



MINUTES

Tuesday, January 28, 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.

4. ACTION ITEMS

a. PD-07-24: Written Decision for New York Place PDP

Planning staff have prepared a draft Written Decision for application PD-07-24, New York Place PDP, for the Town Council's review and approval. The PDP was approved at the January 14, 2025 Regular Meeting.

Mayor Clement opened the item for discussion. No comments were voiced.

Mayor Pro Tem Pate moved to approve the Written Decision for PD-07-24 as prepared by town staff, seconded by Councilmember Gray; the motion was unanimous.
Motion passed.

b. PD-08-24: Written Decision for Ace Hardware Phase 2 Amended PDP

Planning staff have prepared a draft Written Decision for application PD-08-24, Ace Hardware Phase 2 Amended PDP, for the Town Council's review and approval. The PDP was approved at the January 14, 2025 Regular Meeting.

Mayor Clement opened the item for discussion.

Councilmember Goodman questioned what options the applicant would have if they wished to contest the written decision as not accurately reflecting the hearing decision. Planning Director Grieve advised the Council that the Planning Department is very diligent when crafting the Written Decision to be as accurate as possible to the decision made at the hearing. Town Manager Parsons added that the applicant has the option to address the Council should they feel there is a discrepancy within the Written Decision.

Mayor Pro Tem Pate moved to approve the Written Decision for PD-08-24 as prepared by town staff, seconded by Councilmember Gray; the motion was unanimous.
Motion passed.

c. MAPP-04-24: Written Decision for Morganton Park South - North Lots Preliminary Plat

Planning staff have prepared a draft Written Decision for application MAPP-04-24, Morganton Park South - North Lots Preliminary Plat, for the Town Council's review and approval. The Preliminary Plat was approved at the January 14, 2025 Regular Meeting.

Mayor Clement opened the item for discussion. No comments were voiced.

Mayor Pro Tem Pate moved to approve the Written Decision for MAPP-04-24 as prepared by town staff, seconded by Councilmember Goodman; the motion was unanimous.

Motion passed.

d. 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. 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.

Planner I Mason Mattox presented the revised amendments to the Town Code of Ordinances 70.07 as requested by the Town Council.

Discussion was had as putting an age restriction on those allowed on the sidewalks to allow younger children extra safety and the recommendation that the block where Downtown Park is located be exempted from the proposed ordinance.

Staff will revise the Ordinance Amendment to include the Council's requests and return it to the Council for approval.

e. Relief from §50.035 of the Town Code of Ordinances - Water Extension Exemption Request

Mr. and Ms. Skelly are proposing to build a house at 512 S. Glenwood Trail within the Town's ETJ. They request relief from §50.035 of the Town Code of Ordinances requiring any new house, lot, or subdivision to connect to the Town's water system if it is within 300 feet (plus 100 feet multiplied by the number of additional dwellings) of an existing [water] distribution pipe. The property is within approximately 245 feet of an existing water main.

Town Engineer James Michel presented the request to the Council.

Mayor Pro Tem Pate moved that the Town Council grant the waiver from §50.035 of the Town Code Ordinances for the applicant's property regarding the water extension exemption request. The motion was seconded by Councilmember Gray and the vote was unanimous.

Motion passed.

f. Project Updates

Staff will discuss current status of ongoing projects to include the Carriage House and a sidewalk downtown on Illinois crossing the railroad tracks, in addition to requesting adoption of a NCDOT agreement update and budget amendment for the Knoll Road Multi-use Path.

Asst. Town Manager Jessica Roth presented an update on the work being done at the carriage house at Whitehall which includes the structure and a new driveway.

Town Manager Parsons shared that after previous discussion regarding the installation of a sidewalk on Illinois Ave. over the railroad tracks from Broad to Broad and the change in traffic pattern on that section of Broad St. from 2-way to 1-way, Town Engineer Michel has been working with CSX to develop plans for some sort of belt to further warn people of the need to turn. Town Engineer Michel advised that CSX is currently in the process of finalizing an agreement with a company who will assist them in the permitting and construction process for the section crossing the tracks. The Town will be responsible for the sidewalk from their right-a-way on and is prepared to start getting cost estimates

Town Manager Parsons presented the Supplemental Agreement from N.C. Department of Transportation for the Knoll Road Multi-Modal Path which will secure funding for the addition of

chicanes and turn lanes as requested by citizens in previous meetings. Additional topics discussed were:

- work needed for storm water and drainage concerns.
- width required by state standards for turn lanes and the addition of turn lanes
- installation of flashing beacons at crosswalks to increase visibility
- landscaping

Mayor Clement moved to approve the signing of the Supplemental Agreement from N.C. Department of Transportation to update the budget for the Knoll Road Multi-Modal Path project. The motion was seconded by Councilmember Goodman and the vote was unanimous.
Motion Passed.

g. Approve Budget Amendment Ordinances

Budget Ordinances

Mayor Clement moved to approve the Budget Amendment Ordinances for the Knoll Rd. Multi-Modal Path Project seconded by Councilmember Goodman; the motion was unanimous.

Motion passed.

h. Planning Board Appointments

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

Mayor Clement opened the discussion. Town spots are open, but one is an ETJ spot and none of the current applicants are eligible. Potential candidates were discussed.

Mr. Michael Skolnick, an applicant for the opening, was present and answered any questions from the Council.

Councilmember Debra Gray moved to appoint Mr. Michael Skolnick to the open Planning Board position to start February 21, 2025, with a term expiring on February 20, 2028. The motion was seconded by Mayor Pro Tem Pate and the vote was unanimous.

Motion passed.

5. COUNCIL UPDATES AND DISCUSSION

a. Public Communications Update

Staff will update the Town Council on Public Communications efforts.

Asst. Town Manager Roth and Communications Specialist Gerald Ostlund presented an overview of the Town's revised Public Communication Program.

Discussion ensued regarding public communication methods.

b. Moore County Water Discussions

Staff will provide an update regarding proposed legal parameters of an Intergovernmental Agreement with Moore County pertaining to long-term water treatment and distribution.

Town Manager Parsons presented an overview of the current capabilities of the town's water plant and proposed improvements to expand the plant's treatment capabilities. A proposed agreement with Moore County government to locate, design, permit, and construct a new intake at Quiffle Creek allows an increase in volume which would create resiliency within our system should drought conditions occur and allow Moore County to increase the amount they purchase in the future.

c. Planning Department Update

Staff will update Council on applications advancing from the Planning Board to Council, the latest news on Senate Bill 382, and Phase 2 implementation efforts related to the 2040 Comprehensive Plan.

Planning Director Grieve gave an update to the Council on what the Planning Department is currently working on and what they might expect to see at their February Town Council meeting.

6. COUNCIL ROUNDTABLE

Town Manager Parsons introduced Marsh Smith to speak regarding the request. Discussion ensued, and the Council was in agreement to prepare a resolution for approval.

Councilmember Goodman

- was pleased to see traffic enforcement on Midland Ave.
- advised that the phone number to report dead animals listed on the website needed to be updated.
- inquired about the status of the old Train Depot property and ending of the lease with Tracksides305.

Town Manager Parsons advised that the Council would need to discuss how they would like to proceed with the site. The building needs maintenance if the Council wishes to lease the property out.

Mayor Pro Tem Pate

- kudos to Fire Chief Cameron, Assistant Public Works Director Cory Albers and the Public Works department for their work with transitioning to the recycling program

Mayor Clement

- will not be at the February Business meeting.
- will be attending municipal finance training on March 12th

a. Request For Resolution to Amend NCGS 113A-50

Discussion regarding the request of Attorney Marsh Smith that Council draft and adopt a Resolution requesting the General Assembly to amend a section of NCGS regarding sedimentation control and the ability to file Civil suits.

Mayor Clement made a motion to excuse Councilmember Gray from the meeting at 7:27 pm, seconded by Mayor Pro Tem Pate; the vote was unanimous.
Motion passed..

7. ADJOURNMENT

Upon motion by Mayor Pro Tem Pate, seconded by Councilmember Goodman and carried unanimously, Council adjourned at 7:46 pm.

Respectfully submitted:


Elizabeth Robertson, Town Clerk





CASE NUMBER: MAPP-04-24

**FINDINGS OF FACT, DECISION OF THE BOARD, AND ORDER IN THE MATTER
OF A MAJOR SUBDIVISION PRELIMINARY PLAT APPLICATION FOR
MORGANTON PARK SOUTH-NORTH LOTS**

DESCRIPTION OF MATTER

Mr. Bob Koontz of Koontz Jones Design, LLC, on behalf of Morganton Road Enterprises, LLC and Midland Atlantic Properties, submitted a Major Subdivision Preliminary Plat application pursuant to the Town of Southern Pines Unified Development Ordinance (UDO) §2.20 for five commercial lots and a future public right-of-way on ±32.65 total acres on the parcel identified as PARID 98000749. Per the Moore County tax record, the subject property is owned by Morganton Road Enterprises, LLC.

A public evidentiary hearing regarding the proposed Major Subdivision Preliminary Plat (MAPP) for the Morganton Park South-North Lots was called to order with five members present on January 14, 2025. The oath was administered to all witnesses choosing to speak. Planning staff entered the January 14, 2025 Staff Report as Exhibit A and staff's January 14, 2025 presentation as Exhibit B. After closing the hearing, the Town Council discussed and voted on the draft findings of fact. Detailed discussion during the evidentiary hearing can be found in the meeting minutes on record in the Town Clerk's office and online.

FINDINGS OF FACT

1. The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Major Subdivision Preliminary Plat approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Plat, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.
2. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 1 (the application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities) in that the Preliminary Plat aligns with the 2040 Comprehensive Plan only with the imposition of protection measures to the existing tree stand within the 40' highway buffer along W Morganton Rd. These trees provide distinct natural character to the surrounding community, which directly aligns with MAPP Criterion 1, Comprehensive Plan policies 4.9 and 4.10, and UDO §3.5.14(A)(9). The proposed subdivision is consistent with the General Framework Map and Conservation and Development Maps, which each categorize the site as an Area to Transform and Mixed-Use

Area. Site access and utility connections, provided by Town of Southern Pines Public Works, are both readily available. Therefore, the project is also compatible with its surrounding infrastructure.

3. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 2 (the proposed subdivision complies with the UDO and applicable state and federal regulations) in that the Preliminary Plat complies with the UDO only with the imposition of a protection measure for the existing trees within the 40' Linear Park along Carolina Green Parkway. A protection measure for the existing trees and their critical root zones ensures that the PDP purpose criteria, under UDO §2.18.5(A), of integrating natural features and woodlands may be adequately applied to this project. The proposal complies with federal regulations in that the applicant has provided a biological assessment reflecting no impact on the Red Cockaded Woodpecker or other endangered species.
4. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 3 (the proposed Subdivision, including its Lot sizes, density, access, and circulation, is compatible with the existing and/or permissible zoning and future land use of adjacent property) in that the four commercial lots and their respective dimensions meet density standards. The proposed Old Morganton Road Extension depicted on the plat will also provide sufficient access and circulation within the development.
5. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 4 (the proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties) in that the project does not present a safety or viability concern for the surrounding area. The Old Morganton Road Extension connects Old Morganton Road, Carolina Green Parkway, and the proposed outparcels in a way that's safe and accommodates both vehicular and pedestrian traffic. Additionally, with the imposition of specific traffic control measures as prescribed in this project's Traffic Impact Analysis (TIA), the proposed lots and land uses will fall within the TIA's mandated parameters.
6. The Town Council finds that the application complies with UDO §2.20.4(G), Criterion 5 (the proposed public facilities are adequate to serve the normal and emergency demands of the proposed development, and to provide for the efficient and timely extension to serve future development) in that the proposed utility plan adequately meets water, fire flow, and sewer requirements. The Town of Southern Pines will provide all utility extensions and connections. This means they will serve this development adequately and efficiently.

CONCLUSION AND DECISION

Therefore, by a vote of 5-0, the Town Council voted to approve, with conditions, the Morganton Park South-North Lots MAPP-04-24 with the following additional conditions:

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

Within the 40' Highway Buffer adjacent to W. Morganton Road, the project developer shall retain all existing trees greater than or equal to 6-inch caliper, subject to the following:

- No grading shall occur within the buffer or within the critical root zone of buffer trees. The critical root zone is defined by the Town Arborist as a tree's respective drip line.
- Tree protection fencing shall be installed to protect the critical root zone of all retained trees within the buffer at a minimum distance of 6-feet or a tree's drip line, whichever is greater. The exact tree protection fence locations shall be reviewed and approved during the Old Morganton Road Extension site plan review.
- If the above required standoff distance directly prevents necessary site design, then the project developer may request a standoff reduction of tree protection fences. Any approved reduction is contingent on the assessment and concurrence from the Town of Southern Pines Arborist.
- The project developer may remove underbrush within the buffer, such as vines and small trees less than 6-inch caliper.
- Additional plantings necessary to meet UDO Exhibit 4-4 standards, such as required shrubs count, will be reviewed and approved during site plan review.

This condition is pursuant to UDO Exhibit 3-13, MAPP Criterion 1, Comprehensive Plan Policy 4.9, Comprehensive Plan Policy 4.10, and UDO §3.5.14(A)(9).

Condition 2 – Carolina Green Parkway – Linear Park

The Linear Park along Carolina Green Parkway, within Outparcel 1, shall be 40' wide and developed in accordance with the MPS CDP. Within the 40' Linear Park, the project developer shall retain all existing trees greater than or equal to 6-inch caliper, subject to the following:

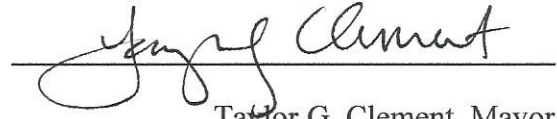
- No grading shall occur within the buffer or within the critical root zone of buffer trees; however, the project developer may clear area necessary to grade and install the Old Morganton Rd Extension and install required Linear Park elements and amenities pursuant to the MPS CDP. The critical root zone is defined by the Town Arborist as a tree's respective drip line.
- Tree protection fencing shall be installed to protect the critical root zone of all retained trees within the Linear Park at a minimum distance of 6-feet or a tree's drip line, whichever is greater. The exact tree protection fence locations shall be reviewed and approved during the Old Morganton Road Extension site plan review.
- If the above required standoff distance directly prevents necessary site design, then the project developer may request a standoff reduction of tree protection fences. Any approved reduction is contingent on the assessment and concurrence from the Town of Southern Pines Arborist.

- The project developer may remove underbrush within the buffer, such as vines and small trees less than 6-inch caliper.
- Trees retained within this buffer may be counted toward satisfying Linear Park landscape requirements pursuant to the MPS CDP.

This condition is pursuant to MAPP Criterion 2, UDO §2.18.5(A)(4), and UDO §3.5.14(A)(9).

This is the 28th day of January, 2025.

FOR THE TOWN COUNCIL:



Taylor G. Clement, Mayor



CASE NUMBER: PD-08-24

**FINDINGS OF FACT, DECISION OF THE BOARD, AND ORDER IN THE MATTER
OF A PRELIMINARY DEVELOPMENT PLAN APPLICATION FOR THE ACE
HARDWARE PLANNED DEVELOPMENT**

DESCRIPTION OF MATTER

Mr. Paul Saathoff, on behalf of Rhetsen Companies, Inc. and Southern Pines Ace Land Company, LLC, submitted a Planned Development District – Preliminary Development Plan application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance for 14,500 square feet of Retail, Restaurant, Professional Office, Other Office Services, Personal Services, Gym, Medical Office, or Health and Human Services space on 1.87 total acres on parcels identified as PIN 857300963887 (PARID 00033603) and PIN 857300974451 (PARID 00033604). Phase 1 of this Planned Development District has already been constructed, and the Phase 3A PDP (PD-03-24) was approved on August 27, 2024. This Preliminary Development Plan, being Phase 2, will expand on the District’s establishments and uses. Per the Moore County tax record, the subject property is owned by Southern Pines Ace Land Company, LLC.

A public evidentiary hearing regarding a proposed Preliminary Development Plan (PDP) for the Ace Hardware Planned Development was called to order with five members present on January 14, 2025. The oath was administered to all witnesses choosing to speak. Planning staff entered the January 14, 2025 Staff Report as Exhibit A and staff’s January 14, 2025 presentation as Exhibit B. After closing the hearing, Town Council discussed and voted on the draft findings of fact. Detailed discussion during the evidentiary hearing can be found in the meeting minutes on record in the Town Clerk’s office and online.

FINDINGS OF FACT

- A. The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.
- B. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 1 (*the application demonstrates that it will achieve the purposes of the PD district and this section*) in that the proposed development aligns with the purpose of a PD district only with the imposition of integrated open space and shared parking measures. The Town Council finds that the two conditions of approval tied to the PD-03-24 development approval were

necessary to achieve the purpose of a PD. The inconsistencies found in the PD-03-24 application were regarding:

1. **Usable Open Space Usage.** The Usable Open Space depicted in Phase 2 left too much ambiguity and room for a lessee to deviate from what UDO §3.5.14(A)(9) calls for - *Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas.* Lessees could employ large portions of the open space for graveled-over seating or leave it as a largely unutilized space.
2. **Parking Volume.** The Phase 2 and 3A parking spaces amounted to 130, with the UDO parking standards calling for a minimum of 114. Phase 1 has 176 spaces, with Phase 3B yet to be determined, leaving well over 306 spaces for the Ace development. UDO §3.5.14(A)(6) reads *to encourage common or shared parking.* This development should improve its design by anticipating peak hours of customer traffic per business, sharing parking according to those hours, and ultimately eliminating some spaces.

The Town Council finds that this Preliminary Development Plan achieves the purposes of the PD and UDO by including these two conditions of approval, related to the development of Usable Open Space and parking volume, with PD-08-24 just the same as with PD-03-24. These two conditions of approval will align the PDP with the purposes of a Planned Development (as set forth in UDO §3.5.14(A)(6), §3.5.14(A)(9), and §3.5.14(A)(11)) and eliminate any ambiguity for what conditions are tied to the Phase 2 development approval between PD-03-24 and PD-08-24.

- C. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 2 (*the Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO*) in that the application contains enough information and commitments to be deemed generally consistent. The PDP is appropriate given the potential list of uses and character of the development; it also achieves an efficient, safe, and economical land use without detracting from the quality of the overall Ace Hardware development or the community as a whole.
- D. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 3 (*The proposed Development is located in an area of the Town that is appropriate*) in that proposed development is Phase 2 of the Ace Hardware CDP – within an “Area to Transform” and “Retail Center” under the Comprehensive Plan. The proposed land use will provide additional commercial uses that further expand a growing retail and service industry job base. The proposed development is also within walking distance of a large apartment complex, Sandhills Community College, a traditional residential community, restaurants, a grocery store, and the Southern Pines Greenway System. The Town Council finds that given the prior phase of Ace Hardware’s development and the relative convenience of the location near a variety of existing and planned land uses, the proposed development is located in an appropriate area of town. Furthermore, the development is located in an

area of town with existing access to necessary infrastructure and where the street system is adequate, or will be improved to be adequate, to accommodate the projected traffic volumes.

- E. The Town Council finds that the application complies with UDO §2.18.5(H) Criterion 4 (*The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities, and services*) in that the proposed PDP is served by all necessary utilities and transportation infrastructure and the development will bear the cost of all infrastructure modifications and/or extensions. Development of the subject property in the manner proposed is an efficient way to increase jobs and tax base, while providing for a more vibrant community atmosphere.

CONCLUSION AND DECISION

Therefore, by a vote of 5-0, the Town Council voted to approve, with conditions, the Ace Hardware Preliminary Development Plan PD-08-24 with the following additional conditions as drafted and submitted within Exhibit A:

Condition 1 – Phase 2 Usable Open Space Usage.

The Phase 2 Usable Open Space shall include a minimum of these four featured components:

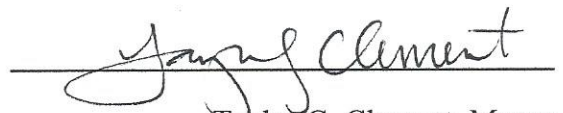
1. A grass lawn, as depicted on the PDP, to be maintained by the Phase 2 lessees, developer, or property owner's association.
2. Three separate planting beds that encompass at least 30 square feet each OR eight planters at least 3½ feet in diameter, to be maintained by the Phase 2 lessees, developer, or property owner's association.
3. Permanent seating as depicted on the PDP, directly on or adjacent to the lawn. The developer can opt for picnic tables, benches, stand-alone chairs, or a combination of these, all rated for outdoor use.
4. One pergola structure, similar shade structure, or two (2) shade trees, including adjacent landscaping, located within the Open Space. The structure or tree locations will be at the developer's discretion.

Condition 2 – Phase 2 and 3A Parking Volume.

No parking will be permitted with the development of Parcel 3B to encourage shared parking throughout the development. All parking to serve parcel 3B will be shared with all other parcels within the Ace Hardware CDP area. Any uses on parcel 3B will not be required to meet minimum parking standards for their particular use as it is understood that all parking for this parcel will be shared parking.

This is the 28th day of January, 2025.

FOR THE TOWN COUNCIL:


Taylor G. Clement, Mayor



CASE NUMBER: PD-07-24

**FINDINGS OF FACT, DECISION OF THE BOARD, AND ORDER IN THE MATTER
OF A PRELIMINARY DEVELOPMENT PLAN APPLICATION FOR NEW YORK
PLACE PLANNED DEVELOPMENT – MIXED USE BUILDING**

DESCRIPTION OF MATTER

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

A public evidentiary hearing regarding a proposed Preliminary Development Plan (PDP) for the New York Place Planned Development was called to order with four members present on January 14, 2025, and with the fifth member withdrawn without being excused by a majority vote of the remaining members present; therefore, recording an automatic affirmative vote on the matter (see North Carolina General Statute §160A-75 Voting). The oath was administered to all witnesses choosing to speak. Planning staff entered the January 14, 2025, Staff Report as Town’s Exhibit A and staff’s January 14, 2025 presentation as Exhibit B. Legal counsel for the applicant, Attorney Nick Robinson, entered three exhibits into the record: Exhibit 1, a signed affidavit for Neil Salmon, the Chief Design Officer for the Ascot Corporation; Exhibit 2, the originally submitted traffic design analysis dated May 11, 2023; and Exhibit 3, a signed affidavit for Eri Govea, a licensed professional traffic engineer.

The Applicant’s legal counsel asked questions of their expert witnesses. Two additional witnesses spoke during the hearing. After closing the hearing, Town Council discussed and voted 4-1 to approve the draft findings of fact as prepared by staff. Detailed discussion during the evidentiary hearing can be found in the meeting minutes on record in the Town Clerk’s office and online.

FINDINGS OF FACT

1. The Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines Unified Development Ordinance (UDO) Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.

2. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 1 (i.e., the application demonstrates that it will achieve the purposes of the PD districts), in that the proposed development promotes creative and innovative design that is in character with the Downtown area, includes usable open space, and includes an activated public realm along S. Bennett Street—effectively enhancing walkability and mobility in the area. Furthermore, with the addition of dwelling units created a variety of housing types in the Downtown Adjacent neighborhood. The condition prohibiting specific land uses acceptably mitigate concerns regarding the purpose of establishing an appropriate land mix and intensity, especially considering potentially applicable UDO standards. Therefore, according to §3.5.14 and §2.18 of the UDO, Town Council does not find significant inconsistency between the Preliminary Development Plan and the purpose of the PD district, generally, considering the commitments made in the narrative and in the conditions.
3. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 2 (i.e., the Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO), in that the application and commitments contain enough information to be deemed generally consistent with the CDP and UDO. The two conditions acceptably mitigate concerns regarding compliance with UDO standards. Further detailed analysis of compliance with both the CDP and the UDO will involve representatives from all other Community Development departments (such as Streets, Engineering, Fire, etc.) and will occur during site plan review.
4. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 3 (i.e., proposed Development is located in an area of the Town that is appropriate), in that the proposed density of development is located in an area of town with sufficient public services and utilities and the proposed architecture is consistent with the surrounding area. With the commitments made, the proposed development is located in an appropriate area of town.
5. The Town Council finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criterion 4 (i.e., proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services), in that there are sufficient utilities available to the site and the cost of extensions to the site of said utilities will be borne by the Applicant. The cost of any transportation-related improvements will be borne by the Applicant and the Property Owner. Development of the subject property in the manner proposed is an efficient way to increase commercial and residential units within the community.

CONCLUSION AND DECISION

Therefore, by a vote of 4-1, the Town Council voted to approve with conditions the New York Place Preliminary Development Plan, i.e., PD-07-24. The final conditions were as drafted by the Planning Department staff and legal counsel for the Applicant, presented in the Town's Exhibit A, and written as follows.

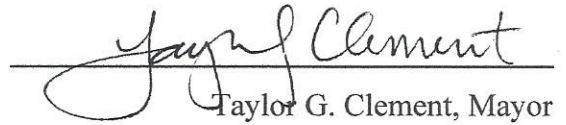
1. **Condition 1.** The following land uses shall be prohibited:
 - 1) 1210, 1220, 1230, 1240, or 1250, care facilities;
 - 2) 2110 series, automobile sales;

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

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

This is the 28th day of January, 2025.

FOR THE TOWN COUNCIL:


Taylor G. Clement, Mayor