



AGENDA

Tuesday, March 11, 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. Approve Agenda

4. PUBLIC COMMENTS

5. CONSENT AGENDA

a. Approve Ordinance #3108: Code Revision to Permit Off Premises Alcohol Sales at Farmers Market

Cameron-based James Creek Cider House has approached the Town about selling their hard ciders at our Farmers Market. The intent is to sell closed bottles for off-premise consumption elsewhere. With some minor amendments to the Code of Ordinances, this request could be permitted, if Council desires. The Moore County Farmers Market has expressed support for this amendment.

b. Authorize Town Manager to Execute NCDOT Utility Relocation Agreement

The NCDOT U5814/5815 (US1/15-501) project has begun, which includes the relocation of Town-owned water and sewer utilities. State law mandates that the Town pay for 25% of the non-betterment cost, which is \$811,714.75 for this project. Staff asks that Town Council authorize the Town Manager to execute the agreement.

c. Approve Meeting Minutes

Staff has prepared the following meeting minutes for approval:

- January 14, 2025, Town Council Business Meeting
- February 11, 2025, Town Council Business Meeting
- February 28, 2028, Town Council Work Session Meeting

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, and was continued three months at the December 17, 2024 meeting, regarding proposed amendments to the UDO.

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, and was continued three months at the December 17, 2024 meeting, related to the creation of a Downtown Character District and a West Southern Pines Character District.

c. Z-07-24 Conditional Zoning District Rezoning for 4.13 Acres on E. Indiana Avenue

Jeremy Sparrow of Longitude Planning Group PLLC, authorized agent of Fifteen Pinecones LLC, has submitted a request to rezone two parcels to RM-2 Conditional Zoning District with 25 conditions to allow the development of either single-family detached units or duplexes totaling no more than 11 dwellings/residences - on ±4.13 acres.

7. ACTION ITEMS

a. Consider RD-01-25: Offer of Dedication for Southern Road

MSP Retail II, LLC is petitioning the Town of Southern Pines to accept an offer of dedication for an extension of Southern Road from the former dead-end behind Kohl's east to a connection with Carolina Green Parkway.

b. Consider Resolution #1108 - Opposition to NC Senate Bill 382 RE: Zoning Authority of Local Governments

Resolution #1108 has been drafted to express the Town's opposition to NC Senate Bill 382 RE: Zoning Authority of Local Governments.

8. ADJOURNMENT

Meetings/work sessions of the Southern Pines Town Council are now available on the Town's [YouTube channel](https://bit.ly/3hXx2Qk). 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>

MEMO

To: Reagan Parsons, ICMA-CM, Town Manager
Cc: Greg Thompson, CPRP, CPSI, Parks and Recreation Director
From: Jessica Roth, ICMA-CM, Assistant Town Manager
Date: February 21, 2025
Re: Alcohol Sales at Farmers Market

Background

James Creek Cider House is a Moore County business that crafts and bottles hard cider from apples and peaches grown on their Cameron farm. They are interested in selling closed bottles at our Farmers Market, which is operated by the Moore County Farmers Market (MCFF) and held in Armory Park on Thursdays and Downtown Park on Saturdays (seasonally). Our current codes prohibit the specific request, detailed below.

Code Review

[§ 32.092 of the Town's Code of Ordinances](#) governs "outdoor special events" (OSEs) that occur on public property. While not all OSEs include alcohol sales and consumption, this section also regulates the manner in which that may occur. There are some minor conflicts between the Town's current regulations and the request from James Creek:

- §32.092(B): Alcohol sales are only permitted at events for which an OSE permit has been issued by the Town. This assumes on-site consumption and this review and permit process allows for public safety considerations to be incorporated into the approved permit. We do not issue an OSE to the MCFF and use a simpler operating agreement which is reviewed and renewed annually.
- §32.092(B)(1): Alcohol sales may only take place in the "central business district" or Downtown Park. While this would address the Saturday market at Downtown Park, it would prohibit James Creek from selling at the Thursday market at Armory Park.
- §32.092(B)(2): Alcohol sales are limited to "not-for-profit" entities. While the MCFF meets this criteria, James Creek is a for-profit business.
- §32.092(B)(3): Alcoholic beverages sold at OSEs are limited to malt beverages and unfortified wine. While the NC Alcohol Beverage Control Commission (NC ABCC) regulates hard cider producers and distributors, it is the opinion of Police Chief Polidori that the ciders produced by James Creek may be classified as "fortified wine."

Staff Recommendation

The request from James Creek Cider House is to sell closed bottles only, with the actual consumption to take place elsewhere (not at the Farmers Market and/or on public property). The [NC ABCC regulates and permits alcohol sales](#) for all businesses across the state. The "Off-Premises Retail Permit" authorizes the retail sale of alcohol in the manufacturer's original container for consumption off the premises. A retailer is required to obtain an "on premises" permit if the consumption takes place at the same site where the sale occurs, either alone or mixed with other beverages.

It is staff's opinion that the sale of closed bottles of alcohol does not negatively impact the Farmers Market event, nor does it create a need for any additional public safety considerations. In this specific situation, a code amendment would permit a local agricultural business to expand their outreach and sales opportunities. If Council supports this policy change, the following code adjustments would be needed:

- Update §32.092(B) so it is clear that that "off premises retail sales" do not require an OSE. The remainder of §32.092(B) could remain the same since it is specific to OSEs.
- Add a new section to the code that is specific to operating considerations at the Farmers Market.
 - Permit the off-premises sales of malt beverages, fortified wine, and unfortified wine. Chief Polidori does not recommend including distilled spirits.
 - Authorize the off-premises sales at any public facility in which the Farmers Market is hosted. This addresses the current prohibition at Armory Park, while also allowing flexibility for the Market to

relocate/expand in the future, if needed.

- Do not require that only not-for-profit entities can sell alcohol. This would open the Farmers Market up to any vendor who is properly permitted by the NC ABCC for retail off-premises sales. Note, this does not impact the decision-making ability of MCFF to approve/deny vendors per their normal application and review process. Our code amendment would simply allow their approved vendors to sell alcohol.
- Vendors must have and display a current NC ABCC permit(s) that authorizes retail off-premises sales for the type of alcohol they are offering.
- Alcohol vendors must display signage informing customers that alcohol is for off-premises consumption only and may not be consumed at the Farmers Market.
- Add criteria clarifying that this is specific to markets operated by not-for-profits entities who have entered into a user agreement with the Town to host a Farmers Market on public property. This would eliminate the potential for other entities to host an event marketed as a farmers market, which is not affiliated with MCFF.

Next Steps

If Council supports this policy change, staff will prepare the code amendments needed. This can be ready for Council action as soon as the March 11, 2025 meeting, if desired.



**ORDINANCE #3108
AMENDING THE TOWN'S CODE OF ORDINANCES
TO PERMIT RETAIL SALES OF ALCOHOL AT THE FARMER'S MARKET**

WHEREAS, the Town of Southern Pines has a user agreement with Moore County Farmers Market, Inc., which operates a year-round market in Town-owned parks; and

WHEREAS, Moore County Farmers Market, Inc. is a non-profit organization registered with the North Carolina Secretary of State to provide a regular market for producers who are generally located within 50 miles of Moore County; and

WHEREAS, the Town's current Code of Ordinances would not authorize a producer of malt beverages, fortified wine, and/or unfortified wine to sell at the Farmers Market. Amending the Code of Ordinances would allow these local producers to sell closed bottles for off-premises consumption; and

WHEREAS, this amendment supports the Town's 2040 Comprehensive Plan, which encourages the expansion of local businesses and employment opportunities as well as providing micro-retail opportunities. Policy 2.3 also encourages the revision of Town documents, such as the Code of Ordinances, to implement Comprehensive Plan policies and recommendations; and

WHEREAS, the North Carolina Alcoholic Beverage Control Commission (NC ABC Commission) is an independent state agency that regulates and permits businesses with regard to alcohol sales. The Town's authority extends to regulating alcohol sales on public property within the corporate boundary of Southern Pines.

BE IT ORDAINED by the Town Council of the Town of Southern Pines, North Carolina that the Town's Code of Ordinances is amended as follows:

1. Amend the Code of Ordinances by adopting "Attachment A" in its entirety.
2. This ordinance is effective March 11, 2025.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of March 11, 2025 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk

ATTACHMENT A

The Town's Code of Ordinances is amended as follows:

REVISE EXISTING SECTION §32.092

1. Delete and replace the first sentence of §32.092(B) with the following: "Outdoor special events may take place on public property if the Town Manager or his/her designee has granted a permit for the event."
2. Update §32.092(B), second sentence, by deleting "Department" and replacing it with "Town."
3. Update §32.092(B)(3) to add fortified wine so that it reads, "The alcoholic beverages are limited to malt beverages, fortified wine, and unfortified wine; and"
4. Add new section §32.092(E) that reads, "If the event includes alcohol sales only in the manufacturer's original, sealed container for consumption off premises, a Town permit may not be required unless the event meets the other characteristics defined in subsection (B)."

REVISE EXISTING SECTION §112.01

1. Delete and replace the definition of Farmer's Market with the following: "*FARMER'S MARKET*. An event held at a facility or park maintained and operated by Moore County or the Town for the sole purpose of providing an outlet for the sale of farm products."

REVISE EXISTING SECTION §112.04

1. Revise the second sentence to add the term "organization" after "imposed by" so that it reads: "Sales of farm products in a properly established farmer's market area shall be subject to all rules and regulations imposed by the organization or governmental unit operating any market."

ADD NEW SECTION §112.05 AS BELOW

§112.05 SALE OF ALCOHOL BEVERAGES AT FARMER'S MARKET.

Farmer's market vendors may sell alcohol beverages under the following conditions:

- (A) The vendor has obtained and displays any and all necessary permits, licenses, and/or approvals from the Alcohol Beverage Control Commission and remains in compliance with all local and state ABC laws.
- (B) Vendors may only sell malt beverages, fortified wine, and/or unfortified wine in the manufacturer's original sealed container for consumption off premises.
- (C) Tastings for the purpose of offering a sample of the vendor's alcohol product are not permitted.
- (D) The vendor must display signage informing customers that alcohol may not be opened and/or consumed at the Farmers Market.
- (E) Unless the event has been permitted as an outdoor special event with alcohol sales in accordance with §32.092, alcohol sales are only permitted at farmer's markets defined herein and for which the host organization has a current user agreement with the Town to operate a farmer's market.

AGREEMENT OVERVIEW

NORTH CAROLINA
MOORE COUNTY

DATE: 12/30/2024

PARTIES TO THE AGREEMENT:

PROJECT NUMBERS:

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

TIP #: U-5815B

AND

WBS ELEMENTS: PE 54041.1.3
CON 54041.3.3

TOWN OF SOUTHERN PINES

The purpose of this Agreement is to identify the participation in project costs, project delivery and/or maintenance, by the other party to this Agreement, as further defined in this Agreement.

SCOPE OF PROJECT (“Project”): This Project consists of construction of US 15/501/NC 211 from US 1 North (Sandhills Boulevard) in Aberdeen to Brucewood Road in Southern Pines. Also, US 1 from Knight Street in Aberdeen to Old US 1 in Southern Pines, including realignment of SR 1112 (Roseland Road), along with improving radii at US 15/501. This Agreement is for preliminary engineering design and construction costs associated with the Town of Southern Pines’ water and sewer relocation work required by this Project. This is a joint project (U-5814 and U-5815B) but all payment will go to U-5815B. The Town of Southern Pines is responsible for 25% of the total design and construction costs based on their population.

ESTIMATED COST TO OTHER PARTY: \$ 811,714.75

ESTIMATED COST TO OTHER PARTY (PE): \$ 16,161.75

ESTIMATED COSTS TO OTHER PARTY (CON): \$ 795,553.00

PAYMENT TERMS: The Department will invoice the Town of Southern Pines upon completion of the Project.

MAINTENANCE: Town of Southern Pines

EFFECTIVE DATES OF AGREEMENT:

START: Upon Full Execution of this Agreement

END: When work is complete and all terms are met.

This **Agreement** is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the **Department** and the Town of Southern Pines, hereinafter referred to as the **Municipality**; and collectively referred to as the **Parties**.

The **Parties** to this Agreement, listed above, intend that this Agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this

ACCOUNTS RECEIVABLE
UTILITY PE and CONSTRUCTION AGREEMENT
1000023771
1000023772

Agreement and refer to this Agreement, represents the entire understanding between the **Parties** with respect to its subject matter and supersedes any previous communication or agreements that may exist.

I. WHEREAS STATEMENTS

WHEREAS, this Agreement is made under the authority granted to the **Department** by the North Carolina General Assembly under General Statutes of North Carolina (NCGS), particularly Chapter 136-27.1 and 136 27.3; and,

WHEREAS, the **Department** has plans to make certain street and highway constructions and/or traffic control improvements; and,

WHEREAS, the **Municipality** has requested that the **Department** perform work or provide services; and,

WHEREAS, the **Parties** hereto wish to enter into an agreement for scoped work to be performed or provided by the **Department** (including construction, reviews, goods, or services) with reimbursement for the costs thereof by the **Municipality** as hereinafter set out; and,

WHEREAS, the **Department** and the **Municipality** have agreed that the jurisdictional limits of the **Parties**, as of the date of entering the agreement for the above-mentioned project, are to be used in determining the duties, responsibilities, rights, and legal obligations of the **Parties** hereto for the purposes of this Agreement.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the **Parties** do hereby covenant and agree, each with the other, as follows:

II. RESPONSIBILITIES

A. DEPARTMENT

The **Department** shall be responsible for all phases of project delivery to include planning, design, right of way acquisition, utility relocation, and construction as shown in the **PROJECT DELIVERY** Provision.

B. MUNICIPALITY

The **Municipality** shall be responsible for maintenance as shown in the **PROJECT DELIVERY** Provision and payment as shown in the **COSTS AND FUNDING** Provision.

III. PROJECT DELIVERY REQUIREMENTS

A. PRELIMINARY ENGINEERING

- i. At the request of the **Municipality**, the **Department** will provide design services for the required relocation and/or betterment of the **Municipality's** utility lines as affected by Projects U-5814 and U-5815B. The work is described as follows: preliminary engineering

design fees associated with the Town of Southern Pines' water and sewer relocation work required by this Project.

- ii. The **Department** will ensure the design of municipal utility relocation is performed by professional engineering services. If the **Department** revises highway plans, then the **Municipality** reserves the right to re-engineer relocation plans.
- iii. Upon the satisfactory completion of the utility construction plans covered under this Agreement, the **Municipality** shall review and approve the plans, the associated estimated utility construction cost, and special provisions to be made part of the **Department's** roadway contract for highway construction. The **Municipality** shall release the **Department** of any future responsibility for the design of the utility construction plans. Said releases shall be deemed to be given by the **Municipality** upon completion of the plans, estimate, special provisions and acceptance by the **Department** and **Municipality** for the plans to be made part of the highway contract.

B. CONSTRUCTION

- i. At the request of the **Municipality** the **Department** shall place provisions in the construction contract for Project U-5814 and U-5815B, for the contractor to adjust and relocate utility lines and/or provide betterment. The work is described as follows: construction costs associated with the Town of Southern Pines' water and sewer relocation work required by this Project.
- ii. Said work shall be accomplished in accordance with plan sheets, attached hereto as Exhibit "A", cost estimate attached hereto as Exhibit "B", and project specific provisions, if applicable, attached hereto as Exhibit "C".

C. MAINTENANCE

- i. Upon the satisfactory completion of the relocations and adjustments of the utility lines covered under this Agreement, the **Municipality** shall assume normal maintenance operations to the said utility lines. Upon completion of the construction of the highway project, the **Municipality** shall release the **Department** from any and all claims for damages in connection with adjustments made to its utility lines; and, further, the **Municipality** shall release the **Department** of any future responsibility for the cost of maintenance to said utility lines. Said releases shall be deemed to be given by the **Municipality** upon completion of construction of the project and its acceptance by the **Department** from its contractor unless the **Municipality** notifies the **Department**, in writing, to the contrary prior to the **Department's** acceptance of the project.
- ii. The **Municipality** obligates itself to service and to maintain its facilities to be retained and installed over and along the highway within the **Department's** right-of-way limits in accordance with the mandate of the North Carolina General Statutes and such other laws,

rules, and regulations as have been or may be validly enacted or adopted, now or hereafter.

- iii. If at any time the **Department** shall require the removal of or changes in the location of the encroaching facilities which are being relocated at the **Municipality's** expense, the **Municipality** binds itself, its successors, and assigns, to promptly remove or alter said facilities, in order to conform to the said requirement (if applicable per G.S. 136-27.1), without any cost to the **Department**.

IV. COSTS AND FUNDING

A. PROJECT COSTS

- i. The **Municipality** shall be responsible for relocation, and/or betterment, costs for work as shown on the attached Exhibit "A". The estimated cost to the **Municipality** is \$811,714.75 as shown on the attached Exhibit "B".
- ii. It is understood by both **Parties** that this is an estimated cost and is subject to change.

B. PAYMENT BY THE MUNICIPALITY

- i. Upon completion of the plans, the **Department** shall submit an itemized invoice to the **Municipality** for costs incurred. Billing will be based upon the negotiated cost and any supplemental agreements made part of this agreement. Reimbursement shall be made by the **Municipality** in one final payment within sixty (60) days of said invoice.
- ii. Upon completion of the highway work, the **Department** shall submit an itemized invoice to the **Municipality** for costs incurred. Billing will be based upon the actual bid prices and actual quantities used and shall include charges due to the **Department** for administration and oversight of the work.
- iii. Reimbursement shall be made by the **Municipality** in one final payment within sixty (60) days of said invoice.
- iv. If the **Municipality** does not pay said invoice within sixty (60) days of the date of the invoice, the **Department** shall charge interest on any unpaid balance at a variable rate of the prime plus one percent (1%) in accordance with G.S. 136-27.3.
- v. Any cost incurred due to additional utility work requested by the **Municipality** after award of the construction contract, shall be solely the responsibility of the **Municipality**. The **Municipality** shall reimburse the **Department** 100% of the additional utility cost.
- vi. In the event the **Municipality** fails for any reason to pay the **Department** in accordance with the provisions for payment hereinabove provided, North Carolina General Statute

136-41.3 authorizes the **Department** to withhold so much of the **Municipality's** share of funds allocated to said **Municipality** by North Carolina General Statute, Section 136-41.1, until such time as the **Department** has received payment in full.

C. DOWN PAYMENT OR PRE-PAYMENT

At any time prior to final billing by the **Department**, the **Municipality** may prepay any portion of the estimated cost by sending payment in accordance with the attached "Remittance Guidance". The **Department** will provide a final billing based on the fixed cost, less any previous payments that have been made.

V. STANDARD PROVISIONS

A. AGREEMENT MODIFICATIONS

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all **Parties** by means of a written Supplemental Agreement.

B. ASSIGNMENT OF RESPONSIBILITIES

The **Department** must approve any assignment or transfer of the responsibilities of the **Municipality** set forth in this Agreement to other parties or entities.

C. AGREEMENT FOR IDENTIFIED PARTIES ONLY

This Agreement is solely for the benefit of the identified **Parties** to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.

D. OTHER AGREEMENTS

The **Municipality** is solely responsible for all agreements, contracts, and work orders entered into or issued by the **Municipality** to meet the terms of this Agreement. The **Department** is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the **Department** under the terms of this Agreement.

E. TITLE VI

The other party to this Agreement shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

F. FACSIMILE

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the **Parties** agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

G. AUTHORIZATION TO EXECUTE

The **Parties** hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective **Parties** to the terms contained herein.

H. DEBARMENT POLICY

It is the policy of the **Department** not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the **Municipality** certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

I. INDEMNIFICATION

To the extent authorized by state and federal claims statutes, the **Municipality** shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the **Department**, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the **Department** in connection with this Agreement. The **Department** shall not be liable and shall be held harmless from any and all third-party claims that might arise on account of the **Municipality's** negligence and/or responsibilities under the terms of this agreement.

J. AVAILABILITY OF FUNDS

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

K. DOCUSIGN

The **Department** and **Municipality** acknowledge and agree that the electronic signature application DocuSign may be used, at the sole election of the **Department** or the **Municipality**, to execute this Agreement. By selecting "I Agree", "I Accept", or other similar

item, button, or icon via use of a keypad, mouse, or other device, as part of the DocuSign application, the **Department** and **Municipality** consent to be legally bound by the terms and conditions of Agreement and that such act constitutes **Department's** signature as if actually signed by the **Department** in writing or the **Municipality's** signature as if actually signed by the **Municipality** in writing. The **Department** and **Municipality** also agree that no certification authority or other third-party verification is necessary to validate its electronic signature and that the lack of such certification or third-party verification will not in any way affect the enforceability of its electronic signature. The **Department** and **Municipality** acknowledge and agree that delivery of a copy of this Agreement or any other document contemplated hereby through the DocuSign application, will have the same effect as physical delivery of the paper document bearing an original written signature.

L. GIFT BAN

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Adult Corrections, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

SIGNATURE PAGE

IN WITNESS WHEREOF, this Agreement has been executed the day and year heretofore set out, on the part of the **Department** and the **Municipality** by authority duly given.

(DOCUSIGN ONLY)

Authorized Signer: _____

Print Name: _____

Title: _____

Date Signed: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

TOWN OF SOUTHERN PINES

FED TAX ID NO: _____

Finance Officer: _____

REMITTANCE ADDRESS:

Print Name: _____

Date Signed: _____

DEPARTMENT OF TRANSPORTATION

BY: _____

TITLE: _____

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)

SIGNATURE PAGE

IN WITNESS WHEREOF, this Agreement has been executed the day and year heretofore set out, on the part of the **Department** and the **Municipality** by authority duly given.

(INK SIGNATURES ONLY)

ATTEST: _____ Authorized Signer: _____

BY: _____ Print Name: _____

TITLE: _____ Title: _____

Date Signed: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

TOWN OF SOUTHERN PINES

FED TAX ID NO: _____ Finance Officer: _____

REMITTANCE ADDRESS: _____ Print Name: _____

_____ Date Signed: _____

DEPARTMENT OF TRANSPORTATION (DocuSign)

BY: _____

TITLE: _____

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)



MINUTES

Tuesday, January 14, 2025: 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; and Brandon Goodman.

Councilmember Debra Gray arrived at 6:10 pm and apologized for her tardiness.

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda and requested the removal of Budget Ordinance #3099 - Fire Dept Viper Radios.

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

Mayor Clement opened the floor for Public Comments.

Hugh Mensch, 20 Hunger Court, addressed the Council regarding Knoll Rd. Multi-Modal Path project. Mr. Mensch thanked Town Manager Parsons, Town Engineer James Michel and Communications Specialist Gerald Ostlund for hosting a meeting on the topic and asked that the Council consider adding the changes discussed at that time.

Hugh Miner, 90 Paddock Lane, spoke in support of Mr. Mensch's comments and provided documents to the Council that included excerpts from Pilot Newspaper articles and an email from Dan Van Horn, Founder and President of US Kids Golf.

Tony Maramarco, 16 Glen Devon Drive, representing Talamore Westside HOA, echoed Mr. Mensch's request for additional left turn lanes.

Marsh Smith, 585 Santee Road, Moore County Commissioners passed a resolution in September 2024 urging the NC Legislature to amend the Sedimentation Pollution Control Act to allow citizens to defend themselves from developers and urged the Council to adopt a similar resolution.

5. CONSENT AGENDA

Councilmember Petersen asked that the word "Robins" in the December meeting minutes be corrected to "Robbins".

Mayor Pro Tem Pate moved to adopt the Consent Agenda with the removal of Budget Ordinance #3099, seconded by Councilmember Goodman; the vote was unanimous.

Motion passed.

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.

Mayor Clement opened the hearing for Z-06-24; Red's Corner Food Truck Campus Expansion.

Senior Planner Alaina Mallette presented the request and staff report to the Council.

Councilmember Petersen voiced her concern over parking and fire department access during an emergency.

Discussion ensued.

Scott Bertrand introduced himself as a majority shareholder and General Manager for Red's Corner along with Mike and Rachel, who are his partners and present. Mr. Bertrand addressed Councilmember Petersen's concerns over parking and emergency vehicle access and detailed the applicant's plans on how to deal with these issues.

Discussion ensued.

Councilmember Gray asked Mr. Bertrand to explain how the applicant expects to address overflow parking and Mr. Bertrand explained that for larger events a satellite parking agreement would be submitted along with the special event permit application.

Mayor Clement asked if there were any plans to improve or install sidewalks.

Mayor Clement requested Public Comment

Alan Haws of Southern Pines asked if there were any plans to include the property that used to be CES in the future and Mr. Bertrand stated that the property in question was sold to someone else and there were no plans to include it at this time.

Discussion ensued.

Mayor Pro Tem Pate asked the applicant if they were amenable to the proposed conditions in the staff report and Mr. Bertrand stated that they were in agreement and were currently working on stormwater requirements.

Senior Planner Mallette shared that the Comprehensive Plan discussed possible improvements to the 'hybrid' realm between the probate space and the Town right-of-way and that Public/Private partnerships may be a way to make some of that pedestrian connectivity possible and improve the area.

Mayor Clement closed the public hearing

Mayor Pro Tem Pate 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 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 Condition 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 above and within the staff report for application Z-06-24.

Councilmember Petersen questioned Condition 19 and the requirements for a letter from a certified engineer regarding storm water management. Senior Planner Mallette advised that the applicant wouldn't receive a Certificate of Occupancy for the stage until the storm water letter was received. Councilmember Petersen feels the trigger mechanism is sloppy and that the letter should be provided much sooner. Discussion ensued.

Town Attorney McCarley advised that another compliance mechanism is citations issued for zoning violations.

Discussion ensued with staff and the applicant agreeing to include in Condition 19 that the storm water letter would be received within 60 days.

Mayor Pro Tem amended his motion to include that Condition 19 will be revised to include that the letter from a certified engineer regarding storm water will be submitted to the Town within 60 days of this hearing.

The motion was seconded by Councilmember Gray and the vote was unanimous.

Motion passed

Mayor Pro Tem Pate then moved to 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 Condition 19, including today's revision, as written in the Z-06-24 staff report and agreed to by the applicant. The motion was seconded by Councilmember Gray and the vote was unanimous.

Motion passed.

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.

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. Town Attorney McCarley also asked the applicant if they wished to challenge any members of Council standing and the response was negative.

Senior Planner Alaina Mallette presented the application, staff report and staff presentation.

- Exhibit A - staff report dated 1/14/25
- Exhibit B - staff presentation

Senior Planner Mallette noted that there was some concern regarding the vagueness of allowed land uses in the Master Plan and staff feels that the provided list of unallowed uses that has been agreed to by staff and the applicant will alleviate much of that concern. Senior Mallette added that having a list of land uses in the master plan would be ideal but considering where this project is and that this is the last stage for this project, this is the best way we have to regulate the future uses.

Another area of concern was the percentage of permeable surface the current calculations are showing. The applicant has 70% currently granted and submitted plans show 77% so the applicant has proposed to include a condition stating that 'the site plan shall either provide 70% or less impervious surface or include permeable pavement or other measures with similar technology to bring the current number down to 70% and the Town Engineer has the final say on the acceptability of those materials'.

Town Manager Reagan Parsons noted to the Council that with how he is reading the motions that are currently written in this packet, should they be approved, there would be no need for an Architectural Review and the rendition of the architecture included in this packet would be approved and questioned if that was correct. Senior Planner Mallette stated an Architectural Review application was not submitted in conjunction with this application, so that an Architectural Review is still needed. Discussion ensued.

Nick Robinson of Bradshaw, Robinson Slaughter and Rainer, LLP represents the applicant, Grosvenor Land, LLC. Also, present are Neil Salmon, Chief Design Officer-Ascot Corporation, LLC; Erin Goviea, Traffic Engineer Consultant; and John Spurrell of Ascot Group. Mr. Robinson reviewed the 4 items of issue that the Town staff was concerned with and detailed the solutions that had been agreed to by staff and the applicant:

- description of allowed use - eliminated 17 allowed uses
 - increased traffic - eliminated 17 allowed uses that would cause high traffic
 - percentage of permeable surface - added condition committing the applicant to reducing permeable surface to under 70%
 - loading and unloading for businesses on lower level - language added to PDP that states that the applicant will install signage on Bennett St restricting loading and unloading to W. New York Ave.
- Councilmember Petersen questioned if there would be restrictions on the type of residents in the building, stating that the staff report indicated that the residences were intended for single older residents. Mr. Robinson declined to put restrictions onto the type of person allowed to reside in the building.

Mr. Robinson introduced Neil Simon of 540 NW Broad Street and reviewed his qualifications for the Council. Mayor Clement approved him as an expert witness in architectural and land design.

Attorney Marsh Smith objects to the witness being led. Town Attorney McCarley advised Mayor Clement that the first issue to be dealt with was to determine whether Mr. Smith has standing in this hearing, Mr. Smith feels he has standing since his property adjoins this one and feels the drainage will be an issue with the risk of damaging his property and his clients access his office on W. New York Ave, where the additional parking from this project will be an issue and could cause him injury as a property and business owner.

Mr. Robinson questioned Mr. Smith on his qualifications and then submitted that Mr. Marsh does not have standing under North Carolina Law simply because his property adjoins the project property and cannot prove that damages would occur to him that would not be incurred by any other person nearby. Further, Mr. Robinson submits that since Mr. Marsh has said that he is not an engineer, that he is not qualified to testify and anything he said would be considered incompetent evidence.

Mr. Smith disagrees with Mr. Smith and argues his point further.

Attorney McCarley addresses the 3 issues raised and advises the Council that:

- under North Carolina Law, an adjoiner does not have standing simply by being an adjoiner.
- potential for injury from runoff and while Mr. Smith is downhill and water runs downhill.

Speculative claims of injury are not recognized as granting standing

- Mr Smith does not have to have expertise as an engineer to ask questions of the applicant's engineer

Attorney McCarley further advised that, in his opinion, Mr. Smith does not meet the criteria to have standing in this case.

Mayor Clement and Attorney McCarley confer while the hearing is paused for a 5-minute break.

Mayor Clement addressed the question of Mr. Marsh's standing by stating that while she respects his opinion, she does not feel he has standing as an attorney but can testify as a neighbor.

Mr. Robinson continued his questioning of Mr. Salmon. Mr. Salmon is of the opinion that the PDP meets the 4 criteria and agrees with the staff report presented tonight.

Applicant Exhibit 1 - Affidavit of Neil Salmon

Discussion ensued regarding water damage to the properties downhill and issues with loading and unloading near the property.

Councilmember Brandon Goodman exited the hearing at 8:01 pm.

Mr. Robinson introduced Erin Goviea, Traffic Engineer with John Davenport Engineering, Inc. and reviewed her qualifications for the Council. Mayor Clement approved of her as an expert witness in the area of traffic engineering.

Applicant Exhibit 2 - Traffic Design Analysis (TDA)

Discussion ensued.

Mr. Robinson continued his questioning of Ms. Goviea and Ms. Goviea is of the opinion that the site is appropriate for this project based on traffic considerations and that no adverse transportation impacts are anticipated with the low volumes expected from the proposed land uses and that no improvements are necessary to mitigate the impacts of future traffic from this development.

Applicant Exhibit 3 - Affidavit of Erin Goviea

Discussion ensued regarding loading and unloading zones.

John Spurrell of Ascot Group answered Council questions on loading/unloading zones and Councilmember Gray expressed her displeasure that the vendors who would be inhabiting the space were still unknown.

Town Manager Parsons commented that the angled parking proposed in the PDP is an improvement over the current parking that Mr. Smith described. Town Manager Parsons added that a loading/unloading zone would be a challenge for larger semi-trailers in that area, but he doesn't feel

either option would make much difference.

Mayor Clement asked for public comment.

- Marsh Smith of 255 W. New York Ave. asked the Council to consider that when the CDP was approved there was a lot of controversy over letting motorcycle space count as parking spaces. Was the loading/unloading area in the basement considered when counting parking spaces? Mayor Clement clarified that the topic was discussed, but there is no loading/unloading zone in the basement.

Mr. Smith asked if the impervious surface was calculated using permeable paving? Town Manager Parsons stated that permeable paving was one option for reducing the percentage of impervious surface in the project. Mr. Marsh shared his views on the usefulness of permeable paving, concerns regarding runoff from the site as well as the idea to utilize the municipal parking lot entrance across the street for a loading/unloading zone. placement or use the town's power of eminent domain to condemn walkways.

Mr. Smith questioned the relationship between Grosvenor Land, LLC. and Ascot Corporation, LLC. and that it is not explained why persons from both companies are speaking at the hearing.

Mayor Clement asked the Council to disregard any discussion from Mr. Marsh regarding traffic since he is not considered an expert witness in that field.

- Donald Jorgenson, 260 W. Pennsylvania Ave., asked if the council could restrict the people that buy and/or rent the new homes to only one car per residence, sharing his concern over the lack of adequate parking. Mayor Clement addressed the concern and shared that underground parking will be available to accommodate the residents. Discussion ensued.

- Anthony Park, 620 North Bethesda Road, thanked the Council for their service and addressed the concerns over traffic issues and parking in the downtown area and shared his opinion that the parking as planned will be insufficient. Mr. Park asked that the Council be more mindful of the issue in the future.

No additional public comments were voiced.

Councilmember Petersen read an excerpt from the Staff Report: *"The applicant stated that the vision for the project is to encourage walkability to and from the development and the applicant also stated that the apartment studios are not intended for families or roommate scenarios, rather for older single residents"* and asked the applicant if he stands by the statement. The applicant stated that he did not recall the specific comment and that is not the intention of the development. There is no intent by the applicant to restrict who can or cannot live in the buildings. Discussion ensued.

Mayor Clement questioned if there was a possibility of reducing the impervious space from 77.9% to 70% with the addition of green space? Mr. Robinson shared that the applicant is using the State's approved list of alternatives to normal pavement to address the concern and Staff confirmed that they are comfortable with their use. Discussion ensued.

Mayor Clement asked to discuss the Municipal Parking Lot at a future time.

Mayor Clement asked for any additional questions or comments from both Council and the public and there being none, closed the public hearing.

Mayor Pro Tem Pate moved to adopt Attachment 1 of the staff report, as drafted, as Findings of Fact regarding the proposed Preliminary Development Plan PD-07-24, seconded by Councilmember Gray; the vote was as follows:

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

- Councilmember Gray: aye
- Councilmember Goodman: aye

Motion passed.

Attorney McCarley interjected that since Councilmember Goodman left the meeting he is considered unexcused and will therefore be counted as an affirmative vote in this matter and all others for the rest of this meeting.

Mayor Pro Tem Pate moved to 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, seconded by Councilmember Gray: the vote was as follows:

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

Motion passed.

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).

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. Town Attorney McCarley also asked the applicant if they wished to challenge any members of Council standing and the response was negative.

Planner I James Broadwell presented the application, staff report and staff presentation.

- Exhibit A - staff report
- Exhibit B - staff presentation

Mayor Clement asked for clarification on the Phase II character-defining features mentioned in the staff report. Planner I Broadwell listed them as a grass lawn, applicant's choice of three planting beds or eight planters, permanent outdoor seating, and applicant's choice of one pergola/shade structure or two shade trees.

Planning Director Grieve advised the Council that the applicant had requested that staff administratively approve additional uses for the project and, due to several factors, Planner Grieve denied the request and therefore, the matter is before the Council to decide.

Councilmember Petersen questioned Health and Human Services and what that might entail. Planner I Broadwell deferred to the applicant to answer, noting that the use table gives quite a few examples. Mr. Saathoff stated that no commitments had been made, but interest had been shown by medical offices. Planning Director Grieve advised that some businesses that fall under Health and Human Services would be a psychologist's office, chiropractor's office, medical office (administrative or outpatient).

Discussion ensued.

Paul Saathoff of Koontz Jones Designs is representing the applicant and gave a brief presentation on the proposed application and project. Discussion ensued.

Mayor Clement opened the public comment period and none were voiced.

Mayor Clement asked for any additional questions or comments from the Council. There being none, closed the public hearing.

Mayor Pro Tem Pate moved to adopt Attachment 1 of the staff report, as drafted, as Findings of Fact regarding the proposed Preliminary Development Plan PD-08-24, seconded by Councilmember Gray; the vote was unanimous.

Motion passed.

Mayor Pro Tem Pate moved to approve the Preliminary Development Plan for PD-08-24 with the following additional conditions as outlined in the staff report for PD-08-24 dated January 14, 2025:

Condition 1 – Phase 2 Usable Open Space Usage.

Condition 2 – Phase 2 Parking Volume.

The motion was seconded by Councilmember Gray and the vote was unanimous.

Motion passed.

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.

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. Town Attorney McCarley also asked the applicant if they wished to challenge any members of Council standing and the response was negative.

Planner I James Broadwell presented the application, staff report and staff presentation.

- Exhibit A - staff report

- Exhibit B - staff presentation

Planning Director BJ Grieve clarified that this application is a major subdivision preliminary plat and not a preliminary development plan application.

Discussion ensued.

John Silverman of Midland Atlantic Development, representing the applicant, presented a brief overview of the project.

Discussion ensued.

Travis Fluit, Traffic Engineer with Kimely Horn, presented his report on the projects.

Discussion ensued.

Councilmember Gray appreciates the updated information used in the study.

Mayor Pro Tem Pate questioned what the 20 ft buffer on the side of the road will look like (i.e. planted, undisturbed, etc.) Mr. Silverman advised that the buffer currently has very little vegetation and will be planted at the time of the PDP.

Discussion ensued.

Planning Director BJ Grieve stated that the applicant is cooperating and the eventual project will create uniformity with the other landscaping in the area.

Mayor Clement opened the public comment period and none were voiced.

Mayor Clement asked for any additional questions or comments from the Council. There being none, closed the public hearing.

Mayor Pro Tem Pate moved to adopt Attachment 1 of the staff report, as drafted, as Findings of Fact regarding the proposed Preliminary Plat MAPP-04-24, seconded by Councilmember Gray; the vote was unanimous.

Motion passed

Mayor Pro Tem Pate moved to approve the Preliminary Plat MAPP-04-24 with the following additional conditions as written in the staff report for MAPP-04-24 dated January 14, 2025:

- Condition 1 – W. Morganton Road – Highway Corridor Overlay Buffer

- Condition 2 – Carolina Green Parkway – Linear Park

The motion was seconded by Councilmember Gray and the vote was unanimous.

Motion passed.

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.

Planning Director Grieve presented the request and staff report to the Council.

Discussion ensued and the applicant briefly spoke to the Council regarding future plans.

Mayor Pro Tem Pate moved to approve AR-14-24 with one deviation as listed in the staff report dated January 14, 2025, Section 4.4, seconded by Councilmember Gray; the vote was unanimous.

Motion passed.

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.

Planning Director Grieve reviewed the written decision to the Council.

Councilmember Gray moved to approve the Written Decision for PD-06-24 Morganton Park South Phase 4 PDP, seconded by Mayor Pro Tem Pate; the vote was unanimous.

Motion passed.

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.

Town Manager Parsons reviewed the item for the Council.

Discussion ensued.

Mayor Pro Tem Pate moved that the Town submit 10 Legislative Priority Options recommended by Town Manager Parsons and designate Town Manager Parsons to submit this information to the

League. The motion was seconded by Councilmember Petersen and the vote was unanimous.
Motion passed.

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.

Mayor Clement opened the discussion.

Mayor Pro Tem Pate moved to approve Resolution #1106 Setting a Public Hearing Date for Annexation Petition AX-03-24: 1485 SW Broad Street, seconded by Councilmember Petersen; the vote was unanimous.
Motion passed.

9. ADJOURNMENT

Upon motion by Councilmember Petersen, seconded by Councilmember Gray and carried unanimously, Council adjourned at 10:53 pm.
Motion passed.

Respectfully submitted:

Elizabeth Robertson, Town Clerk



MINUTES

Tuesday, February 11, 2025: 6:00 PM

Town Council Business Meeting

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

1. CALL TO ORDER

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

Absent: Taylor Clement

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

Staff requests to remove Item the January 14, 2025, Meeting Minutes from Item 5a of the Agenda.

4. PUBLIC COMMENTS

Carla Butler, 325 Crest Road, is concerned about the trees that have been marked for removal in Knollwood Heights due to sewer issues and the collateral damage to the houses that haven't experienced any sewer issues by the removal of so many trees. Ms. Butler is asking that the Town be more selective in the trees removed.

- Town Manager Parsons informed the Council that the trees marked for removal are part of the sewer rehabilitation work that was budgeted for this fiscal year. The trees being marked are all within the sewer right-a-way but are not guaranteed to be removed just because of marking. Currently an assessment and counting is being done. Notifications were sent out to the affected neighborhoods.

Discussion ensued.

Margaret George, 355 Fairway Drive, is directly affected by the tree removal and feels that there is some confusion about why the trees need to be removed now when they haven't and issue in the past. Ms. George asserts that the trees' age and species should indicate that the trees are not impacting the system and asks that the number of trees being considered for removal be reduced. Discussion ensued.

- Ms. George asks that the town-owned property at the corner of Serpentine and Fairway Drive is unsightly and needs to be cleaned up as it's currently an eyesore.

Discussion ensued.

5. CONSENT AGENDA

Councilmember Petersen moved to approve the Consent Agenda with the removal of the January 14, 2025, Meeting Minutes from Item 5a, seconded by Councilmember Gray; the vote was unanimous. Motion passed.

a. Approve Meeting Minutes for January 2025.

Staff has prepared the following minutes for approval:

- January 14, 2025, Town Council Business Meeting
- January 28, 2025, Town Council Work Session

b. Resolution 1107 - Requesting the NC General Assembly to Amend NC GS113A-66 NC Sedimentation Pollution Control Act

Adopt a resolution requesting the NC General Assembly to Amend NC GS113A-66 NC Sedimentation Pollution Control Act

6. LEGISLATIVE PUBLIC HEARINGS

a. AX-03-24: Voluntary Annexation of .46 Acres at 1485 SW Broad Street

David and Deborah Burris are requesting voluntary annexation of .46 acres that is currently outside of the corporate limits of the Town of Southern Pines. Per the Moore County tax records, the subject property is identified as PIN 857116738902 (PARID 00047416) and is owned by David and Deborah Burris.

Planning Director Grieve gave a brief overview of the application and staff report to the Council. Discussion ensued.

Councilmember Goodman moved to approve AX-03-24: Voluntary Annexation of .46 Acres at 1485 SW. Broad Street, seconded by Councilmember Petersen; the vote was unanimous.
Motion passed.

7. EVIDENTIARY PUBLIC HEARINGS (QJ)

a. MAPP-05-24 Bethesda Road Major Subdivision Preliminary Plat

Mr. Tim Carpenter of LKC Engineering, PLLC, on behalf of Carolyn R. Scott Heirs (Nelson R. Scott Executor) has submitted a Major Subdivision Preliminary Plat application to subdivide 5.87 acres located just west of East Indiana Avenue on the north side of South Bethesda Road into four lots. The parent tract contains natural wooded areas, one existing home, and an existing pool and shed. Per the Moore County tax records, the property is identified as PARID 00055339.

Mayor Pro Tem Pate opened the hearing and shared a brief explanation of quasi-judicial hearings. 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 the Council's standing and the response was negative.

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

Planner I James Broadwell presented the request and staff report to the Council.

Exhibit A = staff report

Exhibit B = staff presentation

Councilmember Goodman questioned the boundaries shown in the report and if trees are included, indicating that he feels that the condition is not worded sufficiently.

Councilmember Goodman asked if the applicant was supplied with a copy of the tree protection standards. Discussion ensued.

Councilmember Petersen questioned the lot acreage and set back.

Discussion ensued.

Tim Carpenter of LKC Engineering, representing the applicant, reviewed an exhibit with the Council that gives additional details about the project. Mr. Carpenter asked that for the additional Condition 1 that the existing tree standard be used and specified on the final plat.

Exhibit C - Applicant Exhibit.

Councilmember Petersen asked for the width of the pole on the flag lot and Mr. Carpenter advised

that it is 54 ft.

Discussion ensued.

Mayor Pro Tem Pate asked for any public comments. None were voiced, and the public hearing was closed.

Councilmember Goodman moved to adopt Attachment 1 of the staff report, as drafted, as Findings of Fact regarding the proposed Preliminary Plat MAPP-05-24, seconded by Councilmember Gray; the vote was unanimous.

Motion passed.

Councilmember Goodman moved to approve the Preliminary Plat MAPP-05-24 with the following additional condition:

Condition 1 - All existing trees, 10-inch diameter and larger, within the front setback (30-feet) of the four lots abutting S. Bethesda Rd. shall remain and shall be protected in accordance with the town's tree protection standards, excluding areas required for driveways and/or utility access/easements. The preserved trees shall account for the town's major subdivision street trees' requirement. Additionally, the Final Plat for MAPP-05-24 shall reflect a note on the plat detailing that all trees, 10-inches in diameter and greater, shall be preserved within the front setback. The motion was seconded by Councilmember Gray and the vote was unanimous.

Motion passed.

8. ACTION ITEMS

a. Amendments to Code of Ordinances 70.07 regarding use of non-motorized wheeled vehicles on roadways.

At the October, 2024 Town Council Work Session, staff discussed with Council the issue of skateboarding being prohibited on many downtown streets. Following that meeting, staff drafted some amendments to Code of Ordinances Section 70.07 for the Council's review. A discussion regarding the draft language occurred at the December, 2024 Town Council Regular Meeting and again at the January 2025 Work Session. Staff were asked to further study and clarify some of the terms used in the draft language. Staff have prepared a new amendment to present for the Council's consideration.

Town Planner Mason Mattox presented the proposed amendments to the Council.

Discussion ensued.

Councilmember Goodman moved to approve the amendment to the Code of Ordinance 70.07 regarding the use of Non-Motorized Wheeled Vehicles on Roadways by adopting Option A with the addition of item 7 addressing penalties for violation of the ordinance, as written in the Memo dated February 11, 2025, and included in the meeting packet dated February 11, 2025, seconded by Councilmember Gray; the vote was unanimous.

Motion passes.

b. Planning Board Appointments

Council will discuss available seats on the Planning Board and potential appointment(s)

Mayor Pro Tem opened the discussion. Mr. Andrew Speck is present.

Councilmember Petersen moves to appoint Jason Scribner to the open ETJ position on the Planning Board with a term to expire February 10, 2028. The motion was seconded by Councilmember Gray and the vote was unanimous.

Motion passed.

Councilmember Goodman moves to appoint Andrew Speck to open position on the Planning Board and to fulfill Enrique Herrera's term expiring May 9, 2026. The motion was seconded by Councilmember Petersen and the vote was unanimous.
Motion passed.

9. ADJOURNMENT

Upon motion by Councilmember Goodman, seconded by Councilmember Gray and carried unanimously, Council adjourned at 7:08 pm.
Motion passed.

Respectfully submitted:

Elizabeth Robertson, Town Clerk

DRAFT



MINUTES

Tuesday, February 25, 2025: 3:00 PM

Town Council Work Session

**C. Michael Haney Community Room: Southern Pines Police Department
450 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.

- Councilmember Petersen commended Chief Cameron and his staff for the volunteer work in Western NC that the Fire Department did. Councilmember Petersen also thanked the Fire Department for coming to her house and installing fire alarms, a service the department offers to local residents.

- Chief Cameron advised that they are currently working on recognition for the people who volunteered in Western NC and will keep the Council updated.

- Mayor Clement thanked Mayor Pro Tem Pate for chairing the Council meeting on February 11th in her absence.

4. ACTION ITEMS

a. MAPP-05-24: Written Decision for Bethesda Road Preliminary Plat

Planning staff have prepared a draft Written Decision for application MAPP-05-24, Bethesda Road Preliminary Plat, for the Town Council's review and approval. The Preliminary Plat was approved at the February 11, 2025 Regular Meeting.

Mayor Clement opened the discussion and asked for any comments or concerns.

Councilmember Goodman thanked Planning Director Grieve for sending the draft written decision to the applicant prior to the meeting for review.

No other comments were voiced.

Mayor Pro Tem Pate moved to approve the Written Decision for M-05-24: Bethesda Road Preliminary Plat, seconded by Councilmember Goodman; the vote was unanimous.

Motion passed.

5. COUNCIL UPDATES AND DISCUSSION

a. County Land Use Plan Update

County Land Use Plan Committee member Frank Quis will update the Council regarding progress of the Plan, answering questions and seeking feedback from the Council.

Frank Quis, former councilmember, mayor, and county commissioner, gave an update on the Moore County Land Use Plan and thanked the Council for their input regarding the Bethesda Road project.

- 3 public hearings were held at local high schools and almost all the citizens speaking were interested in slowing growth within the County.

- 5 Goals of the Land Use Plan

- 1) Preserve and protect the ambiance and heritage of the County of Moore, inclusive of areas around the municipalities.
- 2) Enhance the union of the built and natural environments to improve citizen health through the use of open space and recreational opportunities.
- 3) Optimize the uses of land within the County.
- 4) Provide information and seek citizens' participation.
- 5) Accommodate for a variety of housing types

Various other topics were discussed, including the Highway Corridor Overlay, ETJ, and water & sewer service.

Discussion ensued.

b. Alcohol Sales at Farmers Market

Cameron-based James Creek Cider House has approached the Town about selling their hard ciders at our Farmers Market. The intent is to sell closed bottles for off premise consumption elsewhere. With some minor amendments to the Code of Ordinances, this request could be permitted, if Council desires.

Asst. Town Manager Jessica Roth presented a proposed amendment to the Town Code of Ordinances to allow for the sale of beer and wine at farmer's markets that are located on town property.

Discussion ensued with the Council agreeing that staff should move forward with drafting an amendment.

c. Finance Department Update

Staff will provide further information to Council regarding questions that arose during the Annual audit regarding Fund Balance. A review of major revenues and expenditures through December of 2024 will also be offered.

Finance Director Tess Brubaker-Speis and Deputy Finance Officer Brook Hunter provided some insight and additional information regarding concepts around fund balance and an update on the current budget status.

Discussion ensued.

d. Planning Department Update

Staff will update Council on applications advancing from the Planning Board to Council, the latest news on Senate Bill 382, Phase 2 implementation efforts related to the 2040 Comprehensive Plan. Staff will also present information about the Planning Department's administrative fees and request feedback and guidance from the Town Council.

Planning Director Grieve gave an update on the current project being addressed by the Planning Department including a revision to the fee schedule.

e. NCDOT U5815/5815 (US1/15-501) Utility Relocation Agreement

The NCDOT U5814/5815 (US1/15-501) project has begun work through a Construction Manager at Risk. The project involves the relocation of Town owned water and sewer utilities. In accordance with NCGS § 136-27.1, the Town is responsible for 25% of the non-betterment cost of the relocation of water and sewer utilities associated with NCDOT projects. NCDOT has provided the attached Utility Relocation Agreement based on pricing from the utility subcontractor. Staff will review the agreement and cost and follow up with a subsequent action and budget amendment at the March regular business meeting.

Town Engineer/Asst. Public Works Director James Michel briefed the Council on the current status of the NCDOT US1/15/501 Utility Relocation Agreement. The town is responsible for a percentage of the cost of relocating any of our utilities that are located within the NCDOT easement which, based

on our population, is 25%.

Discussion ensued.

6. COUNCIL ROUNDTABLE

Councilmember Goodman asked for an update on NE Broad St from Massachusetts to Illinois Ave. (Harbor Laundry & parking lot) and the survey has been done and staff are now in discussions with the property owner regarding the next steps.

Councilmember Petersen questioned if the proposed tree ordinance should be placed on the next meeting agenda for a vote or should the Town wait until SB 382 is updated to avoid any amendments or issues. Discussion ensued. Town Attorney Catherine Clodfetter recommends that the safest route is to wait till after the SB 382 update.

Mayor Pro Tem Pate exited the meeting at 6:00pm.

Mayor Clement thanked Town Engineer Michel for attending and speaking at the recent MPO meeting. There is MPO money available in a Carbon Reduction Fund and has asked for ideas on which to use the funds, such as greenways, charging stations, etc.

- citizen suggested that, since biking/hiking down Indiana is not safe that perhaps a portion of Weymouth Woods could be considered, such as an existing utility road that could be made available to bikers and hikers. The citizen will be providing a map and Town Manager Parsons expressed interest in seeing what area is being considered.

7. ADJOURNMENT

Upon motion by Councilmember Goodman, seconded by Councilmember Petersen and carried unanimously, Council adjourned at 6:01 pm.

Motion passed.

Respectfully submitted:

Elizabeth Robertson, Town Clerk

Agenda Item

To: Reagan Parsons, Town Manager
From: Alaina Mallette, Senior Planner
Via: BJ Grieve, Planning Director
Subject: OA-03-24: Open Space and Landscaping Amendments to the Unified Development Ordinance (UDO)
Date: March 11, 2025

I. SUMMARY OF AMENDMENT REQUEST

The Town of Southern Pines Planning Department is continuing with implementation of the 2040 Comprehensive Plan by proposing to amend the Unified Development Ordinance (UDO) with a variety of text amendments primarily related to tree protection procedures, open space standards, and landscaping code. The proposed amendments are an implementation of Policies 3.2, 3.8, 4.1, 4.45, 4.5, 4.7, 4.9, and 4.10 in the town's 2040 Comprehensive Plan. Work on implementing these policies in the town's long-range plan was prioritized by the Town Council in October of 2023. The planning staff is therefore requesting Town Council review and approval per UDO §2.17. Description of the proposed amendments can be found in the [November 12, 2024, staff report](#) and its attachments, as follows.

1. [Planning Board Resolution to Adopt a Written Recommendation](#);
2. [Applicability Map of Zoning Districts and Overlays where Tree Protection Areas Would be Required within Open Space](#);
3. [Proposed amendments \(amended sections only\)](#), using ~~strikeout~~ for proposed deletions and underline for proposed additions;
4. [Red-Cockaded Woodpecker Reclassification US FWS Fact Sheet](#);
5. [Agency Comment and Letters of Support](#); and
6. [Draft Ordinance](#).

A full copy of the UDO showing all proposed amendments using ~~red text~~ for all changes and underlining for additions and ~~strikeout~~ for deletions, along with margin comments providing explanatory context for many of the changes: tinyurl.com/TOSPOA0324. Planning staff will continue the November 12, 2024, and December 17, 2024, public hearing discussions with the Town Council at its March 11, 2025, continued public hearing.

II. TOWN COUNCIL REVIEW

On November 12, 2024, the Planning Department presented a public hearing draft of the proposed landscaping and open space—including tree protection areas and plans—text amendment. Planning staff presented the proposed amendments. Planning staff responded to a variety of questions and comments from the Town Council, including penalties for

unauthorized tree removal where tree protection areas would be required, cleared areas landscaping standards, and Appendix F's list of recommended species. Seven members of the public spoke on the proposed amendments, specifically on the topics of clearcutting, landscape buffering, requirements "running with the land," concerns about too many penalty options for developers who clear-cut without approvals, Appendix F's recommended list of species, support of preservation efforts, and the importance of inspections. Additional discuss was had about tree protection fencing and site inspections during construction.

Ann Peterson moved to continue the public hearing to the December 17, 2024, regular business meeting of the Council so that councilmembers could meet with Planning staff and provide additional feedback and discuss concerns. Motion carried unanimously by all members of the Council. Afterward, Planning staff met with Councilpersons Goodman and Peterson. A list of proposed changes and additional comments from those meetings can be found in the [section IV.C Staff Comments of the December 17, 2024, Town Council staff report for OA-03-24](#).

At the December 17, 2024, regular meeting of the Council, the Council moved to continue the proposed amendments 90 days to its March 11, 2025, meeting considering recently adopted state legislation (i.e., Senate Bill 382 modifying NCGS §160D-601 Procedure for Adopting, Amending, or Repealing Development Regulation) that amended provisions for down-zoning. The Town Council wished to provide Planning staff and legal counsel sufficient time to review the proposed text amendment in light of the state-level changes. At the January 28 and February 25, 2025, work session meetings of the Council, Planning Director BJ Grieve provided planning updates to the Council regarding the status of state-level legislation in light of North Carolina communities' concerns over the amended provisions for down-zoning.

III. PLANNING BOARD REVIEW

On July 18, 2024, the Planning Department presented a public hearing draft of the landscaping and open space—including tree protection areas and plans—text amendment. Planning staff presented the proposed amendments. Planning staff responded to a variety of questions and comments from the Planning Board. Following planning staff's presentation, four public comments were made regarding the proposed amendments, which are described in the [November 12, 2024, staff report](#).

IV. APPLICATION REVIEW

A. Review Process

Applications for text amendments are reviewed pursuant to UDO §2.17.

B. Criteria for Review

When reviewing an application for amendments to the text of the UDO, the hearing bodies (Planning Board followed by Town Council) shall consider and be guided by the following criteria, as set forth in UDO §2.17.10:

2.17.10. Criteria for UDO Text Amendments

In its review of an application for a UDO text amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.

- (A) **Consistency.** The text amendment shall be consistent with the adopted Comprehensive Plan.*
- (B) **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 cultural places and areas.*
- (C) **Public Policy.** Certain public policies in favor of the text amendment may be considered. Examples include a need for affordable housing, economic development, mixed-use development, or sustainable environmental features, which are consistent with the Town, area, neighborhood, or specific plans.*
- (D) **Other Factors.** The Hearing Body may consider any other factors relevant to a text amendment application under state law.*
- (E) **Impacts.** The Hearing Bodies shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed amendment on the public at large.*

C. Staff Comments

Planning staff comments were provided at the February 25, 2025, work session of the Town Council. Staff are available during regular business hours prior to the Town Council's continued public hearing on March 11, 2025, for any additional questions and/or to discuss any of the proposed amendments.

D. Outside Agency Comments

No new agency comments have been received since the November 12, 2024 and December 17, 2024 public hearings. Previous agency comments and letters of support were compiled into the [November 12, 2024, staff report's Attachment 5](#). Any responses received from other agencies following completion of this staff report but prior to the continued public hearing will be provided at the hearing.

V. TOWN COUNCIL ACTION

The Town Council must consider the criteria for text amendments found in UDO §2.17.10, including consistency with the Comprehensive Plan. Per NCGS §160D-605, the Town Council must approve a brief statement addressing plan consistency and reasonableness of the proposed amendment. The Town Council may wish to use the following motions for guidance. The Planning Department's recommendation is in bold font.

I move to continue the proposed text amendments in file #OA-03-24 ____ days until the Town Council's regularly scheduled _____ meeting to allow additional time for state-level conversations regarding the recent amendments to North Carolina General Statute §160D-601.

-OR-

I move that after considering the criteria for text amendment found in in UDO §2.17.10, the first of which is consistency with the Comprehensive Plan, the Town Council finds that:

1. The proposed text amendments are consistent with the Comprehensive Plan and are a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's resolution that was included as an attachment to the November 12, 2024, staff report for OA-03-24;
2. The proposed text amendment is consistent with the Comprehensive Plan and is a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's resolution that is included as an attachment to the staff report for OA-03-24, but with the following edits or additions to the resolution...
3. The proposed text amendment is not consistent with the Comprehensive Plan and/or is unreasonable for the following reasons...

And, therefore, I move to:

1. Approve OA-03-24 as attached to [the ordinance](#) with the list of proposed changes in Section IV(C) of the December 17, 2024, staff report and with finalized illustrations to replace the drafts provided for the hearing.
(if desired, the Town Council may state any additional reasons you support the proposed amendment, besides those already listed in the Planning Board resolution);
2. Approve OA-03-24 as attached to [the ordinance](#) with numbers (##, ##, etc.) from the list of proposed changes in Section IV(C) of the December 17, 2024, staff report and with finalized illustrations to replace the drafts provided for the hearing.
(if desired, the Town Council may state any additional reasons you support the proposed amendment, besides those already listed in the Planning Board resolution);
3. Approve OA-03-24 as attached to [the ordinance](#) with [the list of proposed changes in Section IV(C) of the December 17, 2024, staff report]/[with numbers (##, ##, etc.) from the list of proposed changes in Section IV(C) of the December 17, 2024, staff report], finalized illustrations to replace the drafts provided for the hearing, and the following additional changes...
(if any changes were made to the proposed revisions, list the changes and reason(s) the text was changed);
4. Deny OA-03-24
(the Town Council shall state any reasons for denial of the proposed amendment); OR
5. Other...

Agenda Item

To: Reagan Parsons, Town Manager

From: BJ Grieve, Planning Director
James Broadwell, Planner I

Subject: Z-04-24: Zoning Map Overlay Amendment to the
Downtown Transition Overlay

OA-04-24: Character Districts Text Amendments to the
Unified Development Ordinance (UDO)

Date: March 11, 2025

I. SUMMARY OF AMENDMENT REQUEST:

The Town of Southern Pines Planning Department is continuing with implementation of the 2040 Comprehensive Plan by proposing a Zoning Map amendment to modify the boundary of the Downtown Transition Overlay as well as text amendments to amend the Downtown Overlay and West Southern Pines Overlay. The text amendments relate to implementing character-based zoning standards for commercial and multi-family development. The proposed amendments are an implementation of Policies 3.1 and 3.2 in the 2040 Comprehensive Plan. Planning staff request Town Council review and an approval decision per UDO §2.17. The boundaries of the proposed Zoning Map amendment and the proposed UDO text amendments were provided in the December 17, 2024 staff report and attachments, available at this link:

1. [December 17, 2024 staff report.](#)
2. [Proposed Zoning Map](#)
3. [Unified Development Ordinance \(UDO\) showing proposed text changes.](#)

Planning staff and representatives from Inspire Placemaking Collective will provide further explanation at the public hearing on December 17, 2024.

II. TOWN COUNCIL REVIEW:

At the November 12, 2024 Town Council regular meeting, a public hearing was held on Z-04-24 and OA-04-24. Planning staff presented the background and reasoning behind the Character Districts project. Ms. Sarah Sinatra, from Inspire Placemaking Collective, presented additional project background, how the text amendments would function, and what outcomes the new standards would achieve. Ms. Sinatra and planning staff responded to a variety of questions from the council.

At the conclusion of the hearing, the Town Council articulated four issues that needed further analysis and possible changes. For that reason, the Council continued the public

hearing to the December 17, 2024 regular meeting. Those four issues and their corresponding corrections made are listed below:

1. Clarifying language for sidewalk locations.

Issue: The Town Council noted on 11/12/24 that the proposed UDO amendments on sidewalk locations, within the Downtown and West Southern Pines overlays, were too ambiguous. The wording did not clarify if sidewalks must be installed in the Right-of-Way or within private property with a sidewalk easement (if the Right-of-Way is too narrow). The proposed §3.6.3(O) and §3.6.4(I) should clearly require sidewalks with new development or redevelopment to be installed within the public Right-of-Way, or on private property within a sidewalk easement if installation in the Right-of-Way is not feasible.

Corrective Change: The proposed UDO §3.6.3(O) and §3.6.4(I) now read “*a sidewalk shall be installed along the property, adjacent to the street within a Right-of-Way or within a sidewalk easement on private property.*”

2. The addition of “OS” zoning to a “RM” zoning minimum lot size provision in the Downtown Overlay.

Issue: The true original purpose of adding “OS” to section §3.6.3(E)(1), a “RM” zoning minimum lot size provision for downtown, was unclear at the time of the 11/12/24 town council meeting and needed clarification.

Corrective Change: Staff researched the history of this change and discussed with the consultants and have proposed to strike OS from §3.6.3(E)(1). Staff and consultants from Inspire examined this addition and determined it was erroneous. The possible outcomes that adding “OS” to this section would promote were also examined. Though some minor positives were identified, like creating slightly more housing density in a preferred area under specific circumstances, staff ultimately concluded that the ambiguity imposed outweighed the positives. Staff also found that Conditional Zoning is an alternative mechanism that will produce better outcomes in these unique circumstances.

3. Clarify that one may deviate from Character District Design Standards in West Southern Pines with Conditional Zoning

Issue: The town council asked at their 11/12/24 meeting if a third story could be an option under a Conditional Zoning District (CZD) in West Southern Pines. Planning staff confirmed that it was; however, the provision enabling deviation from Character District design standards by employing a CZD was not explicitly noted in the proposed applicability section for the West Southern Pines overlay.

Corrective Change: Staff and consultants added the CZD provision note to §3.6.4(B)(3) which reads: *“These design standards shall apply to new and redevelopment except as authorized as part of a CZD.”*

4. Requiring Corner Entrances on Corner Lot Properties in the Downtown Overlay

Issue: The town council felt at their 11/12/24 meeting that the provision prescribing corner entrances on corner lots in the Downtown Overlay was too rigid. The council agreed this design is preferred, but may not be desirable at every location. For that reason, the wording should reflect that preference but also allow flexibility to display why a corner entrance is not feasible and an alternative design is reasonable.

Corrective Change: Under the proposed §3.6.3(F)(3), the consulting team changed the wording of *“shall incorporate a corner entrance or similar treatment to emphasize their prominent location”* to *“shall make efforts to incorporate a corner entrance or similar treatment to emphasize their prominent location.”*

At the December 17, 2024, regular meeting of the Council, the Council moved to continue the proposed amendments 90 days to its March 11, 2025, meeting considering recently adopted state legislation (i.e., Senate Bill 382 modifying NCGS §160D-601 Procedure for Adopting, Amending, or Repealing Development Regulation) that amended provisions for down-zoning. The Town Council wished to provide Planning staff and legal counsel sufficient time to review the proposed text amendment in light of the state-level changes. At the January 28 and February 25, 2025, work session meetings of the Council, Planning Director BJ Grieve provided planning updates to the Council regarding the status of state-level legislation in light of North Carolina communities’ concerns over the amended provisions for down-zoning.

III. PLANNING BOARD REVIEW:

At the October 24, 2024 Planning Board regular meeting, a public hearing was held prior to the Board’s motion on the map and text amendments. Planning staff presented the background for the Character Districts project, presented the reasoning behind the project, and distributed a letter of comments received from Mr. Thomas McCabe that staff received that same day via email. Consultants from Inspire Placemaking Collective presented additional project background, how the text amendments would function, and what outcomes the new standards would achieve. The consulting team from Inspire and planning staff responded to a variety of questions from the board. Only one public comment was made regarding the amendments; Ms. Jeanne Dupuch expressed her concerns about growth increasing demand on utility and traffic infrastructure throughout Moore County, and that this project does not address those emerging issues.

After closing the public hearing, a motion was made by Andy Bleggi and seconded by Jennifer Garner that the zoning map amendment (Z-04-24) is consistent with the 2040 Comprehensive Plan and that the Board adopts Attachment A of the staff report. Andy Bleggi then motioned that the text amendment (OA-04-24) is consistent with the 2040

Comprehensive Plan, which was seconded by Matthew Walden. Furthermore, the Planning Board recommended approval of Z-04-24 and OA-04-24, with two modifications to OA-04-24, to the Town Council as follows:

1. That the proposed revisions presented by Mr. Thomas McCabe to the OA-04-24 text amendment be carefully considered; that the planning department will revise the final text amendment draft according to all proposed revisions that hold merit.
2. That the existing text “CB/DTO” under UDO Exhibit 3-15 (Table of Authorized Uses) be changed to “CB” to clarify where uses are authorized alongside the changes set in OA-04-24.

The motion to recommend approval of the zoning map amendment, Z-04-24, passed on a 5-0 unanimous vote. The motion to recommend approval of the text amendment, OA-04-24, with two modifications, passed on a 5-0 unanimous vote. The Planning Board’s recommended modifications were incorporated into a version of the UDO showing all proposed amendments that was posted on the [Planning Department’s website](#) for public review prior to mailing and publication of the legal notice for the November 12, 2024 public hearing.

IV. APPLICATION REVIEW:

A. Review Process for a Zoning Map Amendment:

Zoning map amendments are reviewed pursuant to UDO §2.17.

B. Criteria for a Zoning Map Amendment Review:

When reviewing an amendment to the zoning map, the hearing bodies (Planning Board followed by Town Council) shall consider the guidance of the following criteria, as set forth in UDO §2.17.9.:

2.17.9. Criteria for UDO Text Amendments

In its review of an application for a Zoning Map amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.

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

(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.*

(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.

- (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.*
- (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.*
- (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.*
- (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.*

C. Review Process for a Text Amendment:

Amendments to the text of the UDO are reviewed pursuant to UDO §2.17.

D. Criteria for a Text Amendment Review:

When reviewing amendments to the text of the UDO, the hearing bodies (Planning Board followed by Town Council) shall consider the guidance of the following criteria, as set forth in UDO §2.17.10.:

2.17.10. Criteria for UDO Text Amendments

In its review of an application for a UDO text amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.

- (A) Consistency.** *The text amendment shall be consistent with the adopted Comprehensive Plan.*

(B) 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 cultural places and areas.*

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

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

(E) Impacts. *The Hearing Bodies shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed amendment on the public at large.*

E. Staff Comments:

Planning staff analysis and comment on the proposed zoning map and text amendments were provided in the December 17, 2024 regular meeting staff report, a copy of which is linked above.

Additional planning staff comments were provided at the February 25, 2025, work session of the Town Council. Staff are available during regular business hours prior to the Town Council's continued public hearing on March 11, 2025, for any additional questions and/or to discuss any of the proposed amendments.

F. Outside Agency Comments:

No new agency comments have been received since the November 12, 2024 and December 17, 2024 public hearings. Any responses received from other agencies following completion of this staff report but prior to the continued public hearing will be provided at the hearing.

V. TOWN COUNCIL ACTION:

The Town Council shall consider the criteria for map amendments and text amendments found in UDO §2.17.9 and UDO §2.17.10, including consistency with the Comprehensive Plan. Per NCGS §160D-605, the Town Council shall approve a brief statement addressing plan consistency and reasonableness of the proposed amendment. The Town Council may wish to use the following motions for guidance. The Planning Department's recommendation is in bold font.

I move to continue the proposed zoning map amendment and text amendments in files Z-04-24 and OA-04-24 ____ days until the Town Council's regularly scheduled _____ meeting to allow additional time for state-level conversations regarding the recent amendments to North Carolina General Statute §160D-601.

-OR-

I move that after considering the criteria for a map amendment found in UDO §2.17.9, the first of which is consistency with the Comprehensive Plan, the Town Council finds that:

1. The proposed map amendment (Z-04-24) is consistent with the Comprehensive Plan and is a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's resolution that was included as an attachment to the Z-04-24 & OA-04-24 staff report;
2. The proposed map amendment (Z-04-24) is consistent with the Comprehensive Plan and is a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's resolution that is included as an attachment to the Z-04-24 & OA-04-24 staff report, but with the following edits or additions to the resolution...
3. The proposed map amendment (Z-04-24) is not consistent with the Comprehensive Plan and/or is unreasonable for the following reasons...

And, therefore, I move to:

1. Approve Z-04-24 as attached to the ordinance (*if desired, the Town Council may state any additional reasons you support the proposed amendment, besides those already listed in the Planning Board resolution*);
2. Approve Z-04-24 as attached to the ordinance, and with the following additional changes... (*if any changes were made to the proposed revisions, list the changes and reason(s) the text was changed*);
3. Deny Z-04-24 (*the Town Council shall state any reasons for denial of the proposed amendment*); OR
4. Other...

I move that after considering the criteria for text amendments found in in UDO §2.17.10, the first of which is consistency with the Comprehensive Plan, the Town Council finds that:

1. The proposed text amendments (OA-04-24) are consistent with the Comprehensive Plan and are a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's resolution that was included as an attachment to the Z-04-24 & OA-04-24 staff report;
2. The proposed text amendments (OA-04-24) are consistent with the Comprehensive Plan and are a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's

resolution that is included as an attachment to the Z-04-24 & OA-04-24 staff report, but with the following edits or additions to the resolution...

3. The proposed text amendments (OA-04-24) are not consistent with the Comprehensive Plan and/or is unreasonable for the following reasons...

And, therefore, I move to:

1. Approve OA-04-24 with modifications recommended by the Planning Board and by the Town Council following the public hearing, and as attached to the ordinance (*if desired, the Town Council may state any additional reasons you support the proposed amendment, besides those already listed in the Planning Board resolution*);
2. Approve OA-04-24 with modifications recommended by the Planning Board and as attached to the ordinance, and with the following additional changes... (*if any changes were made to the proposed revisions, list the changes and reason(s) the text was changed*);
3. Deny OA-04-24 (*the Town Council shall state any reasons for denial of the proposed amendment*); OR
4. Other...

Agenda Item

To: Town Council

Via: BJ Grieve, Planning Director

From: Alaina Mallette, Senior Planner

Subject: Z-07-24: Request to Rezone Request to Rezone Two
Parcels from RS-1CD and RS-2 to Residential Multi-
Family Conditional Zoning District (RM2-CD)

Date: March 11, 2025

I. SUMMARY OF APPLICATION REQUEST

Jeremy Sparrow of Longitude Planning Group PLLC, authorized agent of Fifteen Pinecones LLC, has submitted a request to rezone two parcels to RM-2 Conditional Zoning District with 25 conditions to allow the development of 11 residential structures—either single-family detached units or duplexes not to total more than 11 dwellings/residences in total—on ±4.13 acres. The parcel identified as PIN 858118409715 (PARID 00052524) is currently zoned RS-1CD; and the parcel identified as PIN 858119501314 (PARID 00052523) is currently zoned RS-2. Pursuant to the Moore County tax records, both parcels are owned by Fifteen Pinecones LLC.

II. PLANNING BOARD REVIEW

A public hearing was scheduled for January 23, 2025. Prior to the hearing, it was brought to planning staff's attention that public notices had not been mailed to some adjoining landowners. The planning department took responsibility for this mistake and postponed the hearing to February 20, 2025 to allow time to re-send notices. On February 20, 2025, the Planning Board convened and held a public hearing. 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 legal counsel for adjacent property owners, and staff's recommendation of approval with applicant's proposed conditions and four additional considerations. Following staff's comments, Trey Kramer, agent for the Applicant, made a presentation to the Planning Board, providing an overview of the proposal.

Eight members of the public, the Applicant (i.e., Ryan Paschal on behalf of Fifteen Pinecones, LLC), and additional authorized agent (i.e., Jeremy Sparrow) also spoke during the hearing. One letter was submitted into the record, as well. The members of the public who spoke brought up concerns regarding traffic and vehicle stacking impacts, environmental impacts, architectural character, poor conditions of the existing access, implications of trash collection, erosion control, higher density than existing conditional zoning, impact on property values, and potential conflicts with existing covenants, conditions, and restrictions ("CCRs"). The Planning Board asked the Applicants questions regarding these concerns.

The Applicant discussed their vision for the architecture. He stated that a new homeowners association would be created for the common area of the new section of the development. The applicant also addressed his perceived compliance with the existing CCRs. He agreed to add two additional conditions, provide a phasing plan, and to share a letter from his attorney regarding access to the developing properties via the existing access to the developed properties.

After closing the public hearing, the board discussed the public's concerns and Applicant's comments. 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-07-24 as modified during Board discussion and therefore, to recommend approval of Z-07-24 to the Town Council with two additional conditions and seven considerations. The motion carried by a vote of 7-0. The Applicant consented in the hearing to the additional conditions, which are as follows:

1. The homes shall remain low-profile and shall be permitted to have a maximum of 1.5 stories, which may include design elements advantageous to the sloping topography such as a walk-out basement.
2. The homes shall have heated square footage between 1,500 and 2,200 square feet per dwelling unit (i.e., residence).

The Board listed seven additional concerns that it believed were not adequately addressed by the Applicant, which are as follows:

1. Soil erosion and drainage concerns;
2. Concerns about trash pick-up area (e.g., the integrity of the access driveway if a dump truck comes onto the private road and the placement of many additional rolling bins and recycling bins along E. Indiana Avenue);
3. Access using an easement through the existing entrance, as the existing entrance is sub-standard and prone to damage;
4. The Applicant claimed that the proposed development is likely to be phased, but there was no phasing plan submitted for Planning Board's review;
5. Stormwater drainage and potential for standing water to create an environment for pests, like mosquitos;
6. Stacking concerns within the proposed Huntcliff development, and turning left out of the entrance onto E. Indiana Avenue, especially during peak traffic hours; and
7. Architectural design, as proposed, seems inconsistent with existing Huntcliff condos, the Sandhurst community, and the Hamlets character district.

III. PROJECT INFORMATION

A. Physical Addresses	B. Property Owner	C. Applicant
1624 E. Indiana Avenue (PARIDs 00052524 & 00052523)	Brittany Paschal Ryan Paschal Fifteen Pinecones, LLC 330 Mile Away Ln Southern Pines NC 28387	Jeremy Sparrow Longitude Planning Group, PLLC 132 NW Broad Street, Suite C Southern Pines, NC 28387-4801

D. Existing Zoning

Proposed development on the subject property currently includes two separate parcels, which have separate zoning. Parcel 00052524 is presently zoned RS-2 and Parcel 00052523 is presently zoned RS-1CD, as entitled under CU-03-11 and Z-02-11. However, as of June 27, 2011, the rezoning applicant (i.e., Dabbs Brothers, LLC) submitted a conceptual site plan that labeled Parcel 00052524 as “1.2 ACRES SANDHURST PARK DONATION.” An August 1, 2011, updated conceptual site plan also shows “1.2 ACRES SANDHURST PARK DONATION.” A handwritten and signed letter dated September 13, 2011, was submitted to the Town, in which the Applicant at the time wrote “Wish to amend application. Include Parcel 00052524 in CUP request. Donate to park.” This was received, to the best of staff’s knowledge, during the hearing for CU-03-11 in which the Town Council moved to approve the amended CU-03-11 with the condition that there be a 10’ landscape buffer along the rear of Parcel 00052523. In summary, the Applicant did not appear to have amended their rezoning application Z-02-11, which explains why it is still shown as “RS-2” on the official zoning map. However, the conditional use application was approved as amended to include Parcel 00052524.

Under the current 2011 conditional zoning, a maximum of 8 new homes would be permitted on Parcel 00052523. The maximum number of dwelling units for Parcel 00052524 is a bit more complex as it is currently zoned RS-2, but is included as a condition of approval for the conditional use permit on LRK 00052523. In the zoning record, it appears that both parcels are linked albeit through confusing zoning entitlement processes that date back 13 years. The effect of the conditional use permit plus a rezoning, is essentially the Town’s modern conditional zoning district process, which is now one process rather than two. Therefore, the maximum number of dwelling units for Parcel 00052524 would either be 0 dwelling units—if consistent with the recorded conditional use permit for CU-03-11 that was reviewed concurrently (but in two separate hearings) with the rezoning application Z-02-11—or 2 dwelling units per RS-2 zoning lot size standards, but no final determination has currently been made on maximum number of dwelling units permitted.

Lastly, a percentage of the Parcel 00052523 is located within the Little River Watershed.

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

General Framework Map Designation: Area to Enhance. These areas include established residential neighborhoods that are now stable, but should consider small-to-medium improvements. Any proposed changes to properties should be sensitive to the uses, densities, location, character, and views from surrounding homes and neighborhoods.

Conservation and Development Map Designation: Neighborhood. New development should provide different home types on different lot sizes that vary enough to provide a range of home choices in the same neighborhood (e.g., mix home types, lot sizes, or home sizes). New development should consider “missing middle” home choices—such as duplex, triplex, quadplex, or cottage courts—to create more variety in terms of size

and scale of buildings. New neighborhoods should also include a comprehensive and connected network of open space throughout the site. The “Map Category Crosswalk” is shown on 2040 Comprehensive Plan pages 62 to 63.

Character District Map Designation: The Hamlets. The Hamlets character district is intended to reinforce feelings of living in a forest (e.g., narrow streets, large front yard setbacks with dense tree plantings, forested lots, and low-profile homes).

Figure 1. Vicinity Zoning Map with Subject Parcels Outlined in Yellow



F. Applicant’s Proposed Zoning District and Conditions

The ultimate development is intended to be a common interest community with shared common areas owned by a homeowners association. The applicant has chosen to rezone the properties to Residential Multifamily districting (i.e., RM-2) based on density estimates using minimum lot size per dwelling unit rather than minimum lot size requirements under the Residential Single-Family zoning districts. RM-2 is considered the Town’s low-density residential option in the RM districting. Despite the request to rezone to RM-2, the Applicant’s proposed first condition states that only single-family detached (LBCS 1111) and two-family dwellings (i.e., double/duplex; LBCS 1120) will be permitted.

The Applicant is proposing 11 buildings, which can be either single-family detached or duplexes. The Applicant has yet to determine which, if any, of the 11 dwelling units will be separated or attached, regardless the Applicant is proposing a maximum of 11 dwelling units. See attached narrative for proposed 25 conditions and the preliminary site plan for more details (Attachments 3 and 4, respectively). The descriptions and conditions will apply to both parcels (i.e., the entire project) as indicated in the Conditional Zoning District application.

IV. STAFF REVIEW

1. Application Review Dates

Pre-Application Meeting: **January 9, 2024**
Application Submitted: **December 9, 2024**
Application Complete: **December 16, 2024**
 Updated Site Layout Submitted: **January 14, 2025**
 Added Authorized Agent: **January 16, 2025**
 Updated Narrative: **February 11, 2025**
 Updated Narrative and Letter Submitted: **March 3, 2025**
Planning Board Public Hearing Notice
 Publication: **January 8, 2025** and **January 15, 2025**
 Mail: **January 6, 2025** (partial list)
 Signage: **January 10, 2025**
 Internet: **January 2, 2025**
Planning Board Agenda Meeting: **January 16, 2025**
Planning Board Regular Meeting: **January 23, 2025** (continued due to lack of a quorum)
Planning Board Regular Meeting: **February 20, 2025**
 Publication: **February 5, 2025** and **February 12, 2025**
 Mail: **February 3, 2025** (complete list)
Town Council Public Hearing Notice
 Publication: **February 26, 2025** and **March 5, 2025**
 Mail: **February 24, 2025**
 Signage: **January 10, 2025**
 Internet: **February 21, 2025**
Town Council Regular Meeting: **March 11, 2025**

2. Staff Consistency Evaluation Based on Criteria for the Rezoning of Subject Parcel for Zoning Map Amendment Review per UDO § 2.17.9¹

(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, this area of E. Indiana Avenue, as a Neighborhood area to be enhanced, is anticipated to provide different home types (i.e., missing middle housing) on different lot sizes that also include connected network of open space sensitive to the uses, densities, location, character, and views from surrounding homes and neighborhoods. The proposed conditional zoning district would only allow single-family detached dwellings (LBCS 1111)—similar to what is in the surrounding area—and two-family duplexes (LBCS 1120) at a density greater than the surrounding area. The Hamlets character district does not envision duplexes in the Residential Building Type Matrix, but Planning staff believe that if the units are designed in the character of the existing Huntcliff community rather than as

¹ 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.

proposed in the Applicant's Planning Board presentation (see Attachment 6), then they may blend well with existing buildings.

To clarify, the Applicant has a proposed condition that the dwelling units be consistent with the surrounding character of the community, but have not provided examples or a description of what they consider that character to be. This may cause interpretation issues (i.e., differences in opinion) on what the defining character is within the neighborhood.

The site would include a 10-foot undisturbed buffer around the edge of the parcels, which is both consistent with and more restrictive than the 2011 rezoning and conditional use condition requiring a 10-foot buffer between PARID 00052523 and rear properties. No other existing vegetation has been marked for protection. The Applicant is proposing a trail connection to Sandhurst Park, which is consistent with the area's vision to have interconnected usable open space. Details for the trail will be discussed during site plan review with the Technical Review Committee. Furthermore, the properties are within the Hamlets character district, which is intended to reinforce feelings of living in a forest (e.g., narrow streets, large front yard setbacks with dense tree plantings, forested lots, and low-profile homes).

In summary, the proposed conditional zoning district is generally consistent with the 2040 Comprehensive Plan's vision of adding a mixture of housing densities and protecting some of the existing trees on the site.

(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.*

The forested nature of the Hamlets is central to its character. Undisturbed buffering is an element that helps maintain that character. Protecting additional mature trees is another possibility for ensuring that the site keeps in the same forested character. However, Planning staff recognize that the site's southern end has a 11% drop in grade (approx. 30-foot drop over 270 feet), which is likely to require clearing and grading that remove existing trees. Therefore, Planning staff do not find negative impacts, especially considering the Applicant's proposed conditions and the preliminary site plan and its notes and labels.

(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.

The site currently is zoned as a conditional zoning district under Z-02-11 and CU-03-11, which permitted 8 units on the southern parcel and set aside the northern parcel (approx. 1.2 acres) as a donation to the Sandhurst Park. No development has occurred on the properties since the 2011 approval. As of June 2021, the site is under new ownership, which warranted the Applicant's need for this rezoning request and Town review. Considering this context, Planning staff believe that the site is neither suitable nor unsuitable 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, public hearing, and routine analysis of the subject parcels and surrounding areas, are as follows.

1. **Non-Standard Road Proposal and Access.** Town engineering staff have stated that the Applicant is proposing modified road standards, and noted the proposed condition to allow the roads to meet the 1980 standards. Considering that it is a private drive that serves only those proposed dwellings, they did not have major concerns. Per Town Engineer James Michel's comments, the Applicant provided a street cross-section of what it meant by "1980 standards," which is shown as a road detail on their updated site plan (see Attachment 4).

The road detail shows 20-foot to 24-foot road width with swales, on-street parking, and sidewalks. There would be no curb or gutter improvements, and the proposed substrates and surface materials and their depths were not provided. The Applicant's two roads conditions state that "proposed roads will meet fire apparatus requirements..." but do not commit to making improvements to the existing access road (see Figure 2), which may not support a 75,000-pound fire truck in case of an emergency at a residence in either the existing or the proposed Huntcliff developments. The goal of having this information is establishing a clear expectation for internal road design for both proposed and existing road during site plan review and inspections.

The Fire Department stated that a fire truck turning template should be shown on the plan to confirm that there is sufficient turnaround on the northern section where the proposed three units abut the existing Huntcliff development. The fire truck turning template and a geotechnical report would be required during site plan review to determine if improvements need to be made.

Figure 2. Access Point to Existing Huntcliff Development to be Used by Proposed Dwellings' Occupants



2. **Trash Collection.** Currently, the existing six Huntcliff residences place their trash and recycling cans on the curb of East Indiana Avenue (see Figure 2) as they have requested that a dump truck not enter the private road, which would create further wear and tear on the existing road. Regardless of the outcome on this conditional zoning application, the Town would still continue to collect trash from the existing six residences on the East Indiana Avenue, as requested by those residents.

Regarding the proposed 11 residences, the Town's Code of Ordinances §96.016 Garbage Receptacles Required letter (D) requires that any new (i.e., post 1998) condominium complex shall provide a dumpster for garbage collection, which must be serviced privately. The Applicant proposed a condition to create a dumpster area for the "entire tract" that is screened with a brick veneer wall. It is unclear whether the "entire tract" includes the existing Huntcliff residences. Furthermore, an on-site dumpster would require trash trucks to access the road and the road access concerns mentioned in #2 above is again a part of the conversation.

3. **Phasing Plan.** In the Planning Board public hearing, the Applicant stated that the development will likely be phased with the northern parcel developing three dwellings and requesting certificates of occupancy first followed by the southern parcel's eight dwellings. Planning staff informed the Applicant that a Phasing Plan, per UDO §2.9, must be approved by the Town Council. Planning staff have not received a phasing plan from the Applicant as of the writing of this staff report. Fire Marshal Ken Skipper stated that required improvements, if any, to the access drive would need to be in Phase 1 as well as proper fire truck turnaround areas.

(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.*

Regarding parking demand, the parking standard for one- and two-family dwellings, as would be permitted, is 2 parking spaces per dwelling unit. Considering the proposed 11 buildings—which could be either one-family, two-family, or a mixture—the minimum parking requirement would be 22 parking spaces. 24 spaces are being proposed, which does trigger parking lot shading requirements.

Parking within the Hamlets is envisioned to be driveway access rather than a private lot. However, the housing density, site design, and home design—especially the inclusion or exclusion of a garage—are all factors to consider when determine appropriateness of proposed parking. All parking spaces are internal to the site with the buildings facing the property lines. Therefore, Planning believe that the proposed parking is respectful of existing development types, patterns, and intensities.

(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 two parcels, totaling approx. 4.2 acres. The parcels are separated by an access drive to the existing Huntcliff Phase I development. The Applicant intends to use that existing drive for access to Phase II; however, the UDO has specific requirements for that process in section 4.11.3. Historically, Planning staff have interpreted—and a previous Town Council has reaffirmed—that a private easement cannot be used to access lots zoned RS-2 due to its exclusion in the list under UDO section 4.11.3(C)(2).

However, in this case, the private easement is serving a proposed RM zoning district, so no inconsistency has been found in this instance. Furthermore, the Applicant has added language to the site access condition to clarify that Planning staff will enforce UDO section 4.11.3 easement requirements during site plan review. Lastly, other than parcels being disconnected, the size of the tract is suitable for the proposed development.

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

If the final intent is to convey parcels of land with each of the units, as was done with Huntcliff Phase I, then a major subdivision preliminary plat and application will be required for a quasi-judicial review. Currently, the Applicant is unsure of the final locations of the buildings, and would apply when locations have been finalized. However, if the intent is to declare unit ownership (i.e. create condominiums), then—pursuant to North Carolina General Statute 47C the North Carolina Condominium Act—a Declaration of Unit Ownership would be created that does not trigger the subdivision of land.

If the units are not declared as condominiums nor their footprints conveyed and are instead rented as a pool of up to 11 rental units, then Planning considers the development multifamily, which would also not trigger the subdivision of land. However, multifamily development (LBCS 1151) is not included in the list of permitted land uses in the Applicant's conditions. The Applicant expressed to staff the intent for the single-family detached dwellings and duplexes to be either conveyed or declared as condominiums.

Copies of the existing covenants, conditions, and restrictions ("CCRs") were submitted to Town staff by legal counsel for adjacent property owners. It should first be noted that the CCRs are not enforced by the Town of Southern Pines, rather the Huntcliff Homeowners Association ("Huntcliff HOA"). For reference, Planning staff have attached the May 1982 (i.e., most recent) CCRs in Attachment 6, but the legal counsel has shared other sets of lot restrictions that they believe apply to the subject parcels. Planning staff does not have reason to believe otherwise.

Generally, the CCRs limit size of dwellings, subdivision, use restrictions for properties brought within the jurisdiction of the Huntcliff HOA, among other things. The CCRs' Section 4 of Article XIII speaks to the annexation of additional residential properties into the Huntcliff HOA. However, the Applicant stated in the Planning Board public hearing that the new properties would create a new HOA with new CCRs. Legal counsel for the Applicant also stated in a letter submitted to the Town by the authorized agent that "access to Huntcliff is equally available to all record owners of platted Huntcliff real property and is non-exclusive." Although we do not enforce these CCRs, they do factor into the feasibility of the development.

Lastly, it should also be noted that the northern parcel is adjacent to the Town's Sandhurst Park, which was originally approved to be donated to the Town of Southern Pines as part of the rezoning and conditional use permit concurrent reviews.

(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 January 2, 2025. 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). RLUAC responded with “no comment.” The NCDOT responded by saying that “This development has an existing driveway connection on E Indiana Ave. The additional dwellings do not warrant turn lanes. Intersection Sight Distance may need to be improved with some clearing and grading along the line of sight.” Any additional improvements to sight distance triangles will be reviewed and required during site plan review.

The application was discussed with members of the Technical Review Committee on December 17, 2024. Planning staff have had subsequent one-on-one conversations with Engineering and Public Works staff. All comments have been reflected in section III.2 of this staff report. The development, if approved, would go before the Technical Review Committee again for site plan review. Any additional agency or public comment received prior to the public hearing will be shared during staff’s presentation.

4. Staff Recommendation²

Planning staff recommend that the hearing bodies approve the conditions on the Residential Multi-Family (RM-2) Conditional Zoning District as submitted on February 11, 2025 and as revised March 3, 2025, and as attached to this staff report. Planning staff request that the hearing bodies consider the following Town staff, Planning Board, and public concerns.

1. The Applicant’s condition that states “consistent with the surrounding character of the community” should be clarified so that the Town Council knows what, if anything, is being committed to as part of the Conditional Zoning District (see Attachment 6, for reference). The Applicant has not submitted specific building design requirements, which should be included in Architectural Character Condition 1 if those are a basis for approval of the project.

² 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).

2. Regarding the 1980 road standards and access, it is unknown what the proposed substrates and surface materials and their depths would be for the new private road and whether or not the existing access—considered sub-standard and defected by the existing Huntcliff HOA president and residents—would be improved, if determined that it cannot support a 75,000-pound fire truck. Planning staff believe that the Applicant should replace the words “The proposed” in their Roads Condition 2 with “All Huntcliff roads, proposed and existing shall meet...”
3. Clarification is necessary on who the proposed dumpster area is to serve (i.e., the new residents, exclusively, or both the new and existing residents). The Applicant could modify Service Area Condition 1 to replace “tract” with either “development, including the existing and proposed dwelling units” or “proposed development, excluding the existing dwelling units.”
4. A phasing plan should be submitted to the Town Council for review. At a minimum, the Applicant should commit to required improvements to the existing access, if any, and to required fire truck turnarounds prior to approval of a final plat (if subdivision occurs) or to the issuance of a certificate of occupancy for any dwelling unit.

For reference, here are staff’s proposed edits to the Applicant’s final 25 conditions with the proposed edits in grey showing both the Applicant’s proposal and staff’s proposed edits.

1. The only land use allowed will include single-family (individual or duplex) units and indicated below by LBCS Code:
 - a. *Single-Family Detached 1111*
 - b. *Two-Family (double or Duplex) 1120*
2. All roads within the Huntcliff development (as depicted) are to be maintained by the new Homeowners Association (HOA) for Phase 2. These roads shall meet the standards originally approved in 1980 with vegetated swales (for stormwater conveyance). This will be 20’-24’ wide roadway with no curb and gutter (see site plan for detail).
3. The proposed roads [and existing roads used to access new development] will meet fire apparatus requirements / turnaround and tie into the existing community roads.
4. Main access to the two (2) parcels will be provided by the existing access road from Indiana Avenue. This access has a shared agreement to all three (3) parcels and will not require another access point along Indiana Avenue.
5. Access shall be a perpetual easement, which will be established and platted following proper procedures outlined in UDO 4.11.3.
6. The RM-2 district requires a ten (10) foot minimum buffer along all adjacent property boundaries. Landscaping will be provided as required by the Town of Southern Pines UDO (Section 4.3)
7. All additional landscape requirements will be apply per Town of Southern Pines UDO, including parking area landscape.
8. The proposed project will meet the required open space requirements per section 4.9 of the Town’s UDO.

9. The overall open space, including the parking area, will be maintained by the new HOA.
10. The property is located within a state regulated and protected drainage basin (WS-IIIP). All stormwater design will be consistent with all aspects of applicable local and state regulations for stormwater management and watershed protection. This will also include erosion and sedimentation control. Best management practices will be utilized in accordance with NCDEQ and shall be maintained as required. Final design and location of these systems will be completed at site plan review.
11. The current property is served by both water and sewer from the Town of Southern Pines and is adequately available for the proposed development. Final layout and design of these utilities will be provided during final site plan approval and will meet all local utility regulations / design requirements.
12. The overall property has rolling to severe terrain. In order to balance the site and maintain existing vegetation (where feasible), low retaining walls will be required. These locations will be determined during final engineering design.
13. All proposed units shall have a minimum of two (2) parking spaces per unit as required by the Town of Southern Pines (Exhibit 4.6).
14. The proposed units will have 4' wide walkways from the parking areas to the front entrance. Due to site restraints and grading, most walkways will not be connected but will tie into the parking / roadways for use by the homeowners.
15. A natural trail path (min. 3' wide) will be provided from the proposed tract to Sandhurst Park, located north of the proposed development. The final location will be determined based on final grading and engineering design.
16. All lighting on the property will follow the standards set forth in the Town of Southern Pines UDO (Section 4.8). Lighting levels within the parking areas will be provided to meet the UDO standards for safety. All lighting will be projected downward to limit any light onto adjoining properties.
17. All signage will be designed in conformance with the Town of Southern Pines UDO (Section 4.6).
18. Residential footprints / floor plans will be determined by market conditions.
19. Final building layouts / locations will be determined by engineering design based on grading, utilities, and tree save areas.
20. The proposed architecture of the single-family units will be consistent with the surrounding character of the community.
[Images/elevations provided in hearing]
21. Based on the existing site conditions and topography, some units may allow for a walk-out scenario.
22. Individual units will be limited to 1,500 – 2,200 heated square feet to align with the existing square footage within the Huntcliff community.
23. The units will be limited to 1.5 stories at the front elevation (facing the parking area), still allowing for walk-out scenarios (where applicable).
24. A dumpster / service area (trash / recycling) for the community is proposed for the entire [tract/development, including the existing and proposed dwelling units]. This will assist in eliminating the need for individual trash collection.

25. The dumpster / service area will be screened from view with brick veneer and will be made accessible to the residents of Huntcliff.

V. ATTACHMENTS³

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

1. Draft Planning Board Resolution to Adopt a Written Recommendation;
2. Zoning Map Amendment (Conditional Zoning District) Application;
3. Narrative and Conditions Proposed by Applicant;
4. Preliminary Site Plan;
5. Historic Entitlements of the Huntcliff Property (1980 & 2011), Including Plats; and
6. Proposed Architectural Character Images from Applicant's Planning Board Presentation, Letter from Applicant's Lawyer, and 1982 Covenants, Conditions, and Restrictions on the Subject Property.

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.

³ 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 ACTION⁴

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 Hamlets Character District and the criteria set forth in the Town of Southern Pines Unified Development Ordinance §2.17.9. For reasons mentioned in the written Planning Board recommendation, the proposed rezoning is consistent with the 2040 Comprehensive Plan. Therefore, the requested rezoning from RS-1-CD and RS-2 to RM-2 Conditional Zoning District is a reasonable request for the reasons mentioned in above and within the staff report for application Z-07-24.
2. **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 Hamlets Character District and the criteria set forth in the Town of Southern Pines Unified Development Ordinance §2.17.9. For reasons mentioned in the written Planning Board recommendation, the proposed rezoning is consistent with the 2040 Comprehensive Plan. Therefore, the requested rezoning from RS-1-CD and RS-2 to RM-2 Conditional Zoning District is a reasonable request with design precedents submitted during the public hearing and amended Roads Condition 2 (#3 in staff report) Service Area Condition 1 (#24 in staff report)—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-07-24.**

-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 to⁵:

⁴ 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.

⁵ 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

1. Approve Z-07-24 with the conditions submitted by the applicant on the RM-2 Conditional Zoning District.

-OR-

2. **Approve Z-07-24 with the 25 conditions submitted by the applicant on the RM-2 Conditional Zoning District; as amended and written in the staff report for Applicant's Roads Condition 2 (staff report #3 above), Service Area Condition 1 (staff report #24 above), and Architectural Character Condition 1 (staff report #20 above); and agreed to by the applicant.**

-OR-

3. Approve Z-07-24 with the following modifications made by the Town Council and accepted by the applicant:

-OR-

4. Deny Z-07-24.

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-07-24**

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 February 20, 2025, to listen to public comments, ask questions of the Town’s planning staff, and consider zoning map amendment application #Z-07-24.

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 twenty-one proposed conditions and Planning Board’s two additional proposed conditions for the two subject parcels—located at 1624 E. Indiana Avenue identified as Parcel Identification Numbers 00052523 and 00052524, totaling 4.13 acres. The Applicant consented in the hearing to the additional conditions, which are as follows:

1. The homes shall remain low-profile and shall be permitted to have a maximum of 1.5 stories, which may include design elements advantageous to the sloping topography such as a walk-out basement.
2. The homes shall have heated square footage between 1,500 and 2,200 square feet per dwelling unit (i.e., residence).

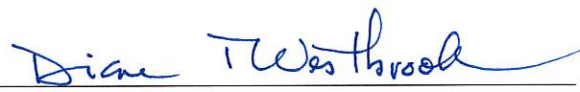
The application with the Applicant’s proposed conditions for a RM-2 Conditional Zoning District is consistent with the 2040 Comprehensive Plan’s vision of adding a mixture of housing densities and protecting some of the existing trees on the site with a 10-foot undisturbed buffer. The

application and Applicant's proposed conditions are also consistent with the intent of the Areas to Enhance designation on the General Framework Map as the development would provide different home types (i.e., missing middle housing) on different lot sizes that also include a connected network of open space sensitive to the uses, densities, location, character, and views from surrounding homes and neighborhoods. With the Applicant's proposed conditions, the Planning Board finds that most reasonably foreseeable adverse impacts on neighboring lands or on general health, safety, and welfare would be appropriately addressed; however, the Board has seven additional concerns that it believes were not adequately addressed.

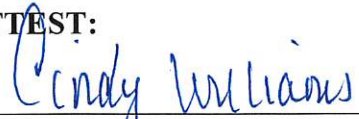
1. Soil erosion and drainage concerns;
2. Concerns about trash pick-up area (e.g., the integrity of the access driveway if a dump truck comes onto the private road and the placement of many additional rolling bins and recycling bins along E. Indiana Avenue);
3. Access using an easement through the existing entrance, as the existing entrance is sub-standard and prone to damage;
4. The Applicant claimed that the proposed development is likely to be phased, but there was no phasing plan submitted for Planning Board's review;
5. Stormwater drainage and potential for standing water to create an environment for pests, like mosquitos;
6. Stacking concerns within the proposed Huntcliff development, and turning left out of the entrance onto E. Indiana Avenue, especially during peak traffic hours; and
7. Architectural design, as proposed, seems inconsistent with existing Huntcliff condos, the Sandhurst community, and the Hamlets character district.

The Planning Board recommends the Town Council adopt this zoning amendment (i.e., #Z-07-24), which rezones the properties from RS-2 & RS-1CD (Conditional District) both to RM-2CD (Conditional District) with the conditions submitted by the Applicant and attached to the Planning Department's staff report as well as the two additional conditions mentioned in this resolution. The Planning Board also recommends that the seven concerns listed in this resolution be considered by the Town Council in its final decision on the matter.

ADOPTED this the 20th day of February, 2025.


Diane T. Westbrook, Chairperson

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: 1624 E. Indiana Avenue

PIN: 858118409715 | 858119501314

Parcel ID: 0002524 | 00052523

Site Size: ±4.2 AC

Current Zoning: RS-2 | RS-1 CD

Applicant:

Name(s): Fifteen Pinecones, LLC

Email: rwpaschal@gmail.com

Phone: 910-603-8791

Mailing Address: 330 Mile Away Lane, Southern Pines, NC 28387

Authorized Agent, if different from Applicant:

Name(s): Longitude Planning Group, PLLC (Jeremy W. Sparrow)

Email: jsparrow@longitudeplanninggroup.com

Phone: 734-478-1917

Mailing Address: PO Box 1466, Southern Pines, NC 28388

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

Name(s): _____

Email: _____ Phone: _____

Mailing Address: _____

5/1/24

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 to approve a zoning map amendment to RM-2 - Conditional Zoning District per the requirements of the Town of Southern Pines Unified Development Ordinance (UDO) §2.17. The information included is submitted in support of this application. I grant Town of Southern Pines staff, Planning Board and Town Council access to the subject property/properties while this zoning map amendment application is under review.

Date: 11/12/24

Ryan W Posedel
Applicant

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

5/1/24

APPOINTMENT OF AGENT

The undersigned owner(s), Fifteen Pinecones, LLC, hereby appoint(s) Longitude Planning Group, PLLC 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.

Fifteen Pinecones, LLC
Property Owner

Ryan W. Phil
Property Owner

[Signature]
Agent

5/1/24

APPOINTMENT OF AGENT

(Trey Kramer)

The undersigned owner(s), Fifteen Pinecones, LLC, hereby appoint(s) Longitude Planning Group, PLLC 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 14 day of January, 2025.

DocuSigned by:

 385C03245EAA4BA

Property Owner

DocuSigned by:

 E32B06060C022E5

Property Owner



Agent

5/1/24

Huntcliff – Phase 2

Conditional Zoning District (RM-2 CZ)

Project Narrative and Conditions

December 9, 2024

Revised: February 11, 2025

Revised: March 3, 2025

Project Narrative

The development of the property described as Huntcliff Tract, located along Indiana Avenue, in the attached documents and exhibits was originally approved in 1980 as a residential community with single-family units (including duplexes). The original development included a total of 20 units, with a mix of single units and duplex units. Phase 1 of this development included the construction of the existing six (6) total units.

Since that time, the property has been subdivided into three (3) total tracts, including the two (2) parcels described in the submitted documents (ParID 00052523 and 00052524) that are currently owned by the applicant Fifteen Pinecones, LLC. These parcels are zoned RS-1 CD and RS-2 respectively and does not currently allow for the proposed development as currently designed with a private drive. A private drive is only allowed as part of a Subdivision for Townhomes or Condominiums and shall be maintained by the new Homeowners Association (HOA).

These two (2) parcels have a total project acreage of ± 4.13 AC and are being proposed as a RM-2 CD to allow for the same use as the current Huntcliff development, and original approved plan with single-family detached units with a private drive. These individual units would be subdivided as condominium units, similar to the existing structures (as currently platted). The proposed site plan has a maximum of eleven (11) total units, for a maximum density of ± 2.7 units / AC.

A portion of the property falls within the Cape Fear, Little River (Intake No. 2) watershed (WS-IIIIP) which is designated as a high-quality watershed (HQW). This limits the proposed development to two (2) dwelling units per acre; or twenty-four (24) percent built-upon area. If the proposed development exceeds either of these thresholds, the project may apply for the 5/70 exemption. The project has also been reviewed by Dr. J.H. Carter III and Associates and found no RCW cavity trees on the property. However, the lots are within one-half mile of abandoned SOPI cluster 005. This information and site plan have been submitted to the USFWS as recommended by Dr. J.H. Carter and Associates. There are no floodplains or wetlands located on the property.

A. Consistency

- a. The proposed project is consistent with the Southern Pines 2040 Comprehensive Plan. As noted, the Huntcliff tract is part of "The Hamlets" character district, which allows for single-family detached development. The Hamlets represent a specific neighborhood in Southern Pines that reinforces the feeling of living in a forest, with narrow streets and low-profile homes, balancing the natural and built environments. The proposed development "promotes infill development" (pg. 35) for vacant and under-utilized areas of Southern Pines. This tract was originally designed to provide for 20 total units, with a



mix of single-family and duplex units. This development also looks to “capitalize on connections to open space and natural areas” (pg. 34), connecting via trails to the adjoining park. The overall development also provides for additional housing opportunities.

B. Adverse Impacts on Neighboring Lands

- a. The proposed project as submitted will not have any adverse impacts on the adjoining properties. The single-family detached uses are consistent with the current community and surrounding area.

C. Suitability as Presently Zoned

- a. The property as currently zoned does not allow for private easement access to single-family subdivisions. Based on the Town of Southern Pines UDO (Section 4.11.3), private drive access is only allowed for townhomes or condominium developments. These units will be individually platted, similar to the existing Huntcliff Community and will have a new Homeowners Association that will maintain the common / shared spaces.

D. Health, Safety, and Welfare

- a. There will be no impact to the health, safety, and welfare of the public based on the proposed development.

E. Public Policy

- a. As noted in the Southern Pines 2040 Comprehensive Plan, Policy 7.1 includes supporting housing diversity in the community. “The Town should be an advocate for different types, sizes and price points of homes intermingled in close proximity, with a range of living experiences from rural to suburban to urban, so that there is something for everyone.” Policy 5.2 also states that the Town should “Encourage Infill Development and Redevelopment for Specific Character Districts” which urges Town officials to advocate for infill development projects inside town limits as a way to reinvest in areas with existing infrastructure capacity. This property had originally been planned to allow for twenty (20) total units.

F. Size of Tract

- a. The proposed development is made up of two (2) parcels with a total site acreage of ±4.13 acres.

G. Other Factors

- a. No other factors at this time

H. Applicant Representations

- a. Below is a list of conditions that are being proposed for the property. Most of the conditions will meet the current standards / requirements as set forth in the Town of Southern Pines UDO (Unified Development Ordinance), including land use, roads, site access, landscape / buffers, open space, stormwater, utilities, parking, pedestrian connections, lighting, signage, and architectural character.

Conditions

Staff Report #

Land Use

- 1 1. The only land use allowed will include single-family (individual or duplex) units and indicated below by LBCS Code:
- | | |
|---|------|
| a. <i>Single-Family Detached</i> | 1111 |
| b. <i>Two-Family (double or Duplex)</i> | 1120 |

Roads

- 2 1. All roads within the Huntcliff development (as depicted) are to be maintained by the new Homeowners Association (HOA) for Phase 2. These roads shall meet the standards originally approved in 1980 with vegetated swales (for stormwater conveyance). This will be 20'-24' wide roadway with no curb and gutter (see site plan for detail).
- 3 2. The proposed roads will meet fire apparatus requirements / turnaround and tie into the existing community roads.

Site Access

- 4 1. Main access to the two (2) parcels will be provided by the existing access road from Indiana Avenue. This access has a shared agreement to all three (3) parcels and will not require another access point along Indiana Avenue.
- 5 2. Access shall be a perpetual easement, which will be established and platted following proper procedures outlined in UDO 4.11.3.

Landscape / Buffers

- 6 1. The RM-2 district requires a ten (10) foot minimum buffer along all adjacent property boundaries. Landscaping will be provided as required by the Town of Southern Pines UDO (Section 4.3)
- 7 2. All additional landscape requirements will be apply per Town of Southern Pines UDO, including parking area landscape.

Open Space

- 8 1. The proposed project will meet the required open space requirements per section 4.9 of the Town's UDO.
- 9 2. The overall open space, including the parking area, will be maintained by the new HOA.

Stormwater

- 10 1. The property is located within a state regulated and protected drainage basin (WS-IIIP). All stormwater design will be consistent with all aspects of applicable local and state regulations for stormwater management and watershed protection. This will also include erosion and sedimentation control. Best management practices will be utilized in accordance with NCDEQ and shall be maintained as required. Final design and location of these systems will be completed at site plan review.

Utilities (Water / Sewer)

- 11 1. The current property is served by both water and sewer from the Town of Southern Pines and is adequately available for the proposed development. Final layout and design of these utilities will be provided during final site plan approval and will meet all local utility regulations / design requirements.

Grading

- 12 1. The overall property has rolling to severe terrain. In order to balance the site and maintain existing vegetation (where feasible), low retaining walls will be required. These locations will be determined during final engineering design.

Parking

1. All proposed units shall have a minimum of two (2) parking spaces per unit as required by the Town of Southern Pines (Exhibit 4.6).

Pedestrian Connections

1. The proposed units will have 4' wide walkways from the parking areas to the front entrance. Due to site restraints and grading, most walkways will not be connected but will tie into the parking / roadways for use by the homeowners.
2. A natural trail path (min. 3' wide) will be provided from the proposed tract to Sandhurst Park, located north of the proposed development. The final location will be determined based on final grading and engineering design.

Lighting

1. All lighting on the property will follow the standards set forth in the Town of Southern Pines UDO (Section 4.8). Lighting levels within the parking areas will be provided to meet the UDO standards for safety. All lighting will be projected downward to limit any light onto adjoining properties.

Signage

1. All signage will be designed in conformance with the Town of Southern Pines UDO (Section 4.6).

Site Plan

1. Residential footprints / floor plans will be determined by market conditions.
2. Final building layouts / locations will be determined by engineering design based on grading, utilities, and tree save areas.

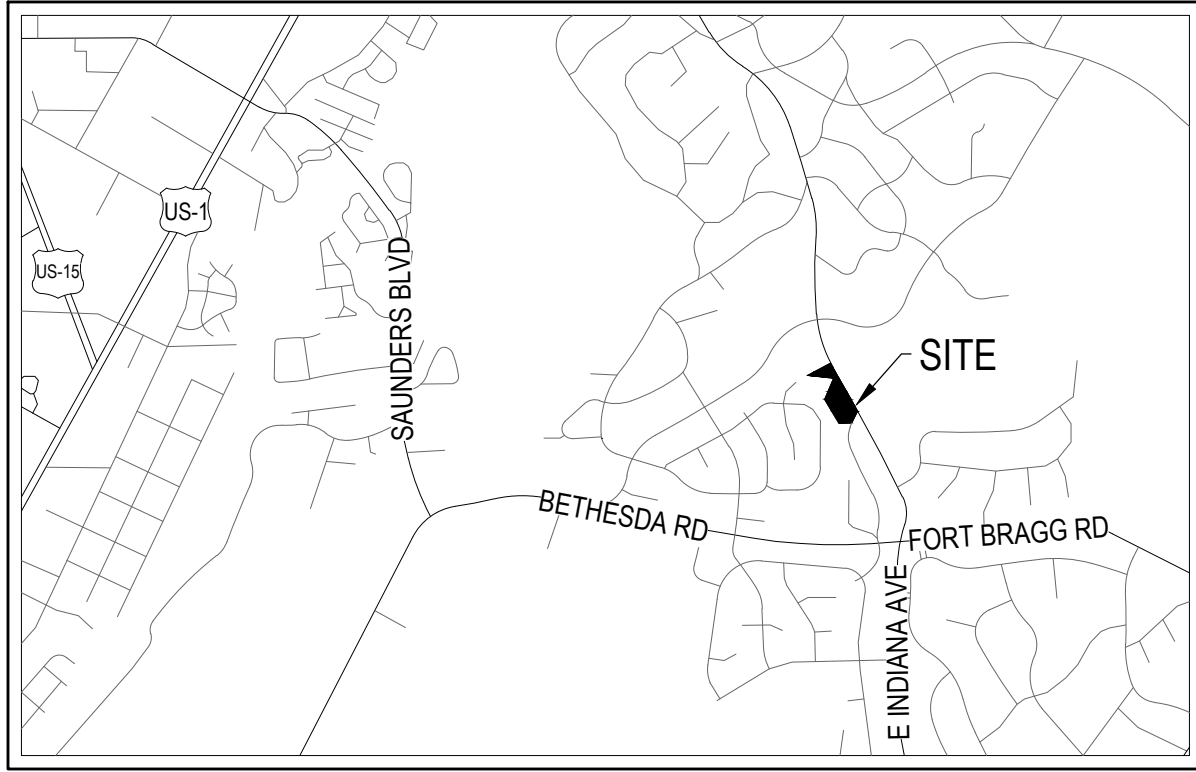
Architectural Character

1. The proposed architecture of the single-family units will be consistent with the surrounding character of the community.
2. Based on the existing site conditions and topography, some units may allow for a walk-out scenario.
3. Individual units will be limited to 1,500 – 2,200 heated square feet to align with the existing square footage within the Huntcliff community.
4. The units will be limited to 1.5 stories at the front elevation (facing the parking area), still allowing for walk-out scenarios (where applicable).

Service Area

1. A dumpster / service area (trash / recycling) for the community is proposed for the entire tract. This will assist in eliminating the need for individual trash collection.
2. The dumpster / service area will be screened from view with brick veneer and will be made accessible to the residents of Huntcliff.

The descriptions and conditions as described above will apply to the entire project as indicated in the Conditional Zoning District application.



2.0 TREE PROTECTION:

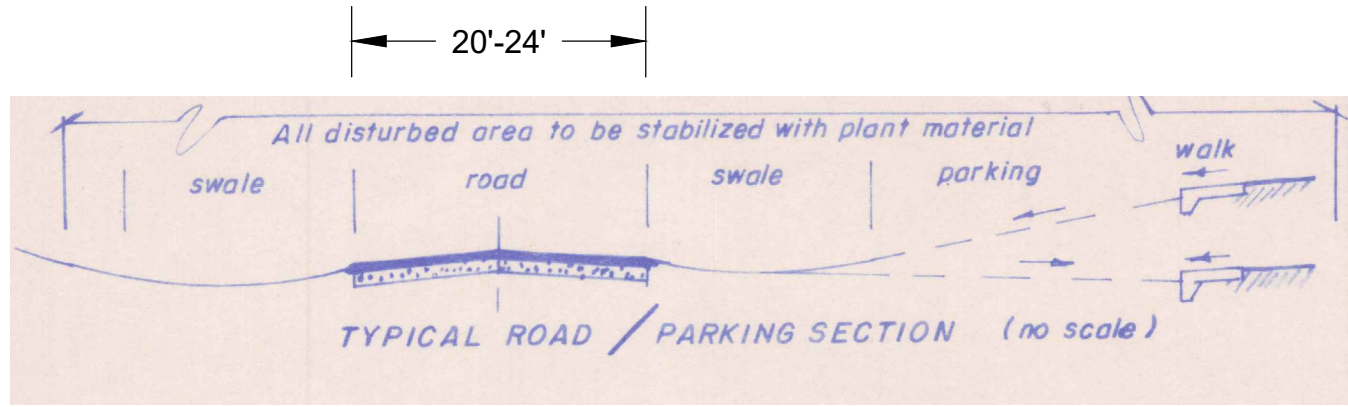
- 2.1 THE CONTRACTOR SHALL BE RESPONSIBLE FOR PREVENTING DAMAGE TO EXISTING TREES LOCATED ALONG ACCESS AND HAUL ROADS, AND ADJACENT TO, OR WITHIN BUILDING CONSTRUCTION SITES AND MATERIAL AND EQUIPMENT STORAGE AREAS. THOSE TREES TO BE SAVED SHALL BE FLAGGED PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
- 2.2 MATERIALS SHALL NOT BE STORED, NOR VEHICLES PARKED WITHIN THE DRIP-LINE OF THE TREE UNLESS AUTHORIZED BY LANDSCAPE ARCHITECT OR OWNER.
- 2.3 VEHICLES AND EQUIPMENT SHALL NOT BE DRIVEN OVER EXPOSED ROOTS AND ROADS SHALL NOT BE LOCATED WITHIN THE DRIP-LINE OF TREES UNLESS APPROVAL IS OBTAINED FROM THE LANDSCAPE ARCHITECT OR OWNER.
- 2.4 NO CUTTING OR FILLING OF EXISTING GRADE, TRENCHING OR PRUNING SHALL OCCUR UNLESS SPECIFICALLY DIRECTED BY THE CONSTRUCTION DOCUMENTS, OR WITH WRITTEN CONSENT BY THE LANDSCAPE ARCHITECT OR THE OWNER.
- 2.5 NO BURNING OF TRASH IS ALLOWED WITHIN 75' OF EXISTING TREES AND CARE SHALL BE TAKEN TO PREVENT ANY SMOKE DAMAGE TO TREES.

LEGEND:

- IRF = IRON ROD FOUND
IPF = IRON PIPE FOUND
IRS = IRON ROD SET
PKF = PK NAIL FOUND
CMF = CONCRETE MONUMENT FOUND
- = PROPERTY BOUNDARY
— = OVERHEAD UTILITIES
- - - = EXISTING MINOR CONTOUR
- - - = EXISTING MAJOR CONTOUR
- ⊙ = SEWER MANHOLE
⊙ = EXISTING UTILITY POLE
* = EXISTING PINE
* = EXISTING HARDWOOD

CAUTION

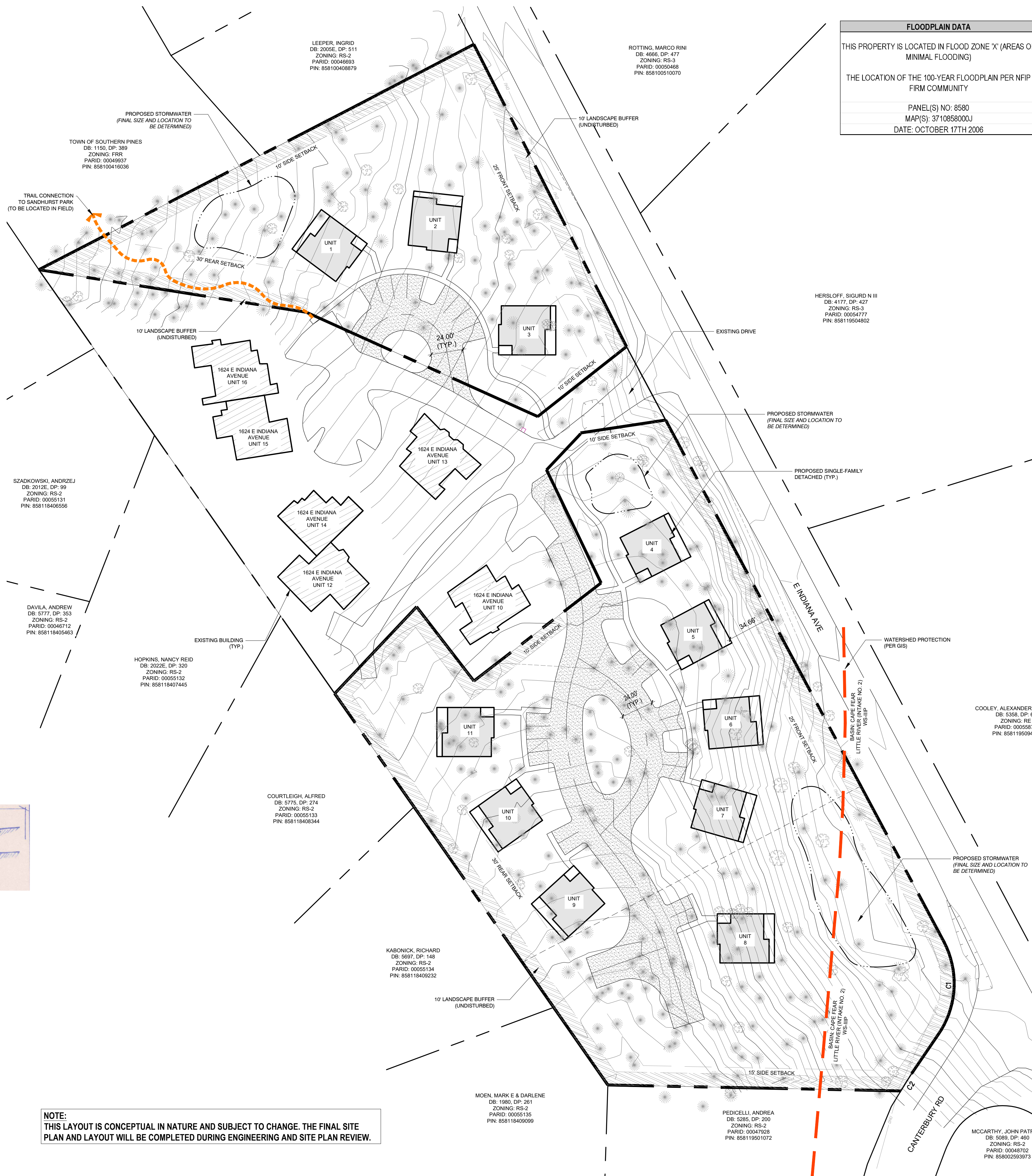
THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT DEPICTED ON THESE PLANS. THE LANDSCAPE ARCHITECT AND ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATIONS OF ALL UTILITIES WITHIN THE PROJECT LIMITS. ALL DAMAGE MADE TO THE EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.



TYPICAL ROAD / PARKING SECTION
(PER ORIGINAL APPROVAL 1980)



NOTE:
THIS LAYOUT IS CONCEPTUAL IN NATURE AND SUBJECT TO CHANGE. THE FINAL SITE PLAN AND LAYOUT WILL BE COMPLETED DURING ENGINEERING AND SITE PLAN REVIEW.



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: 8580
MAP(S): 371085800J
DATE: OCTOBER 17TH 2006

PROPERTY INFORMATION	
PROPERTY OWNER(S):	
FIFTEEN PINECONES, LLC	
330 MILE AWAY LANE	
SOUTHERN PINES, NC 28387	
APPLICANT:	
FIFTEEN PINECONES, LLC	
330 MILE AWAY LANE	
SOUTHERN PINES, NC 28387	
TOTAL ACREAGE:	
±4.13 ACRES	
PARCEL INFORMATION:	
PARCEL ID:	00052524, 00052523
PIN:	858118409715, 858119501314
DEED BOOK:	5636
DEED PAGE:	461
EXISTING ZONING:	RS-2, RS-1CD

PROPOSED ZONING INFORMATION	
PROPOSED ZONING:	
RM-20D	
REQUIRED SETBACKS:	
FRONT:	25 FT
FRONT: (FROM STREET CENTERLINE)	55 FT
EXTERIOR SIDE:	15 FT
EXTERIOR SIDE: (FROM STREET CENTERLINE)	45 FT
INTERIOR SIDE:	10 FT
REAR:	30 FT
MAX. BUILT UPON SURFACE (WS-III):	
MAX. BUILT UPON SURFACE:	24%
MAX. BUILDING HEIGHT:	
HEIGHT:	40 FT

OPEN SPACE CALCULATIONS	
AREA OF OPEN SPACE:	± 1.47 AC
DIVIDED BY TOTAL SITE AREA:	± 4.13 AC
EQUALS PERCENT OPEN SPACE:	35.50%
MINIMUM OPEN SPACE REQUIRED:	10.00%

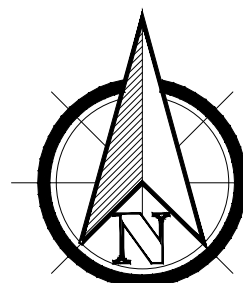
NOTE:
1. THE OVERALL OPEN SPACE INCLUDES THE AREA OUTSIDE OF THE BUILDING FOOTPRINT AND THE ROAD WAY (UP TO THE EDGE OF PAVEMENT). THIS INCLUDES THE STORMWATER MANAGEMENT AREAS AND THE SIDEWALKS / WALKWAYS. FINAL OPEN SPACE AREA MAY FLUCTUATE DEPENDING ON THE FINAL FOOTPRINTS, BUT WILL MAINTAIN A MINIMUM 35% OPEN SPACE FOR THE OVERALL SITE.
2. 10' PERMETER BUFFER TO REMAIN UNDISTURBED, EXCEPT FOR STORMWATER MANAGEMENT AREAS AND TRAIL CONNECTIONS PER THE FINAL ENGINEERING DESIGN. STORMWATER MANAGEMENT DEVICES ARE PERMITTED WITHIN BUFFERS PER 4.3.4(C)(6) OF TOWN OF SOUTHERN PINES UDO.

COOLEY, ALEXANDER SPEIGHT
DB: 5358, DP: 61
ZONING: RE
PARID: 00058975
PIN: 858119509410

PROPOSED STORMWATER
(FINAL SIZE AND LOCATION TO
BE DETERMINED)

MCCARTHY, JOHN PATRICK
DB: 5089, DP: 460
ZONING: RS-2
PARID: 00047928
PIN: 858002593973

SCALE: 1" = 40'-0"



PRELIMINARY PLANS - NOT RELEASED FOR CONSTRUCTION (FOR REVIEW ONLY)

LONGITUDE
planning group

164 NW BROAD STREET
SOUTHERN PINES, NC 28387
P: 734-478-1917
W: www.longitudeplanning.com

HUNTCLIFF
INDIANA AVENUE
SOUTHERN PINES, NORTH CAROLINA

REVISIONS:
2025-02-11 - TOWN OF SOUTHERN PINES
(REVIEW COMMENTS)

SHEET TITLE:

PRELIMINARY
SITE PLAN

DATE: 2024-12-09
DESIGNED BY: JWS
DRAWN BY: TTK

SCALE: 1" = 40'
PROJECT #: LPG2023-0013

SHEET #:

S1.0

December 3 11:15 A
63

December 3 11:30 A
66

Andrew M. Carhill
Notary Public

Margaret B. Matlock, Notary Public
of Moore

Dec. 3 63
Daisy M. Riddle
Deputy Notary
C.R. 27.15 Reg.

Staff comment: Lot 17 highlighting added by Planning Staff for easy reference on 2/11/2025.

CURVE DATA									
NO	I	R	T	L	NO	I	R	T	L
A	112°49'	16.66'	25.08'	32.76'	K	29°00'	318.66'	82.28'	161.26'
B	35°16'	127.33'	40.47'	70.37'	L	30°41'	502.89'	132.20'	269.59'
C	7°16'	1151.35'	73.11'	146.30'	M	30°41'	142.89'	121.72'	237.62'
D	5°36'	1211.35'	59.26'	118.50'	N	36°00'	255.53'	83.03'	162.88'
E	73°30'	177.30'	132.40'	227.43'	O	36°00'	315.53'	102.82'	198.16'
F	73°30'	117.30'	87.59'	150.51'	P	6°20'	1651.73'	91.39'	182.69'
G	298°04'	50.00'	—	260.18'	Q	6°20'	1591.73'	88.07'	175.92'
H	61°33'	67.10'	40.0'	78.05'	R	108°30'	25.1'	35.0'	47.47'
I	118°27'	26.8'	45.0'	55.40'	S	33°06'	179.11'	53.22'	103.49'
J	29°00'	378.65'	97.93'	191.62'	T	67°8'	75.76'	50.32'	88.54'

ALL CURVE DISTANCES ARE BASED ON THE ARC DEFINITION OF DEGREE OF CURVE WITH R = 5729.58 FT. FOR 1° CURVE

ERROR OF CLOSURE = $\frac{1}{3295}$
REFERENCE DEED
BOOK NO. 263 PAGE NO. 131

I, C. H. BLUE, REG. LAND SURVEYOR DO HEREBY CERTIFY THAT THIS MAP WAS MADE FROM MY ACTUAL SURVEY, THAT IT IS MADE IN ACCORDANCE WITH G.S. 47-30 AND THAT IT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

C. H. Blue
C. H. BLUE, REG. LAND SURVEYOR

SUBSCRIBED AND SWORN TO BEFORE ME THIS
25 DAY OF NOVEMBER

J. G. Matlock
NOTARY PUBLIC

MY COMMISSION EXPIRES 8-18-65

I CERTIFY THAT THIS PLAT HAS BEEN APPROVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES IN ACCORDANCE WITH THE SUBDIVISION CONTROL ORDINANCE OF THE TOWN OF SOUTHERN PINES AND THE GENERAL STATUTES.

TOWN CLERK

SUBSCRIBED AND SWORN TO BEFORE ME THIS
25 DAY OF NOVEMBER

NOTARY PUBLIC

MY COMMISSION EXPIRES

SANDHURST
PROPERTY OF

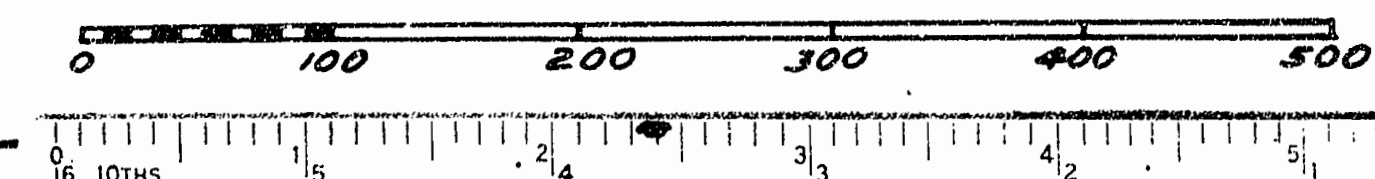
W. H. FOUSHEE

SOUTHERN PINES, N.C.

SANDHILLS TOWNSHIP MOORE COUNTY

SEPT. 24, 1963 SCALE 1"=100 FT.

C. H. BLUE REG. LAND SURVEYOR
SOUTHERN PINES, N.C.



I, SCOTT A. MABRY, R. L. S. NO. 2471, DO HEREBY CERTIFY THAT THIS MAP WAS MADE BY ME FROM MY ACTUAL SURVEY IN ACCORDANCE WITH G.S. 47-30 AS AMENDED AND THAT IT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SCOTT A. MABRY, R. L. S. NO. 2471

I, A NOTARY PUBLIC OF MOORE COUNTY, N. C., DO HEREBY CERTIFY THAT SCOTT A. MABRY PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND SEAL THIS 28 DAY OF JULY, 1980.
MY COMMISSION EXPIRES 1-28-81.

NOTARY PUBLIC

I DO HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON WAS APPROVED BY THE SOUTHERN PINES TOWN COUNCIL UNDER AUTHORITY OF SECTION 4-4 OF THE ZONING ORDINANCE, ON SEPT. 9, 1980.

TOWN MANAGER

Plat 2, Page 124

MAR 27 11 34 AM '81

ALL ROADS WITHIN THE "HUNTCLIFF" DEVELOPMENT SHOWN AND DESCRIBED HEREON ARE TO BE MAINTAINED BY THE HUNTCLIFF HOMEOWNERS ASSOCIATION. ALL ROADS WITHIN THIS DEVELOPMENT ARE DESIGNATED AS PRIVATE ROADS.
REGISTER OF DEEDS
MOORE COUNTY, N.C.

Stephen R. Sheffield, Notary Public
Moore

MAR 27 11 34 AM '81

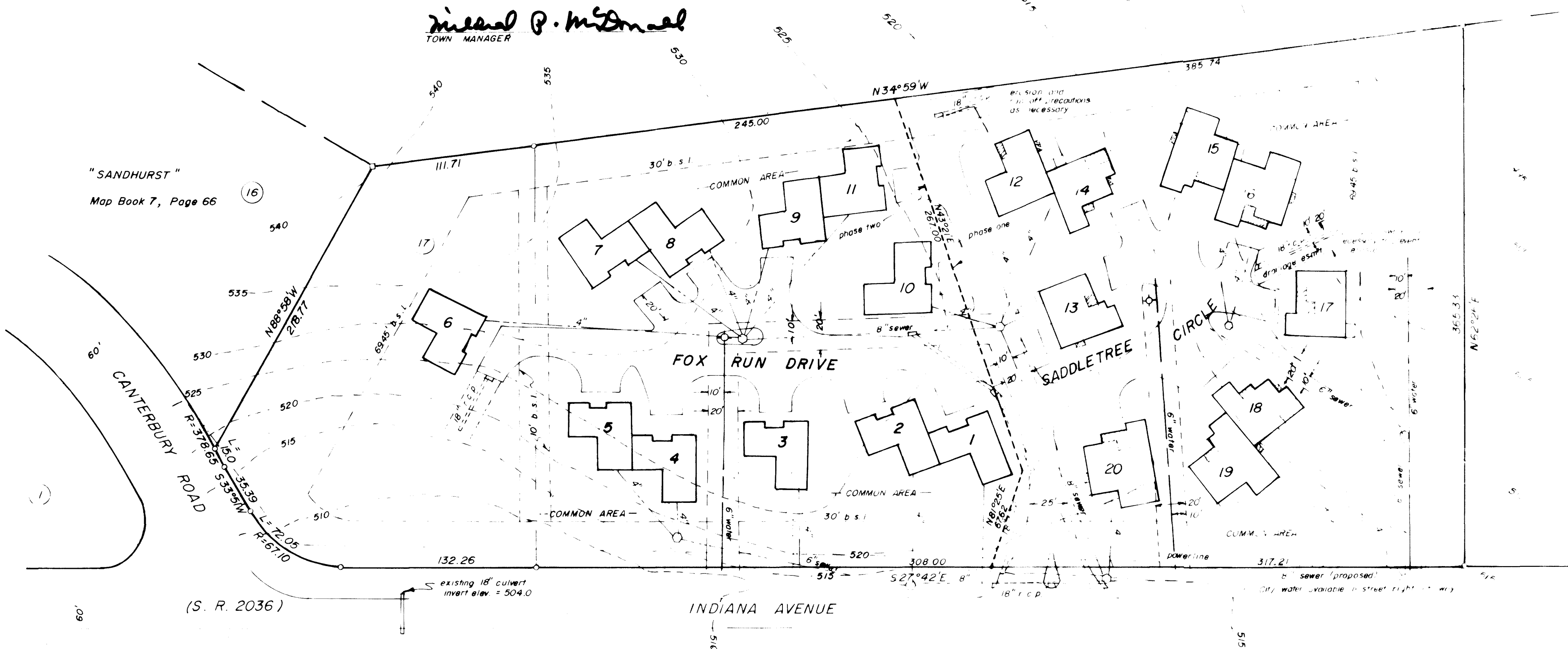
Grier G. Moore
By: Mary R. Phillips
"GUNTHER"

All disturbed area to be stabilized with plant material
swale road swale parking walk

TYPICAL ROAD / PARKING SECTION (no scale)

"SANDHURST"

Map Book 7, Page 66



PHASE ONE AND TWO

— PRELIMINARY —

HUNTCLIFF

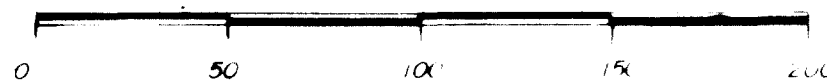
PROPERTY OF HUNTCLIFF, INC.
Ed Rhodes,
SOUTHERN PINES, NORTH CAROLINA

MABRY ASSOCIATES - LAND SURVEYING & PLANNING
PINEBLUFF, N. C. Phone 281-3063

JULY 25, 1980

SCALE: 1" = 40'

SANDHILL TOWNSHIP, MOORE COUNTY



existing sanitary sewer manhole
present existing manhole
Elev. 5.13
Bottom of manhole 5.13
Reference: Deed Book 402, Page 504
Moore County Registry

Notes: Error of closure exceeds 2.63 acres phase one
Area determined by a mid method 3.13 acres phase two
Topographic data from portion of a survey and from enlargement of Southern Pines topographic map (sheet 11-16)
5.76 acres total

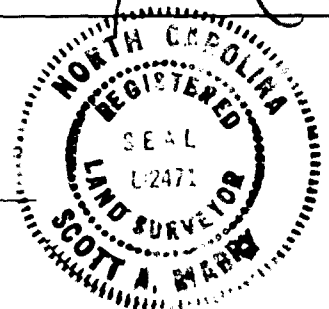
20' foot easements on all water mains
Curbing and drainage inlets to be placed where necessary for drainage control
fire hydrant
man hole
reinforced concrete pipe
concrete monument
iron pipe

24

NORTH CAROLINA - MOORE COUNTY
The foregoing is annexed certificate of
N.D. Gilhouse, Notary Public
MOORE COUNTY
STATE OF N.C.
is certified to be
correct. This
May 28 1982
Notary of Deeds
Book 467 Page 92
Plat FILED
May 28 3 17 PM '82

I, SCOTT A. MABRY, R.L.S. No. 2471 DO HEREBY CERTIFY THAT THIS MAP WAS MADE BY ME FROM MY ACTUAL SURVEY IN ACCORDANCE WITH G.S. 47-30 AS AMENDED AND THAT IT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Scott A. Mabry
SCOTT A. MABRY, R.L.S. No. 2471



GRIEN MOORE
REGISTER OF DEEDS
MOORE COUNTY, N.C.

"GUNTHER"

e.i.p. "control corner"

I, A NOTARY PUBLIC OF MOORE COUNTY, N.C., DO HEREBY CERTIFY THAT SCOTT A. MABRY PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND SEAL THIS 11TH DAY OF MAY 1982.

H.O. Sullivan
NOTARY PUBLIC

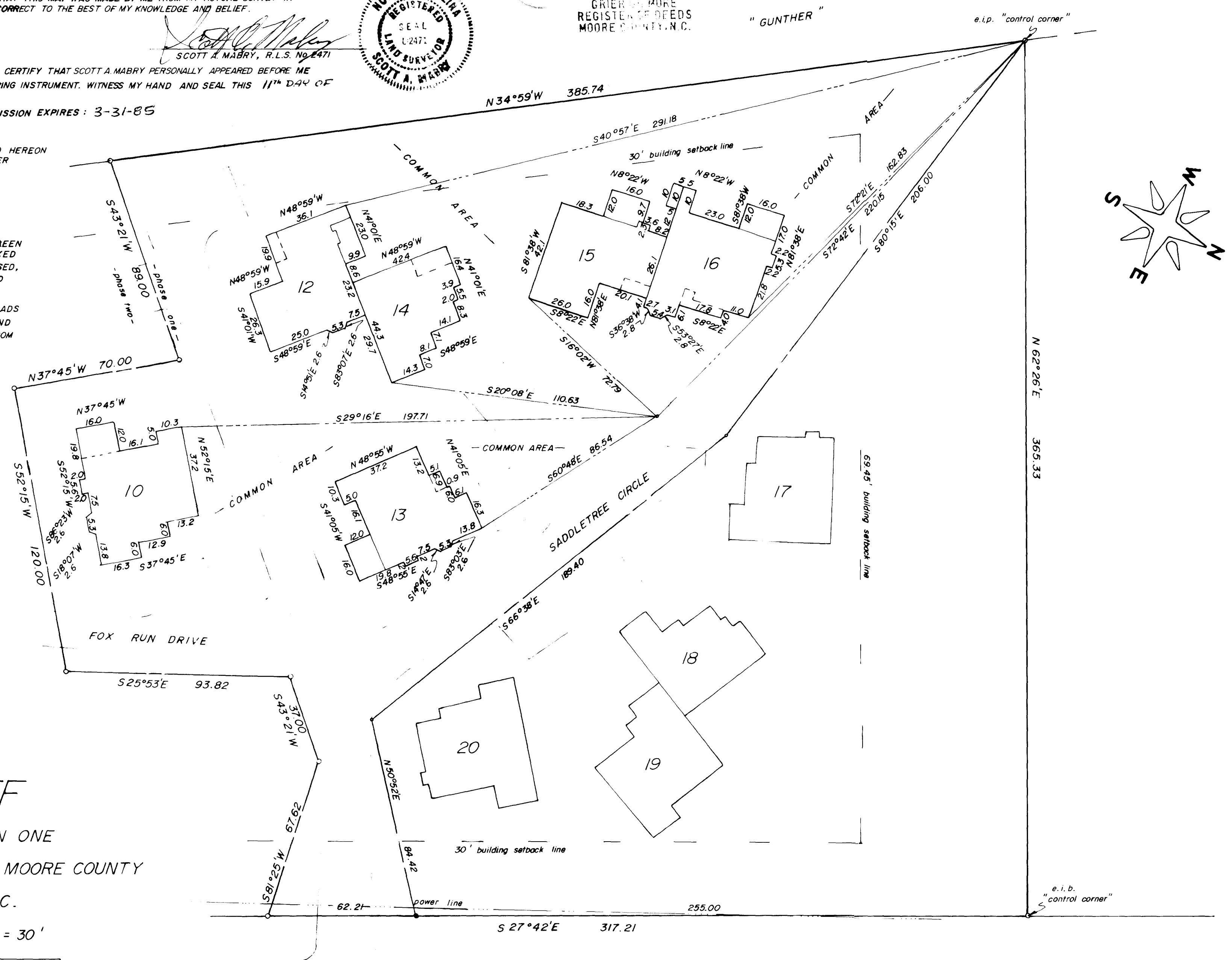
MY COMMISSION EXPIRES: 3-31-85

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON WAS APPROVED BY THE SOUTHERN PINES TOWN COUNCIL UNDER AUTHORITY OF SECTION 4-4 OF THE ZONING ORDINANCE, ON:

Michael P. McDonald
TOWN MANAGER

NOTE: AS OF 4-16-82, UNITS 12, 13, 14, 15 & 16 HAVE BEEN CONSTRUCTED AS SHOWN. UNIT 10 IS AS STAKED ON THE GROUND. UNITS 17, 18, 19 & 20 ARE PROPOSED, WITH THE ACTUAL LOCATION AND SIZE SUBJECT TO CHANGE.

ALL ROADS SHOWN ON THIS PLAT ARE PRIVATE ROADS MAINTAINED BY THE HUNTCLIFF ASSOCIATION, INC., AND THEIR ACTUAL LOCATION AND WIDTH MAY VARY FROM WHAT IS SHOWN ON THE PLAT.



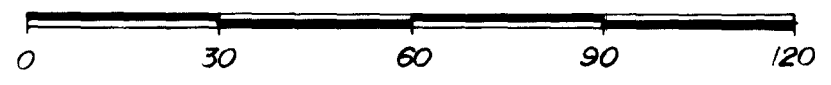
HUNTCLIFF

PHASE ONE, SECTION ONE

SANDHILL TOWNSHIP, MOORE COUNTY

SOUTHERN PINES, N. C.

JULY 16, 1981 SCALE: 1" = 30'



MABRY ASSOCIATES - LAND SURVEYING, PLANNING AND MAPPING
PINEBLUFF: Phone: 281-3063
TROY: Phone: 572-2105

OWNER: HUNTCLIFF, INC.
SOUTHERN PINES
NORTH CAROLINA

Reference: Deed Book 467, Page 92
Error of Closure exceeds 1:10,000
Phase One, Section One area = 1.59 acres by D. M. D. method.

Regular Meeting of the Town Council

September 9, 1980

A regular meeting of the Southern Pines Town Council was held in the Municipal Building on September 9, 1980, at 8:00 P.M.

Present were: Mayor Hope M. Brogden, Councilmen Michael L. Smithson, Emanuel S. Douglass, Jerry D. Daeke and Louise P. Eckersley

Mayor Brogden called the meeting to order.

1. SUBJECT - MINUTES

Councilman Daeke moved that the minutes of the August 12, 1980, meeting be approved. The motion was seconded by Councilman Smithson and carried unanimously.

2. SUBJECT - POST OFFICE SITE

This item was continued to the October meeting of Council at the request of the postal authorities.

3. SUBJECT - PUBLIC HEARING

A. Street Closing - Clark Street

A public hearing was called for this meeting to consider the closing of Clark Street (a 16 foot wide alley extending 300 feet easterly to the rear of lot 4 and block alley 5). A resolution adopted by the Town Council concerning its intention to close the street had been published for four consecutive weeks prior to the hearing. Copies of the same had been sent to all individuals owning property abutting the street. No landlocked parcels would result from the closing of the street.

Mayor Brogden opened the public hearing.

The Town Planner, Marvin Collins, reviewed the portion of the street that was under consideration for closing. He stated that further investigation had shown that Clark Street runs through the property of Sheila Chavis (in addition to that portion of the street previously identified.) Mrs. Chavis spoke stating that her attorney had discovered this at the time she was having a title search done. Mrs. Chavis also called Council's attention to the drainage problem with stagnant water collecting in the ditch near the dropoff on Clark Street. Discussion followed about the drainage and the route that it takes.

There being no one else who wished to be heard, the public hearing was closed.

Councilman Smithson moved that an ordinance be adopted closing that part of Clark Street extending 300 feet from the eastern right-of-way line of South Page Street to the rear of lot number 4 in block L & 5 as had been advertised. The motion was seconded by Councilman Daeke; and, following discussion in regard to retaining a utility easement, the motion carried unanimously. The ordinance is made a part of the minutes.

Councilman Smithson then moved that Council adopt a Resolution of Intent to close that portion of Clark Street extending 100 feet from the western right-of-way line of South Bennett Street to the rear of lot number 4 in block L & 5. The motion was seconded by Councilman Daeke and carried unanimously. The Resolution of Intent is made a part of the minutes.

4. SUBJECT - SITE PLAN APPROVAL - HUNTCLIFF

At the Town Council's August meeting, the plans for the proposed Huntcliff development at the northwest corner of E. Indiana Avenue and Canterbury Road were considered. The Town Council continued this item until such time as the developers had revised the site plan to confirm with the recommendations of the Town Planner and Planning Board.

The Town Planner presented the item stating that all recommendations had been complied with. During ensuing discussion, Mr. Ed Rhodes stated that the project would begin construction in approximately two months and be completed in 1-1½ years.

Discussion followed about the adequacy of water to serve the project with the Town Manager, Mildred McDonald, stating that the new Town well was designed to take care of new building projects until the new water system was operable.

There being no further discussion, Councilman Smithson moved to approve the site plan. The motion was seconded by Councilman Daeke and carried unanimously.

5. SUBJECT - PLANNING BOARD ITEMS (from September 3, 1980, regular meeting of the Planning Board)

A. REZONING REQUESTS

1. Z-5-80 Roy Solomon - Northeast corner of Ridge Street and Manley Avenue

The applicant was requesting that 1.38 acres at the above location be rezoned from RS-1 Residential Single Family to RM-Residential Multiple to permit the development of the property for multi-family residential purposes. If developed at permitted densities, a total of twenty-seven units would be allowed. The property immediately across Ridge Street from the site is zoned RM while all other adjacent tracts are zoned RS-1. Water and sewer are available to serve the site, but some extensions and upgrading of the lines would be necessary.

The Planning Board denied the request, as the Town Planner had recommended, because of potential increased traffic congestion and the extension of RM zoning into an RS-1 zoning district.

Councilman Smithson moved to call a public hearing for the next regular meeting of Council. The motion was seconded by Councilman Douglass and carried unanimously.

SOUTHERN PINES REZONING PETITIONCASE: Z- 02-11
DATE: 6-27-11

To the Planning Board and Town Council of Southern Pines, North Carolina:

I, the undersigned, do hereby make a petition to change the zoning map of the Town of Southern Pines as herein requested.

1. The property is located on the East side of Indiana
(St., Ave., Dr., Ct.) between Bethesda Rd (St., Ave., Dr., Ct.) and
Canterbury Rd. (St., Ave., Dr., Ct.). The address is 1640 E Indiana Ave
and is known as Pin Number 858119501314
LRK Number 52523. It has a frontage of 440
feet and an average depth of 282 feet containing 2.89 acres.
2. It is desired and requested that the foregoing property be rezoned from RS-2
District to RS-1 District for the following
purpose: residential Subdivision.
3. A metes and bounds description must be attached to this application.
4. The following are all individuals, firms or corporations owning property within 100 feet of the rezoning petition and within 100 feet of all other property contiguously owned by the property owner/petitioner or all pieces of land that were part of the property requesting rezoning prior to the requested rezoning, and the property across the street from the property sought to be rezoned. (Use reverse side or attachment, if needed).

Pin Number	LRK Number	Name	Address
See Attached List			

I certify that all information furnished in this petition is accurate to the best of my knowledge.

Petitioner's Name: DABBS Brothers LLC Prattner Please Print
Petitioner's Signature: Warren Dabbs
Mailing Address: PO Box 2032
Wilmington, NC 28402
Phone Number: 279-7703

• Property Owner: MOONADO BROTHERS, INC
Mailing Address: PO Box 1606
SOUTHERN PINES, NC 28385
Phone Number: (910) 692-2715

Note: If the petition is made by a corporation, the names and addresses of all officers in the corporation must be provided. A request for a "Parallel Conditional Use District" must also be accompanied by a letter from the owner or an authorized officer of the corporation indicating their agreement to abide by the conditions of approval imposed by the Town Council. The petitioner or his representative is expected to attend all meetings to answer questions concerning the request. The absence of the petitioner or his representative is sufficient grounds to warrant a deferral of action by the Planning Board and/or the Town Council.

Revised May 23, 2006

FILE COPY

SOUTHERN PINES REZONING PETITIONCASE: Z - 02-11
DATE: 6-27-11

To the Planning Board and Town Council of Southern Pines, North Carolina:

I, the undersigned, do hereby make a petition to change the zoning map of the Town of Southern Pines as herein requested.

1. The property is located on the East side of Indiana
(St., Ave., Dr., Ct.) between Bethesda Rd (St., Ave., Dr., Ct.) and
Canterbury Rd (St., Ave., Dr., Ct.). The address is
1640 E Indiana Ave and is known as Pin Number 35311950314,
LRK Number 52523. It has a frontage of 440
feet and an average depth of 232 feet containing 2.87 acres.
2. It is desired and requested that the foregoing property be rezoned from RS-2
District to RS-1 District for the following
purpose: residential subdivision.
3. A metes and bounds description must be attached to this application.
4. The following are all individuals, firms or corporations owning property within 100 feet
of the rezoning petition and within 100 feet of all other property contiguously owned by the
property owner/petitioner or all pieces of land that were part of the property requesting
rezoning prior to the requested rezoning, and the property across the street from the
property sought to be rezoned. (Use reverse side or attachment, if needed).

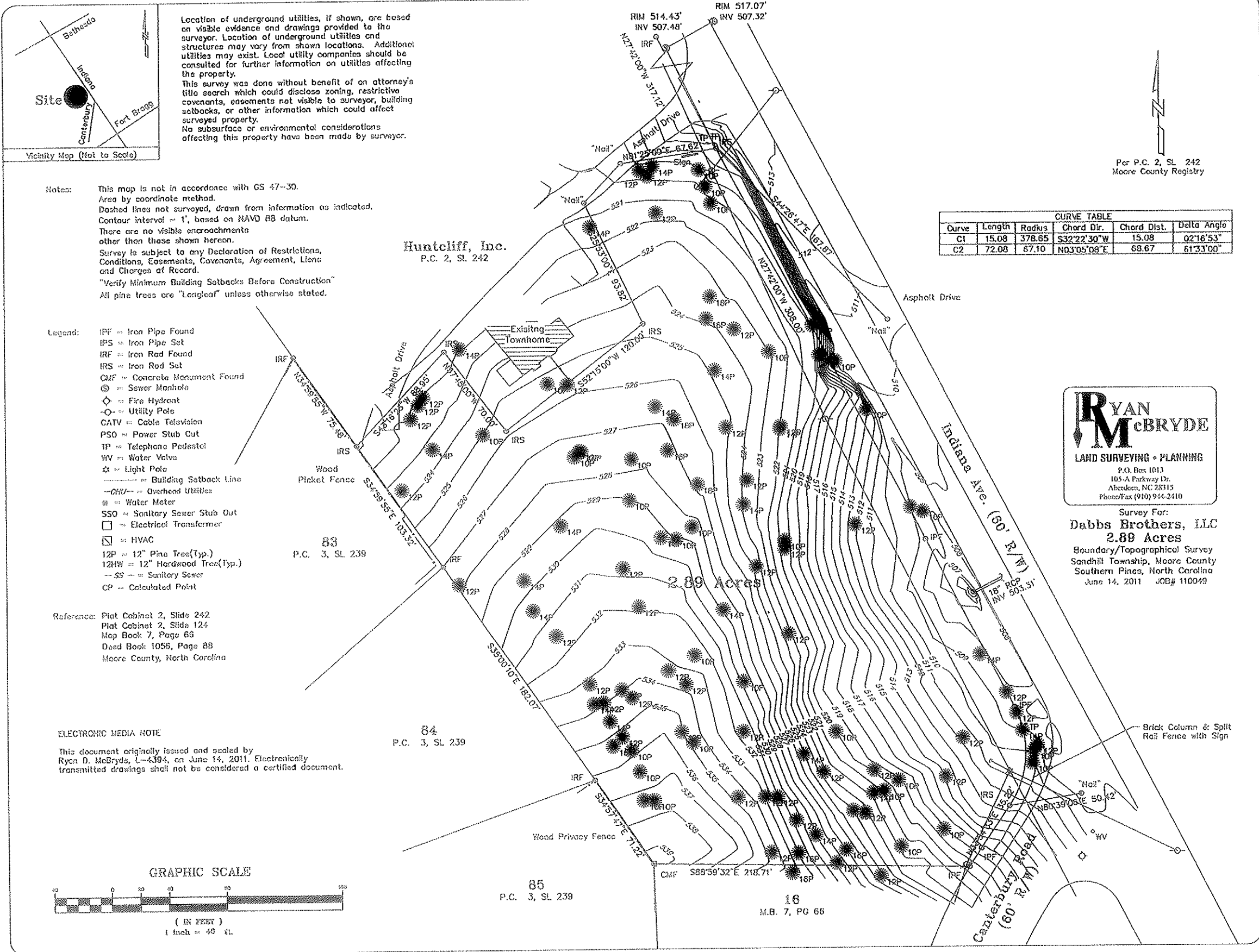
Pin Number	LRK Number	Name	Address
See Attached List			

I certify that all information furnished in this petition is accurate to the best of my knowledge.

Petitioner's Name: Warren Dabbs Please Print
Petitioner's Signature: _____
Mailing Address: PO Box 2082
Wilmington, NC 28402
Phone Number: 910-792-2715

• Property Owner: MICHAEL GRUBBS, INC
Mailing Address: PO BOX 1606
SOUTHERN PINES NC 28388
Phone Number: (910) 692-2715

Note: If the petition is made by a corporation, the names and addresses of all officers in the corporation must be provided. A request for a "Parallel Conditional Use District" must also be accompanied by a letter from the owner or an authorized officer of the corporation indicating their agreement to abide by the conditions of approval imposed by the Town Council. The petitioner or his representative is expected to attend all meetings to answer questions concerning the request. The absence of the petitioner or his representative is sufficient grounds to warrant a deferral of action by the Planning Board and/or the Town Council.



Location of underground utilities, if shown, are based on visible evidence and 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 benefit of an attorney's title search which could disclose zoning, restrictive covenants, easements not visible to surveyor, building setbacks, or other information which could affect surveyed property.

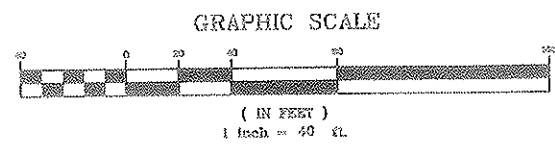
No subsurface or environmental considerations affecting this property have been made by surveyor.

Notes: This map is not in accordance with GS 47-30. Area by coordinate method. Dashed lines not surveyed, drawn from information as indicated. Contour interval = 1', based on NAVD 88 datum. There are no visible encroachments other than those shown herein. Survey is subject to any Declaration of Restrictions, Conditions, Easements, Covenants, Agreement, Lisns and Charges of Record. "Verify Minimum Building Setbacks Before Construction" All pine trees are "Longleaf" unless otherwise stated.

- Legend:
- IRF = Iron Pipe Found
 - IPS = Iron Pipe Set
 - IRF = Iron Rod Found
 - IRS = Iron Rod Set
 - CMF = Concrete Monument Found
 - SM = Sewer Manhole
 - FD = Fire Hydrant
 - UP = Utility Pole
 - CATV = Cable Television
 - PSO = Power Stub Out
 - TP = Telephone Pedestal
 - WV = Water Valve
 - LP = Light Pole
 - BSL = Building Setback Line
 - OU = Overhead Utilities
 - WM = Water Meter
 - SSO = Sanitary Sewer Stub Out
 - ET = Electrical Transformer
 - HVAC
 - 12P = 12" Pine Tree(Typ.)
 - 12HW = 12" Hardwood Tree(Typ.)
 - SS = Sanitary Sewer
 - CP = Calculated Point

Reference: Plat Cabinet 2, Slide 242
Plat Cabinet 2, Slide 124
Map Book 7, Page 66
Deed Book 1056, Page 88
Moore County, North Carolina

ELECTRONIC MEDIA NOTE
This document originally issued and sealed by Ryan D. McBryde, L-4394, on June 14, 2011. Electronically transmitted drawings shall not be considered a certified document.

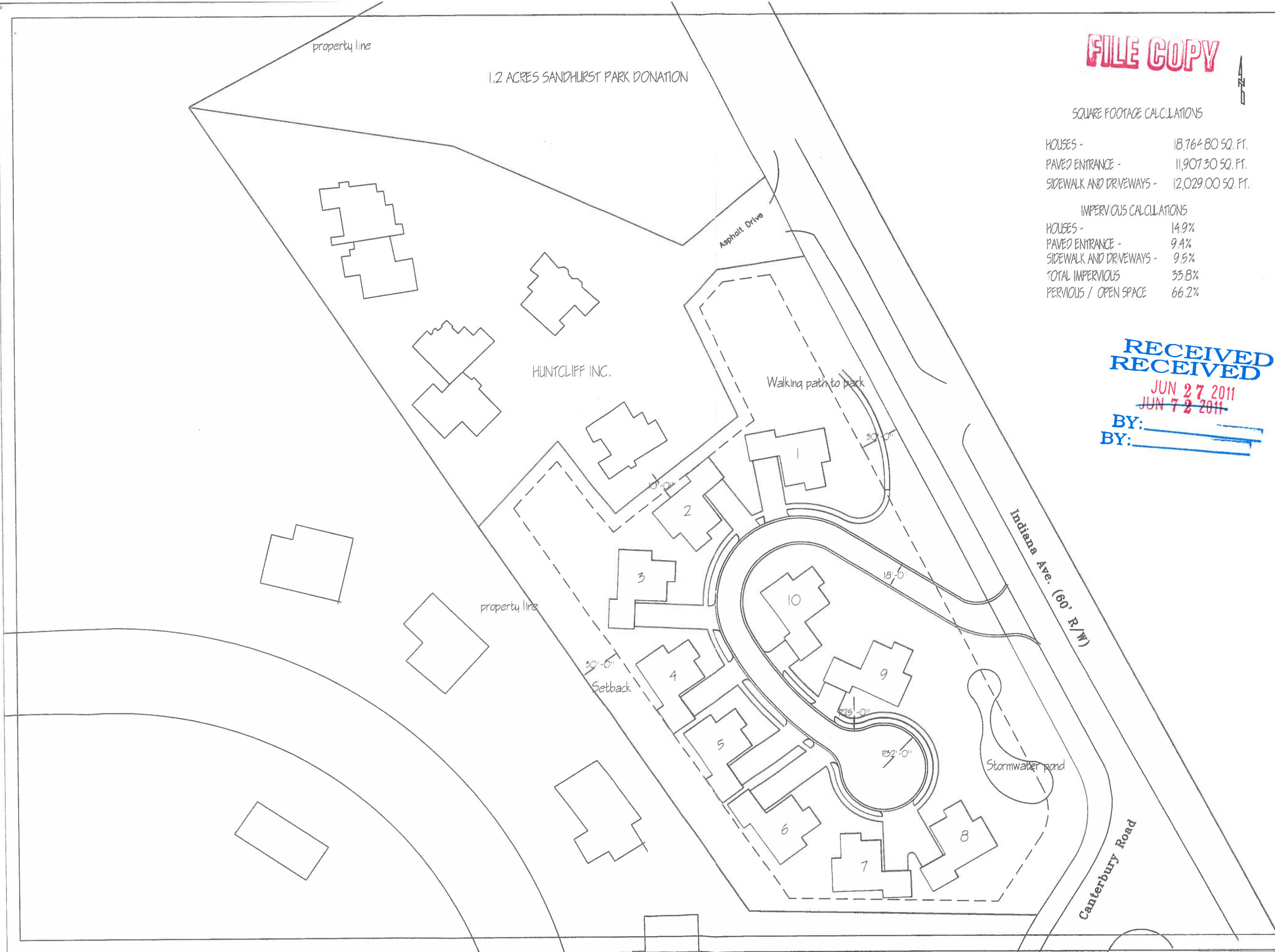


CURVE TABLE				
Curve	Length	Radius	Chord Dir.	Delta Angle
C1	15.08	378.65	S32°22'30"W	15.08
C2	72.08	67.10	N03°05'08"E	69.67

RYAN D. MCBRYDE
LAND SURVEYING • PLANNING
P.O. Box 1013
105-A Parkway Dr.
Aberdeen, NC 28315
Phone/Fax (910) 944-2410

Survey For:
Dabbs Brothers, LLC
2.88 Acres
Boundary/Topographical Survey
Sandhill Township, Moore County
Southern Pines, North Carolina
June 14, 2011 JOB# 110049

THIS DRAWING IS THE PROPERTY OF RYAN MCBRYDE LAND SURVEYING AND PLANNING AND MAY NOT BE REPRODUCED WITHOUT WRITTEN AUTHORIZATION FROM THE SURVEYOR. THIS DRAWING IS VOID WITHOUT ORIGINAL SIGNATURE AND SEAL.



FILE COPY

SQUARE FOOTAGE CALCULATIONS

HOUSES -	18,764.80 SQ. FT.
PAVED ENTRANCE -	11,907.30 SQ. FT.
SIDEWALK AND DRIVEWAYS -	12,029.00 SQ. FT.

IMPERVIOUS CALCULATIONS

HOUSES -	14.9%
PAVED ENTRANCE -	9.4%
SIDEWALK AND DRIVEWAYS -	9.5%
TOTAL IMPERVIOUS	33.8%
PERVIOUS / OPEN SPACE	66.2%

RECEIVED
RECEIVED
JUN 27 2011
JUN 7 2 2011
BY: _____
BY: _____

MARK WESLEY PARSON INC.
www.markwesleyparson.com
LANDSCAPE ARCHITECTURE
159 E NEW HAMPSHIRE AVE.
SOUTHERN PINES NC 28387
OFFICE: (910) 692-8550 CELL: (910) 690-6718

SCALE n.t.s.

CREATED: 6-03-11

CONCEPTUAL / DABBS BROTHERS, LLC
1640 E INDIANA AVE
SIT PLAN SOUTHERN PINES N.C.

SHEET C-1

COPYRIGHT - ALL DESIGNS, ARRANGEMENTS AND PLANS NOTICED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND ARE PROPERTY OF MARK WESLEY PARSON INC. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS, DETAILS AND TRAINING PRIOR TO CONSTRUCTION. MARK WESLEY PARSON INC. WILL NOT BE LIABLE FOR DAMAGES OR FEES IF THE CONSTRUCTION DEVIATES.

Z-02-11

We would like Amend
OUR REZONING Application to conditional
district. & lot subdivided structurally integrated

Thank you,

Warren Dykes

Staff Comment, dated 2/11/2025: This sheet was added to the file between the Planning Board (08/18/2011) and Town Council (09/13/2011) meetings

1.2 ACRES SANDHURST PARK DONATION

PROPOSED ZONE RS 1
8 NEW HOMES TOTAL

SQUARE FOOTAGE CALCULATIONS

HOUSES -	12,512 SQ. FT.
PAVED ENTRANCE AND DRIVES	16,822 SQ. FT.
IMPERVIOUS CALCULATIONS %	
HOUSES -	9.94%
PAVED ENTRANCE AND DRIVES	13.3%
OPEN SPACE	77%

100'-0"
1 INCH = 100'

PLAYQUIP INC

PROPERTY LINE

SET BACK

LOT LINE

2.89 ACRES

Indiana Ave. (60' R/W)

STORM WATER POND



SCALE 1"=100'
CREATED: 8-1-11

TIMBER RIDGE
1640 E INDIANA AVE
SOUTHERN PINES N.C.

CONCEPTUAL/
SITE PLAN

SHEET C-2

MINUTES

Regular Business Meeting of the Southern Pines Town Council September 13, 2011, 7:00 PM, Douglass Community Center, 1185 W. Pennsylvania Avenue

Present: Mayor Mike Haney, Mayor Pro Tem Mike Fields, Councilmember Fred Walden, Councilmember Chris Smithson, Councilmember David McNeill

Absent: None

Call To Order

1. Manager's Comments

Town Manager Parsons requested a motion to remove Item G. Approval of Temporary Construction Easement between John F. and Deborah L. Burton and the Town of Southern Pines from the Consent Agenda due to the item not being ready for approval.

Upon motion by Council Walden, seconded by Councilmember Smithson and carried unanimously, Item G was removed from the Consent Agenda.

Town Manager Parsons continued with an overview of the items on the Consent Agenda.

2. Consent Agenda

- A. Adopt Work Session Meeting Minutes of July 25, 2011, Agenda Meeting Minutes of August 3, 2011, and Regular Business Meeting Minutes of August 9, 2011.
- B. Appointment to Local Firemen's Relief Fund Board – Reagan Parsons
- C. Minor Modifications
 - CU-04-11 Minor Modification Birkdale Village – Michael P. Griffin, PLS, Petitioner – Reference CU-15-88 Pinehurst Plantation
 - CU-05-11 Minor Modification - Fairway Village – Blaine East, Petitioner – Reference CU-09-93
- D. Care Enough to Wear Pink Days – Proclamation
- E. Approval of Locally Administered Landscape Agreement between NC Department of Transportation and the Town of Southern Pines for Airport Road and Knoll Road Roundabouts
- F. Approval of Modification of Sanitary Sewer Easement between John F. and Deborah L. Burton and the Town of Southern Pines
- G. Approval of Temporary Construction Easement between NC Department of Transportation and the Town of Southern Pines for Morganton Road & U.S. #1 Interchange Project
 - Adoption of a Resolution for A Temporary Construction Easement
- H. Budget Amendments
 - Fire Department
 - \$6,420 – Moore County Rescue Stipend Fund – Call Responses
 - \$2,500 – Fire Prevention Grant – Equipment for Arson Investigation
 - \$80,000 – FEMA Assistance to Firefighters Grant – Fire Safety Trailer

Councilmember McNeill: Aye
Mayor Haney: Aye

Motion carries.

5. Public Hearings

A. Z-02-11 from RS-2 to RS-1-CD at 1640 E. Indiana Ave., Warren Dabbs – Petitioner

This is an amended request to rezone the property at 1640 E. Indiana Ave. from Residential Single-Family-2 (RS-2) to Residential Single-family-1-Conditional District (RS-1-CD) conditioned upon a maximum of eight (8) single-family lots. The property is identified as PIN 858119501314 and is also known as LRK # 52523. Moore County Tax records list the property owner as McDonald Brothers, Inc. The property is 2.89 acres and is located on the west side of E. Indiana Ave. with approximately 440 feet of road frontage. Located at the intersection of Canterbury Rd., this parcel is described as between S. Bethesda Rd. and Canterbury Rd.

Planning Director Bart Nuckols gave an overview of the item and presented slides of the property's location. Mr. Nuckols commented the Planning Board recommended approval of the request.

Mr. Nuckols continued by commenting if the development was to be developed per the proposed RS-1 zoning, the maximum developed number of lots would be 12 and the current RS-2 allows a maximum of 6 developed lots.

Greg Zywockinski, 230 Grove Road, referenced the slides of the maps in the presentation and commented this sticks out like a sore thumb and it is totally incongruous. Mr. Zywockinski commented it looks like a lot of homes to put in and it is not in harmony with everything that is around it.

Mayor Pro Tem Fields commented the houses depicted on the map are existing houses that are attached and inquired how it is incongruous. Discussion ensued.

Mr. Zywockinski inquired what the rationale is to change the zoning if the property is zoned RS-2. Mayor Pro Tem Fields responded that the applicant is requesting 8 lots instead of 6. Discussion continued.

Mayor Haney inquired what Mr. Zywockinski's concern is. Mr. Zywockinski commented he thinks there needs to be a reason to rezone property and in his opinion, someone needs to make a case for this.

Mark Parson, Landscape Architect, commented the way it is currently zoned, they are asking for one less house and the idea was give and take a little bit. Let us build one less house and donate an area of land to the park.

Upon motion by Councilmember Walden, seconded by Councilmember McNeill and carried unanimously, the Public Hearing was closed.

Councilmember Smithson commented the two items for Public Hearings are linked together and if the first item is approved and the second is denied, another vote should take place to make the items match. Discussion ensued regarding setting conditions in Council motions.

B. CU-03-11 Dabbs Subdivision – CUP

This is a request for a Conditional use Permit to subdivide the 2.89 acre tract on the west side of E. Indiana Ave. between Bethesda Rd. and Canterbury Rd. into eight (8) single-family lots as a structurally integrated subdivision per the UDO. It is identified as PIN 858119501314 and as LRK 52523. Representing Dabbs Brothers, LLC, Warren Dabbs is the Petitioner. The property owner is listed as McDonald Brothers, Inc.

Planning Director Bart Nuckols gave an overview of the request and commented staff and the Planning Board recommend approval of this item.

Councilmember Smithson commented the application appears to reference only LRK 52523 and does not specifically reference LRK 52524 which is the donation or conservation area of land and inquired if Council is able to set conditions on LRK 52524 if it is not specifically listed in the application. Mayor Haney commented it is the applicant's intent to donate the area of land to the Town.

Town Attorney Doug Gill commented the applicant can enter into the record their intent for the proposed lot of land designated for donation to the Town.

Discussion ensued regarding the legality of setting conditions on a lot that is not referenced in an application. Mr. Nuckols commented he concurs with Town Attorney Gill's finding of the applicant entering into the record their intent of the lot of land.

Town Manager Parsons suggested having the applicant under oath for verification of the limitation of the lot for donation and for verification that the applicant has control of the lot for purpose of making such representations.

Warren Dabbs, Dabbs Brothers Inc., was sworn in and stated their intent is to donate the tract of land to the Town. Town Manager Parsons inquired if Mr. Dabbs has the tract of land under contract with the proposed lot for development. Mr. Dabbs responded in the affirmative.

Mr. Dabbs stated they wish to amend the application to include LRK # 52524 to the CUP request and donate it to the Town to remain undeveloped.

Upon motion by Councilmember Smithson, seconded by Councilmember Walden and carried unanimously, the Public Hearing was closed.

A motion was made by Councilmember Walden to approve Z-02-11 and that the amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans. Motion was seconded by Councilmember McNeill and carried unanimously.

A motion was made by Mayor Pro Tem Fields to find the application to be complete for CU-03-11 Dabbs Subdivision. Motion was seconded by Councilmember Smithson and carried unanimously.

A motion was made by Mayor Pro Tem Fields to find the application to comply with all applicable requirements of the Unified Development Ordinance. Motion was seconded by Councilmember Smithson and carried unanimously.

A motion was made by Mayor Pro Tem Fields that if the permit is granted that it be subject to the conditions as stated in the application and the condition that they will not build on the 1.2 acre parcel of land with the LRK # 52524 and find these conditions are appropriate due to no determination of endangerment to the public health or safety, injury to the value of the adjoining property and that the property is in harmony with the surrounding area and that it is appropriate to place this proposed development will be in general conformity with the land use plan. Motion was seconded by Councilmember Smithson.

Councilmember McNeill inquired if the motion should be amended to include some recommendation from the Planning Board. Mayor Pro Tem Fields accepts the amendment to the motion. Councilmember Smithson complies with the amendment.

Mayor Pro Tem Fields commented this is an example of good planning and he thinks the Town will benefit from the open space donated from the applicant. Councilmember Smithson agrees.

Mayor Haney commented this is a clear example of how a structurally integrated subdivision benefits the Town.

The vote was called as follows:

Mayor Pro Tem Fields: Aye
Councilmember Walden: Aye
Councilmember Smithson: Aye
Councilmember McNeill: Aye
Mayor Haney: Aye

Motion carries.

6. Public Comments

Suzanne Coleman, 225 N. May Street, presented Council with copies of the language on the back of the Town's water bill and Section 50 of the Code of Ordinances in regards to charges, rates and fees.



Planning Department

180 SW Broad Street
Southern Pines, NC 28387

Phone (910) 692-4003
Fax (910) 692-9495

September 15, 2011

Warren Dabbs, Partner
Dabbs Brothers, LLC
PO Box 2032
Wilmington, NC 28402

RE: Z-02-11 Dabbs Brothers, LLC- Warren Dabbs, Petitioner, 2640 East Indiana Avenue, From RS-2 to RS-1-CD

Dear Mr. Dabbs:

On September 13, 2011, the Town of Southern Pines Town Council approved your request *Z-02-11 Dabbs Brothers, LLC*, as amended to rezone property identified, as *Parcel Identification Number (PIN) 858119501314*, 1640 East Indiana Avenue, from RS-2 (Residential Single Family -2) to RS-1-CD (Residential Single Family-1 Conditional District). The original application was amended at the Town Council meeting, September 13, 2011, to RS-1-CD with the condition of a maximum of eight (8) single-family lots.

In addition to the above referenced request approved by the Town Council, CU-02-11 was considered at the meeting of the Town Council, September 13, 2011. A Conditional Use Permit will be issued for this request as soon as the minutes are available. **Once the CUP is issued, it will not become effective until proof of recordation of the plat by the Register of Deeds office is provided by Dabbs Brothers, LLC, to the Town of Southern Pines Planning Department.**

Please note the following:

- **IN ADDITION TO Architectural Review Approval from Town Council, ALL APPLICABLE PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION AND/OR DEMOLITION CAN BEGIN.** When the applicant applies for the required permits such as zoning, sign, grading, soil erosion control, building, etc., a set of detailed plans (including a site plan in compliance with various Sections of the Town of Southern Pines UDO) will be necessary. Planning staff recommend a staff consultation of the applicant's preliminary plans to provide comprehensive remarks by all appropriate Town departments/divisions. Such staff consultation should "...minimize development costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements..." per *Section 50 Staff Consultation Before Formal Application* in the UDO.

If you should have any questions, please contact me at 910-692-4003.

Sincerely,

Kathy K. Blake, AICP
Planner
Town of Southern Pines

KKB:nhs

Cc: Mike Garner, Chief Building Inspector
McDonald Brothers, Inc.
File

9-13-11

CU-03-11

Wish to amend application

Include

LRK 52524 in CUP

request.

Donate to park.

Dabbs Brothers

Waw Mll

MEMORANDUM

To: Reagan Parsons, Town Manager

Via: Bart Nuckols, Planning Director

From: Kathy Blake, Planner

Subject: CU-03-11 Timber Ridge, Dabbs Brothers, 1640 Indiana Ave., 8 Lot Structurally Integrated Subdivision, Conditional Use Permit (CUP)

Date: November 9, 2011

CU-03-11 Timber Ridge, Dabbs Brothers, 1640 Indiana Ave., 8 Lot Subdivision, Conditional Use Permit (CUP)

At the September 13th Town Council meeting a public hearing was held. The applicant amended his application to include LRK 52524 (approximately 1 acre) for donation to the Town for park use. Town Council voted to approve the amended CU-03-11 with the condition that there is a 10 foot landscape/screening buffer along the rear of the existing lot of LRK 52523 (approximately 2.89 acres).

Attachments:

Town Council and Planning Board memos
RLUAC letter

UDO, Article XIV, Streets and Sidewalks, Section 214 Coordination of Surrounding Streets (d):

Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. However, the permit issuing authority may waive the requirement to develop the street when the right-of-way is extended, if it is determined that the development of such street is not practicable. In addition, the permit issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this Sub-section, no temporary dead-end street or cul-de-sac in excess of 1,000 feet may be created unless no other practicable alternative is available.

MINUTES

Regular Business Meeting of the Southern Pines Town Council November 9, 2011, 7:00 PM, Community Room – Southern Pines Police Department 450 W. Pennsylvania Avenue

Present: Mayor Mike Haney, Mayor Pro Tem Mike Fields, Councilmember Fred Walden, Councilmember Chris Smithson, Councilmember David McNeill

Absent: None

Call To Order

1. Manager's Comments

Town Manager Parsons gave an overview of the items on the Consent Agenda.

2. Consent Agenda

- A. Adopt Worksession Meeting Minutes of September 26, 2011, Agenda Meeting Minutes of October 5, 2011, and Regular Business Meeting Minutes of October 11, 2011 as written.
- B. Board Appointments
 - Library Advisory Board
 - David Carpenter 1/1/2012 – 12/31/2014 (3 year term)
 - Janice Reagan 1/1/2012 – 12/31/2014 (3 year term)
- C. Resolution for State Designation of Southern Pines Urban Progress Zone
- D. Approval of Temporary Construction Easement between NC Department of Transportation and the Town of Southern Pines for Morganton Road & U.S. #1 Interchange Project
 - Adoption of a Resolution for A Temporary Construction Easement
- E. Resolution of Support N.C Rural Center Building and Reuse Restoration Grant

Upon motion by Mayor Pro Tem Fields, seconded by Councilmember Walden and carried unanimously, the Consent Agenda was adopted.

3. Architectural Reviews

- A. AR-16-11 Southern Pines Village (Building 300, Building 400, Building 500, Inline Buildings and Hobby Lobby), Keith Thompson, Petitioner.
The location of the site is 110 Brucewood Road. The parcel is also identified as PIN 857100470448 and LRK 20070073.

Bob Koontz, Hobbs Upchurch presented Council with copies of modified architecture elevation renderings.

Blaine East gave an overview of the proposed modifications and a modified site plan.

A motion was made by Councilmember McNeill to approve AR-16-11 Southern Pines Village (Building 300, Building 400, Building 500, Inline Buildings and Hobby Lobby) as revised November 7, 2011. Motion was seconded by Councilmember Walden.

Mayor Haney commented he appreciates the response to the issues.

Councilmember Smithson commented it seems significant effort has been made to justify not following the Long Range Plan and getting around its recommendations. Discussion continued regarding following recommendations of the Long Range Plan.

Town Manager Parsons commented there is a valid protest petition which will require a 4/5 vote to accept the application and change the zoning on the property.

The vote was called as follows:

Mayor Pro Tem Fields: Aye
Councilmember Walden: Aye
Councilmember Smithson: No
Councilmember McNeill: Aye
Mayor Haney: Aye

Motion carries.

5. Public Hearings

A. Z-02-11 from RS-2 to RS-1-CD at 1640 E. Indiana Ave., Warren Dabbs - Petitioner

This is an amended request to rezone the property at 1640 E. Indiana Ave. from Residential Single-Family-2 (RS-2) to Residential Single-Family-1-Conditional District (RS-1-CD) conditioned upon a maximum of eight (8) single-family lots. The property is identified as PIN 858119501314 and is also known as LRK# 52523. Moore County Tax records list the property owner as McDonald Brothers, Inc. The property is 2.89 acres and is located on the west side of E. Indiana Ave. with approximately 440 feet of road frontage. Located at the intersection of Canterbury Rd., this parcel is described as between S. Bethesda Rd. and Canterbury Rd.

Town Manager Parsons commented this item is brought forth due to an incorrect posting date from the last public hearing notification.

Planner Kathy Blake gave an overview of the proposed rezoning request.

Jim Crawford, 160 Broadmeade Drive commented as Chairman of the Sandhurst West Building Committee and on their behalf, they are opposed to the proposed development due to the development not being in harmony or in compliance with the Long Range Plan. Mr. Crawford gave an overview of the covenants of Section 5 of Sandhurst West.

Mr. Crawford spoke regarding harmony and compliance of the Long Range Plan in regards to lot acreage and allotted square footage. Mr. Crawford spoke regarding policies P-N.01 and P-N.02 of the Long Range Plan and commented he has reviewed the plan and there is nothing that encourages changing the zoning codes to permit increased density in existing neighborhoods. Mr. Crawford challenged Council and Town staff to show him otherwise.

Mr. Crawford commented a portion of the proposed development is Lot 17 of the Sandhurst subdivision and referenced a plat plan depicting Lot 17 as presented to Council. Mr. Crawford continued by commenting the lot is protected under restricted covenants dated November 30, 1963 and the deed is restrictive on what can be put on the property.

Mr. Crawford commented due to the proposed development not being in harmony with the surrounding neighborhood, not being in conformity with the Long Range Plan and the restrictive covenants restricting developing the property as proposed, Council has an obligation to reject the rezoning request.

Town Manager Parsons commented a valid protest petition has been filed and any change in zoning will require a 4/5 vote of Council.

Renee Leflore, 102 Canterbury Road, commented this is not in harmony with the neighborhood at all. Ms. Leflore continued by commenting they can't get anyone on record to say this will devalue their property and any real estate agent will say that it will.

Ms. Leflore continued by commenting she thinks this will be an eyesore and it is not appropriate on Indiana Avenue.

Christina Antal, 111 Canterbury Road, commented the proposed rezoning doesn't fit anything on Indiana Avenue and there is no precedence for putting close-knit housing in the area. Ms. Antal commented she questions the ingress/egress of traffic flow and commented more unplanned congestion is not needed

Ms. Antal inquired how the utility infrastructure is to be handled and commented a retention basin causes a lot of concern for the neighbors and they don't need a cesspool near their homes. We are not against change or increased density if done in an educated manner and this deviates from the character of Indiana Avenue and the Sandhurst area. We are very opposed to the requested rezoning.

Mark Parson gave an overview of the rezoning request and commented as it is currently zoned, they can have three homes on 1.2 acres. Mr. Parson continued by commenting they are requesting the same amount of houses for construction but with the benefit of the land donated to the park.

Jim Crawford commented the neighborhood doesn't want to hear threats on what can be done because what is legal can be legally done and they have no problem with the developer doing anything that is currently zoned for. Mr. Crawford commented they don't like the proposal and don't have a problem with the developer legally doing what is on the existing standards.

Mr. Crawford continued by commenting the 1.2 acre donation to the park is good but none of the neighbors want the park expanded and don't want the park opened to Indiana Avenue.

Brandon Dabbs, Dabbs Brothers, commented it is not a threat of what can be done and they are trying to add the same number of homes of the two properties onto the existing tract and donate 1.2 acres to the park. Mr. Dabbs commented NCDOT has conducted traffic studies and approved the traffic flow that will be created by the development.

A motion was made by Councilmember Walden to close the Public Hearing. Motion was seconded by Councilmember Smithson.

Brief discussion ensued regarding opening the conditional use public hearing.

The vote was called as follows:

Mayor Pro Tem Fields: Aye
Councilmember Walden: Aye
Councilmember Smithson: Aye
Councilmember McNeill: Aye
Mayor Haney: Aye

Motion carries.

Mayor Haney suggested opening the public hearing for CU-03-11 before any action is taken on Z-02-11. Council agreed.

B. CU-03-11 Dabbs Subdivision - CUP

This is a request for a Conditional Use Permit to subdivide the 2.89 acre tract on the west side of E. Indiana Ave. between Bethesda Rd. and Canterbury Rd. into eight (8) single-family lots as a structurally integrated subdivision per the UDO. It is identified as PIN 858119501314 and PIN 858118409715 and as LRK 52523 and LRK 52524. Representing Dabbs Brothers, LLC, Warren Dabbs is the Petitioner. The property owner is listed as McDonald Brothers, Inc.

Town Manager Parsons commented no action should be taken on the requested conditional use permit unless Z-02-11 is approved with a minimum of 4 votes.

Planner Kathy Blake was sworn in and gave an overview of the proposed request.

Discussion ensued regarding landscaping buffer requirements.

Jim Crawford, 160 Broadmeade Drive, was sworn in and commented he can assure that eight homes as a homeowners association, will not support the maintenance of the proposed development. Mr. Crawford spoke regarding common ground to the properties and commented the developer has not researched the deeds.

Mayor Haney inquired the intent of the 10' landscape buffer. Mark Parson was sworn in and stated his idea was to use native materials such as wax myrtles. Mayor Haney inquired if there is intent for installation in the 10' buffer. Mr. Parson responded in the affirmative.

Mr. Parson commented the whole idea is to make this an attractive site with fewer invasions on natural environment and gave an overview of the topography map.

Town Manager Parsons commented if factual items were introduced during the rezoning hearing, they will need to be entered into record for the conditional use permit hearing.

Mr. Crawford commented there is no 10' buffer in addition to the 30' buffer. There is only one 30' buffer and the 10' buffer is within it.

Councilmember Smithson commented Mr. Crawford's comments in the previous public hearing may need to be restated in the quasi-judicial hearing to be taken into account. Town Manager Parsons inquired if Mr. Crawford could submit his comments in writing as part of the record for the quasi-judicial hearing. Town Attorney Doug Gill responded in the affirmative and commented if he has been sworn to the truth of the statements.

Councilmember Smithson inquired if action taken by Council would not override the deed restrictions. Town Attorney Gill responded in the affirmative.

Mr. Crawford commented he is presenting to Council the objections to the proposed zoning request with a copy of the covenants to Lot 17 and attests to the fact that everything stated concurs with the existing covenants on Sandhurst West and Sandhurst. Mr. Crawford commented he wants the information presented depicting Lot 17 as part of the plot plan to be included in the evidence submitted.

Upon motion by Councilmember Smithson, seconded by Councilmember McNeill and carried unanimously, the Public Hearing was closed.

Discussion ensued regarding Z-02-11. Councilmember Smithson commented if something is done in contradiction to the covenant restrictions, it doesn't allow the developer to do anything. Town Attorney Gill commented the homeowners are left with the ability to enforce the covenants.

Mayor Pro Tem Fields commented the Town does not enforce property covenants. Town Attorney Gill responded in the affirmative.

Mayor Haney commented he doesn't understand what the all the fuss is about and spoke regarding structurally integrated subdivisions. Mayor Haney commented he is very sensitive to the compatibility of the adjoining neighborhood but doesn't see how the development will hurt neighboring property values.

Councilmember Walden commented with the restrictive deeds, there is no guarantee the development will be built as presented. Brief discussion ensued. Councilmember Walden commented if the development will not be visible due to the landscape screening, he doesn't understand how it will affect any other property.

Mayor Haney inquired if a homeowners association will be adequate to maintain the property. Brandon Dabbs responded by stating the homeowners association for this property will pay for all maintenance on the entire property.

Councilmember Smithson commented the zoning wouldn't be in question if the two properties adjoined one another instead of the gap for the driveway and the Town's ordinances and plans encouraged preservation of open space.

Mayor Pro Tem Fields commented he thinks the rezoning makes sense because the potential number of houses is being reduced from nine to eight while receiving more open space.

Brief discussion ensued regarding the development devaluing properties. Councilmember McNeill commented no evidence was submitted showing property devaluation.

A motion was made by Mayor Pro Tem Fields that the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans and to approve Z-02-11. Motion was seconded by Councilmember McNeill and carried unanimously.

A motion was made by Mayor Pro Tem Fields to find the application to be complete. Motion was seconded by Councilmember Smithson and carried unanimously.

A motion was made by Mayor Pro Tem Fields to find the application to comply with all applicable requirements of the Unified Development Ordinance. Motion was seconded by Councilmember Walden and carried unanimously.

Discussion ensued regarding conditions to be added to the proposed request.

A motion was made by Mayor Pro Tem Fields that if the permit is granted it will be subject to the conditions as stated in the application and the condition that the applicant will not build on the 1.2 acre parcel of land with the LRK #52524 and landscape requirements similar to Section 305 with Class 10 as part of this condition and find these conditions are appropriate due to no determination of endangerment to the public health or safety, injury to the value of adjoining property and that the property is in harmony with the surrounding area and that the proposed development will be in general conformity with the land use plan. Motion was seconded by Councilmember Walden.

Town Attorney Gill inquired if the motion included in the condition that the corner property would not be built upon at all, not just by the applicant. Mayor Pro Tem Fields responded in the affirmative.

Councilmember Smithson commented the handwritten amendment states 'donate to park' and inquired if accepting the condition indicates accepting the donation. Town Attorney Gill responded in the negative.

The vote was called as follows:

Mayor Pro Tem Fields: Aye
Councilmember Walden: Aye
Councilmember Smithson: Aye
Councilmember McNeill: Aye
Mayor Haney: Aye

Motion carries.

Brief discussion ensued regarding voting on a motion to approve.

Town Manager Parsons commented Mayor Pro Tem Fields read the language for final action on application in his motion.

C. OA-06-11 – Amend Sections 15, 146 and 164 to include Food Trucks in General Business (GB) Districts, David Talbert, Petitioner

The request is to amend the Unified Development Ordinance, **Article II: Basic Definitions & Interpretations, Section 15 Definitions of Basic Terms** to include retail sales – food truck; **Article X: Permissible Uses, Section 146 Table of Permissible Uses** to include food trucks as a permissible use in the GB districts; and **Article XI: Supplementary Use Regulations, Section 164 Temporary Uses** to include additional requirements for food trucks.

Planner Kathy Blake gave an overview of the proposed amendment.

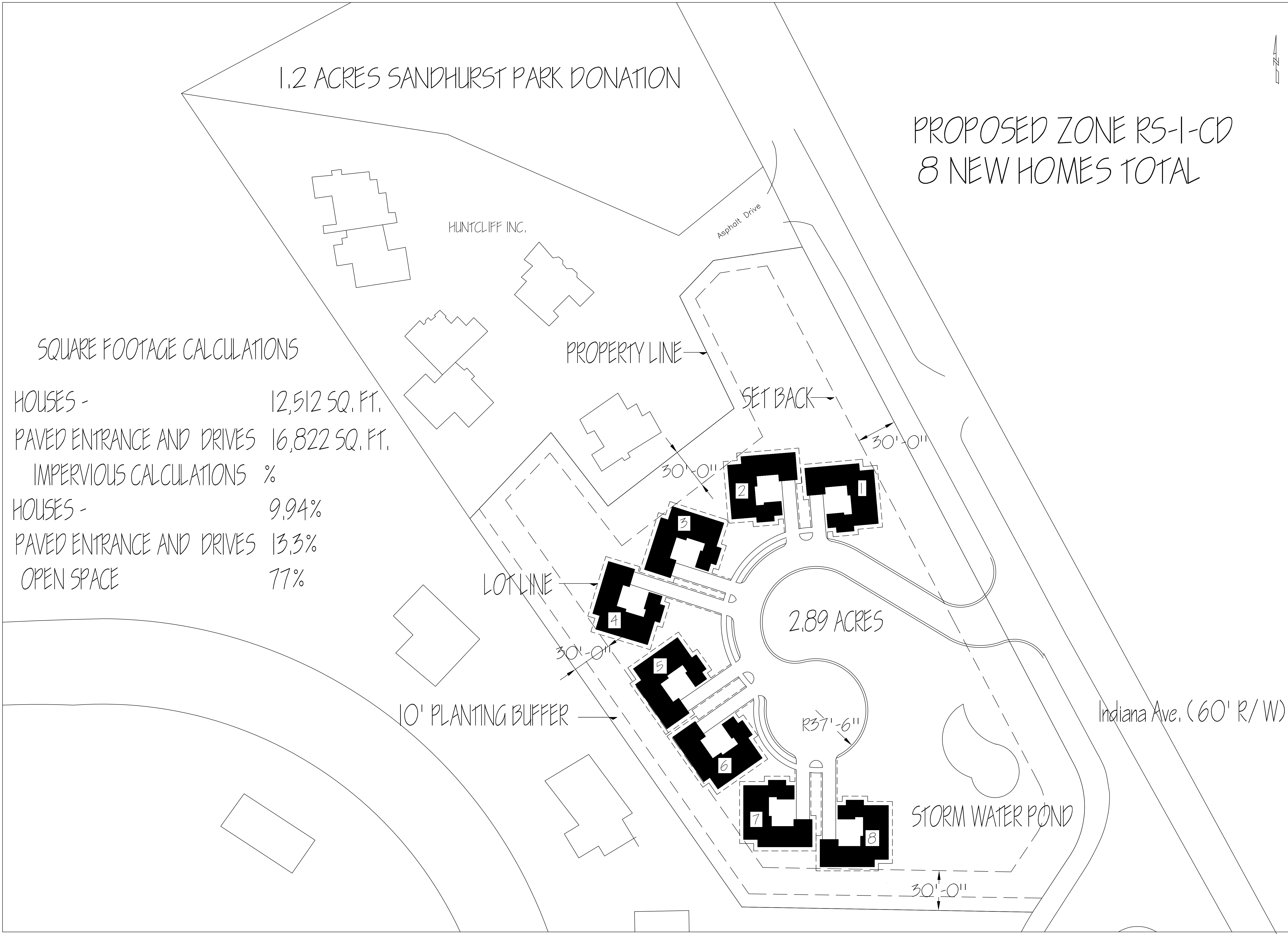
David Talbert, Talbert Catering gave an overview of his business. Mr. Talbert commented when he was notified of possible relocation of his business site, he was directed by staff to submit an amendment for review.

Councilmember Smithson inquired if staff recommended an ordinance amendment for relocating Mr. Talbert's business. Mr. Talbert responded in the affirmative. Councilmember Smithson inquired if staff recommended meeting with Council at a worksession before submitting the amendment. Mr. Talbert responded in the negative.

Greg Zywockinski, 230 Grove Road, commented he is speaking as a citizen and as Chairman of the Appearance Commission and commented they are opposed to food trucks. Mr. Zywockinski commented the Appearance Commission is not opposed to food trucks during special Town events, but are opposed for daily operation in the General Business District or anywhere else in Town.

Mr. Zywockinski continued by commenting he is approaching this from an appearance standpoint and thinks this has the potential for disaster. Mr. Zywockinski commented he thinks of Myrtle Beach when he considers the possibilities and there are practically no standards for this and the Appearance Commission is strongly opposed.

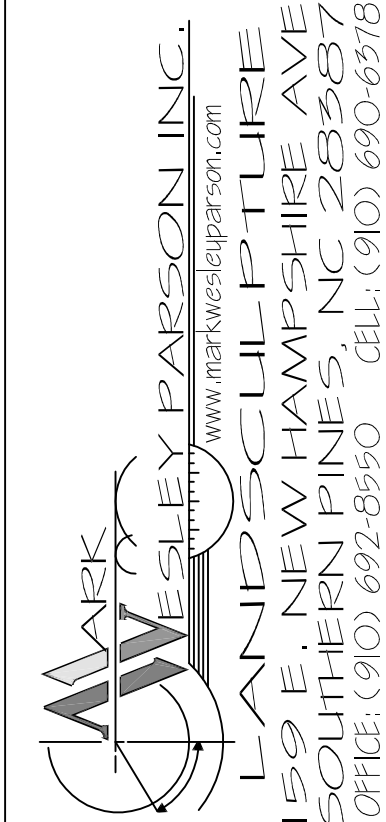
Councilmember Walden inquired how long Mr. Talbert's business has been at its current location. Mr. Talbert responded by stating he has been at his location for 10 years. Councilmember Walden inquired if Mr. Talbert has had any complaints in the 10 years. Mr. Talbert responded in the negative.



SQUARE FOOTAGE CALCULATIONS

HOUSES -	12,512 SQ. FT.
PAVED ENTRANCE AND DRIVES	16,822 SQ. FT.
IMPERVIOUS CALCULATIONS %	
HOUSES -	9.94%
PAVED ENTRANCE AND DRIVES	13.3%
OPEN SPACE	77%

PROPOSED ZONE RS-1-CD
8 NEW HOMES TOTAL



SCALE 1"=100'

CREATED: 11-9-11

CONCEPTUAL /
SITE PLAN
TIMBER RIDGE
1640 E INDIANA AVE
SOUTHERN PINES N.C.

SHEET C-2



HUNTCLIFF TRACT

SOUTHERN PINES, NORTH CAROLINA
PLANNING BOARD MEETING – CONDITIONAL RE-ZONING
FEBRUARY 20, 2025

PREPARED FOR:
FIFTEEN PINECONES, LLC

PREPARED BY:
LONGITUDE
planning group



ARCHITECTURAL CHARACTER

CLARKE PHIFER, PLLC
ATTORNEYS AT LAW

M. JAMES CLARKE, II*
H. CRAIG PHIFER, III
STANLEY W. WEST
MARK D. VAUGHN
VICTORIA P. BRENNER
JAMES E. MCNEILL

135 APPECROSS ROAD
PINEHURST, NORTH CAROLINA 28374

TEL: (910) 692-5100
FAX: (910) 692-2259

SPENSER MCNEILL COMBS
ELINOR MARSALISI RIEFKOHL

February 27, 2025

* OF COUNSEL

Southern Pines Planning Department

Re: FIFTEEN PINECONES, LLC: Huntcliff Planning and Zoning Request

Greetings:

We have acted as counsel to FIFTEEN PINECONES, LLC ("Owner") and RYAN W. PASCHAL, Manager of Owner ("Manager") in connection with purchase, ownership, and proposed development of certain real property (parcels within Huntcliff) located off East Indiana Avenue in Southern Pines.

For purposes of the opinions contained in this letter, we have examined and reviewed the following documents:

1. A Preliminary Site Plan for Huntcliff prepared by Longitude Planning Group, originally dated 2024-12-09 (hereinafter the "site plan");
2. Plat Cabinet 2, Slide 124, "Phase One and Two-Preliminary-Huntcliff" and Plat Cabinet 2, Slide 242, "Huntcliff Phase One, Section One" in the Moore County Register of Deeds (hereinafter the "plats");
3. Declaration of Covenants, Conditions and Restrictions for Huntcliff recorded in Deed Book 472, Page 982 as Amended and Restated in Book 489, Page 338, both in the Moore County Register of Deeds (hereinafter the "Declaration");
4. Moore County Tax records and GIS maps for parcels 00050816 (Huntcliff Common Area) and 00052524 and 00052523 (Owner's Parcels) (together the "parcels"); and,
5. All recorded deeds in the chain of title for all parcels.

For purposes of this letter, the site plan, plats, Declaration, parcels, and deeds are collectively referred to as the "Real Estate Documents."

We have examined originals or public record copies identified to our satisfaction, of the Real Estate Documents and other North Carolina Public Records pursuant to which the Owner exists and has record title to the owner's parcels.

Based upon and subject to the foregoing and to the qualifications, limitations, exceptions and assumptions, if any, set forth below, we are of the opinion that:

1. The Owner is a limited liability company duly formed, validly existing in North Carolina and duly authorized to do business in the State of North Carolina.
2. The Owner has the requisite authority to own the owner's parcels and to request the Zoning change for the owner's parcels as set forth in the application currently before the Town of Southern Pines Planning Board.
3. The Declaration applies to all real estate within the original description of the Huntcliff plats and the grant deed to Huntcliff, Inc.. Construction within Huntcliff is subject approval of Huntcliff Association, Inc. or its Architectural Committee. There are no defined Architectural Standards in the Declaration.
4. The plats and the Declaration provide recorded easements for access, ingress, and egress to all owners of real estate within the original Huntcliff plats.
5. The easements run with the land and are binding on all owners of real property derived from the original grant deed to Huntcliff, Inc. and located within the original Huntcliff plats.
6. Access to Huntcliff is equally available to all record owners of platted Huntcliff real property and is non-exclusive.

The opinions expressed in this letter are provided to the Planning Board at the request of the owner and our written opinions are presented for the benefit of the owner as its advocates and legal counsel.

We are attorneys licensed to practice in the State of North Carolina, and our opinions are limited to matters involving the laws of the State of North Carolina.

Very Truly Yours,
Clarke Phifer, PLLC



H. Craig Phifer, III

489 338

FILED
BOOK 489 PAGE 338

AMENDMENT AND RESTATEMENT OF
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR HUNTCLIFF
MAY 28 3 17 PM '82
GRIER GILMORE
REGISTER OF DEEDS
MOORE COUNTY, N.C.

THIS AMENDMENT AND RESTATEMENT OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HUNTCLIFF (hereinafter referred to as "Declaration") made this 27th day of May, 1982, by HUNTCLIFF, INC., a North Carolina Corporation with its principal office in Southern Pines, Moore County, North Carolina, (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property located in the Town of Southern Pines, Sandhills Township, Moore County, North Carolina, which is more particularly described on Exhibit A attached hereto and made a part hereof by incorporation; and

WHEREAS, Declarant caused to be filed in the Office of the Moore County Register of Deeds a certain Declaration of Covenants, Conditions and Restrictions for Huntcliff which were duly recorded in Deed Book 472, page 982; and

WHEREAS, Declarant is the owner of the properties, exercises more than ninety (90%) percent of the total votes of The Huntcliff Association, Inc., and desires to amend and restate the covenants, conditions and restrictions pursuant to Article XIII, Section 3 of the original Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the title to the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, and their heirs, executors, administrators, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to The Huntcliff Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, but excluding any of those persons, firms or corporations having such interest merely as security for the performance of an obligation such as mortgagees and trustees on deeds of trust.

Section 3. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. Declarant shall convey to the Association the Common Area surrounding the lots in a

PREPARED BY:
J. STEPHEN GAYDON, III
ATTORNEY AT LAW
400 W. PENNSYLVANIA AVE.
SOUTHERN PINES, N.C.

given section at or prior to the time of the conveyance of the first lot in a section, which said Common Area shall be conveyed free and clear of the liens of any mortgages or deeds of trust.

Section 5. "Lot" or "Unit" shall mean and refer to any surveyed plot of land shown upon any recorded subdivision map of the Properties including any amendments or revisions thereto and any additions made pursuant to Section 4 of Article XIII, with the exceptions of the Common Area. It is understood that within the Properties and on the Lots there will be constructed single-family attached and unattached townhouses. A single-family attached townhouse is defined to mean a Lot which contains or is designated so as to contain a single-family dwelling connected on one side by means of a common dividing structural or load-bearing wall or other single-family dwelling with each said dwelling unit to be on its own individual Lot, and with the said Lots and Lot Owners to share common party walls with the said party walls to be deemed to extend to the tops of the roofs, whether physically present or not. A single-family unattached unit is defined to mean a Lot which contains or is designated so as to contain a single-family dwelling which is not connected to another single-family dwelling in any manner.

Section 6. "Declarant" shall mean to refer to Huntcliff, Inc., its successors and assigns pursuant to a duly recorded instrument specifically conveying its interest as Declarant.

Section 7. "Phase" shall mean an artificial division of the properties.

Section 8. "Section" shall mean an artificial division of a Phase.

Section 9. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' easements of enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be in common with all other Owners, and which shall be appurtenant to and which shall pass with the title to every Lot, subject to the following provisions:

(a) The rights of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and the right to the use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument or instruments signed by the Owners having

at least seventy-five (75%) percent of the total votes determined in accordance with Article III hereof, agreeing to such dedication or transfer has been recorded as a matter of public record.

(d) The right of the Association, with the written assent of Owners having seventy-five (75%) percent of the total votes as determined in accordance with Article III hereof to borrow money and to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

(e) The right of the Association to assess the members for repair, maintenance, improvements, and insurance as hereinafter set out.

Section 2. Delegation of use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or guests, who reside on the property temporarily or permanently.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership as follows:

(a) Class A. Class A members shall be all Owners (with the exception of the Declarant during such time as the Declarant is a Class B member) and shall be entitled to one vote for each Lot owned. When more than one person, firm or corporation holds a fee simple interest of record in a Lot, all such persons, firms or corporations shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) Class B. The Class B members shall be Declarant and shall be entitled to four votes for each Lot owned. Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(1) When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or

(2) On December 31, 1988.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the lien and personal obligation of assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments,

together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties, and in particular for the acquisition, improvement, and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and of the single-family attached and unattached Lots or townhouses situated upon the Properties, including but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials management and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance on the townhouse and Common Areas, in accordance with this Declaration and the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Annual assessment. Until January 1, 1983 (and every year thereafter unless modified pursuant to this section), the annual assessment shall be \$540.00 per year (\$45.00 per month).

(a) From and after January 1, 1983, the annual assessment may be increased by not more than twenty (20%) percent for any given year above the annual assessment for the previous years by action of the Board of Directors of the Association.

(b) From and after January 1, 1983, the annual assessment may be increased above twenty (20%) percent by the affirmative vote of two-thirds (2/3) of the members of each class, voting as a class, who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special assessments for capital improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall be approved by the affirmative vote of Owners having two-thirds (2/3) of the votes of each class of membership of the Association, voting as a class, cast in person or by proxy at a meeting of the members duly called.

Section 5. Notice and quorum for any action authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all

members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform rate of assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, or annual basis according to the decision of the Board of Directors of the said Association.

Section 7. Date of commencement and annual assessments; due dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Areas to the Association, except that annual assessments upon any Lot owned by the Declarant shall commence on the first day of the month following such time as the Declarant places a tenant or prospective Owner in possession of the townhouse on such Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The annual assessment after the first year, shall become due on the first day of January of said year, but will be payable in advance in installments of one-twelfth (1/12) of the annual assessment on the first day of January and on the first day of each succeeding eleven (11) months. The Association shall, upon demand of an Owner, prospective owner, lot mortgagee, or their legal representative and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. In setting the annual assessment, the Board of Directors shall take into consideration any accumulation of unspent reserves from the preceding year, and shall adjust the annual assessment accordingly, if applicable, and any accumulated and unspent reserves whether for annual or special assessments shall not be deemed to be retained earnings for income tax purposes, and the Association shall be in all respects a non-profit corporation.

Section 8. Effect of nonpayment of assessments; remedies of the Association. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of twelve (12%) percent per annum until paid. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of deeds of trust, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability

for the assessment provided for herein by non-use of the Common Area, abandonment of his Lot, nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

Section 9. Subordination of the Assessment to first mortgages. The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust made in good faith for value, provided all assessments have been paid and current at the time of the placement of such first mortgage or deed of trust, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such property pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment.

Section 10. Exempt property. All property dedicated to and accepted by a local public authority, all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina (with the exception of all Lots) and the Common Area shall be exempt from the assessments created herein.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three or more representatives appointed by the Board. In the event said Board, or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. This Article shall not be applicable to the Declarant.

ARTICLE VI

PARTY WALLS

Section 1. General rules of law to apply. Each wall which is built as a part of the original construction of the townhouses upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of repair and maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who

make use of the wall in proportion to such use.

Section 3. Destruction by fire or other casualty. If a party wall is destroyed or damaged by fire or other casualty, all Owners who have used the wall shall restore it in proportion to their use, and if other Owners thereafter make use of the wall, they shall contribute to the cost of the restoration thereof in proportion to such use, without prejudice, however, to the right of any of such Owners to call for a larger contribution from the other Owners under any rule or rules of law regarding liability or negligence or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner, who may by his negligent or willful act have caused the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right of contribution runs with the land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning the party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII

INSURANCE

Insurance coverage of the Properties shall be governed by the following provisions:

(a) Ownership of policies. All insurance policies upon the Properties including the Common Areas and the individual townhouses or Lots affording the coverage set forth in paragraph (b) of this Article shall be purchased by the Association for the benefit of the Association, the Owners and their mortgagees as their interests may appear, and provisions shall be made for the issuance of certificates of mortgagees endorsements to the mortgagees of Owners. Owners may at their option obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense and such additional coverage as they may desire.

(b) Coverage. All buildings and improvements upon the Properties and all personal property included in the Common Area shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Association with the assistance of the insurance company or companies providing such coverage. Such coverage shall provide protection against:

(1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

(2) Such other risks as from time to time shall be customarily covered with respect to building similar in construction, location, and use as the buildings on the Properties.

Said policies shall contain clauses providing for waiver of subrogation against the individual Owners. Public liability insurance shall be secured by the Association in such amounts and with such coverage as shall be deemed necessary by the Association, including, but not limited to, an endorsement to cover the liability of the Owners as a group to a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.

(c) Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and the amounts thereof shall be collected as part of the assessments against the Lots and Owners thereof according to and in compliance with Article IV as heretofore set out.

(d) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Lot or townhouse Owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustees under this Declaration. The sole duty of the Association as insurance trustees shall be to receive such proceeds as are paid, and to hold the same in trust for the purposes elsewhere stated herein or stated in the By-Laws and for the benefit of the Lot or townhouse Owners and their mortgagees in the following shares:

(1) Proceeds on account of damage to Common Areas--an undivided share for the Owner of each Lot, such share to be based on the total number of Lots in the Properties subject to the jurisdiction of the Association at the time of such damage.

(2) Proceeds on account of damage to townhouses shall be held in the following undivided shares:

(i) When a building is to be restored--for the Owners of a damaged townhouse in proportion to the cost of repairing the damage suffered by each townhouse Owner, which cost shall be determined by the Board of Directors of the Association.

(ii) When a building is not to be restored--an undivided share for each Owner in the proportion which the fair market value of his townhouse and Lot bears to the total fair market value of all of the townhouses and Lots within the building not restored, as determined by the Board of Directors of the Association as of the time immediately prior to the occurrence of the damage.

(3) In the event a mortgagees endorsement has been issued with respect to a townhouse, the share of the townhouse Owner shall be held in trust for the mortgagee and the townhouse Owner as their interests may appear.

ARTICLE VIII

DISTRIBUTION OF INSURANCE PROCEEDS

Proceeds of insurance policies received by the Association as insurance trustees shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Expense of the Trust. All expenses of the insurance trustees shall be first paid or provisions made therefor.

(b) Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners.

(c) Failure to reconstruct or repair. If it is determined, as provided in this Declaration, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners thereof.

ARTICLE IX

DAMAGE AND DESTRUCTION

Except as hereinafter provided, damage to or destruction of a building or townhouse shall be promptly repaired and restored by the Association using the proceeds of insurance on the building for that purpose and all of the Owners in the Association shall be liable for assessment for any difference between the proceeds of insurance and the cost of repair and restoration, the share of each Owner to be based on the total number of Lots in the Properties subject to the jurisdiction of the Association at the time of such damage. In the event that seventy-five (75%) percent or more of a building containing townhouses is destroyed or substantially damaged, and if the Owners having seventy-five (75%) percent or more of the votes of the Association shall vote not to repair and restore such building, then the Association and its Board of Directors shall not be obligated to repair and restore such building.

Any repair or reconstruction shall be made in accordance with the plans and specifications for the original building with such modifications therein as shall be approved by the Board of Directors of the Association.

ARTICLE X

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each single-family attached Lot or Townhouse which is subject to assessment hereunder, as follows: Paint, repair, replace and care for roofs, gutters and downspouts, exterior building surfaces, walks, and other exterior improvements, but not to include maintenance and landscaping of the individual Lots or any glass surface in connection with individual Lots, for which the individual Lot or townhouse Owners shall be responsible. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot or townhouse at all reasonable times to perform maintenance as provided in this Article.

In the event that the need for maintenance, repair, or replacement is caused through the willful or negligent act or omission of the Owner of a Lot, his family, guests, or invitees, and the said maintenance, repair, or replacement is not made within forty-five (45) days thereafter by the said

Owner, then the said Association is authorized to make the necessary maintenance, replacement, or repairs, and the cost of such shall become a part of the assessment to which such Lot is subject.

ARTICLE XI

USE RESTRICTIONS AND OTHER CONDITIONS

Section 1. Land use and building type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one single-family dwelling not to exceed two stories in height.

Section 2. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling, except that dogs, cats, or other domestic household pets may be kept or maintained provided they are not kept or maintained for commercial purposes, that they are not allowed to roam at will and are properly supervised by their owners in accordance with applicable ordinances of the Town of Southern Pines, North Carolina.

Section 4. Outside antennas. No outside radio or television antennas shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the Board of Directors of the Association.

Section 5. Signs. No signs of any kind shall be displayed to the public view on any Lot without the written approval of the Board of Directors of the Association.

Section 6. Declarant's right of ingress and egress. Declarant reserves the right to rent any or all of said townhouses until they are sold, and the Declarant further reserves unto itself and its agents, employees and duly authorized sales personnel, the rights of ingress and egress over and across said Properties for the purpose of construction, renting and showing the same to the prospective renters and purchasers until all of the said proposed Lots are sold. The Declarant further reserves the right to use at least one townhouse as a model for sales and rental purposes at all times until all of the Lots are sold.

Section 7. Conditions and reservations. The Properties or portions thereof are also subject to those certain conditions and reservations which run with the land as follows:

(a) A Declaration of Protective Covenants dated November 30, 1963, made by W. H. Foushee and wife, Lula L. Foushee, recorded in Deed Book 268, page 35, Moore County Registry.

(b) Conditions, reservations and restrictions reserved in a deed dated February 27, 1963, from Alfred C. Grover and wife, Ida H. Grover, et al, to W. H. Foushee and wife, Lula L. Foushee, recorded in Deed Book 263, page 131, Moore County Registry, as amended by instrument recorded in Deed

Book 292, page 110, Moore County Registry.

(c) The Declarant affirmatively states that the foregoing protective covenants, conditions, reservations and restrictions have not been violated by the Declarant in the development of the Properties.

Section 8. Prohibited Vehicles. No vans, recreational vehicles, mobile homes, travel homes, trailers, campers, motorcycles, or other vehicles of a similar nature shall be permanently parked or located on the Common Area. Should emergency or extraordinary circumstances arise, upon application, the Association may in writing approve the parking or locating of the aforementioned vehicles on the Common Area.

Section 9. Plat or map. At the time of or prior to the conveyancing of the first townhouse Lot in a given section, there shall be recorded in the Office of the Register of Deeds of Moore County, North Carolina, a map or plat showing the Lots and Common Area in the section. The map filed in Plat Cabinet II, Slide 124 in the Office of the Register of Deeds of Moore County, North Carolina, shows the approximate location of the proposed Lots and improvements upon the Properties and will not be used to convey the Common Area to the Association or the Lots to prospective Owners.

Section 10. Parking Rights. The Association shall maintain the parking areas immediately adjoining the lots. These parking areas are for the exclusive use of the owners residing in the immediately adjoining Lot, their families and guests. The use of such space by any other owners or persons may be enjoined by the Association or the owners entitled thereto.

ARTICLE XII

EASEMENTS

Easements for installation and maintenance of utilities, drainage facilities, streets, or rights of way, are reserved as shown on plats or maps, and any amendments or revision thereto, or granted by instruments which are recorded or which are to be recorded in the Moore County Registry. Within these easements, no structure, plantings or other materials shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, streets or rights of way, or which may change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

Every portion of a single-family attached Lot or townhouse contributing to the support of any abutting townhouse or townhouses shall be burdened with an easement for support for the benefit of such abutting townhouse or townhouses. Further, all attachments to the exterior walls of a townhouse which are a part thereof, but which protrude beyond the boundaries of any lot, and which were constructed in conformity with the plans and specifications, shall be deemed to be included within said boundaries, and there is hereby reserved an easement to permit the construction of and continued existence of any such protruding attachment.

There is hereby reserved over each Lot and over the Common Area an

easement to permit the construction or reconstruction and continued existence (and access for maintenance) of any protrusion into such Lot or Common Area of a portion of the townhouse or related improvements located on an adjoining Lot and constructed in accordance with the plans and specifications for construction of the townhouses within the Properties.

There is hereby reserved over each Lot and the Common Area an easement for the existence and maintenance of utility pipes or lines for the purpose of providing utility service to a Lot or other Lots,

Every Owner and his guests, family members, invitees, employees, or agents, shall have an easement of egress and ingress over and across all streets or roadways constructed or to be constructed within the Common Area.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendments. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, with the exception of those conditions and reservations set out in Article XI, Section 6. This Declaration may be amended during the first twenty-year period by an instrument signed by the Owners having at least ninety (90%) percent of the total votes in the Association, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect the lien of any deed of trust. Any amendment must be properly recorded in the Office of the Register of Deeds in Carthage, North Carolina.

Section 4. Annexation.

(a) Additional residential property and Common Area may be annexed to the Properties with the consent of the Owners having two-thirds (2/3) of the votes of each class of membership of the Association, voting as a class.

(b) Additions herein authorized shall be made by filing of record one or more supplementary Declarations in respect to the properties to be then subject to this Declaration and which shall extend the jurisdiction of the Association to such property and thereby subject the Lots within such addition to assessment for their just share of the Association's expenses.

Each supplementary Declaration may contain such complementary additions and modifications of the Covenants, Conditions and Restrictions contained herein as may be necessary to accomodate the added properties; provided, however, any such supplemental Declaration or such other Declaration shall not revoke or otherwise amend the provisions of this Declaration as this Declaration pertains to the Properties subjected hereto unless duly authorized by action required for amendments to this Declaration.

Section 5. Gender. Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural shall be substituted for the singular number, in any place herein in which the context requires.

Section 6. Captions. The captions are inserted only as a matter of convenience and for reference and in no way differ, limit or describe the scope of this Declaration nor the intent of any provision hereof.

Section 7. Conflict. It is the express intention of the Declarant that the provisions of this Amendment and Restatement of the Declaration of Covenants, Conditions and Restrictions for Huntcliff shall control over the provisions and terms of the original Declaration of Covenants, Conditions and Restrictions for Huntcliff dated March 26, 1981, and recorded in the Office of the Moore County Register of Deeds in Deed Book 472, page 982.

Section 8. Underground Electric Lines. Declarant reserves the right to subject the Properties to a contract with Carolina Power and Light Company for the installation of underground electrical cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the Owner of each Lot or the Association.

IN WITNESS WHEREOF, Huntcliff, Inc., being the Declarant herein, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

HUNTCLIFF, INC.

By Edward P. [Signature]
Vice President

ATTEST:

J. R. [Signature]
Secretary

800 489 351

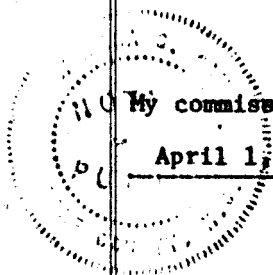
STATE OF NORTH CAROLINA

COUNTY OF MOORE

I, a Notary Public of the County and State aforesaid, certify that J. R. McCrimmon personally came before me this day and acknowledged that he is Secretary of Huntcliff, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official seal, this 27th day of May, 1982.

Barbara S. Gay
Notary Public



My commission expires:

April 1, 1985

NORTH CAROLINA - MOORE COUNTY
The foregoing (or annexed) certificate of
Barbara S. Gay Notary Public
Moore COUNTY
STATE OF N. C. is certified to be
correct. This May 28, 19 82
Grier Gilmore

Mary R. Thayer Assistant

PREPARED BY:
J. STEPHEN GAYDICA, III
ATTORNEY AT LAW
230 W. PENNSYLVANIA AVE.
SOUTHERN PINES, N.C.

-14-

EXHIBIT "A"

Doc. 489 Pl. 352

A certain tract or parcel of land lying and being in Sandhill Township, Moore County, North Carolina, and more particularly described as follows:

Parcel No. One: Lot No. 17 as shown and designated upon a map entitled "Property of W. H. Fouchee, Sandhill Township, Moore County, North Carolina" dated September 24, 1963 and made by C. H. Blue, Registered Land Surveyor and recorded in the Office of the Moore County Register of Deeds.

Parcel No. Two: Beginning at a stake the northeast corner of Lot No. 17 as shown and designated upon a map entitled "Property of W. H. Fouchee, Sandhill Township, Moore County, North Carolina" made September 24, 1963, by C. H. Blue, Registered Land Surveyor recorded in Map Book 7, page 66, Moore County Registry, running thence South 62° 18' West 285.35 feet to an iron stake the southwest corner of Lot No. 17 running thence North 34° 59' West 630.74 feet to an iron stake, thence north 62° 26' E 365.33 feet to an iron stake in the west line of Indiana Avenue; thence S 27° 42' East 625.21 feet to the point of beginning.

Doc. 472 Pl. 933

Agenda Item

To: Reagan Parsons, Town Manager
From: Alaina Mallette, Senior Planner
Via: BJ Grieve, Planning Director
Subject: RD-01-25: Petition for Acceptance of a Portion of Southern Road
Date: March 11, 2025

I. SUMMARY OF APPLICATION REQUEST

MSP Retail II, LLC, is offering road improvements and right of way identified as the extension of Southern Road for dedication to the Town of Southern Pines for ownership and perpetual maintenance.

II. STAFF COMMENTS

Legal property owner MSP Retail II, LLC, has submitted a Petition for Acceptance of the extension of Southern Road. A copy of the Petition for Acceptance is attached to this memo (see Attachment 1). Pursuant to §100.21 of the Code of Ordinances of the Town of Southern Pines, in order for a street in the Town of Southern Pines to be offered for dedication to the public, the street must be shown on a plat and submitted to the Town for approval.

A plat entitled “Minor Subdivision for MSP Retail II, LLC, Lot 2 – 12.92 acres, Lot 3 – 2.36 Acres, Lot 4 – 0.92 Acres, Lot 5 – 0.41 Acres, and Right-of-Way for Southern Road” showing the right of way for the extension of Southern Road was recorded on February 25, 2025, in Plat Cabinet 20, Page 662. A copy of the recorded plat is attached to this memo (see Attachment 2). The Town Engineer and Planning Director have inspected and approved construction of all required portions of the extension of Southern Road, including street surfaces, curbs, sidewalks, streetlights, and landscaping. The Petitioner has submitted two warranties for a period of 1 year for any potential defects to Southern Road or its associated utilities (see Attachment 3).

Staff has prepared a resolution accepting the offer of dedication for Town Council’s consideration. A copy of the resolution prepared by staff is attached to this memo (see Attachment 4).

Figure 1: Vicinity and Zoning Map with Approx. Extension of Southern Road (in yellow)

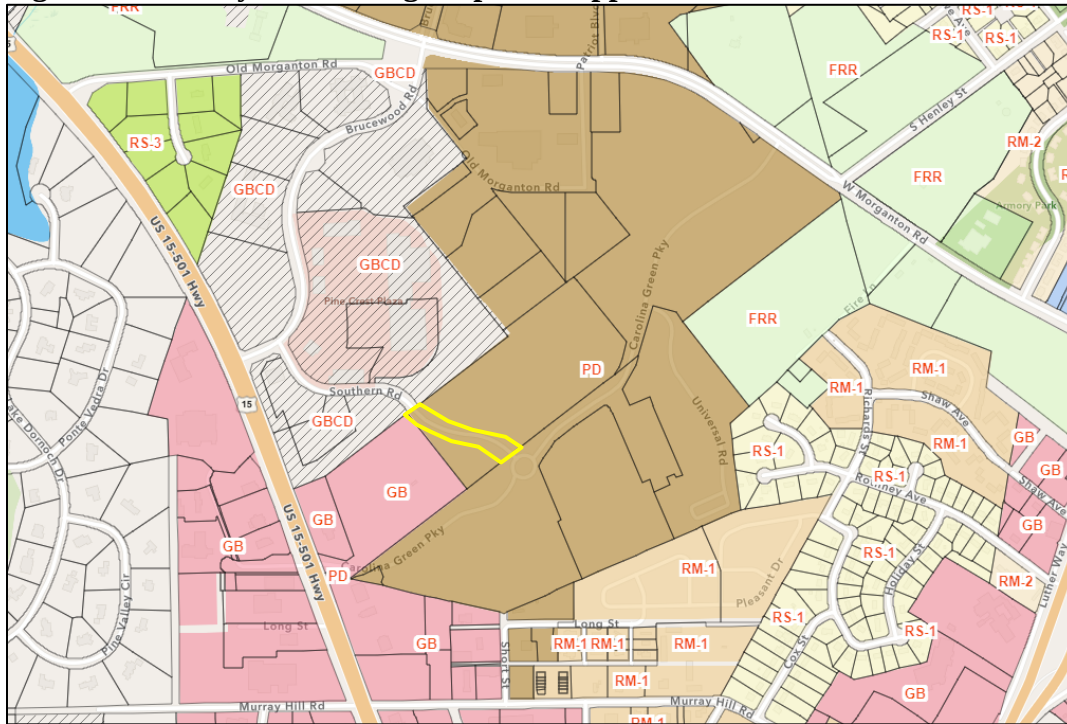


Figure 2: Extension of Southern Road (Looking Westward) – January 2, 2025



III. ATTACHMENTS

1. Petition for Acceptance of Southern Road
2. Minor Subdivision Plat
3. Developer's 1-Year Warranties
4. Draft Resolution Accepting Offer of Dedication

IV. TOWN COUNCIL ACTION

In accordance with GS §160D-806, the Town Council must approve by Resolution any offer of dedication that is within its subdivision-regulation jurisdiction. The Town Council shall vote on whether the offer of dedication complies with Town Code of Ordinances §100.20-100.27. The Town Council may choose one of the following motions or any alternative they wish.

I move to:

- 1. Approve the Resolution Accepting Offer of Dedication RD-01-25 for the extension of Southern Road;**
2. Deny the Resolution Accepting Offer of Dedication RD-01-25 for Southern Road;
or
3. take some other action.

MSP RETAIL II, LLC
a Delaware limited liability company

“Petitioner”

THE TOWN OF SOUTHERN PINES
a North Carolina municipal corporation

“Town”

**PETITION FOR ACCEPTANCE OF
SOUTHERN ROAD INTO THE
TOWN OF SOUTHERN PINES’
STREET MAINTENANCE
PROGRAM**

Petitioner, MSP Retail II, LLC, a Delaware limited liability company has constructed Southern Road over land that is owned in fee title by Petitioner giving Petitioner the right to construct Southern Road and dedicate such Southern Road to the Town. All of the parties that own fee title to the land comprising the newly constructed Southern Road have executed that certain Minor Subdivision for MSP Retail II, LLC recorded February 25, 2025 in Plat Cabinet/Book 20, Slide/Page 662 of the Moore County Register of Deeds which is attached hereto as Exhibit A (the “Plat”). Petitioner has constructed Southern Road in connection with a new retail development adjacent to Southern Road. Petitioner has recorded the Plat showing the location of Southern Road as a public right of way to connect the existing portion of Southern Road to Carolina Green Parkway. Pursuant to the Town of Southern Pines Unified Development Ordinance (UDO) Section 4.11.14(A) the recording of a plat with streets or rights of way listed as public shall constitute an offer of dedication of such streets or rights of way. In furtherance thereof, Petitioner herewith confirms the offer of dedication of Southern Road pursuant to the Plat which is attached hereto as Exhibit A. Petitioner herewith petitions the Town to accept the dedication of Southern Road.

In support of the petition and pursuant to Section 100.20-27 of the Town’s Code of Ordinances, Petitioner represents to the Town the following:

1. That Petitioner owns or has easements on the portions of land over which Southern Road exists and the completed Southern Road is, pursuant to the Plat and herewith, being offered for dedication to the Town, and as such, Petitioner has the legal right to offer this Petition;

2. That Southern Road as shown on the Plat has been constructed by Petitioner to the Town's construction standards and the Town's Public Works Department has confirmed same; and

3. That there are no liens of any nature against any of the rights of way or streets comprising Southern Road, except for those that will be paid off and released as part of the dedication and acceptance of Southern Road.

WHEREFORE, Petitioner respectfully requests the Town to (1) accept Southern Road within the public right of way as shown on the Plat and (2) upon such acceptance, to thereafter maintain the streets comprising Southern Road.

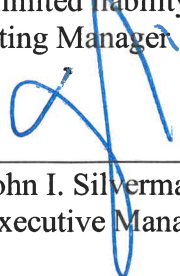
This the 26th day of February, 2025.

PETITIONER:

MSP RETAIL II, LLC
a Delaware limited liability company

By: Midland Southern Pines Venture Partners,
LLC
a Delaware limited liability company
its Sole Member

By: MAP Pine Ridge, LLC
an Ohio limited liability company
its Operating Manager

By: 

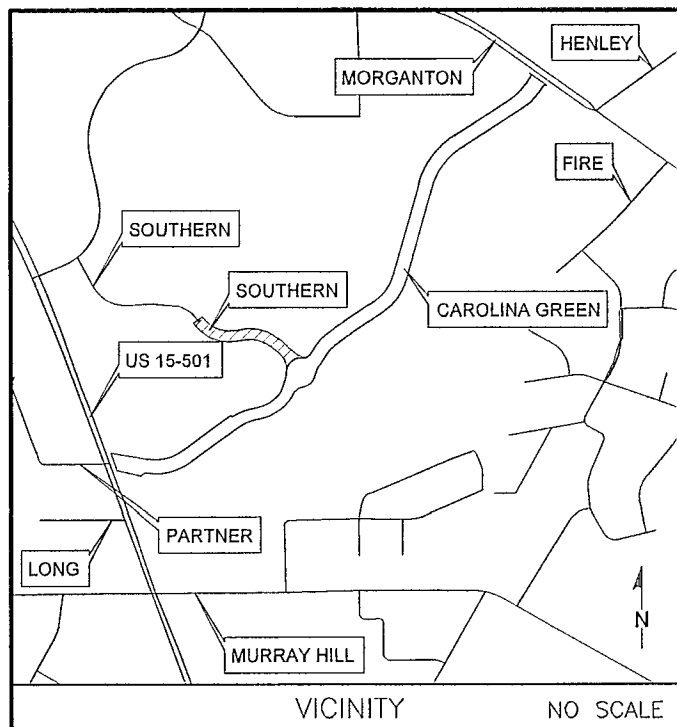
John I. Silverman
Executive Manager

EXHIBIT A

The Plat

[see attached]

0102939.0739970 4887-3996-4613v4



TITLE REFERENCE:
PARID 20230956
DEED BOOK 6112, PAGE 408
PLAT BOOK 20, PAGE 108
MOORE COUNTY REGISTRY

OWNER:
MSP RETAIL II, LLC
8044 MONTGOMERY ROAD, SUITE 370
CINCINNATI, OH 45236

SITE DATA:
LEGAL DESCRIPTION: LOT 2
JURISDICTION: SOUTHERN PINES
ADDRESS: SOUTHERN ROAD
ZONING: PD (PLANNED DEVELOPMENT)
TOTAL SITE ACREAGE: 17.78 ACRES
TOTAL LOT ACREAGE: 16.61 ACRES
TOTAL RIGHT-OF-WAY: 1.17 ACRES

SURVEYOR:
ROBERTO RODRIGUEZ, JR., PLS
LICENSE NO. L-5428
140 AQUA SHED COURT
ABERDEEN, NC 28315
910-420-1437

CERTIFICATE OF APPROVAL

I HEREBY CERTIFY THAT ALL STREETS SHOWN ON THIS PLAT ARE WITHIN THE TOWN OF SOUTHERN PINES PLANNING JURISDICTION, ALL STREETS AND OTHER IMPROVEMENTS SHOWN ON THIS PLAT HAVE BEEN INSTALLED OR COMPLETED OR THAT THEIR INSTALLATION OR COMPLETION (WITHIN TWELVE MONTHS AFTER THE DATE BELOW) HAS BEEN ASSURED BY THE POSTING OF A PERFORMANCE BOND OR OTHER SUFFICIENT SURETY, AND THAT THE SUBDIVISION SHOWN ON THIS PLAT IS IN ALL RESPECTS IN COMPLIANCE WITH THE SOUTHERN PINES TOWN UNIFIED DEVELOPMENT ORDINANCE, AND THEREFORE THIS PLAT HAS BEEN APPROVED BY THE SOUTHERN PINES PLANNING DIRECTOR, SUBJECT TO ITS BEING RECORDED IN THE MOORE COUNTY REGISTRY WITHIN SIXTY DAYS OF THE DATE OF THIS PLAT.

2/25/2025

DATE PLANNING DIRECTOR

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY DESCRIBED HEREON, WHICH PROPERTY IS LOCATED WITHIN THE SUBDIVISION REGULATION JURISDICTION OF THE TOWN OF SOUTHERN PINES, THAT I HEREBY FREELY ADOPT THIS PLAT OF SUBDIVISION AND DEDICATE TO PUBLIC USE ALL AREAS SHOWN ON THIS PLAT AS STREETS, ALLEYS, WALKS, PARKS, OPEN SPACE AND EASEMENTS, EXCEPT THOSE SPECIFICALLY INDICATED AS PRIVATE AND THAT I WILL MAINTAIN ALL SUCH AREAS UNTIL THE OFFER OF DEDICATION IS ACCEPTED BY THE APPROPRIATE PUBLIC AUTHORITY. ALL PROPERTY SHOWN ON THIS PLAT AS DEDICATED FOR A PUBLIC USE SHALL BE DEEMED TO BE DEDICATED FOR ANY OTHER PUBLIC USE AUTHORIZED BY LAW WHEN SUCH OTHER USE IS APPROVED BY THE SOUTHERN PINES TOWN COUNCIL IN THE PUBLIC INTEREST.

MSP RETAIL II, LLC
A DELAWARE LIMITED LIABILITY COMPANY

BY: MIDLAND SOUTHERN PINES VENTURE PARTNERS, LLC
A DELAWARE LIMITED LIABILITY COMPANY
ITS SOLE MEMBER

BY: MAP PINE RIDGE, LLC
AN OHIO LIMITED LIABILITY COMPANY
ITS MANAGING MEMBER

BY: Mike Silverman
MICHAEL SILVERMAN
EXECUTIVE MANAGER
2/14/2025

DATE:

MINOR SUBDIVISION
FOR
MSP RETAIL II, LLC
LOT 2 - 12.92 ACRES
LOT 3 - 2.36 ACRES
LOT 4 - 0.92 ACRES
LOT 5 - 0.41 ACRES
AND
RIGHT-OF-WAY
FOR
SOUTHERN ROAD
BY DEDICATION AND/OR CONVEYANCE
ACROSS THE LANDS OF
MSP RETAIL II, LLC
SHEET 1 OF 1
SANDHILLS TOWNSHIP, MOORE COUNTY
SOUTHERN PINES, NORTH CAROLINA
FEBRUARY 13, 2025
FIELD SURVEY: JULY - AUGUST & DECEMBER 2023
DRAFTED BY: RL SCALE 1" = 100'

LKC Engineering, pllc
140 Aqua Shed Court
Aberdeen, NC 28315
O: 910.420.1437
F: 910.637.0096
lkceengineering.com
License No. P-1095

LKC

Engineering
Landscape Architecture
Surveying

LKC Engineering, pllc
140 Aqua Shed Court
Aberdeen, NC 28315
O: 910.420.1437
F: 910.637.0096
lkceengineering.com
License No. P-1095

I, ROBERTO RODRIGUEZ JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 6112, PAGE 408); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION AS INDICATED; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000; THAT THE GLOBAL POSITIONING SYSTEM (GPS) SURVEY AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE GPS SURVEY:

- (1) CLASS OF SURVEY: CLASS A
- (2) POSITIONAL ACCURACY: <0.10'
- (3) TYPE OF GPS FIELD PROCEDURE: REAL-TIME KINEMATIC
- (4) DATES OF SURVEY: JULY-AUGUST & DECEMBER 2023
- (5) DATUM/EPOCH: NAD83(2011)
- (6) PUBLISHED/FIXED-CONTROL USE: NC CORRS
- (7) GEOID MODEL: NGS 2012B
- (8) COMBINED GRID FACTOR(S): 0.99985355
- (9) UNITS: US SURVEY FEET

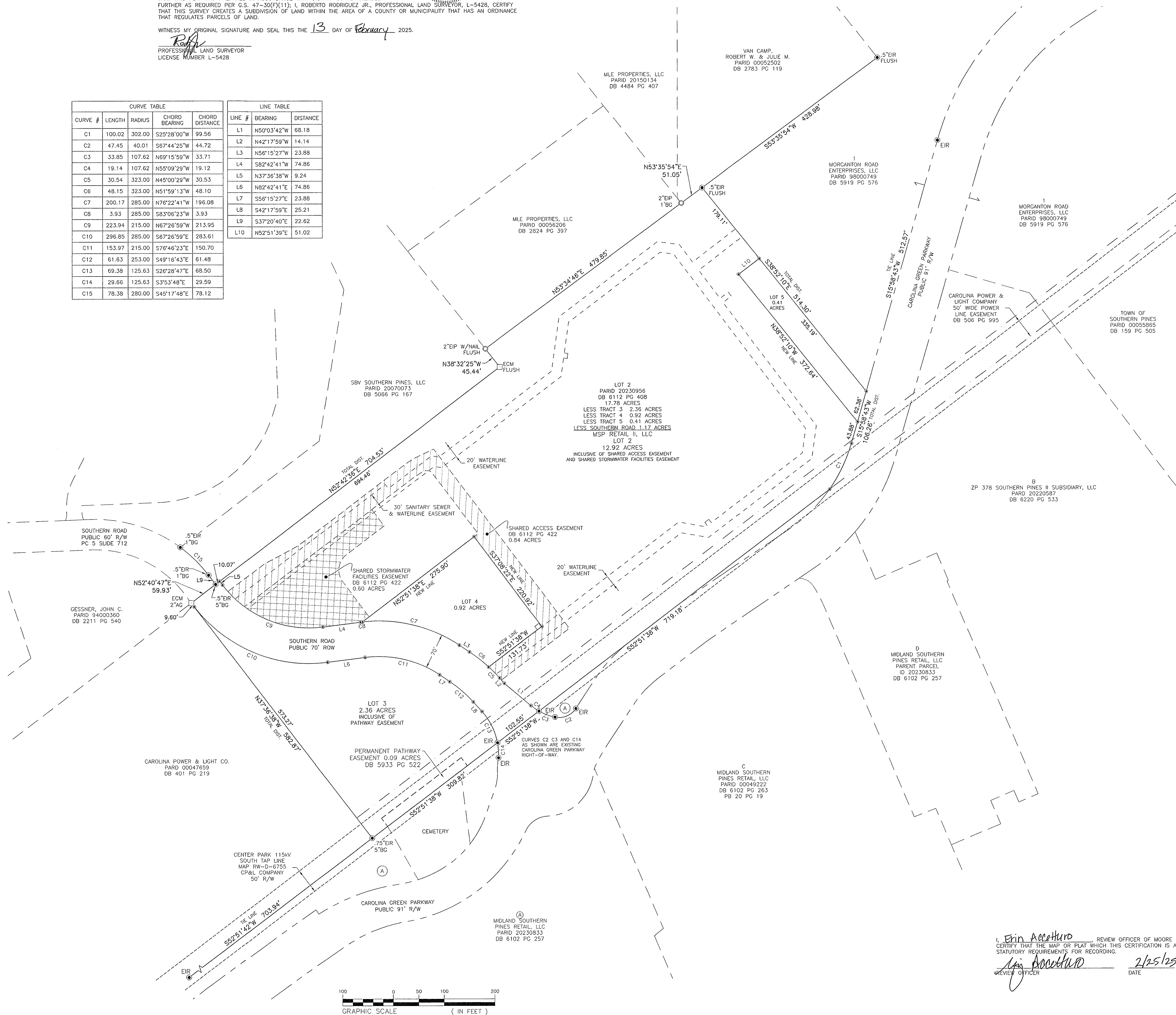
THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.
FURTHER AS REQUIRED PER G.S. 47-30(F)(1); I, ROBERTO RODRIGUEZ JR., PROFESSIONAL LAND SURVEYOR, L-5428, CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 13 DAY OF February 2025.

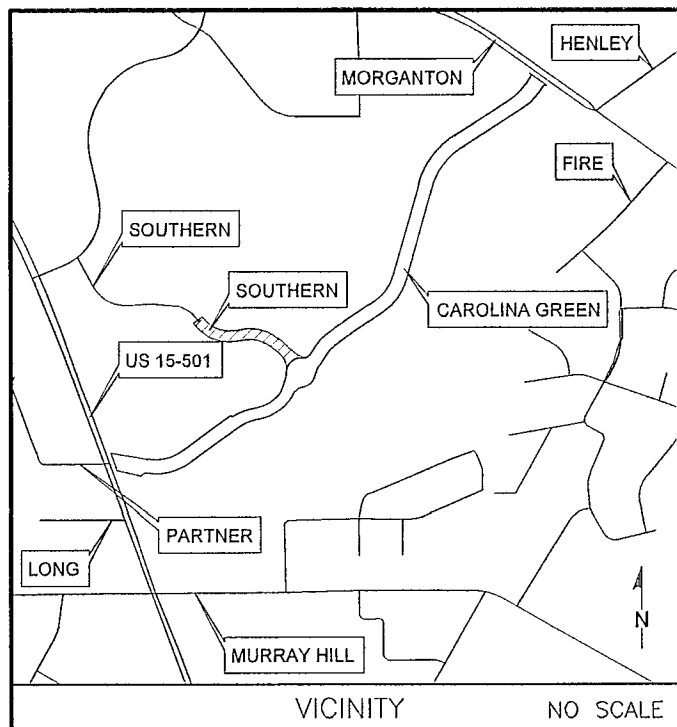
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-5428

CURVE TABLE				
CURVE #	LENGTH	RADIUS	CHORD BEARING	CHORD DISTANCE
C1	100.02	302.00	S25°28'00"W	99.56
C2	47.45	40.01	S67°44'25"W	44.72
C3	33.85	107.62	N69°15'59"W	33.71
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C6	48.15	323.00	N51°59'13"W	48.10
C7	200.17	285.00	N76°22'41"W	196.08
C8	3.93	285.00	S83°06'23"W	3.93
C9	223.94	215.00	N67°26'59"W	213.95
C10	296.85	285.00	S67°26'59"E	283.81
C11	153.97	215.00	S76°46'23"E	150.70
C12	61.63	253.00	S49°16'43"E	61.48
C13	69.38	125.63	S26°28'47"E	68.50
C14	29.66	125.63	S3°53'48"E	29.59
C15	78.38	280.00	S45°17'48"E	78.12

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N50°03'42"W	68.18
L2	N42°17'59"W	14.14
L3	N56°15'27"W	23.88
L4	S82°42'41"W	74.86
L5	N37°36'38"W	9.24
L6	N82°42'41"E	74.86
L7	S56°15'27"E	23.88
L8	S42°17'59"E	25.21
L9	S37°20'40"E	22.62
L10	N52°51'39"E	51.02



I, Erin Aceturo REVIEW OFFICER OF MOORE COUNTY, NORTH CAROLINA,
CERTIFY THAT THE MAP OR PLAT WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL
STATUTORY REQUIREMENTS FOR RECORDING.
REVIEW OFFICER Erin Aceturo DATE 2/25/25



- GENERAL NOTES
1. THIS MAP IS 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 HAZARD AREA PER FIRM NO. 3710857100J WITH AN EFFECTIVE DATE OF 10/17/2006.
 8. 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.
 9. 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.
 10. THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT-OF-WAYS AND AGREEMENTS OF RECORD PRIOR TO THE DATE OF THIS PLAT.

LEGEND

- = 5" IRON ROD SET (TYPICAL)
- EIR = 5" EXISTING IRON ROD
- EIP = EXISTING IRON PIPE
- ECM = EXISTING CONCRETE MONUMENT
- = EXISTING RIGHT OF WAY
- - - = BOUNDARY LINE
- - - = PROPERTY BARB
- - - = BOUNDARY NOT SURVEYED

TITLE REFERENCE:
PARID 20230956
DEED BOOK 6112, PAGE 408
PLAT BOOK 20, PAGE 108
MOORE COUNTY REGISTRY

OWNER:
MSP RETAIL II, LLC
8044 MONTGOMERY ROAD, SUITE 370
CINCINNATI, OH 45236

SITE DATA:
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ADDRESS: SOUTHERN ROAD
ZONING: PD (PLANNED DEVELOPMENT)
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TOTAL RIGHT-OF-WAY: 1.17 ACRES

SURVEYOR:
ROBERTO RODRIGUEZ, JR., PLS
LICENSE NO. L-5428
140 AQUA SHED COURT
ABERDEEN, NC 28315
910-420-1437

CERTIFICATE OF APPROVAL

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2/25/2025

DATE PLANNING DIRECTOR

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A DELAWARE LIMITED LIABILITY COMPANY

BY: MIDLAND SOUTHERN PINES VENTURE PARTNERS, LLC
A DELAWARE LIMITED LIABILITY COMPANY
ITS SOLE MEMBER

BY: MAP PINE RIDGE, LLC
AN OHIO LIMITED LIABILITY COMPANY
ITS MANAGING MANAGER

BY: Mike Silverman
MICHAEL SILVERMAN
EXECUTIVE MANAGER
2/14/2025

DATE:

MINOR SUBDIVISION
FOR
MSP RETAIL II, LLC
LOT 2 - 12.92 ACRES
LOT 3 - 2.36 ACRES
LOT 4 - 0.92 ACRES
LOT 5 - 0.41 ACRES
AND
RIGHT-OF-WAY
FOR
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ACROSS THE LANDS OF
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SHEET 1 OF 1
SANDHILLS TOWNSHIP, MOORE COUNTY
SOUTHERN PINES, NORTH CAROLINA
FEBRUARY 13, 2025
FIELD SURVEY: JULY - AUGUST & DECEMBER 2023
DRAFTED BY: RL SCALE 1" = 100'

LKC Engineering, pllc
140 Aqua Shed Court
Aberdeen, NC 28315
O: 910.420.1437
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lkceengineering.com
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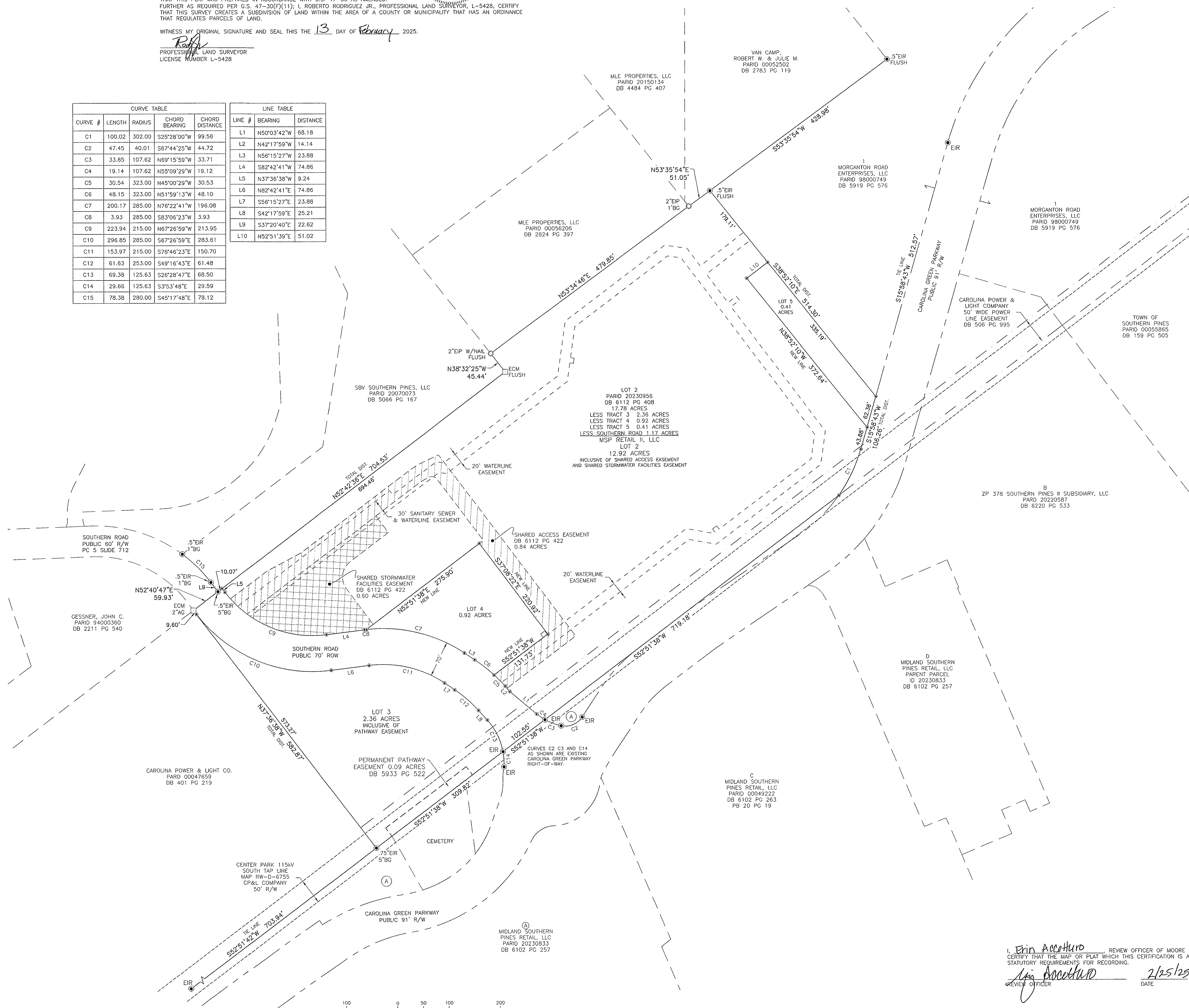
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WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 13 DAY OF February 2025.

PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-5428

CURVE TABLE					LINE TABLE		
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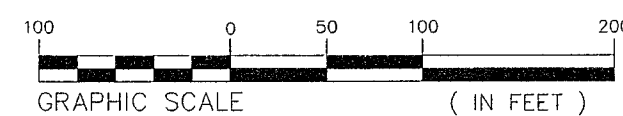
PLAT CASHIER: 2D SLIDE 1062

FOR REGISTRATION REGISTER OF DEEDS
SOUTHERN PINES
MOORE COUNTY, NC
February 25, 2025 02:23:23 PM
Book 20 Page 662-662
FEE: \$21.08
INSTRUMENT # 2025002313

I, Erin Aceturo REVIEW OFFICER OF MOORE COUNTY, NORTH CAROLINA,
CERTIFY THAT THE MAP OR PLAT WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL
STATUTORY REQUIREMENTS FOR RECORDING.
REVIEW OFFICER Erin Aceturo DATE 2/25/25

LKC

Engineering
Landscape Architecture
Surveying





MIDLAND ATLANTIC
P R O P E R T I E S

Developer's Warranty

**Project: Construction of Southern Road: Station Point 13+50 to Carolina Green Parkway
Southern Pines NC 28387**

The undersigned Developer does hereby warrant that all labor and material furnished and work performed in conjunction with the above referenced Project has been performed in a good and workmanlike manner, is in compliance with the approved construction documents (and any authorized modifications thereto), and will be free from defects due to defective materials or workmanship, wear and tear excepted, for a period of one (1) year after the date the Town Council of the Town of Southern Pines, North Carolina accepts the dedication of the above referenced segment of Southern Road.

DEVELOPER

MSP Retail II, LLC,
a Delaware limited liability company

By: Midland Southern Pines Venture Partners, LLC
a Delaware limited liability company
its Sole Member

By: MAP Pine Ridge, LLC
an Ohio limited liability company
its Operating Manager

By: _____

John I. Silverman
Executive Manager



MIDLAND ATLANTIC
PROPERTIES

Developer's Warranty

Project: **Construction of Public Utilities: Water and Sanitary Sewer**

Serving: **Morganton Park South – Phase 3
205–215 Southern Road
Southern Pines NC 28387**

Easement: **Utility Easement recorded at Book ___, Page ___, Moore County, NC Registry**

The undersigned Developer does hereby warrant that all labor and material furnished and work performed in conjunction with the above referenced Project has been performed in a good and workmanlike manner, is in compliance with the approved construction documents (and any authorized modifications thereto), and will be free from defects due to defective materials or workmanship, wear and tear excepted, for a period of one (1) year after the date the Public Works Department of the Town of Southern Pines, North Carolina approves the completed construction of such Public Utilities.

DEVELOPER

MSP Retail II, LLC,
a Delaware limited liability company

By: **Midland Southern Pines Venture Partners, LLC**
a Delaware limited liability company
its Sole Member

By: **MAP Pine Ridge, LLC**
an Ohio limited liability company
its Operating Manager

By: _____
John I. Silverman
Executive Manager



RESOLUTION #1109
THE TOWN OF SOUTHERN PINES TOWN COUNCIL OFFICIALLY ACCEPTING
OFFER OF DEDICATION TO THE PUBLIC FOR A PORTION OF SOUTHERN
ROAD (RD-01-25)

WHEREAS, the Town of Southern Pines has subdivision regulation jurisdiction over the land on which a portion of Southern Road—from about the Southern Road entrance to 190 Brucewood Road to the Carolina Green Parkway roundabout—is located; and

WHEREAS, pursuant to §100.21 of the Code of Ordinances of the Town of Southern Pines, North Carolina, a plat entitled “Minor Subdivision for MSP Retail II, LLC, Lot 2 – 12.92 acres, Lot 3 – 2.36 Acres, Lot 4 – 0.92 Acres, Lot 5 – 0.41 Acres, and Right-of-Way for Southern Road” and recorded in Plat Cabinet 20 Page 662 depicts the right-of-way of a newly constructed portion of Southern Road (Exhibit A); and

WHEREAS, the aforementioned plat depicts the accurate location of street boundary lines, ownership of adjacent properties and adjacent and intersecting streets; and

WHEREAS, MSP Retail II, LLC, has constructed road infrastructure improvements to the described newly constructed portion of Southern Road to provide access to Lots 2, 3, 4, and 5 as shown on the aforementioned plat as well as to connect to Carolina Green Parkway; and

WHEREAS, North Carolina General Statutes §160A-296 and §160D-806 allows any city—as defined in North Carolina General Statutes §160A-1—council to accept by resolution any offer of dedication made to the public of lands for streets when the lands are located within its subdivision-regulation jurisdiction; and

WHEREAS, the construction of all required portions of Southern Road, including street surfaces, curbs, sidewalks, street lights and landscaping, is complete pursuant to Town Code of Ordinances §100.20-100.27 and the Town Engineer and Planning Director have inspected and approved construction.

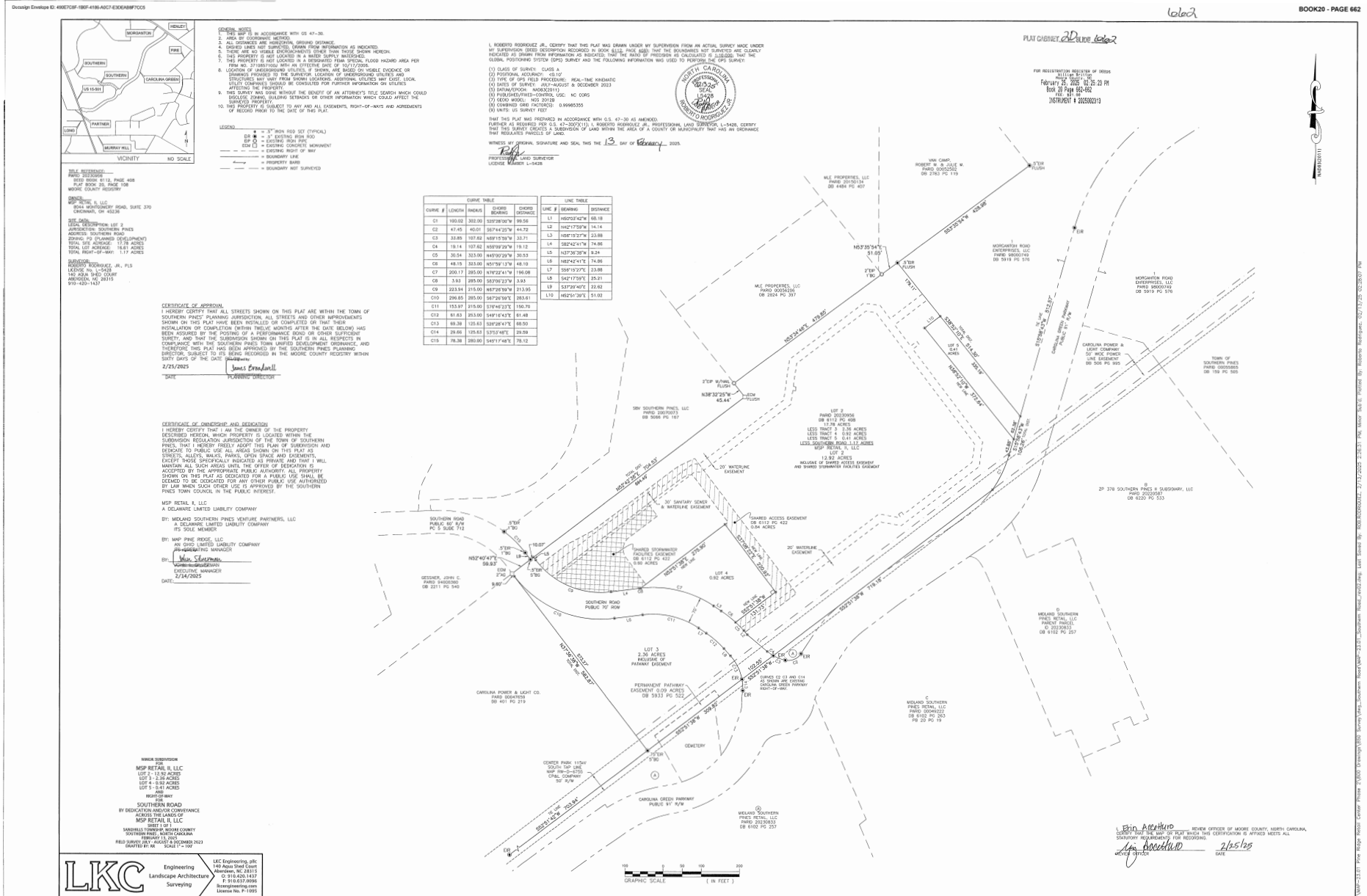
NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southern Pines that the Town of Southern Pines hereby accepts for ownership, operation and maintenance the Southern Road right of way as depicted on Plat Cabinet 20, Slide 662 as shown on Exhibit A attached hereto.

Adopted this 11th day of March 2025.

I certify that this Resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of March 11, 2025, as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk

(sheet to be replaced with 36" * 24" plat)





RESOLUTION #1108

RESOLUTION IN OPPOSITION TO NORTH CAROLINA SENATE BILL 382 RE: ZONING AUTHORITY OF LOCAL GOVERNMENTS

WHEREAS, Senate Bill 382, entitled DISASTER RELIEF-3/BUDGET/VARIOUS LAW CHANGES was initially drafted as Dental Practice Act Changes and then modified for the stated purpose of prioritizing aid for Hurricane Helene recovery efforts; and

WHEREAS, Senate Bill 382 was initially ratified by the General Assembly on November 20, 2024 and subsequently vetoed by Governor Cooper on November 26, 2024; and

WHEREAS, the General Assembly overrode Governor Cooper's veto on December 11, 2024, and ratified Senate Bill 382 as Session Law 2024-57; and

WHEREAS, Senate Bill 382 includes a section that specifically modifies G.S. 160D-601 titled SECTION 3K.1(d): NO LOCAL GOVERNMENT INITIATED DOWN-ZONING WITHOUT THE CONSENT OF THE AFFECTED PROPERTY OWNER which removed local authority to initiate down-zoning amendments without the written consent of all property owners whose property is the subject of the down-zoning; and

WHEREAS, more specifically, the statute requires that communities obtain consent from all property owners that are affected by changes to permitted building types, setbacks, height, bulk, or open space standards of zoning ordinances which meet the definition of down-zoning; and

WHEREAS, these are considered the most basic tools communities have available to maintain land use compatibility, manage growth and development, and achieve the public's vision as captured in a Comprehensive Plan; and

WHEREAS, this new law contradicts the purpose and recognized benefit of local zoning regulation in that it empowers a small number of individual landowners to impede the adoption of new regulations enacted to protect and promote the health, safety, and welfare of the public as a whole; and

WHEREAS, G.S. 160D requires local governments to have a reasonably maintained Comprehensive Plan in order to retain authority to adopt and enforce zoning regulation and plan consistency must be considered by a governing body for zoning amendments; and

WHEREAS, this law has blocked the adoption of Southern Pines Z-04-24 & OA-04-24: Zoning Map Amendment and UDO Text Amendments to Create Two Character Districts, a years long process of developing zoning regulations designed with substantial community engagement; and

WHEREAS, managing growth is challenging in a high-growth state like North Carolina and most communities rely on their respective zoning authority to ensure orderly growth and development and respond to constituents' concerns; and

WHEREAS, the newly adopted provisions related to down-zoning in Senate Bill 382 inadvertently lock the current zoning frameworks of most communities in place now and into the future, making it nearly impossible for local governments to modify and change ordinances as elected officials see fit; and

WHEREAS, the reasons for these specific changes were not made clear to the public and local governments and were not provided an opportunity to review or comment on the proposed changes prior to Senate Bill 382’s adoption by the General Assembly.

NOW THEREFORE BE IT RESOLVED, that the Southern Pines Town Council in open meeting assembled in the Town of Southern Pines, North Carolina, this 11th day of March, 2025, that the Town of Southern Pines oppose the recent adoption of Senate Bill 382, specifically, the section which modifies G.S. 160D-601(d) and restricts all local governments in North Carolina and their ability to manage community planning and implement regulatory ordinances to achieve the vision captured in the Comprehensive Plan. Further, the Town of Southern Pines encourages the North Carolina General Assembly to revisit the down-zoning provisions included in Senate Bill 382 at their earliest opportunity possible and would welcome the opportunity to review and comment on any proposed new legislation related to land use regulatory authority.

Adopted on the 11th day of March 2025.

ATTEST:

TOWN OF SOUTHERN PINES

Elizabeth Robertson, Town Clerk

Taylor G. Clement, Mayor