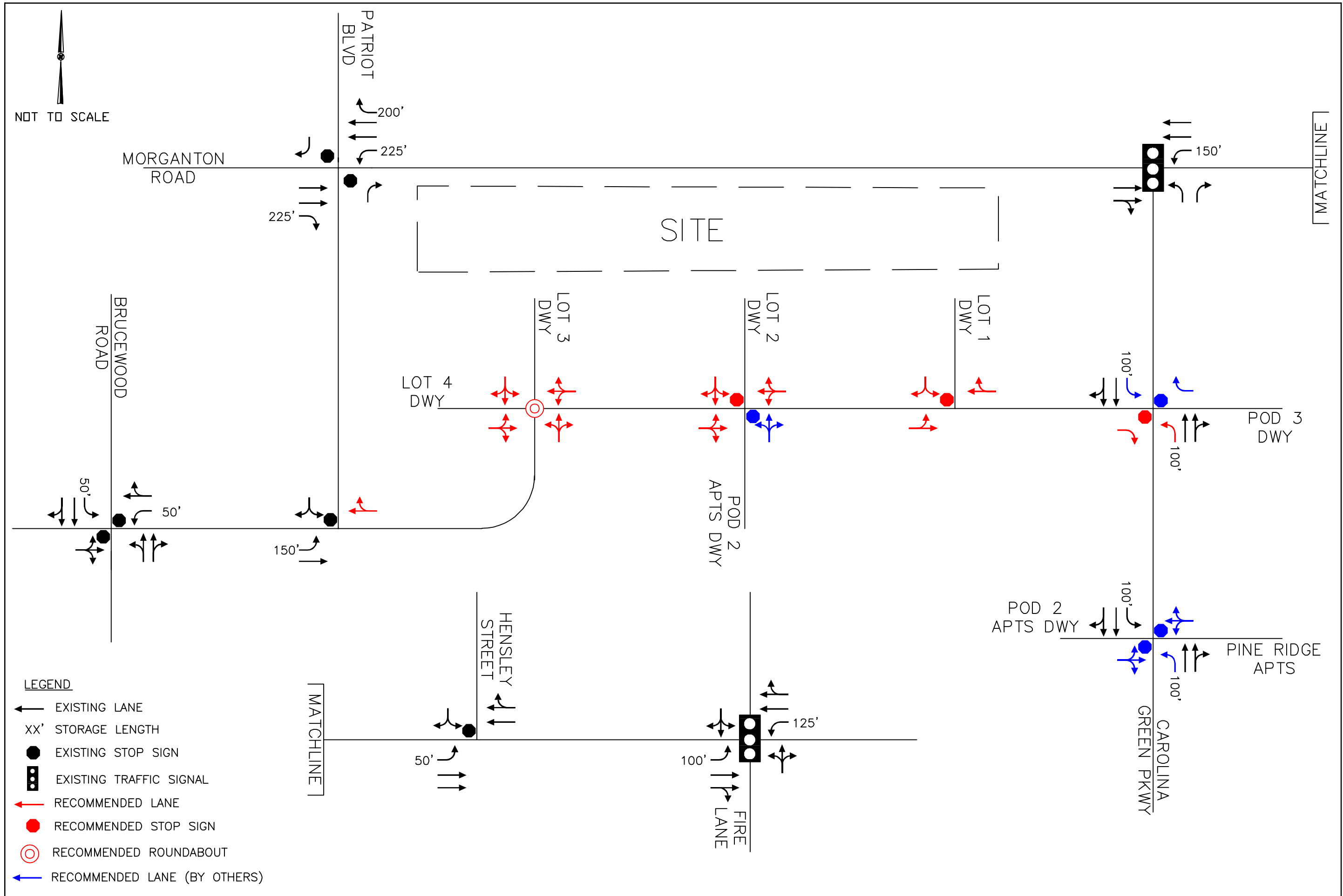
- Construct a southbound left-turn lane on Carolina Green Parkway with a minimum of 100 feet of storage and appropriate taper

Right-turn volumes were reviewed at several locations, but right-turn lanes are not recommended for several reasons. First, there are no right-turn lanes along Carolina Green Parkway, so they would be inconsistent with the character of the roadway. Second, all subject intersections operate acceptably without them, and with Carolina Green Parkway in particular being a 4-lane road with ample capacity, through vehicles can stay in the left lane to avoid right-turn vehicles. Third, right-turn lanes create additional conflicts and increased crossing distances for pedestrians.

With the recommended laneage in place, all study intersections are expected to operate acceptably at project build-out in 2027 and in the year 2034 with full build-out of Morganton Park South. While the minor street approaches of the intersection of Carlina Green Parkway at Pine Ridge Apartments/Pod 2 Apartments are expected to operate with moderate delays in the PM peak hour in the year 2034, SimTraffic simulations show no queuing issues on any approach, and both apartment developments have alternate means of ingress and egress.

SimTraffic simulations also show no queuing issues or conflicts at the site driveways along the Old Morganton Road extension or at Carolina Green Parkway. The locations of proposed driveways along Old Morganton Road are appropriate for the proposed uses and the character of this roadway.

The recommended build-out laneage is shown on **Figure ES-1**.





Mailing Address:
Duke Energy Progress
Customer Service Center
PO Box 1771
Raleigh, NC 28602-1771
o: 800.452.2777

November 12, 2024

MSP Retail III
1610, 1630, 1650, 1670 Old Morganton Road
Southern Pines NC 28387

Subject: Letter of Electric Availability

Dear MSP Retail III:

This letter confirms that Duke Energy Progress can provide electric service to the proposed site at 1610, 1630, 1650, 1670 Old Morganton Road, provided all necessary easements, permits and rights-of-way can be obtained. Please call Duke Energy Progress at 1-800-452-2777 when your construction plans are complete so we can discuss your electrical service requirements.

Duke Energy Progress appreciates the opportunity to provide your electric service.

Sincerely,

Kristin Parker
Senior Engineering Technologist
1423 McNeill Way
Aberdeen, NC 28315
910-916-1731
Kristin.Parker@duke-energy.com



4720 Corporation Dr.
Fayetteville, NC 28306

November 12, 2024

Midland Atlantic Properties
David Woodke
8044 Montgomery Rd Ste 370
Cincinnati, OH 45236

RE: Morganton Park South-Phase 4; Moore County NC

To whom it may concern,

This letter is to confirm that Piedmont Natural Gas owns and operates a 4 inch plastic gas main on Carolina Green Pkwy and a 2 inch plastic gas main on Old Morganton Rd. Therefore; natural gas is available for the project listed above. If you have any additional questions please feel free to contact me as my contact information is listed below. Thank you

Sincerely,

Antonio Richardson

Antonio Richardson
Energy Specialist
antonio.richardson@duke-energy.com
910-321-2949 office
910-644-0342 mobile
910-829-0215 fax

LEGAL DESCRIPTION FOR 9.03 ACRES
MORGANTON PARK SOUTH PHASE 4
SOUTHERN PINES, SANDHILLS TOWNSHIP
MOORE COUNTY, NORTH CAROLINA

BEING ALL OF THE 9.03 ACRES, MORE OR LESS, BOUNDED TO THE NORTH AND COINCIDENT WITH THE SOUTH MARGIN OF WEST MORGANTON ROAD (S.R. #1309 – 100' ROW), TO THE EAST AND COINCIDENT WITH THE WEST MARGIN OF CAROLINA GREEN PARKWAY (91' ROW), TO THE SOUTH BY THE REMAINDER OF 18.73 ACRES NORTH OF CAROLINA GREEN PARKWAY AS SHOWN ON A MAP TITLED "MINOR SUBDIVISION FOR MIDLAND SOUTHERN PINES RETAIL, LLC", AS RECORDED IN PLAT CABINET 20 SLIDE 401 IN THE MOORE COUNTY REGISTRY, AND TO THE WEST BY CPGKRE PINEHURST LOWES OUTPARCELS, LLC, AS SHOWN IN D.B. 5397 PG. 95, AS RECORDED IN THE MOORE COUNTY REGISTRY. SAID 9.03 ACRES BEING A PORTION OF THE AFOREDESCRIBED 18.73 ACRES, AND BEING MORE PARTICULARLY DESCRIBED BY BEARINGS AND DISTANCES BELOW.

BEGINNING AT AN EXISTING MAG NAIL COMMON TO THE SOUTHEAST CORNER OF CPGKRE PINEHURST LOWES OUTPARCELS, LLC, AS SHOWN IN D.B. 5397 PG. 95, SAID MAG NAIL LOCATED N89°55'59"W (170.37 FEET) FROM AN EXISTING IRON ROD COMMON TO THE SOUTHWEST CORNER OF SAID CPGKRE PINEHURST LOWES OUTPARCELS, LLC DESCRIBED ABOVE;

THENCE FROM SAID BEGINNING AND WITH THE EAST LINE OF SAID CPGKRE PINEHURST LOWES OUTPARCELS, LLC N00°02'26"E (359.81 FEET) TO AN EXISTING IRON ROD IN THE SOUTH MARGIN OF WEST MORGANTON ROAD;

THENCE WITH SAID SOUTH MARGIN DESCRIBED ABOVE A CURVE TO THE RIGHT HAVING A RADIUS OF 2056.05 FEET, A CHORD BEARING OF S86°01'32"E, AND CHORD DISTANCE OF 42.85 FEET TO AN EXISTING IRON ROD; THENCE A CURVE TO THE RIGHT HAVING A RADIUS OF 1036.13 FEET, A CHORD BEARING OF S75°35'48"E, AND A CHORD DISTANCE OF 362.10 FEET TO AN EXISTING IRON ROD; THENCE A CURVE TO THE RIGHT HAVING A RADIUS OF 1544.46 FEET, A CHORD BEARING OF S59°28'40"E, AND A CHORD DISTANCE OF 259.20 FEET TO AN EXISTING IRON ROD; THENCE S55°09'46"E (218.95 FEET) TO AN EXISTING IRON ROD; THENCE S35°33'29"E (71.22 FEET) TO AN EXISTING CONCRETE MONUMENT; THENCE N53°36'33"E (23.46 FEET) TO AN EXISTING IRON ROD; THENCE S54°48'24"E (54.94 FEET) TO AN IRON ROD SET IN THE WEST MARGIN OF CAROLINA GREEN PARKWAY;

THENCE WITH SAID WEST MARGIN DESCRIBED ABOVE A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET, A CHORD BEARING OF S40°13'45"E, AND A CHORD DISTANCE OF 4.19 FEET TO AN EXISTING IRON ROD; THENCE A CURVE TO THE RIGHT HAVING A RADIUS OF 23.17 FEET, A CHORD BEARING OF S04°14'26"E, AND CHORD DISTANCE OF 29.42 FEET TO AN EXISTING IRON ROD; THENCE S35°10'47"W (40.27 FEET) TO AN EXISTING IRON ROD; THENCE A CURVE TO THE RIGHT HAVING A RADIUS OF 452.00 FEET, A CHORD BEARING OF S46°21'17"W, AND A CHORD DISTANCE OF 175.20 FEET TO AN EXISTING IRON ROD; THENCE S57°31'48"W (257.17 FEET) TO AN IRON ROD SET, SAID IRON ROD LOCATED THE REVERSE CALL N57°31'48"E (154.47 FEET) FROM AN EXISTING IRON ROD IN SAID WEST MARGIN OF CAROLINA GREEN PARKWAY;

THENCE LEAVING SAID WEST MARGIN THE FOLLOWING CALLS:

N32°28'12"W (65.11 FEET) TO AN IRON ROD SET; THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 247.00 FEET, A CHORD BEARING OF N42°53'25"W, AND A CHORD DISTANCE OF 89.35 FEET TO AN IRON ROD SET; THENCE N53°18'37"W (150.08 FEET) TO AN IRON ROD SET; THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 4963.00 FEET, A CHORD BEARING OF N53°41'33"W, AND A CHORD DISTANCE OF 66.17 FEET TO AN IRON ROD SET; THENCE N54°04'28"W (42.43 FEET) TO AN IRON ROD SET; THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, A CHORD BEARING OF N78°02'27"W, AND A CHORD DISTANCE OF 24.37 FEET TO AN IRON ROD SET; THENCE A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET, A CHORD BEARING OF S81°18'27"W, AND A CHORD DISTANCE OF 8.10 FEET TO AN IRON ROD SET; THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 30.00, A CHORD BEARING OF S60°39'22"W, AND A CHORD DISTANCE OF 24.37 FEET TO AN IRON ROD SET; THENCE S36°41'23"W (140.49 FEET) TO AN IRON ROD SET; THENCE A CURVE TO THE RIGHT HAVING A RADIUS OF 312.00 FEET, A CHORD BEARING OF S63°11'05"W, AND A CHORD DISTANCE OF 278.38 FEET TO AN IRON ROD SET; THENCE N00°00'06"E (1.03 FEET) TO AN EXISTING MAG NAIL COMMON TO THE SOUTHEAST CORNER OF BERNE SQUARE, LLC - WARREN CORNERS, LLC, AS SHOWN IN D.B. 5370 PG. 74;

THENCE WITH THE EAST LINE OF SAID BERNE SQUARE, LLC - WARREN CORNERS, LLC DESCRIBED ABOVE N00°00'06"E (70.06) FEET TO AN EXISTING MAG NAIL;

THENCE LEAVING SAID EAST LINE THE FOLLOWING CALLS:

N00°00'06"E (2.91 FEET) TO AN IRON ROD SET; THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 238.00 FEET, A CHORD BEARING OF N63°08'05"E, AND A CHORD DISTANCE OF 211.98 FEET TO AN IRON ROD SET; THENCE N36°41'23"E (140.49 FEET) TO AN IRON ROD SET; THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, A CHORD BEARING OF N12°43'23"E, AND A CHORD DISTANCE OF 24.37 FEET TO AN IRON ROD SET; THENCE A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET, A CHORD BEARING OF N07°10'56"W, AND CHORD DISTANCE OF 9.92 FEET TO AN IRON ROD SET; THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 205.31 FEET, A CHORD BEARING OF N70°36'01"W, AND A CHORD DISTANCE OF 135.94 FEET TO AN IRON ROD SET; THENCE N89°55'57"W (1.21 FEET) TO AN EXISTING MAG NAIL, WHICH IS THE BEGINNING, AND HAVING AN AREA OF 9.03 ACRES.

Agenda Item

To: Reagan Parsons, Town Manager
From: Gene Ruiz, Planner II
Subject: AR-14-24, Homeward Kitchen Modifications
Date: January 14, 2025

I. SUMMARY OF APPLICATION REQUEST

The applicant, Steven Lazenby with Homeward Kitchen Corporation, is requesting an Architectural Compliance Permit for property leased from the legal property owner, R & T Properties of North Carolina, LLC. The site is located in the GB-General Business zoning district on the same parcel as the Kickback Jack's restaurant to the south and a retail building to the north. This parcel will have access from U.S. Highway 15-501 via internal streets and from the new Morganton Park South development in the rear. The development proposed will include modifications to the existing 4,233 square foot commercial building that was formerly Chick-fil-A. The existing building has one drive-through lane and an enclosed dumpster and storage area.

II. PROJECT INFORMATION

A. Property Owners

PIN 857100450600 (PARID 00055645)
R & T Properties
1337 Winstead Place
Greensboro, NC 27408

B. Applicants and Authorized Agents

Steven Lazenby
Homeward Kitchen Corporation
5400 Trinity Road, Suite 309
Raleigh, NC 27607

*Note that these applicants and authorized agents solely have permission to modify the previous Chick-Fil-A building, and no authority was granted to modify the adjacent buildings on the property or overall site.

Figure 1: Site Plan

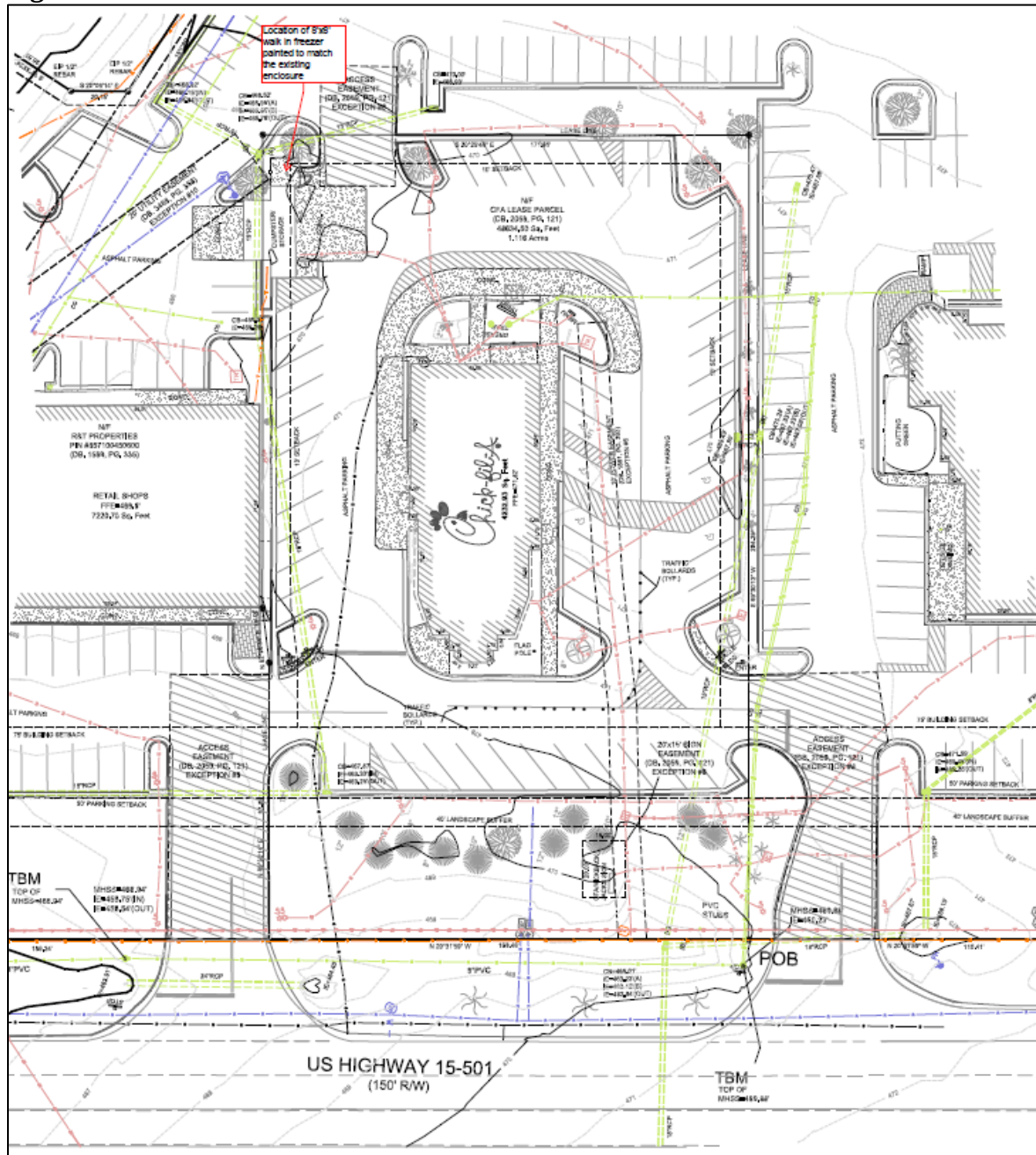


Figure 2: Zoning General Business (GB) and Vicinity Map



Figure 3. Overhead drone shot from US 15-501 of subject building dated Jan 2025.



Figure 4. Picture taken from street view from US 15-501 of subject building dated Dec 2024.



Figure 5. Google Street View from US 15-501 of subject property spring time dated May 2024.

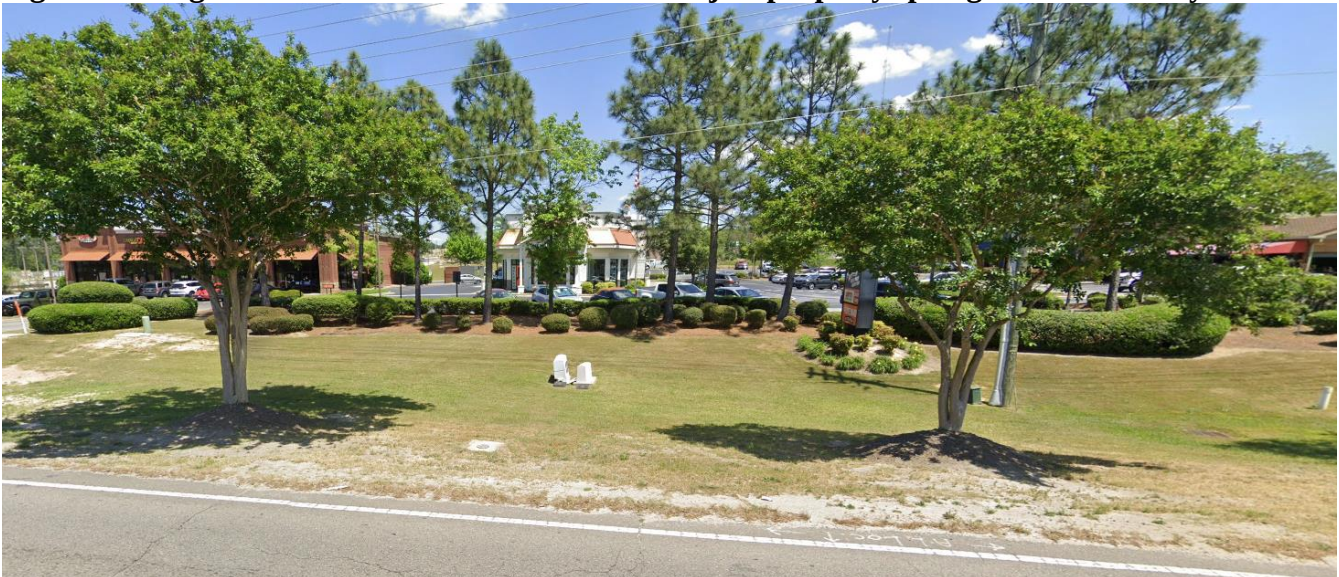


Figure 6. Drone overhead shot of the gable proposed to be removed and tower to be Faux stone (red outline).



Figure 7. Drone shot of the brick tower proposed to be refinished to FAUX stone (red outline).



III. STAFF REVIEW

1. **Review Process.** Applications for Architectural Compliance Permits are reviewed pursuant to UDO §2.26.

2. **Application Review Dates**

Application Submitted: **December 5, 2024**

Additional Material Submitted: **December 13, 2024**

Application Complete: **December 9, 2024**

Town Council Regular Meeting: **January 14, 2025**

3. **Staff Comments based on Building Design Requirements per UDO §4.10.4**

Staff has reviewed the project for compliance with UDO §4.10.4 *Building Design Requirements*. See comments below for two areas of non-compliance. Compliance for signage will be determined during sign permit review since UDO §4.10.4 (J) states signage shall comply with the standards in section 4.6 and any applicable zoning district standards.

- UDO §4.10.4 (C) *states the exterior finish of building walls shall be primarily comprised of brick. Cementitious horizontal lap siding, textured concrete masonry, cast stone and stucco may be used for accents, provided that they cover no more than twenty (20) percent of the exterior walls, exclusive of doors and windows. Wood and metal may be used as trim around doors and windows.*

Currently Homeward Kitchen does not meet this standard. The current design of each elevation has white painted brick that is less than 80% of the façade, excluding doors and windows. The applicant is requesting to make changes to two elevations (front and right elevation) that will affect percentages of brick. The applicant is requesting to cover the brick with FAUX stone Buckingham LedgeStone (see ATTACHMENT 2) in the area traced in red in figure 6 and 7 above. This includes the vertical columns and bases. The front elevation being proposed (without the gable) will be 165 square feet (28%) brick, 310 square feet (54%) stone and 106 square feet (18%) EIFS. The proposed right elevation material would be result in 418 square feet (33%) brick, 271 square feet (21%) stone and 577 square feet (46%) EIFS.

Per UDO 4.10.4(C)(2), alternative materials may be used for “walls that are screened and not visible from any public street, walkway, or residential zoning district.” Homeward Kitchen fronts US 15-501 HWY with applicable Highway Corridor Overlay (Urban Village Highway Corridor) consisting of 40’planted buffer. However, the buffer does not completely screen the Homeward Kitchen as is visible from the ROW during the fall months as shown in figure 4. During the spring and summer months the planted buffer appropriately screens the restaurant as is shown in figure 3. The proposed materials have equal durability to brick, and the left, right, and rear elevations are partially screened from US Highway 15-501. The Town Council may consider approving the use of alternative building materials that establish an equivalent appearance and have equal or greater durability as well as alternative building materials that satisfy

minimum building code standards on walls that are screened and not visible from public streets. As part of the changes being proposed the applicant will be removing the gable roof element from the front façade of the building as depicted on ATTACHMENT 6 Homeward Kitchen elevations.

- UDO §4.10.4 (H) *states mechanical equipment shall be screened from view from the street and shall not be located between the street and the Building.*

As part of the proposed changes to a commercial site, the applicant will be adding a walk-in freezer next to the existing dumpster enclosure inside the existing grease disposal enclosure. Per UDO 4.10.4 mechanical equipment is allowed as long as it is screened from view from the street. The location of the walk-in freezer is located northeast of the site see ATTACHMENT 3.

4. Staff Recommendation

When reviewing an application for an Architectural Compliance Permit, the Town Council shall approve, conditionally approve, or deny the application based on the following criteria, as set forth in **UDO §2.26.7**.

- (A) *For Buildings with ten thousand (10,000) square feet or more of Gross Floor Area or that do not comply with the commercial Building design standards in Section 4.10, the application is consistent with the applicable Comprehensive Plan goals and policies;*
- (B) *The application substantially conforms with the applicable Multi-Family or commercial design standards and other applicable provisions of the UDO;*
- (C) *The application is consistent with applicable conditions of prior Development Approval.*

Considering these criteria, Planning Staff recommend approval of AR-14-24 with the following deviations and conditions:

- **Deviation 1.** Regarding UDO §4.10.4 (C) Building Materials, the Planning Department recommends granting the deviation, since the applicant only intends to modify two facades of the existing building with materials that are equal in durability to brick and are adequately screened from public streets.

IV. ATTACHMENTS PROVIDED BY THE APPLICANT

1. Application and Agent
2. Narrative and Exterior Finishes
3. Site Plan
4. Email
5. Walk-in Freezer drawing
6. Homeward Kitchen exterior Elevations

V. TOWN COUNCIL ACTION

The Town Council should consider the purpose of an architectural compliance permit per UDO §2.26 and shall vote on whether the proposed application complies with the criteria per UDO §2.26, the commercial building design requirements per UDO §4.10.4 and prior development approvals. The Town Council may make one of the following motions or any alternative they wish.

I move to:

- 1. Approve AR-14-24 with the one deviation as listed in the January 14, 2025, Town Council staff report section IV.4.**
2. Deny AR-07-24.

REQUIRED APPLICATION MATERIALS:

- ☐ **Application fee** in the amount of **\$100.00** (gross floor area of 3,499 sq. ft. or less); or **\$300.00** (gross floor area of 3,500 sq. ft. or greater).
- ☐ **Completed Application** signed by the applicant. Please do not leave anything blank and make sure that all of the information provided is correct.
- ☐ **Appointment of Agent**, if applicable, signed by the property owner(s) and the agent.
- ☐ **Deed** copy to provide proof of ownership and property boundaries.
- ☐ **Written narrative**: It is the responsibility of the applicant to demonstrate compliance with **UDO §2.26.7**. Please also address **UDO §4.10.4** as part of the narrative.
- ☐ **Renderings of elevations** (color).
- ☐ **Site plan** if applicable.
- ☐ **Electronic copy (PDF) of all application materials** submitted to plan@southernpines.net.

PLEASE SUBMIT ONLY ONE (1) COMPLETE SET OF ALL MATERIALS.

REVIEW AND APPROVAL:

1. **Staff review**: Planning staff will review the application and notify the applicant if additional information or materials are needed.
2. **Public hearing**: A public hearing will be held before the Town Council at its regular monthly meeting. (Please refer to the **Application Processing Timeline** to determine the hearing date.) In addition to the regular meeting, the applicant or a representative is expected to attend the Town Council agenda meeting the Wednesday prior to the regular meeting.
3. **Approval**: The Town Council may approve, conditionally approve or deny the application based on the criteria listed in **UDO §2.26.7**.
4. **Issuance of an Architectural Compliance Permit**: If the request is approved by the Town Council, an Architectural Compliance Permit setting forth any conditions of approval will be issued to the applicant.

PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES
801 SE Service Road, Southern Pines, NC 28387
plan@southernpines.net (910) 692-4003 www.southernpines.net



Application for: **Architectural Compliance Permit**

FOR OFFICE USE ONLY

Fee Paid:

Date Received:

Case No.: AR-

TO THE TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES:

I, the undersigned, do hereby make application for an Architectural Compliance Permit regarding for the following project:

Project Information:

Project Name:

Street Address:

PIN:

Parcel ID:

Zoning:

Type of building (retail, office, etc.):

Total square footage:

Applicant:

Name:

Email:

Phone:

Mailing Address:

Legal Property Owner(s), if different from Applicant:

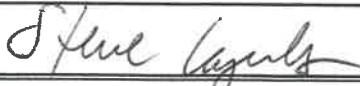
Name(s):

Email:

Phone:

Mailing Address:

Date:


Applicant

SUBMIT FORM

click here to e-mail or e-mail as attachment to plan@southernpines.net

10.11.24

APPOINTMENT OF AGENT

The undersigned owner(s), R & T PROPERTIES OF North Carolina, LLC hereby appoint(s) Homeward Kitchen Corporation as the exclusive agent for the purpose of making an application to the Town of Southern Pines for an **Architectural Compliance Permit** for improvements to the property described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Town Council for the issuance of an **Architectural Compliance Permit** for improvements to the subject property; and
4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for an **Architectural Compliance Permit** under the Southern Pines Unified Development Ordinance.

This Appointment of Agent shall remain in effect until final resolution of the attached application. Date signed 11/25/24

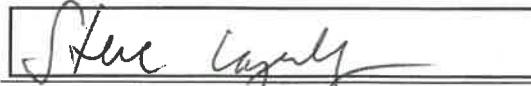
Note: This authorization by Property Owner shall be limited to the design elements of the approximately 4200 sq ft building, currently operated as Homeward Kitchen and located on the parcel, and as such this appointment shall be limited to such building and shall not grant agents the authority to authorize agreements concerning the structures or other overall site conditions concerning this parcel owned by R & T Properties of North Carolina, LLC.



Property Owner



Property Owner



Agent

SUBMIT FORM

click here to e-mail or e-mail as attachment to plan@southernpines.net

10.11.24

UDO §2.26.7. Criteria

No Architectural Compliance Permit shall be approved unless the Town Council finds that:

- (A) The application is consistent with applicable Comprehensive Plan goals and policies;
- (B) The application substantially conforms with the applicable multi-family or commercial design standards and other applicable provisions of the UDO, including the purposes of the zoning district in which the property is located;
- (C) The application is consistent with applicable conditions of prior Development approvals; and
- (D) The development as proposed will be compatible with neighboring development and has mitigated potential conflicts.

UDO §2.26.9. Effect of Approval

- (A) The Architectural Compliance Permit shall expire unless a Building Permit is issued within one (1) year of approval.
- (B) Development activities subject to this section shall conform to the approved application and any conditions or restrictions. Any deviation from the approved Architectural Compliance Permit, unless approved in advance and in writing by the Planning Director, is deemed a violation of the UDO.

Please review UDO §2.26 in its entirety as well as UDO §4.10.4 for Building and Design Requirements (www.southernpinesudo.org).

**PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES
801 SE Service Road, Southern Pines, NC 28387
plan@southernpines.net (910) 692-4003 www.southernpines.net**

Golden Corral – Homeward Kitchen Rebrand

The intent is to rebrand the building to a more traditional Golden Corral image. The signage will be under a separate permit.

The plan for the rebrand of the building itself includes the following:

- Remove the gable roof element on the front of the building back to the brick face of the existing building. This includes the vertical columns and bases.
- Add faux stone to the existing front tower element where the gable roof was removed as well as to the existing tower element on the entry side of the building. The specification for the faux stone is below.
- Paint the existing brick and EIFS with the current Golden Corral prototype colors which are specified below and on the colored renderings.
- The existing copper awnings will remain on the building.
- The existing light fixtures will remain on the building.
- The existing landscaping will remain and be repaired/replaced if damaged during construction.
- The existing parking lot and striping will remain as is. There will be no changes.

In addition, the operations team would like to add an exterior walk in freezer next to the existing dumpster enclosure inside the existing linen enclosure. It will be painted to match the existing enclosure. The color is the last paint color listed below.

Exterior Faux Stone

Manufacturer: Glen-Gery Brick
Product: Landmark Stone
Color: Buckingham Ledgestone



Exterior Paint

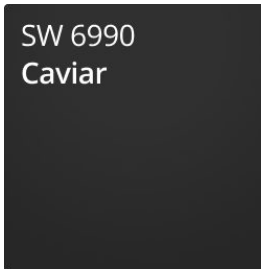
PT-01: PPG Dark Granite PPG 1005-7 – Eggshell



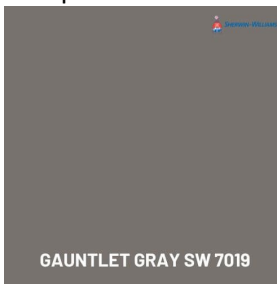
PT-02: PPG Tattle Tale PPG 1019-6 – Eggshell

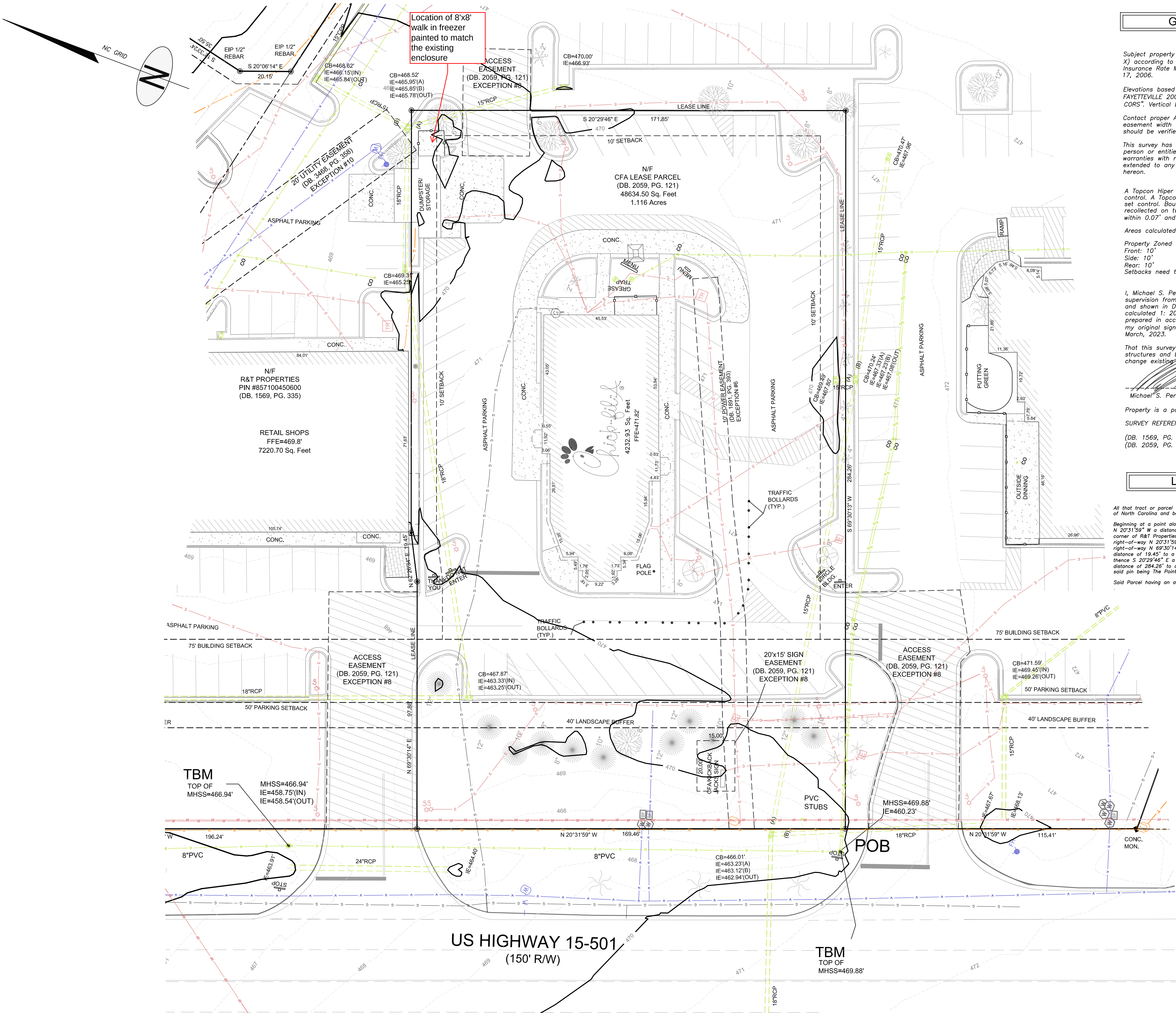


PT-03: Sherwin Williams SW 6990 Caviar – Eggshell



Dumpster Enclosure Paint Color - SW 7019 Gauntlet Gray





GENERAL NOTES

Subject property is not located within 100 yr Flood Plain (Zone X) according to Federal Emergency Management Agency, Flood Insurance Rate Map 3710857100I with an effective date of Oct. 17, 2006.

Elevations based on GPS Observation using CORs Stations "FAYETTEVILLE 2006 CORs", "ROCKINGHAM CORs", and "SANFORD CORs". Vertical Datum NAVD 88.

Contact proper Authorities Before building near utility lines, for easement width and restrictions. Utilities are approximate and should be verified prior to any construction

This survey has been prepared for the exclusive use of the person or entities named hereon. No express or implies warranties with respect to the information shown hereon is to be extended to any persons or entities other than those shown hereon.

A Topcon Hiper RTK GPS unit was used to collect boundary data from set control. Boundary control points were collected and re-collected on two separate days. The positional tolerance was within 0.07' and was not adjusted.

Areas calculated by coordinate method.

Property Zoned GC-WL

Front: 10'

Side: 10'

Rear: 10'

Setbacks need to be verified by Site Engineer.

I, Michael S. Perdue certify that this plat was drawn under my supervision from an actual survey made under my supervision and shown in DB. 1569, PG. 335; that the ratio of precision as calculated 1: 20,000 + and was not adjusted; that this plat was prepared in accordance with G.S. 47-30 as amended; Witness my original signature, registration # and seal this 2nd day of March, 2023.

That this survey is of an existing parcel of land, existing structures and buildings and does not create a new street or change existing streets.

Michael S. Perdue, PLS# L-4322

Property is a portion of PIN# 857100450600

SURVEY REFERENCE:

(DB. 1569, PG. 335)

(DB. 2059, PG. 121)

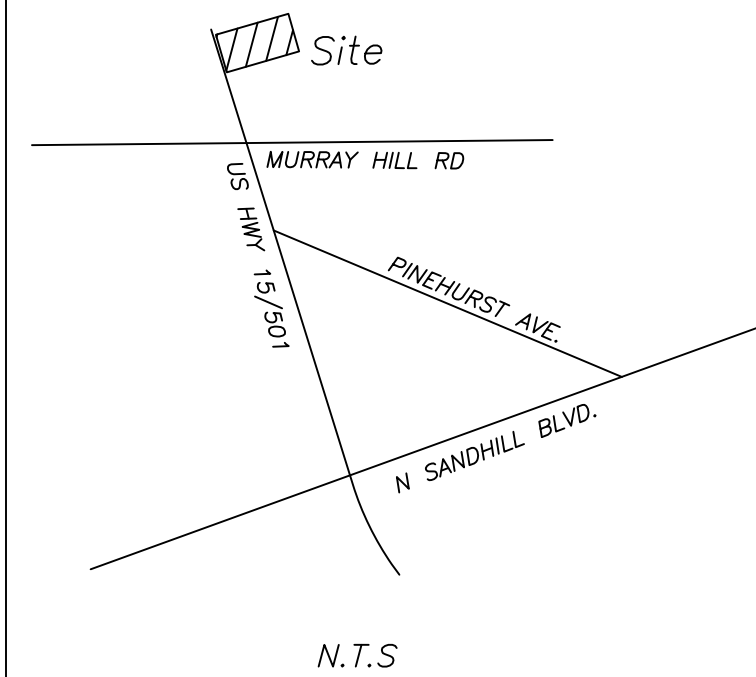
LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Southern Pines, Moore County, state of North Carolina and being more particularly described as follows:

Beginning at a point along the eastern right-of-way of US Highway 15-501 and being N 20°31'59" W a distance of 115.41' from a conc. man. found and being the southwest corner of R&T Properties, PIN# 857100450600, (DB. 1569, PG. 335); thence with said right-of-way N 20°31'59" W a distance of 169.46' to a point; thence leaving said right-of-way N 69°30'14" E a distance of 92.86' to a point; thence N 62°26'34" E a distance of 19.45' to a point; thence N 69°30'14" E a distance of 167.20' to a point; thence S 20°29'46" E a distance of 171.85' to a point; thence S 69°30'13" W a distance of 284.26' to a point along the eastern right-of-way of US Highway 15-501, said pin being the Point of Beginning.

Said Parcel having an area of 48602.37 square feet, 1.116 acres

VICINITY MAP



TITLE EXCEPTIONS

Schedule B Section II Title Exceptions
Investor Title Insurance Company
Commitment #2023102170A, Effective Date: February 20, 2023

5. Matters shown on plat recorded in Plat Book 3 at Page 70. (NO MATTERS AFFECTING SITE)

6. Easement(s) and/or right(s) of way in favor of Carolina Power and Light recorded in Book 167 at Page 416, (BLANKET EASEMENT) Book 158 at Page 284 (BLANKET EASEMENT), Book 511 at Page 774 (BLANKET EASEMENT) and Book 1891 at Page 393 (AFFECTS SITE; AS PLOTTED)

7. Easement(s) and/or right(s) of way in favor of State Highway and Public Works Commission recorded in Book 209 at Page 161. (150' R/W OF US HWY 15-501 AS SHOWN)

8. Rights or claims of Chick-Fill-A, Inc. under an unrecorded lease, a Short Form of which is recorded in Book 2059 at Page 121 and the easement grants incorporated therein; First Amendment to Lease recorded May 25, 2022 in Book 3856 at Page 40. (AFFECTS SITE AS PLOTTED)

9. Memorandum of Agreement with North Carolina Department of Transportation recorded in Book 1703 at Page 188. (ACCESS DRIVES TO HWY 15-501 AS SHOWN)

10. Easement(s) and/or right(s) of way in favor of Town of Southern Pines recorded in Book 3468 at Page 358. (AFFECTS SITE AS PLOTTED)

11. Agreement and Grant of Easements with Riverpark, LLC recorded in Book 3264 at Page 279; Amended and Restated Agreement Concerning Real Property Grant of Easements Map recorded November 22, 2022 in Book 5933 at Page 466. (EASEMENT AFFECT PARENT TRACT BUT DO NOT BURDEN LEASE AREA)

12. The effect of the Title of an encroachment, encumbrance, violation, variation, or adverse circumstance, boundary line overlap, or encroachment (including an encroachment of an improvement across the boundary lines of the Land), but only if the encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment would have been disclosed by an accurate and complete land survey of the Land. Paragraph 2 (c) of the Covered Risks is hereby deleted.

13. Rights or claims of parties in possession not shown by the Public Records.

LEGEND

CB	CATCH BASIN	→	GUY WIRE
CPP	CORRUGATED PLASTIC PIPE	— G —	GAS LINE
CT	CRIMPED TOP PIPE	— W —	WATER LINE
DI	DROP INLET	— OHP —	POWER LINE
IE	INVERT ELEVATION	— E —	UNDERGROUND POWER LINE
JB	JUNCTION BOX	⊙	LIGHT POLE
MH	MANHOLE	⊙	POWER POLE
OT	OPEN TOP PIPE	⊙	SANITARY SEWER MANHOLE
POB	POINT OF BEGINNING	⊙	STORM SEWER MANHOLE
POC	POINT OF COMMENCEMENT	⊙	CATCH BASIN
TBM	TEMPORARY BENCHMARK	⊙	GAS METER
RCP	REINFORCED CONCRETE PIPE	⊙	POWER METER
SS	SANITARY SEWER	⊙	BACKFLOW VALVE
OHP	OVERHEAD POWER	⊙	TRANSFORMER
EIP	IRON PIN FOUND	⊙	ELECTRICAL BOX
WP	WATER VALVE	⊙	BIRCH TREE
GP	GAS VALVE	⊙	CREPE MYRTLE
TP	TELEPHONE PEDESTAL	⊙	OAK TREE
⊙	FIRE HYDRANT		
⊙	MAPLE TREE		
⊙	PINE TREE		

SURVEYORS CERTIFICATION

* To: Fidelity National Title Insurance Company and Homeward Kitchen Corporation, a North Carolina corporation

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1-5a,b,7a,b, 8, 9, 11, 13, 16, 17, 18, 20 and 21 of Table A thereof. The field work was completed on 3/2/23.

Michael S. Perdue PLS #18266 3/2/23 Date

ALTA/NSPS LAND TITLE SURVEY FOR

Homeward Kitchen Corporation

CITY: SOUTHERN PINES	COUNTY: MOORE	STATE: NORTH CAROLINA
DATE : 3/2/23	SCALE: 1:20	
FIELD WORK: MSP	DRAWN BY: MSP	REVIEWED BY: MSP
MSP FILE: TWDILLON	MSP JOB# : 231795	



Know what's below
Call before you dig.
Dial 811
Or Call 800-282-7411

MSP
& ASSOCIATES
LAND SURVEYING, INC.
301 E. HILLCREST DR.
GREENVILLE, SC 29609
864-370-2232
WWW.MSPSURVEYING.COM



From: [Gene Ruiz](#)
To: [Lazenby, Steve](#); [Phillips, Chappell](#)
Cc: [Planning](#)
Subject: RE: Homeward Kitchen - Southern Pines, NC - minor amendment request to previously-approved Architectural Compliance Permit
Date: Wednesday, November 27, 2024 9:59:57 AM
Attachments: [Homeward Kitchen.pdf](#)
[image006.png](#)
[image007.png](#)

Good morning gents,

I have conducted my analysis on your inquiry/application and unfortunately I will not be able to make an administrative determination and it will have to go through Town Council. Under UDO sec. 4.10.4 (C) Building Material; The exterior finish of Building walls shall be ***primarily comprised of brick (80). Cementitious horizontal lap siding, textured concrete masonry, cast stone and stucco may be used for accents, provided that they cover no more than twenty (20) percent of the exterior walls,*** exclusive of doors and windows. By adding faux stone you are making the building less compliant with this standard. There is some flexibility built into this standard which I was hoping to apply but it does not pass the straight face test. That standard states [UDO sec. 4.10.4 (C) 2] The Permit Issuing Authority may approve: Alternative materials satisfying minimum Building code standards on walls that are screened and not visible from any public street, walkway or residential zoning district. I visited the site and the existing buffer doesn't appropriately screen the building to take advantage of this standard (pictures included). With that being said we can work together to get a packet in for town council in January. I will need the architectural compliance permit application with all the required documents. Deadline is Monday however I am considering packet submittal date as of Tuesday Nov.27 and we have some time to have a complete your application passed Monday deadline because I am conducting a completeness review.

In speaking with Steve about the proposed walk in freezer and the enclosure; the enclosure will have to conceal the entire walk in so it is not visible from the street. This is not an element that is handled with an AR permit, it is reviewed that can be a site plan review. I will forward to the other departments to see if there's any issues or concern and determine if it needs to go through site plan review or approve administratively.

Please feel free to reach out to me if you have any further questions, office will be closed Thursday and Friday in observance of Thanksgiving.

Gene R. Ruiz
Planner II
Planning Department
Town of Southern Pines
801 SE Service Road, Southern Pines, NC 28387
(910) 692-4003 Ext: 7235



From: Lazenby, Steve <Steve.Lazenby@GoldenCorral.net>

Sent: Monday, November 25, 2024 7:03 PM

To: Phillips, Chappell <chappell.phillips@GoldenCorral.net>; Gene Ruiz <GRuiz@southernpines.net>

Subject: RE: Homeward Kitchen - Southern Pines, NC - minor amendment request to previously-approved Architectural Compliance Permit

Gene,

Thank you for talking with me last week and with Chappell today. Attached you will find the following:

- Brief narrative of the minor changes to the building including the faux stone and paint specifications.
- Color renderings of the front, entry and drive thru sides of the building.
- A survey of the previous building showing the dumpster enclosure location and the location where we would like to install the exterior walk in freezer.
- A picture of the dumpster enclosure area showing where we would like to install the exterior walk in freezer.

After you've had a chance to review, please let me know if you have any questions or concerns. You can respond to this email or call me on my mobile phone at (816) 651-5200.

Thank you again for your assistance with our rebranding efforts.

Steve Lazenby

Director of Construction

C: 816-651-5200

Golden Corral Corporation

5400 Trinity Road, Suite 309

Raleigh, NC 27607



Classified – Confidential

From: Phillips, Chappell <chappell.phillips@GoldenCorral.net>

Sent: Monday, November 25, 2024 5:10 PM

To: gruiz@southernpines.net

Cc: Lazenby, Steve <Steve.Lazenby@GoldenCorral.net>

Subject: Homeward Kitchen - Southern Pines, NC - minor amendment request to previously-approved Architectural Compliance Permit

Dear Mr. Ruiz,

Thank you for calling me back this afternoon and the very helpful conversation.

As discussed, we would like to request a minor amendment to the previously-approved Architectural Compliance Permit related to our Homeward Kitchen location which we are occupying pursuant to a long-term lease.

My colleague Steve Lazenby will be providing to you this evening a description/narrative of the minor changes to the building elements along with color renderings and other information.

Thank you and your team very much for your anticipated assistance.

Sincerely,

Chappell

R. Chappell Phillips

Executive Vice President, General Counsel & Secretary

O: 919-881-5109 | C: 919-928-6853

Golden Corral Corporation

5400 Trinity Road, Suite 309

Raleigh, NC 27607

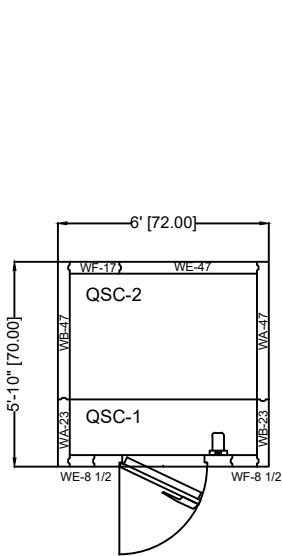


Classified - Confidential

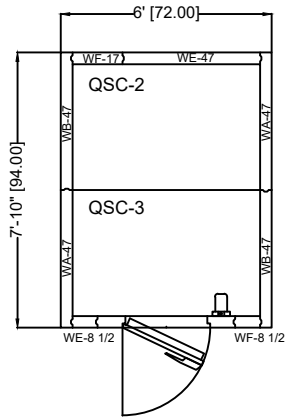
LOCATION: INDOOR

- ALL

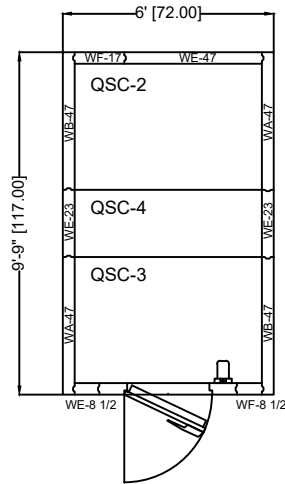
(STANDARD) 26 GA. MILL STUCCO GALVALUME
- 26 GA. WHITE STUCCO GALVALUME
- 032 WHITE SMOOTH ALUMINUM
- 24 GA. T304 #3 POLISHED STAINLESS STEEL



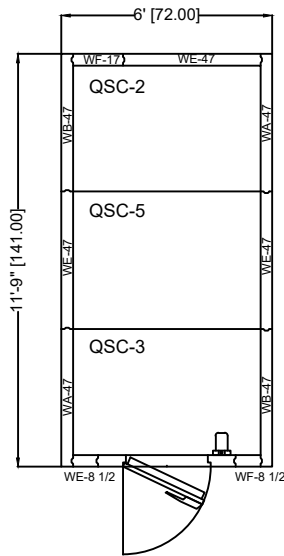
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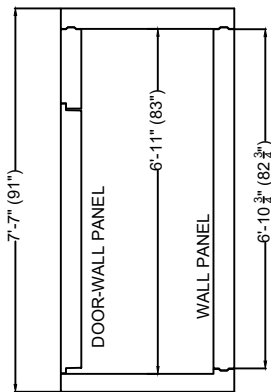
6' x 8'



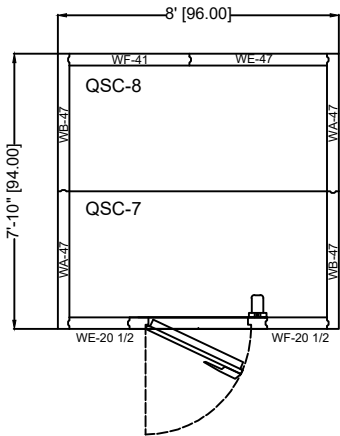
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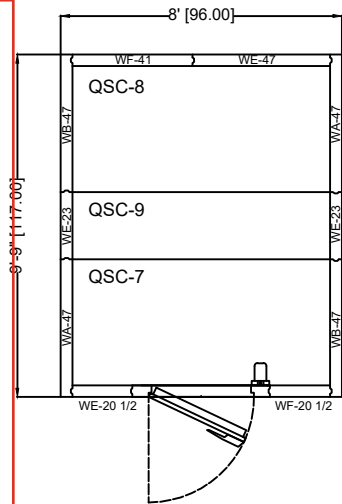
6' x 12'



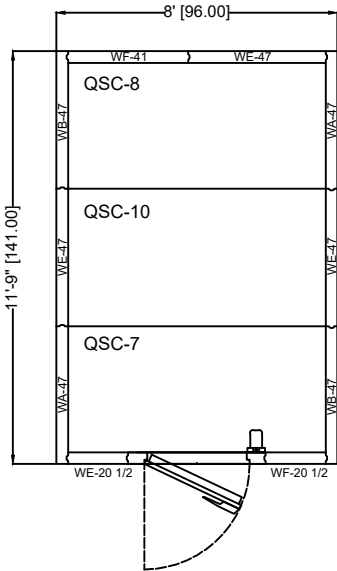
ELEVATION (WITH FLOOR)



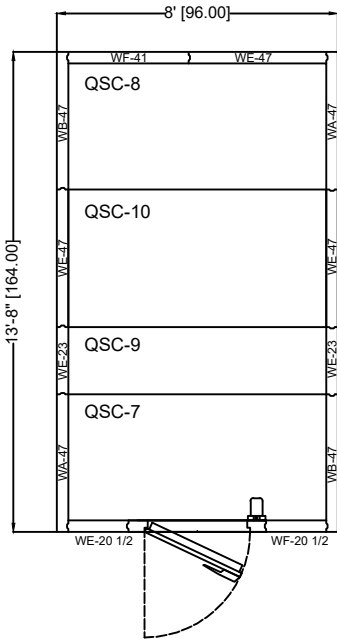
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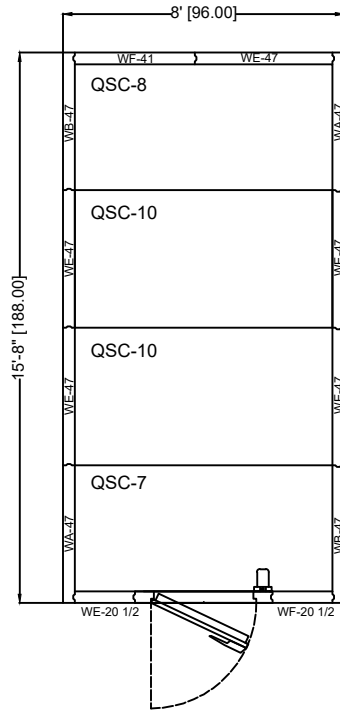
8' x 10'



8' x 12'



8' x 14'



8' x 16'

DADE ENGINEERING
GROUP, LLC.



PROJECT:
QUICK SHIP
2023

DEAR CUSTOMER:
ALTHOUGH OUR DRAFTING DEPARTMENT HAS VERIFIED THIS DRAWING THOROUGHLY, WE HIGHLY RECOMMEND THAT THE CUSTOMER ALSO CHECK ALL SPECIFICATIONS BEFORE SIGNING AND RETURNING THE APPROVAL. SINCE ERRORS OF INTERPRETATION COULD OCCUR AND CANCELLATIONS ARE NOT ACCEPTED. BY SIGNING ABOVE, CUSTOMER APPROVES DRAWING AND AGREES TO OUR TERMS AND CONDITIONS.

CUSTOMER'S SIGNATURE

DATE

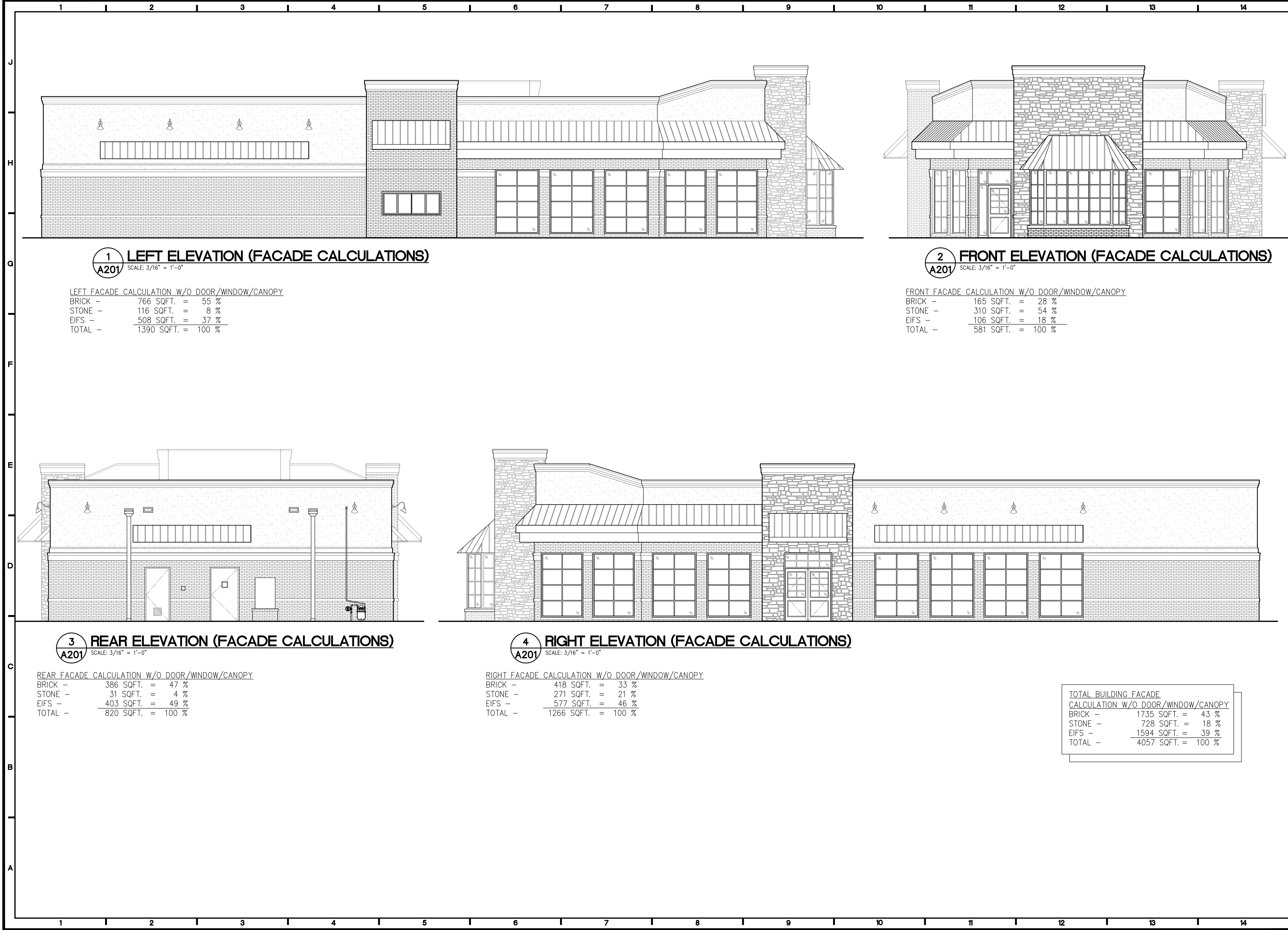
TERMS & CONDITIONS:

1. NO ORDER IS PROCESSED WITHOUT CUSTOMERS SIGNATURE AND A MINIMUM OF 50% DEPOSIT.
2. ALL MEASUREMENTS & DRAWINGS SUBMITTED BY CUSTOMERS ARE ACCEPTED AS CORRECT. DADE ENGINEERING GROUP WILL NOT BE RESPONSIBLE FOR ANY ERRORS ARISING. THIS DRAWING REPRESENTS OUR UNDERSTANDING OF SPECIFICATIONS. PLEASE NOTE ALL CHANGES REQUIRED. TITLE SHALL NOT PASS TO THE BUYER WITH DELIVERY & INSTALLATION OF SAID GOODS, BUT SHALL REMAIN WITH THE SELLER UNTIL PAID IN FULL. BUYER GRANTS THE SELLER THE RIGHT TO REMOVE GOODS IN THE EVENT OF NON-PAYMENT. BUYER AGREES TO PAY ALL ORDERS UNLESS CREDIT IS ESTABLISHED. PURCHASE ORDER IS THEN REQUIRED. INTEREST SHALL BE CHARGED AT THE MAXIMUM RATE ALLOWABLE UNDER FLORIDA LAW ON ALL INVOICES OUTSTANDING FOR THIRTY DAYS (30) OR MORE. IN THE EVENT YOU FAIL TO PAY IN FULL WHEN DUE, YOU WILL BE RESPONSIBLE TO PAY ALL LEGAL FEES FOR THE COLLECTION OF ALL SUMS HEREUNDER, WHETHER OR NOT SUE IS FILED. ALL SALES ARE FINAL & DEPOSITS ARE NON-REFUNDABLE.
3. NOTICE TO GENERAL CONTRACTOR & SUB-CONTRACTOR: FOR QUARRY TILE OR CONCRETE WEARING FLOORS, THE METAL FACINGS MAY BE SUSCEPTIBLE TO STAINING DUE TO EXCESSIVE MOISTURE CREATED BY HYDRATION OF CONCRETE TYPE MATERIALS. IT IS ESSENTIAL THAT EACH ROOM BE PROPERLY VENTILATED. SPECIAL PRECAUTIONS MUST BE TAKEN WHEN USING MURIATIC ACID DUE TO EFFECTS OF ACID FUMES ON ALUMINUM & STAINLESS STEEL. IN ADDITION, METAL SURFACES MUST BE PROTECTED FROM LIME & OTHER CHEMICALS FOUND IN CONCRETE BYPRODUCTS. PETROLEUM BASED PROTECTION MUST BE APPLIED BETWEEN CONCRETE & THE METAL SURFACES. (LIQUID TAR, BRUSHED OR SPRAYED ABOVE THE CONCRETE CONTACT LINE, HEAVY EPOXY PAINT, 8 MIL. POLYETHYLENE H.D. BLACK DOUBLE LAYERED, 30 LB. ASPHALT IMPREGNATED ROOFING PAPER).
4. FLOOR MUST BE LEVEL SMOOTH & CLEAR OF OBSTRUCTIONS TO ACCEPT WALK-IN PANELS. ALSO, THERE MUST BE A MINIMUM OF 2" CLEARANCE AROUND ALL SIDES OF THE WALK-IN FOR PROPER CIRCULATION.

RESTRICTED, CONFIDENTIAL DOCUMENT:

THIS DRAWING AND ALL INFORMATION SHOWN HEREON ARE THE EXCLUSIVE PROPERTY OF DADE ENGINEERING GROUP AND ARE SUBMITTED ONLY ON A CONFIDENTIAL BASIS. THE RECIPIENT AGREES NOT TO REPRODUCE THE DRAWING, TO RETURN IT UPON REQUEST, AND THAT NO DISCLOSURE OF THE DRAWING OR THE INFORMATION SHOWN HEREON WILL BE MADE TO A THIRD PARTY WITHOUT PRIOR WRITTEN CONSENT FROM DADE ENGINEERING GROUP.

Drawing File: Z:\2024\24160 - GC Express Southern Pines, NC\CAD\A201 - Exterior Elevations - facade calculations.dwg
Plotted by: chudson
Plotted Date: Dec 02, 2024 - 3:16pm



LMHT Project No. 24160

THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MAY NOT BE REPRODUCED OR USED WITHOUT THE WRITTEN PERMISSION.

NATIONAL RESTAURANT DESIGNERS
A DIVISION OF LMHT ASSOCIATES, INC.
7208 ACC BLVD., 2ND FLOOR,
FALEIGH, NC 27617
PHONE: 919.544.0087 FAX: 919.544.9399

PRELIMINARY
FACADE CALCULATIONS

PROJECT: GOLDEN CORRAL EXPRESS

ANYSTREET
ANYTOWN, USA

DRAWING: EXTERIOR ELEVATIONS
(FACADE CALCULATIONS)

Revisions

CONCEPT APPROVED

PROJECT DATE
--/--/----

Drawn By
CIH

Checked By
NRD

Sheet No.
A201

Agenda Item

To: Reagan Parsons, Town Manager

From: BJ Grieve, Planning Director
Gene Ruiz, Planner II

Subject: PD-06-24: Planned Development District - Preliminary Development Plan for Phase 4 Morganton Park South, Whataburger, on ±2.39 acres; Petitioner: Whataburger Restaurant LLC, Agent: BL Companies; Property owner: MSP Retail II, LLC

Date: January 14th, 2025

I. PURPOSE

Per UDO §2.14.6(F)(11), “A written decision must be approved for every quasi-judicial application, either by entering the decision at the end of the hearing or at a subsequent meeting of the hearing body, which shall generally be the next scheduled meeting. As part of the written decision, the hearing body must make findings of fact and conclusions as to applicable standards and any conditions. The chair may direct the Planning Director or Town Attorney to draft a written decision for approval by the hearing body at its next regularly scheduled meeting, which approval may be on a consent agenda.”

Planning staff have prepared a draft of the written decision of the Town Council’s approval of application PD-06-24 that was heard by the Town Council at the regular meeting on December 17, 2024 that the Town Council may now wish to adopt. If the Town Council approves the drafted written decision, the Mayor will sign the document. The original signed version will be delivered to the applicant, authorized agent, and property owner with Planning staff and the Town Clerk maintaining copies of the signed document for their respective files.

II. SUMMARY OF APPLICATION REQUEST

Mr. Dylan Rowell, on behalf of Whataburger Restaurant LLC, submitted a Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance for the development of 3,305 square feet of Restaurant on approximately 2.39 acres on parcels identified as PIN 857100478061 (PARID 20230956).

III. TOWN COUNCIL EVIDENTIARY HEARING AND ACTION

A public evidentiary hearing regarding a proposed Preliminary Development Plan (PDP) for the Phase 4 MPS Whataburger Planned Development was called to order with five members present on December 17, 2024. The oath was administered to all witnesses choosing to speak. Planning staff entered the December 17, 2024, staff report as Exhibit A and staff’s December 17, 2024 presentation as Exhibit B. The authorized agent, Mr. Lee Blakely, provided testimony on behalf of the applicant. After closing the hearing, Town Council discussed and voted on the draft findings of fact.

The Town Council voted 5-0 to adopt Attachment 1 of the staff report as Finding of Facts. The Town Council then voted 5-0 to approve PD-06-24 with conditions as presented at the December 17, 2024 Town Council Meeting and as modified by the Town Council to change 35 parking spaces to 39 parking spaces.

IV. ATTACHMENTS

1. Written Decision of the Board: PD-06-24

V. TOWN COUNCIL ACTION

The Town Council may wish to take one of the following actions.

1. No action;
2. Accept the Written Decision for PD-06-24 as prepared by the Town staff;
3. An action listed above with the following conditions...; or
4. Action not listed above...



CASE NUMBER: PD-06-24

**FINDINGS OF FACT, DECISION OF THE BOARD, AND ORDER IN THE MATTER
OF A PRELIMINARY DEVELOPMENT PLAN APPLICATION FOR THE
MORGANTON PARK SOUTH WHATABURGER PLANNED DEVELOPMENT**

DESCRIPTION OF MATTER

Mr. Dylan Rowell, on behalf of Whataburger Restaurant, LLC submitted a Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance for 3,305 square feet restaurant on 2.39 total acres on parcels identified as PIN 857100478061 (PARID 20230956).

A public evidentiary hearing regarding a proposed Preliminary Development Plan (PDP) for the Phase 4 MPS Whataburger Planned Development was called to order with five members present on December 17, 2024. The oath was administered to all witnesses choosing to speak. Planning staff entered the December 17, 2024, staff report as Exhibit A and staff's December 17, 2024 presentation as Exhibit B. The authorized agent, Mr. Lee Blakely, provided testimony on behalf of the applicant. After closing the hearing, Town Council discussed and voted on the draft findings of fact.

FINDINGS OF FACT

Finding of Fact #1:

The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.

Finding of Fact #2:

The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan (Criteria 1-4), with the imposition of conditions of approval, in that:

- 1. The application demonstrates that it will achieve the purposes of the PD district and the UDO.**

The Town Council finds that the application complies with UDO §2.18.5(H), Criterion 1 in that the Morganton Park South CDP is a Mixed-Use development that was approved on September 14, 2021. This is phase four and the last parcel in the first set of retail development, and its use is consistent with PD-08-21.

The Town Council also finds that by limiting parking spaces to a number that aligns with the purpose of the Planned Development District (UDO §3.5.14) and guidance in the Morganton Park South CDP (CDP §5.5.1) to 39 spaces, Criterion 1 is met.

2. The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO.

The Town Council finds that the application complies with UDO §2.18.5(H), Criterion 2 by incorporating a 20' undisturbed perimeter buffer and adjusting the project's retaining wall to meet UDO setback requirements. A 20' perimeter planted buffer is a requirement under §5.5.4 within the Morganton Park South CDP, and walls greater than 6' tall are required to adhere to setback requirements pursuant to UDO §4.2.2(E). With these two adjustments, the council finds the applications will meet this criterion.

3. The proposed Development is located in an area of the Town that is appropriate.

The Town Council finds that the application complies with UDO §2.18.5(H), Criterion 3 in that the proposed development aligns with the Morganton Park South CDP as its Phase 4. The area being developed is designated "Traditional Mixed-Use" in the Comprehensive Long-Range Plan (CLRP), the predecessor of the 2040 Comprehensive Plan, under which this project is vested. The proposed land use will provide a restaurant within walking distance of a large apartment complex and retail stores.

The Town Council also finds that given the prior phase of Morganton Park South development, and the relative convenience of the location near a variety of existing and planned land uses, the proposed development is located in an appropriate area of town. Furthermore, the development is located in an area of town with existing access to necessary infrastructure and where the street system is adequate, or will be improved to be adequate, to accommodate the projected traffic volumes.

4. The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.

The Town Council finds that the application complies with UDO §2.18.5(H), Criterion 4 in that all necessary utilities and transportation infrastructure and the development will bear the cost of all infrastructure modifications and/or extensions

CONCLUSION AND DECISION

Therefore, by a vote of 5-0, the Town Council voted to approve with conditions the Morganton Park South Phase 4 Whataburger Preliminary Development Plan PD-06-24 with the following additional conditions:

Condition 1 – That the proposed development is limited to 39 parking spaces.

Condition 2 – That the 20’ Morganton Park South perimeter buffer required by CDP be an undisturbed buffer

Condition 3 – That retaining walls greater than 6’ in height meet structure setbacks.

This is the 14th day of January, 2024.

FOR THE TOWN COUNCIL:

Taylor Clement, Mayor

Reagan Parsons

From: Erin Wynia, NCLM Director of Government Affairs <NCLM@mail.nclm.org>
Sent: Tuesday, December 17, 2024 1:02 PM
To: Reagan Parsons
Subject: Suspected SPAM 2025-2026 Biennium Legislative Goals | NCLM Board Proposed Recommended Goals

Importance: Low



2025-2026 Biennium Legislative Goals Voting Process

December 17, 2024

Dear NCLM Members,

As this year comes to an end, I am pleased to share with you that the League's legislative goals development process is almost complete. All that remains is for member cities and towns to review the proposed goals and cast their votes—we need your help and participation in this last, and most important, step in the process.

Thank you for the work you have already completed; we have received over 350 ideas from 197 individuals representing 154 municipalities. After the dedicated work by the Legislative Policy Committee to compile and refine the submitted goals, the NCLM Board of Directors has reviewed, approved and now submits **16 proposed legislative goals for your consideration**.

Your job now is to review and vote on the proposed goals so that cities and towns have a focused state and federal advocacy agenda for the 2025-2026 legislative biennium, which begins in January at the N.C. General Assembly.

Each municipality will cast a single vote by selecting 10 of the **16 proposed advocacy goals**. To vote, your municipality must:

STEP 1.

Designate a single Voting Delegate who will cast the municipality's vote by January 16, 2025. If your municipality has not yet designated its Voting Delegate, please do so using [this form](#). Official voting instructions and the ballot will be sent directly to the Voting Delegate.

STEP 2.

Review, discuss and determine which of the [proposed legislative goals](#) your municipality supports. Each municipality may select 10 of the 16 proposed goals.

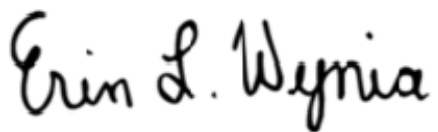
STEP 3.

Submit the online ballot by January 17, 2025. The Voting Delegate will receive voting instructions and the online ballot directly.

Thank you for your continued participation in this legislative goals development process, which is so critical to our advocacy efforts.

Establishing these Municipal Legislative Goals with wide participation by all cities and towns allows our organization to speak with confidence and sincerity as we pursue each with state and federal policymakers. It truly allows us to live up to our motto, "Working as one, advancing all."

Sincerely,



Erin Wynia
Director of Government Affairs

[PROPOSED GOALS](#)

[DESIGNATE YOUR VOTING DELEGATE](#)



WORKING AS ONE. ADVANCING ALL.

CONTACT US



Stay Connected with the North Carolina League of Municipalities

434 Fayetteville Street, Suite 1900, Raleigh, NC 27601

[Manage Preferences](#)

LEGISLATIVE GOAL STATEMENTS

RECOMMENDED BY THE NCLM BOARD OF DIRECTORS

The following goal statements are NOT listed in any priority order.

- **Expand funding opportunities for disaster resiliency and recovery efforts.**
 - North Carolina has faced a number of damaging natural disasters in recent years, including the unprecedented storm that devastated western North Carolina in the fall of 2024.
 - To fully recover from these natural disasters requires a broad approach that focuses on infrastructure, housing and economic losses.
 - Federal assistance and private insurance will not be enough to address these ongoing, critical needs or mitigate damage when future disasters hit.
- **Establish long-term funding streams that adequately address water, sewer, stormwater, transportation and other infrastructure needs.**
 - Infrastructure – including roads, water, sewer, stormwater, parks and beaches – are critical to economic development and job creation.
 - Many cities in the state are growing, creating a constant need for investment to keep pace with population growth; many cities and towns also have aging infrastructure that must be replaced.
 - Creating long-term and more permanent funding streams for infrastructure will ensure adequate investments so that North Carolina thrives now and into the future.
- **Expand state transportation funding streams for construction and maintenance of municipal and state-owned secondary roads.**
 - Current Powell Bill and other state funding is not adequate to address transportation needs, particularly as they affect municipal and state-owned secondary roads.
 - In many cities and towns, major commuting corridors are not receiving the level of investment needed to keep pace with traffic.
 - More investment is needed for these roads if existing residents are to embrace business and residential growth

- **Increase funds to remediate contamination in local water supplies.**
 - Local municipal water systems and their ratepayers increasingly are footing the costs of cleaning up PFAS and other “forever” chemicals from drinking water supplies.
 - As more regulations are set at the state and federal level to limit these chemicals in water supplies, costs will escalate.
 - Cities primary recourse to try to recoup the cost for utility ratepayers is through the courts.
- **Expand incentives and funding for local economic development.**
 - Funding is simply inadequate in many cities and towns to encourage job growth.
 - State grants and incentives are often targeted in ways that fail to assist the areas in greatest need of job creation.
 - Maintaining or expanding funding for film tax credits, major industrial site development, downtown development and renewable energy tax credits helps cities and towns across the state.
- **Create incentives to encourage the development of diverse housing options.**
 - Housing affordability continues to be a significant problem across many areas of North Carolina, affecting people of different income levels.
 - The lack of affordable housing acts as a major impediment to business and workforce recruitment.
 - State incentives to encourage the construction of housing for people of various income levels are extremely limited.
- **Provide resources to rehabilitate or purchase blighted properties.**
 - In many cities and towns, blighted properties act as an impediment to economic and business growth.
 - Cities and towns have limited means to address these properties, particularly in more rural, smaller communities.
 - Rehabilitating blighted properties can help address North Carolina’s housing needs.



- **Create incentives that encourage and adequately fund regionalized water and sewer solutions.**
 - A number of municipal water and sewer systems continue to financially struggle with deferred maintenance needs.
 - These challenges came about largely due to population and job losses in rural areas, leading to an erosion of taxpayer and ratepayer bases.
 - While legislators and municipalities have begun to address these issues with the creation of the Viable Utility Reserve and the use of ARPA funding, state estimates show needs still exceed expenditures by several billion dollars.
- **Reduce regulatory conflicts between state agencies that discourage voluntary consolidation, merger and interconnection of municipal utility systems.**
 - Municipalities have contractually obtained older, smaller utility systems of other municipalities and private enterprises in order to provide better and more efficient services to residents and businesses.
 - Older laws and regulations impose penalties on mid-size and large municipalities due to state agencies requiring them to pay for relocation of utilities when those penalties would have been reduced or eliminated for the smaller entities they were purchased from.
 - The State should work to reduce and eliminate these conflicts which have the effect of discouraging voluntary consolidation, merger and interconnection of municipal utility systems.
- **Create an orphan road program whereby the state improves those roads to N.C. Department of Transportation standards before municipalities assume maintenance responsibilities.**
 - So-called orphan roads are typically created when a street in a subdivision is not built to state or municipal standards, and the developer walks away without an agreement for maintenance.
 - The abandoned road can leave homeowners on the hook for the cost of maintenance.
 - For cities and towns, these abandoned roads can serve as a deterrent to voluntary annexation agreements even as the residents seek municipal services.

- **Provide local revenue options beyond the property tax.**
 - Roughly 40 percent of municipal general fund revenue is generated by local property taxes.
 - Cities have little to no authority to raise significant revenue in other ways.
 - A lack of diverse, local tax options can affect economic growth, as well as cause large swings in revenue based on economic changes.
- **Support technical assistance programs to assist municipalities with securing or maintaining grants or other necessary municipal resources.**
 - Many municipalities do not have the resources to seek or administer grants, even as that source of funding could help meet the needs of residents.
 - State, federal and other grant funding offers a significant opportunity for cities and towns to improve infrastructure or enhance services.
 - Providing technical assistance to these municipalities can provide them with access to grant funding, providing resources not otherwise available to them.
- **Address the needs of a changing municipal workforce through state assistance that supports employee retention, including training and recruitment.**
 - Municipalities across the state are facing staffing issues as current workers age and retire.
 - Training and retention resources are limited and competing with wages offered in the private sector can be difficult.
 - The use of training and recruitment tools across state and local government boundaries can improve public sector workforce availability.
- **Update the annexation petition thresholds to make voluntary annexations easier to initiate.**
 - Voluntary annexation by petition currently requires 100 percent consent from all property owners, a threshold that can be impossible to meet even if a majority of property owners can benefit by utilizing their property for business or residential purposes.
 - Lowering the threshold from 100 percent represents a middle ground that would still reflect the will of property owners but not handicap communities' ability to economically thrive.
 - The ability of a city or town to grow and reflect its urban footprint is vital to its financial health; city services are relied on by residents whether they live in or near municipal boundaries.

- **Preserve authority for extraterritorial jurisdiction to ensure that growth is well-planned and investments by homeowners and business owners are protected.**
 - A community's land-use planning tools, including ETJ, are vital as infrastructure investments are made that pave the way for economic growth.
 - Protecting homes and businesses from incompatible uses continues to be an important feature of ETJs. As of 2022, at least 14 counties in North Carolina had no zoning restrictions, with several others being only partially zoned.
 - Protecting neighborhoods from incompatible uses ultimately protects the value of residents' homes and property.

- **Protect the ability of municipal elected officials, acting on behalf of local voters, to determine election formats, districts and other election matters currently under their purview.**
 - Locally-elected municipal officials are best positioned to understand the wishes of local voters and how those should be applied to local election matters.
 - In many areas, residents prefer to avoid political polarization when it comes to the practical tasks of municipal government.
 - Locally-elected municipal officials are in their communities every day and accessible to voters.

MEMO

To: Town Council
From: Town Manager Parsons
Date: 01/10/25
Re: NCLM Priorities Request

The League of Municipalities has requested that Town Council review an initial list of proposed legislative goals, appoint a singular “delegate/voter”, and submit ten priorities TOSP would like to put forward from amongst the list. I have included in your packet the sixteen items forwarded for consideration. Based solely upon an analysis of the options with consideration toward those with the most potential impact for Southern Pines, I would recommend the following ten for consideration:

1. Establish long-term funding streams that adequately address water, sewer, stormwater, transportation and other infrastructure needs.
2. Expand state transportation funding streams for construction and maintenance of municipal and state-owned secondary roads.
3. Increase funds to remediate contamination in local water supplies
4. Create incentives to encourage the development of diverse housing options.
5. Provide resources to rehabilitate or purchase blighted properties
6. Reduce regulatory conflicts between state agencies that discourage voluntary consolidation, merger and interconnection of municipal utility systems.
7. Provide local revenue options beyond the property tax.
8. Update the annexation petition thresholds to make voluntary annexations easier to initiate.
9. Preserve authority for extraterritorial jurisdiction to ensure that growth is well-planned and investments by homeowners and business owners are protected.
10. Protect the ability of municipal elected officials, acting on behalf of local voters, to determine election formats, districts and other election matters currently under their purview.

In order to accommodate the request of the League of Municipalities, I would suggest a version of one of the following three options for a Motion (recognizing the second option could take many potential forms.) Please note that the designated delegate could appear to be an elected official, your Manager or Clerk (or potentially other) and would seem to simply need to be someone available to vote in the League prescribed manner prior to January 17th:

I move the Town submit the ten Legislative Priority Options recommended by the Town Manager and designate _____ to submit this information to the League of Municipalities per their process, or;

I move the Town submit the Legislative Priority Options recommended by the Town Manager as amended by replacing item (*X, where X may be more than one item*) with (*insert language from option heading(s) in the NCLM document in your packet*) and designate _____ to submit this information to the League per their process, or;

I move the Town not submit a list of Legislative Priorities to the League of Municipalities.



**RESOLUTION #1105
CERTIFICATE OF SUFFICIENCY
AX-03-24: 1485 SW. Broad Street**

To the Town Council of the Town of Southern Pines, North Carolina;

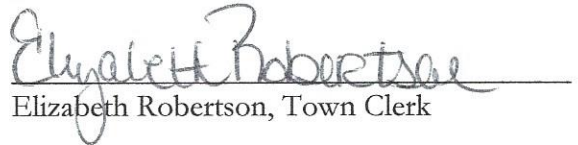
I, Elizabeth Robertson, Town Clerk, do hereby certify that I have investigated the attached petition and hereby make the following findings:

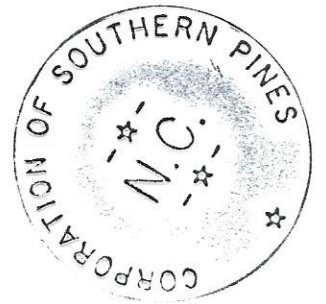
1. The petition contains an adequate property description of the area proposed for annexation, which is identified as follows:
 - PIN 857116738902 (PARID: 00047416)
2. The petition is signed by and includes addresses of all owners of real property lying in the area described herein. Per the Moore County Tax Department and Moore County Register of Deeds, the property owners are listed as:

David Thomas Burris
Deborah Stover Burris
1485 SW. Broad Street
Southern Pines, NC 28387

3. The area described in the petition is contiguous to the Town of Southern Pines primary corporate limits, as defined by N.C.G.S. 160A-31.

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Southern Pines, North Carolina, this 9th day of January, 2025.


Elizabeth Robertson, Town Clerk





RESOLUTION #1106
SETTING DATE OF PUBLIC HEARING FOR ANNEXATION
APPLICATION
AX-03-24: 1485 SW. Broad Street

WHEREAS, a petition requesting annexation of an area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the Town Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Southern Pines, North Carolina:

Section 1. That a public hearing on the question of annexation of the area described herein will be held at the ES Douglass Community Center at 6:00 pm on February 14, 2025.

Section 2. The area proposed for annexation is described as follows:

Property Identification Number (PIN) and Parcel Identification:

PIN: 857116738902; PARID: 00047416

Property Owners/Applicants:

David Thomas Burris & Deborah Stover Burris
1485 SW Broad Street
Southern Pines, NC 28387

Total Size of Property:

Total Acreage: +/- 2.50 acres

Meets & Bounds:

Being in McNeill Township, Moore County, and State of North Carolina described as follows:

BEGINNING at a stake in the southeastern line of South Broad Street, said stake marking the point where the south eastern line of South Broad Street begins to curve into the northeastern line of Henson Street; running thence along the southeastern line of South Broad Street N. 45°45'E 147.05 feet to a stake; thence S. 38°58'E. 103.65 feet to a stake; thence S. 44°39'W. 180 Feet tot a stake in the north eastern line of Henson Street; then running along the northeastern line of Henson Street in a northwesterly direction as it curves to the point where the northeastern line of Henson Street begins to curve into the southeastern line of South Broad Street (the chord course and distance of the last ball being N. 69°57'E. 21.25 feet), all according to a survey entitled "Lot in the Pine Ridge Subdivision by C.H. Blue, Registered Surveyor, dated September 17, 1965. The above is Lot No. 1 (one) in Block H of the Pine Ridge Subdivision, a map of which is recorded in Map Book 2A, page 59 of the Moore County Registry

Section 3. Notice of said public hearing shall be published in The Pilot, a newspaper having general circulation in the Town of Southern Pines, at least ten (10) days prior to the date of said public hearing.

Adopted this 14th day of January, 2025.

I certify that this resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of January 14, 2025, as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk