



AGENDA

Thursday, July 24, 2025: 6:00 PM

Planning Board

Douglass Community Center: 1185 W. Pennsylvania Ave

1. CALL TO ORDER

2. APPROVAL OF MINUTES

a. May 22, 2025 Regular Meeting

b. June 19, 2025 Regular Meeting

3. PRELIMINARY FORUM

a. SU-01-25 Special Use Permit for Lot 9 of Tyler's Ridge

Request to reduce 30' landscape buffer and 50' minimum building setback from the adjacent parcel as required by Conditional Use Permit CU-01-11.

4. PUBLIC HEARINGS

a. PD-02-25 Penick Village Planned Development - Conceptual Development Plan

The purpose of the application is to establish a unified framework for the existing continuing care retirement community and to support its ongoing operations and future expansion.

b. Z-04-25 Rezoning of 0.23 acres on N. Hardin Street from RS-1 to RM-1CD

Request to rezone a single parcel from RS-1 (Residential Single-Family) to RM-1CD (Residential Multi-Family Conditional Zoning District) to allow the development of two duplex structures.

c. OA-02-25 Proposed Amendments to the Unified Development Ordinance (UDO)

The Town of Southern Pines Planning Department is proposing to amend multiple sections of the UDO related to sign regulations and the Engineering Department is proposing to amend Appendix B of the UDO.

5. UNFINISHED BUSINESS

6. NEW BUSINESS

a. Planning Board Rules of Procedure

Town Attorney Mac McCarley is requesting the Planning Board review draft Rules of Procedure and consider adoption at a future meeting.

MINUTES
Planning Board Regular Meeting
E.S. Douglass Community Center, 1185 W. Pennsylvania Avenue
Thursday, May 22, 2025, at 6:00 PM

Chair Walden called the meeting to order at 6:00 PM.

Chair Matthew Walden, Vice Chair Kim Wade, Jennifer Garner, Monica Brickey, Andrew Speck, Jason Scribner and Michael Skolnick were present.

Jennifer Garner made a motion, which was seconded by Jason Scribner, to approve the Minutes of the April 2025 regular meeting with one noted correction. The motion carried.

DISCUSSION:

2040 Comprehensive Plan Implementation Projects

Planning Director BJ Grieve explained the historical context of Planned Developments and the requirement for landowner consent. He discussed the challenges of amending a Planned Development when all landowners refuse to sign off on the changes; and how changes in market conditions and development plans have led to difficulties in obtaining landowner consent for amendments. Mr. Grieve also highlighted the impact this requirement has on the Town's ability to implement the Comprehensive Plan and adapt to changing circumstances. He suggested a text amendment to allow for Planned Developments to be amended without requiring landowner consent, but only with sufficient notification. He explained the potential benefits and drawbacks of that approach, including the possibility of public controversy, and sought the Board's input on whether staff should initiate the text amendment or if it should be privately initiated by developers.

Discussion ensued.

Bob Koontz of Koontz Jones Design highlighted the need for flexibility to adapt to changing market conditions and Comprehensive Plan requirements.

Michael Skolnick made a motion, which was seconded Andrew Speck, that the 100% property owner consent requirement be amended to require a notification process and public hearing process instead.

Mr. Grieve next introduced the topic of accessory dwelling units and provided the current limitations and potential changes to the standards to allow more than one ADU per site to provide a long-term affording housing option.

The challenges of implementing missing middle housing, including ADUs and townhomes, to address workforce housing needs was also discussed. Concerns were raised about the feasibility and demand for ADUs, given high construction costs and potential misuse. The discussion highlighted the need for data from other communities and the importance of balancing affordable housing solutions with neighborhood character and market realities.

The conversation shifted to housing projects, including a new subdivision process with administrative review, bonus densities, flexibility for missing middle options, and reduced setbacks and building separation. Infrastructure challenges, such as outdated plumbing and sewer systems, affecting property values and development, were discussed. The Board explored the idea of special assessment districts and municipal service districts to fund infrastructure improvements.

Mr. Grieve stated that staff has been working on updating the sign code, which is one of the Phase 2 Comprehensive Plan implementation projects.

UNFINISHED BUSINESS:

Mr. Grieve stated that a revised plan for Village Walk to incorporate townhomes and reduce infrastructure costs had been continued to the July 2025 Town Council regular business meeting.

NEW BUSINESS:

Mr. Grieve stated that the June agenda would include amendments to the sign code, a major subdivision preliminary plat application and a Morganton Park South Preliminary Development Plan.

Jennifer Garner made a motion, which was seconded by Monica Brickey, to adjourn the meeting. The motion carried.

The meeting adjourned at 8:38 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board

An audio recording of the meeting is available upon request.

MINUTES
Planning Board Regular Meeting
E.S. Douglass Community Center, 1185 W. Pennsylvania Avenue
Thursday, June 19, 2025, at 6:00 PM

Monica Brickey, Andrew Speck and Jason Scribner were present.

DISCUSSIONS:

MAPP-02-25: Major Subdivision Preliminary Plat for Twenty (20) Townhome Lots and One (1) Detached Residential Lot on Murray Hill Road

Paul Saathoff of Koontz Jones Design + V3, on behalf of Value Build Homes, has submitted a Major Subdivision Preliminary Plat application to subdivide ± 2.06 acres of land across two (2) parcels into 20 townhome lots and one (1) detached residential lot. The parcels are identified as PIN 857111552261 (PARID 00052146) and PIN 857111555202 (PARID 00048691). Pursuant to the Moore County tax records, the parcels are owned by On Your Lot, Inc.

Planner James Broadwell provided an overview of the application accompanied by a slide presentation and stated that administrative relief from the setback standards had been granted by Planning staff.

Paul Saathoff also provided a slide presentation and overview of the project.

There were no questions or comments from the Board and no public comments.

PD-01-25: Planned Development District - Preliminary Development Plan for Lot 3 of Phase 4 of the Morganton Park South Planned Development

Robert Koontz, on behalf of Carolina Car Wash, LLC, has submitted a Planned Development District – Preliminary Development Plan application to develop an express car wash facility on ± 1.84 acres situated on the south side of Morganton Road between Patriot Boulevard and Carolina Green Parkway. The parcel is identified as PIN 857100588078 (PARID 98000749) and is owned by MSP Outlots, LLC.

Planner Mason Mattox provided an overview of the application accompanied by a slide presentation and stated that the only issues staff had identified were building orientation and the absence of a frontage zone.

Member Brickey inquired about drainage and likelihood of chemicals from the car wash draining into the public water system.

Paul Saathoff responded that water from the car wash will be recycled and there should be no risk of it entering the public water supply.

Mr. Saathoff also provided an overview of the project accompanied by a slide presentation, which included a calculation of open space provided to date within the development to date.

BJ Grieve stated that the corporate architectural model will not be approved and will be subject to Town of Southern Pines standards.

Mr. Grieve stated that there will be four items on the July agenda and the Town Attorney has requested that the Board review rules of procedure.

There were no public comments or concerns.

The meeting ended at 6:41 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board

An audio recording of the meeting and slide presentations are available upon request.

Agenda Item

To: Planning Board

From: Gene Ruiz, Planner II

Subject: SU-01-25 Special Use Permit to Amend CU-01-11 To Remove Landscape Buffer: Owner/Applicant: James B. O'Malley, Trustee; Authorized Agent: Paul Saathoff, KoontzJones Design

Date: July 24, 2025

I. SUMMARY OF APPLICATION REQUEST

On behalf of Trustee James B. O'Malley, Paul Saathoff with KoontzJones Design has applied for a Special Use Permit to amend the 2011 Conditional Use Permit for the Tyler's Ridge development (i.e., file #CU-01-11). Lot 9 is a ±0.7-acre parcel within the development and is adjacent to the current Ace Hardware development, the former Ace Hardware building, and Capital Drive. The amendment being proposed would remove a required 30' landscaping buffer and 50' building setback. The subject property is identified as PIN: 857300977253 (PARID: 20190158).

II. PROJECT INFORMATION

A. Property Owner & Applicant Information

i. Property Owner and Applicant
O'Malley, James B Trustee
211 Trimble Plant
Southern Pines, NC 28387

ii. Authorized Agent
Koontz Jones Design
c/o Paul Saathoff
140 Applecross Rd. Suite B
Southern Pines, NC 28387

B. Project History and Site Information

The 2011 Conditional Use Permit #CU-01-11 was approved as a mixed-use development west of NC Highway 22 and South of Airport Road and includes commercial, retail, and multi-family uses. Several conditions were imposed by the Town Council at the time of approval for file #CU-01-11, including a condition requiring a 30' landscape buffer and 50' building setback.

Figure 1: Zoning and Location Map (Subject Property Outlined by Dashed Red Lines)



Figure 2: Approved Master Plan per CU-01-11(Green Line 30' planted Buffer, Blue line 50' Building)

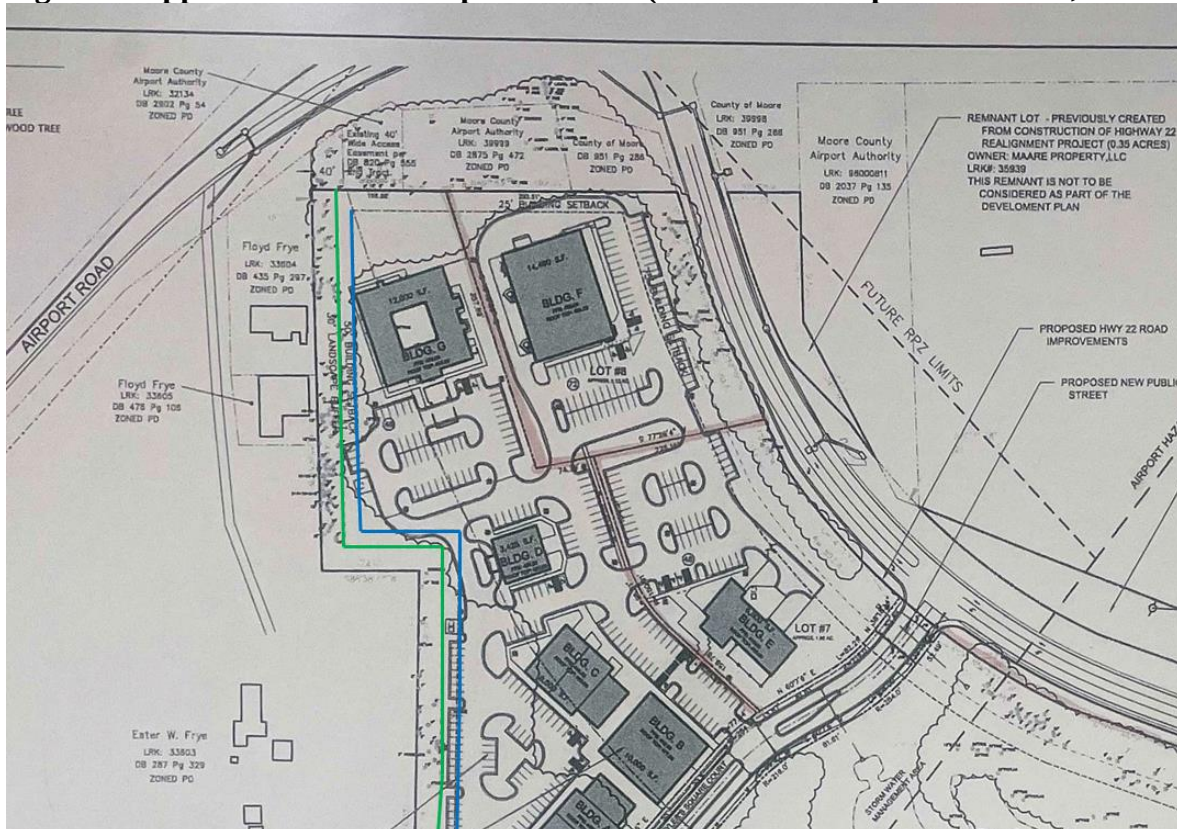


Figure 3: Applicant's plans showing Tyler's Ridge

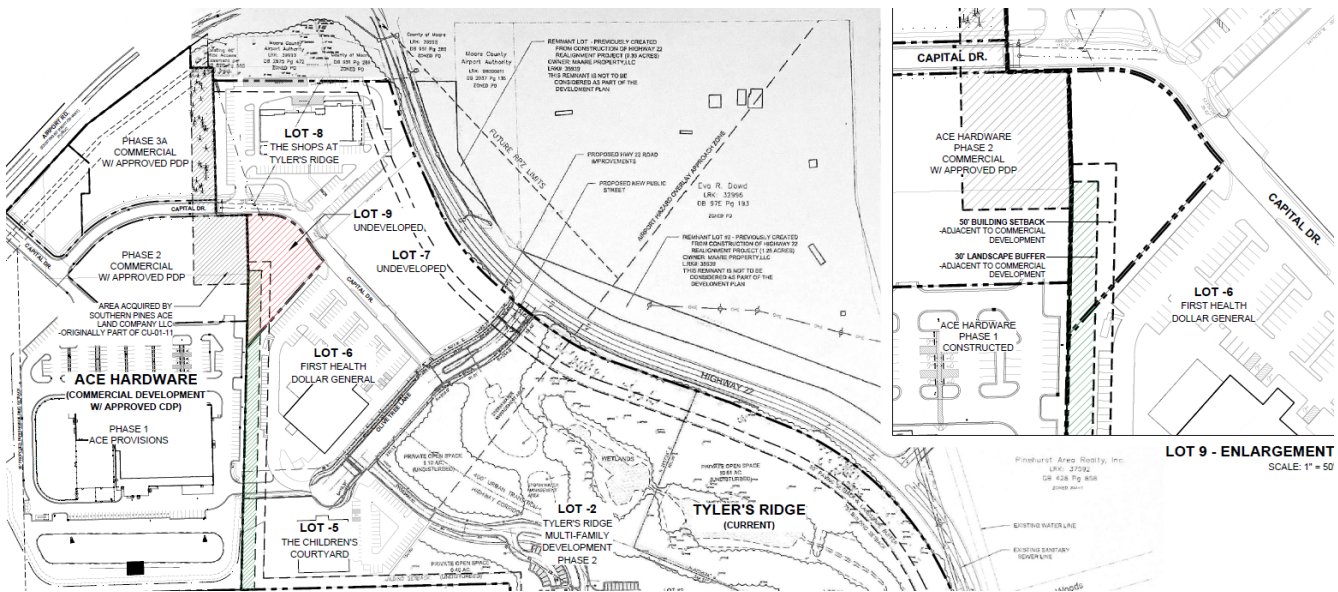


Figure 4: Conceptual Site Plan as submitted with Pre-Application file #PA-32-24

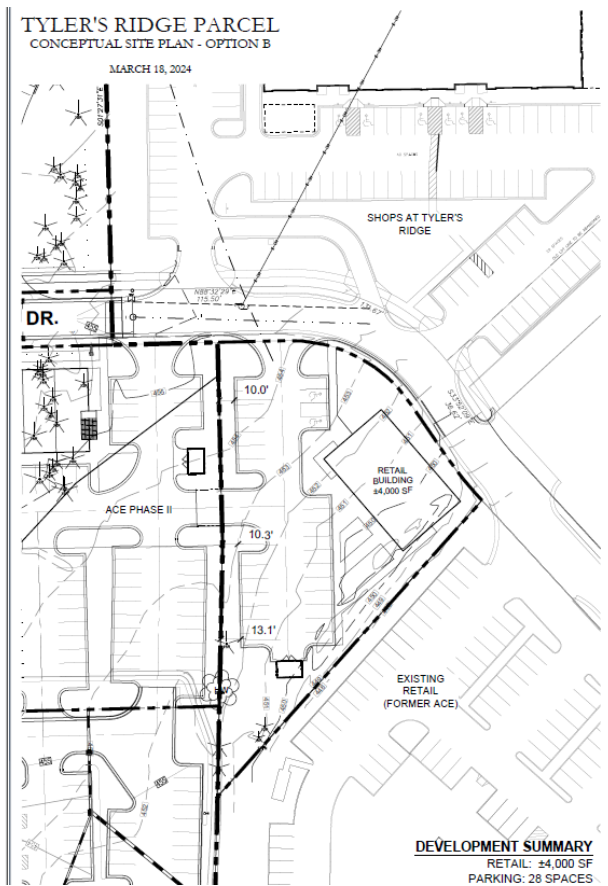


Figure 5: Site layout

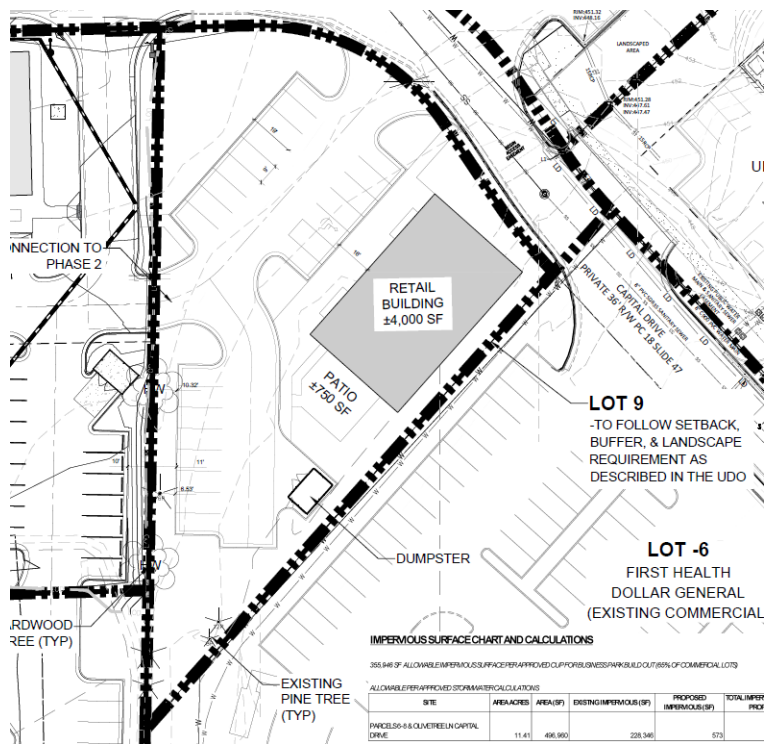


Figure 6: Oblique View of 30' buffer in August 2024, as seen from the south to north



Figure 7: Oblique View of 30' buffer in August 2024, as seen from the north to south



III. STAFF REVIEW

A. Application Review Dates

- Special Use Permit Amendment Application Submitted: **June 9, 2025**
- Application Deemed Complete: **June 16, 2025**
- Notice of Planning Board Public Hearing:
 - Posted On-site: **July 1, 2025**
 - Mailed: **July 1, 2025**
 - Internet: **June 27, 2025**
 - Published: Emailed to the Pilot on **July 1, 2025** for **July 9** and **July 16** publication
- Planning Board Preliminary Forum: **July 24, 2025**

B. Process and Standards of Review

Zoning entitlement has changed in a number of way since 2011, in some cases due to legislation enabled by changes in State Statutes. Conditional Use Permits are now called “special use permits.” The procedures for the review and approval of a Special Use Permit amendment, per UDO §2.21, establish a process and standards to approve certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right. Special Use Permit Criteria, UDO §2.21.6 (A-F) apply to the review of this amendment to an existing Special Use Permit.

C. Special Use Permit Criteria for Review [UDO §2.21.6 (A-F)]

An amendment to a special use is permitted only if the applicant demonstrates that:

- A. *The proposed special use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations;*

The applicant is requesting an amendment to an existing Conditional Use Permit (CU-01-11) for the Tyler’s Ridge development to eliminate a 30-foot landscape buffer and a 50-foot building setback located along the western boundary of Lot 9, as depicted in the approved Overall Site Plan (Figure 2). These original conditions were included in the 2011 permit to provide screening and separation from an adjacent single-family residence, which has since been removed and replaced with a mixed-use development (Ace Hardware Planned Development District, Figure 3).

While the proposed amendment does not comply with the originally approved buffer and setback dimensions, it seeks to modify those standards in light of the change in surrounding land use. The applicant has coordinated with staff to develop a revised site design that limits the impact to the existing buffer. Specifically:

- Eight of the 23 proposed parking spaces would encroach into the original 30-foot buffer but are now situated to maintain approximately 11 feet of separation from the western property line. This modification would preserve a significant portion of the

original 30-foot buffer, including mature trees, and would allow for the required perimeter parking plantings in accordance with the UDO.

- The applicant proposes to retain existing hardwoods and pines within the buffer while removing underbrush, thereby preserving mature vegetation and enhancing long-term canopy health.
- The total number of parking spaces within Tyler's Ridge, including the proposed 23 on Lot 9, would be 310—remaining under the originally approved total of 320 spaces, demonstrating continued compliance with overall parking requirements.

Although the request involves a deviation from the original buffer and setback standards, the proposal continues to meet the intent of the zoning and use regulations by preserving vegetation, maintaining reasonable separation from adjacent properties, and reflecting the current development context. The proposed changes are consistent with the general standards of the zoning district and represent a reasonable adjustment to evolving site conditions.

B. The proposed special use shall conform to the character of the neighborhood in which it is located and not injure the use and enjoyment of property in the immediate vicinity for the purposes already permitted;

The applicant states that the proposed development will be consistent with the standards of the applicable zoning district and the Unified Development Ordinance (UDO), and that it will remain compatible with surrounding land uses. Although the request includes a reduction of the previously approved 30-foot landscape buffer along the western edge of Lot 9, the applicant has worked with staff to incorporate measures intended to preserve neighborhood character.

Specifically:

- The site design retains approximately 11 feet of separation (within the original 30-foot buffer) between the edge of the proposed parking area and the western property line. Staff agrees with the applicant that the former residential use of the property to the west no longer exists and supports the measures taken to preserve signature trees within the remaining buffer (see Figure 3) which enhances the character of all of the new commercial development.
- Existing vegetation within this buffer area—including two mature hardwoods and five pine trees—will be preserved.

- The applicant has committed to removing underbrush and invasive growth in this area, thereby improving the health of existing trees and the visual quality of the buffer.
- Although the buffer has not been actively maintained since the transfer of ownership of the former Frye family property to Southern Pines Ace Hardware, the applicant's proposed cleanup and preservation efforts will restore and enhance the buffer's appearance and functionality.

Staff notes that this preserved buffer area aligns with the vegetative screening established elsewhere within the Tyler's Ridge development, particularly where Longleaf Pines and Willow Oaks have been conserved along the northern and southern extents of the project. The original intent of the buffer was to soften the visual impact of commercial development and promote compatibility with adjacent properties, and this revised proposal maintains that spirit.

Based on the surrounding land use transition—from a single-family residence to a mixed-use commercial development—and the applicant's commitment to maintain and enhance the existing landscape buffer, staff finds that the proposal is generally consistent with the established character of the neighborhood and will not adversely affect the use and enjoyment of nearby properties.

C. Adequate public facilities shall be provided as set forth herein;

Previous phases of the development have established the adequate infrastructure for the overall development. Currently the development has access to public water and sewer utilities located adjacent to Capital drive. Applicant has stated any cost will be borne by the developer. Planning staff do not believe that the current request, whether approved or denied, will have impact on the provision of adequate public facilities.

D. The proposed use shall not impede the orderly Development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values within the neighborhood;

The proposed amendment involves removing a 30-foot landscape buffer and a 50-foot building setback along the western boundary of Lot 9. This buffer was required under the original Conditional Use Permit (CU-01-11). This request reflects the transition of surrounding properties from residential to commercial uses, most notably the redevelopment of the adjacent parcel as the Southern Pines Ace Hardware Planned Development District.

The applicant has worked collaboratively with Town staff to develop a revised site layout that supports a more cohesive and integrated commercial development pattern while minimizing visual and environmental impacts. The proposal maintains approximately 11 feet of vegetated separation along the western boundary and preserves several key existing trees within the buffer area. These measures are intended to retain the visual and environmental benefits of the original buffer while allowing for a more functional site design.

The proposed changes are not expected to impede the development or redevelopment of surrounding properties. On the contrary, the integration of Lot 9 with neighboring commercial development enhances site connectivity and supports the orderly buildout of the Tyler's Ridge project. Additionally, no evidence has been presented to suggest that the proposed amendment would diminish or impair property values in the vicinity (see Figure 7).

Staff finds that the proposed use is compatible with ongoing development patterns and does not pose a risk to property values or the orderly improvement of nearby properties within the zoning district.

- E. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, comfort or general welfare;*

The applicant states that the proposed development of Lot 9 will continue the existing development pattern and comply with the standards outlined in the Tyler's Ridge Conditional Use Permit (File #CU-01-11) and the Unified Development Ordinance (UDO). Staff finds no evidence to suggest that the removal of the 30-foot landscape buffer and 50-foot building setback will be detrimental to public health, safety, comfort, or general welfare.

The applicant has coordinated closely with Planning staff and the Town Arborist to develop a site design that both supports commercial development and retains key natural features. Notably, several mature Longleaf Pine and Willow Oak trees—identified by the Town Arborist as contributing to the visual and environmental quality of the site—will be preserved. The applicant has also committed to removing underbrush within the remaining buffer area, which will promote the health of existing vegetation and improve the visual character of the site.

Preserving these elements aligns with the goals of the 2040 Comprehensive Plan, which emphasizes the importance of maintaining community character and integrating new development with existing environmental features. Staff believes that this collaborative approach results in a balanced outcome that respects both development goals and the broader public interest (see Figure 6).

Based on these considerations, staff finds that the proposed use, as revised, will not endanger public health or safety, nor will it adversely affect the comfort or general welfare of the community.

- F. The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use.*

Staff finds that the proposed amendment reflects a reasonable balance between public and private interests. The applicant has worked collaboratively with Town staff throughout the review process to redesign and reconfigure the site plan in response to staff concerns with the original amendment request that simply eliminated all buffering and vegetation. The resulting proposal is one that Planning staff fully supports, as it accommodates the applicant's development goals while preserving important visual and environmental features associated with the Tyler's Ridge development and the original Frye buffer.

The conceptual site plan submitted for Technical Review Committee (TRC) review included a $\pm 4,000$ -square-foot retail shell building. Based on UDO Exhibit 4-6 (1 space per 200 square feet of gross floor area), the minimum parking requirement would be 20 spaces. The revised plan proposes 23 parking spaces, which is sufficient to meet the requirement while maintaining compatibility with the site layout and adjacent development.

In addition, the applicant has committed to providing approximately 3,000 square feet of planting area at the northwest corner of the site, along Capital Drive, between Lot 9 and Ace Phase II. This landscaping feature will enhance the streetscape over time and contribute positively to the overall character of the development. Preservation of mature trees within the remaining buffer further strengthens this balance by retaining established vegetative features valued by the community.

Staff believes that the proposed use serves the broader public interest by supporting compatible infill development, improving connectivity between commercial sites, and maintaining key natural features. Any potential adverse impact to individual interests—such as the reduction of the buffer—has been effectively mitigated through thoughtful site design and landscape preservation. As such, staff finds that the public interest and welfare served by the proposed use outweigh any negatively affected individual interests.

D. General Staff Comments and Recommendation

Planning staff recommend approval of the current Special Use Permit to amend CU-01-11 to remove the existing 30' buffer and 50' building setback. The applicant has adequately demonstrated that removal of the buffer on the subject property will allow for an appropriate design that protects the matured trees that are part of the

character in that area while cleaning up the underbrush maximizing the growth potential of the existing trees. The applicant is also contributing to the development providing 3,00 square feet of planting in the northwestern corner of the property along Capital drive. The proposal adheres to five of the six criteria for review of a Special Use Permit Amendment. Planning staff has set forth herein how five of the six criteria may in fact be met by the proposed amendment.

E. Outside Agency Comments

A request for comments from agencies was emailed on June 30, 2025, to representatives of the Town of Southern Pines Engineering, Streets, Utilities, Fire and Recreation & Parks Departments as well as representatives of the North Carolina Department of Transportation, U.S. Fish and Wildlife Service and the Regional Land Use Advisory Commission (RLUAC). There were no comments from the Town's Utilities Department or RLUAC.

IV. ATTACHMENTS

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

1. Application to Amend Special Use Permit Application
2. Deed
3. Applicant's Narrative
4. Applicants Special Use Permit Justification
5. CU-01-11 Original Approved Plan
6. Plans Showing Current Development
7. Proposed Site with Surrounding Approved Planned Developments

V. PLANNING BOARD ACTION

Pursuant to North Carolina General Statute §160D-301(b)(6) and Unified Development Ordinance §2.5.2, *the Planning Board may hold a Preliminary Forum on a matter requiring a quasi-judicial decision by the Town Council. However, no part of the forum or any recommendation may be used as a basis for the Town Council's final decision. Therefore, the Planning Board may wish to use the following motion to identify issues to bring to the attention of the Town Council at the evidentiary hearing.*

I move to adopt the following list of issues for transmission to the Town Council as a result of the July 24, 2025 Preliminary Forum on application SU-01-25:

The information presented at the forum indicated that the following issues be considered in applying the criteria for a SUP to application SU-01-25:

- 1.

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

- 1.



Special Use Permit

Fee: \$ _____

Date Paid: _____

Case No.: SU- _____ - _____

Project Information:

Street Address: Captial Drive, Carthage NC 28327

PIN: 857300977253

Parcel ID: 20190158

Site Size: ±0.70 acres

Zoning: PD

Applicant:

Name(s): Jim O'Malley

Email: jomalley@omalleydevelopment.com

Phone: 414-573-0855

Mailing Address: 211 Trimble Plant Rd. Southern Pines, NC 28387

Authorized Agent, if different from Applicant:

Name(s): Koontz Jones Design - C/O Paul Saathoff

Email: psaathoff@koontzjones.com

Phone: 910-684-8487

Mailing Address: 140 Applecross Rd. Suite B, Pinehurst NC, 28374

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

Name(s): O'Malley, James B Trustee

Email: jomalley@omalleydevelopment.com

Phone: 414-573-0855

Mailing Address: 211 Trimble Plant Rd. Southern Pines, NC 28387

4.17.24

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 grant a Special Use Permit as required by the Town of Southern Pines Zoning Ordinance. The following information is submitted in support of this application:

The property which is the subject of this application is located on the South side of Capital Dr (St./Ave.), between Olivetree (St./Ave.) and Airport (St./Ave.). The property has a frontage of ±220 feet and a depth of ±300 feet.

The special use sought is based upon Section(s) 2.21 of the **Town of Southern Pines Unified Development Ordinance**. The proposed use of the property is as follows:

Retail / Commerical

Date:

6/9/2025

Applicant

**PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES**

plan@southernpines.net (910) 692-4003 www.southernpines.net

APPOINTMENT OF AGENT

The undersigned owner(s), Jim O'Malley, hereby appoint(s) Koontz Jones Design as the exclusive agent for the purpose of making an application to the Town of Southern Pines for a Special Use Permit on the property described in the attached application. The owner(s) hereby agree that this agent has the authority to act for and on behalf of the owner(s) as follows:

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

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

Signed this 9 day of JUNE, 2025.

Shelley J. O'Malley Family Trust
Property Owner

Shelley J. O'Malley - Trustee
Property Owner

Pam Santoro - KJD
Agent

ADJACENT PROPERTY OWNERS										
PARID	PIN	DEED_BOOK	DEED_PAGE	NAME	NAME2	ADDRESS	CITY	STATE	ZIP	
00033603	857300963887	5749		375 SOUTHERN PINES ACE LAND	COMPANY LLC	215 CAPITAL DR	CARTHAGE	NC	28327	
00033604	857300974451	5782		400 SOUTHERN PINES ACE LAND	COMPANY LLC	215 CAPITAL DR	CARTHAGE	NC	28327	
20110244	858300070284	3914		109 TYLER'S RIDGE BUSINESS PARK LLC		211 TRIMBLE PLANT ROAD	SOUTHERN PINES	NC	28387	
20110245	857300977346	3914		109 TYLER'S RIDGE BUSINESS PARK LLC		211 TRIMBLE PLANT ROAD	SOUTHERN PINES	NC	28387	
20150295	857300969862	4541		172 TYLER'S RIDGE PROPERTY OWNERS	ASSOCIATION INC	211 TRIMBLE PLANT ROAD	SOUTHERN PINES	NC	28387	
20150296	857300968936	6071		458 CAPITAL DRIVE PARTNERS LLC		2075 JUNIPER LAKE ROAD	WEST END	NC	27376	
20190157	857300978532	5159		43 THE SHOPS AT TYLERS RIDGE LLC		35 MARTIN DR	CARTHAGE	NC	28327	
20190158	857300977253	6174		127 O'MALLEY JAMES B TRUSTEE		211 TRIMBLE PLANT RD	SOUTHERN PINES	NC	28387	

For Registration Register of Deeds

William Britton

Moore County, NC

Electronically Recorded

May 20, 2024 2:55:07 PM

Book: 6174 Page: 127 - 129 #Pages: 3

Fee: \$26.00 NC Rev Stamp: \$350.00

Instrument# 2024006669

Prepared by:

William A. Pully, II
Littlewood Law, PLLC
3700 Glenwood Avenue, Suite 405
Raleigh, North Carolina 27612

Excise Tax: \$350.00

Tax Parcel(s): 20190158

NORTH CAROLINA

MOORE COUNTY

SPECIAL WARRANTY DEED

*Title Not Examined by Preparer

THIS SPECIAL WARRANTY DEED, made this 20th day of May, 2024, by and between **TYLER'S RIDGE BUSINESS PARK, LLC**, a North Carolina limited liability company (the "Grantor"); and **JAMES B. O'MALLEY and his successors, as Trustee of the SHELLEY J. O'MALLEY FAMILY TRUST**, whose address is 211 Trimble Plant Road, Southern Pines, NC 28387 (the "Grantee"). The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context. *The Preparer makes no warranty as to the state of title to the real property conveyed herein.

W I T N E S S E T H

That the Grantor, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid to it by the Grantee, the receipt and sufficiency of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell, and convey unto the Grantee, in fee simple, all of its right, title, and interest in and to that certain real estate situated in Moore County, North Carolina, and being more particularly described as follows (the "Property"):

BEING all of Recombined Lot 9 as shown on that map of plat entitled, "Recombination Survey, Lot 9 Tyler's Ridge & Tyler's Ridge Business Park, LLC Lot, McNeill Township, Town of Southern Pines, Moore County, North Carolina", dated November 16, 2021, by Jeffrey L. Green, PLS, recorded in Pla Cabinet 19, Slide 193, Moore County Registry.

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, and all privileges and appurtenances thereunto belonging to Grantee, its heirs, successors, and assigns, in fee simple forever.

Submitted electronically by "Littlewood Law, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Moore County Register of Deeds.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the following matters (the "Permitted Exceptions"):

1. Ad valorem property taxes for 2024 and subsequent years;
2. Matters revealed by map/plat recorded in Plat Cabinet 19, Slide 193, Moore County Registry, Plat Cabinet 15, Slide 441, Moore County Registry, and Plat Cabinet 18, Slide 47, Moore County Registry;
3. Declaration of Easements, Covenants, Conditions and Restrictions recorded in Book 4541, Page 152, Moore County Registry, as amended by that Amendment to Declaration of Easements, Covenants, Conditions and Restrictions recorded in Book 5782, Page 422, Moore County Registry;
4. Aviation and Noise Easement to Moore County Airport Authority recorded in Book 3923, Page 390, Moore County Registry;
5. Easement to Carolina Power & Light Company recorded in Book 3988, Page 132, Moore County Registry; and
6. Any discrepancy, conflict, access, shortage in area or boundary lines, encroachment, encumbrance, violation, variation, overlap, setback, easement or claims of easement, riparian right, and title to land within road, ways, railroads, watercourses, burial grounds, marshes, dredged or filled areas or land below the mean high water mark or within the bounds of any adjoining body of water, or other adverse circumstance affecting the title that would be disclosed by a current inspection and accurate and complete land survey of the Property.

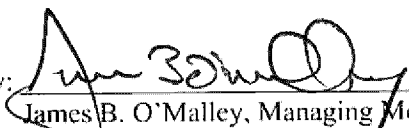
Grantor, pursuant to N. C. Gen. Stat. § 105-317.2, hereby certifies that the Property does not include its primary residence.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

GRANTOR:

TYLER'S RIDGE BUSINESS PARK, LLC,
a North Carolina limited liability company

By:  (SEAL)
James B. O'Malley, Managing Member

STATE OF NORTH CAROLINA

COUNTY OF MOORE

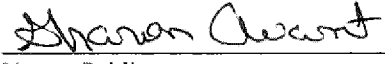
I, Sharon Avant, a Notary Public of the aforesaid state and county, do hereby certify that James B. O'Malley (the "Signatory"), Managing Member (title) of Tyler's Ridge Business Park, LLC (name of entity), personally appeared before me this day and, by authority duly given, voluntarily acknowledged the due execution of the foregoing instrument on behalf of Tyler's Ridge Business Park, LLC (name of entity) for the purpose stated therein and in the capacity indicated. I certify that the Signatory personally appeared before me the day, and (check one of the following)

☒ (I have personal knowledge of the identity of the Signatory); or
☐ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of: (check one of the following):

☐ a drivers license
☐ in the form of _____); or

☐ (a credible witness has sworn to the identity of the Signatory).

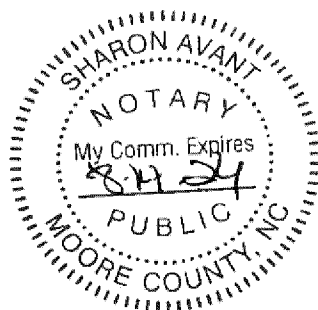
Witness my hand and official stamp or seal this 17th day of may, 2024.

 (signature)
Notary Public

Sharon Avant (print/type)
Notary Public

My Commission Expires: 8-14-26

[NOTARY SEAL]



**TYLER'S RIDGE – LOT 9
SPECIAL USE PERMIT NARRATIVE**

The property described as Tyler's Ridge in the submitted documents and exhibits was approved with a Conditional Use Permit in 2011 (CU-01-11). It is located on the south side of Airport Road and west of NC Highway 22. The approved development proposed a mixed-use project consisting of commercial, retail, and multi-family uses. Lot 9 is a ±0.7-acre parcel internal to the development and is bordered by the current Ace Hardware development, the former Ace Hardware building, and Capital Drive.

Several phases of the Tyler's Ridge development have been completed, including the Tyler's Ridge multi-family development, The Children's Playground of Southern Pines daycare center, The Shops at Tyler's Ridge, and the former Ace Hardware building, which now contains Dollar General and FirstHealth. Lot 7 is currently under construction and will include McDonald's and Starbucks. Fen Court, Moonseed Lane, Olivetree Lane, and Capital Drive have all been completed, creating an internally connected mixed-use development. Capital Drive was extended with the adjacent Ace Hardware development, connecting both developments to Airport Road and NC Highway 22.

Since the original approval in 2011, much of the development has varied from the approved Overall Site Plan during the detailed site design phase. Likewise, the neighboring parcel adjacent to Lot 9 has also changed. At the time of CU-01-11 approval, the adjacent parcel west of Lot 9 was owned by the Frye family and was considered residential. Due to the residential nature of the neighboring parcel, a 30-foot buffer and 50-foot building setback were proposed along the western border of the Tyler's Ridge development. Additional conditions regarding the neighboring residential property were also included as part of the original approval, including the following:

- Construction of a five-foot-tall wooden fence along the entire common boundary with the Frye property
- A double row of evergreen plants in place of required buffer plantings along the commercially zoned common property line with the Frye property
- Dumpster and delivery services were not to occur between the hours of 9 PM and 7 AM for as long as Mrs. Frye resided at the residence

The 30-foot landscape buffer and 50-foot building setback were unique to the property boundary adjacent to the Frye residential property.

The Frye property has since transferred ownership and has been developed as a commercial mixed-use area with the approval of a Conceptual Development Plan (CDP) for Southern Pines Ace Hardware and subsequent Preliminary Development Plan (PDP) approvals for Phases 1, 2, and 3A. Phase 1, which includes the Ace Provisions Hardware Store and the completion of Capital Drive, has been constructed, with the store opening in late 2023. Construction of Phase 2—adjacent to and west of Lot 9—is set to begin in the summer of 2025 and will include two retail buildings, relevant parking and infrastructure, and a connection to both Lot 9 and Capital Drive.



With this Special Use Permit application, the applicant is requesting removal of the 30-foot landscape buffer and 50-foot building setback that currently exist along a portion of the western property boundary of Lot 9. While both the Ace and Tyler's Ridge properties were approved as Planned Developments, it is worth noting that with the adjacent property's change in use from residential to commercial, per Section 4.3.4 and Exhibit 4-2 of the Southern Pines UDO, no landscape buffer would be required between properties of similar General Business (GB) uses.

As proposed, Lot 9 would be developed with approximately 4,000 square feet of retail/commercial space, patio areas, and adequate parking. As shown on Exhibit C of this application, 8 of the proposed 23 parking spaces, as well as the connection to Ace Phase II—as approved with the PDP and site plans for Ace Hardware Phase 2—would fall within the current 30-foot buffer area. Removal of the buffer would allow for a more thoughtful design and enable the creation of a commercial development that is cohesive with and better connected to neighboring commercial developments, while also being adequately parked.

Since the application was originally submitted in December 2024, the applicant team has worked with Town staff to revise the originally proposed site plan for Lot 9. The applicant team understands the Town of Southern Pines' concerns regarding tree removal and staff's opinion that the existing buffer and plantings are a character-defining feature of the Tyler's Ridge development. Within the existing buffer, there are two mature hardwood trees located along the western property boundary, as well as five existing pines—one just outside the boundary and four others in the southern tip of the property, adjacent to the existing Ace Provisions and former Ace site. The row of smaller evergreen plantings noted previously as part of the original approval, also currently exists but lies outside the existing wooden fence that marks the 30-foot buffer line.

Working with Town staff, the applicant team has created a revised plan that achieves the following:

- Provides 11 feet of separation between proposed parking and the western property boundary. This allows for over 10 feet of separation from the northernmost existing hardwood tree and 6.5 feet of separation from the northernmost existing pine, which will allow adequate space for tree protection fencing. The four pines located in the southern tip of the property and the other hardwood tree fall well outside the development area for Lot 9 and will not be impacted by this project.
- Provides approximately 3,000 square feet of planting area at the northwest corner of the property along Capital Drive, between Lot 9 and Ace Phase II. Given time to mature, landscaping and trees planted in this area will enhance the streetscape and add to the overall character of the development.
- Allows for better connectivity and circulation between the Ace Phase II development and Capital Drive, providing greater separation between entrances and improving traffic flow through the site.

It is also worth noting that the vehicle use area (VUA) perimeter landscaping required and approved with the Ace Phase II site plans—and with the same requirement for parking along the western side of Lot 9—will result in a “double row” of VUA perimeter plantings between the two properties resulting in a combined 20' of landscaped area. Over time, and in combination with the existing trees, this will produce a more robust and organized landscape than what currently exists within the 30-foot buffer area.

The proposed use(s) or tenant(s) of the building space are unknown at the time of this application. While required parking numbers, as defined in the Town of Southern Pines UDO, are tied to specific uses, the original Conditional Use Permit for the development included specific language regarding the maximum number of parking spaces allowed in the commercial area. A maximum of 320 parking spaces for the commercial component of the project were approved. With the approval of each phase/lot, overall parking numbers have been tracked in accordance with the original approval. To date, 287 parking spaces have been constructed or approved. With the proposed 23 parking spaces for Lot 9, the total would be 310 spaces—10 spaces below the approved maximum. Similarly, a maximum amount of building space and impervious surface area was also included in the original approval. Calculations for the development, including the proposed Lot 9 area, have been updated and provided on Exhibit C of the application and meet the requirements for the overall development.

In summary, the proposal to remove the 30-foot landscape buffer and 50-foot building setback along the western property boundary of Lot 9 reflects the evolution of the surrounding area from residential to commercial use and allows for a more efficient and integrated site design. The applicant has worked closely with Town staff to ensure the revised plan respects existing site features, maintains the character of the Tyler's Ridge development, and enhances connectivity and cohesion with adjacent commercial properties. The proposed improvements will support a thoughtfully designed retail development that aligns with the intent of the original approval while responding to current site conditions and development patterns.

Tyler's Ridge – Lot 9 Special Use Permit Justification

Below are listed the six (6) criteria required to approve a Special Use Permit application as described in Section 2.21.7 of the Town of Southern Pines UDO. Following the individual criteria is an explanation, indicated in red, describing how the project demonstrates compliance with each of these criteria.

A Conditional Use is permitted only if the Applicant demonstrates that:

- (A) The proposed special use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations;

The purpose of this special use permit is to remove the increased 30' landscape buffer and 50' building setback from Lot 9 within the Tyler's Ridge Development due to the neighboring properties change in use from residential to commercial. The current buffers and setbacks in Lot 9 were in place due to the former residential use of the adjacent property. The adjacent property has since been developed as a mixed-use commercial area. All future development will comply with all other regulations of the PD zoning district and the approved Conditional Use Permit. All future development will meet the standards specified in the Tyler's Ridge zoning documents or the Southern Pines Unified Development Ordinance.

- (B) The proposed special use shall conform to the character of the neighborhood in which it is located and not injure the use and enjoyment of property in the immediate vicinity for the purposes already permitted;

The proposed uses will adhere to the standards of the zoning district or UDO and are in character with the surrounding properties and current development.

- (C) Adequate public facilities shall be provided as set forth herein;

Public water and sewer utilities are readily available for the project, any cost of which will be borne by the developer. Previous phases of the development have developed the infrastructure adequate for the overall development. The development will have access to accommodate emergency and waste removal vehicles.

- (D) The proposed use shall not impede the orderly Development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values within the neighborhood;

This project will not impede the development of surrounding properties and is in conformance with the surrounding development and zoning classifications. The proposed use is consistent with the previous phases of the development.

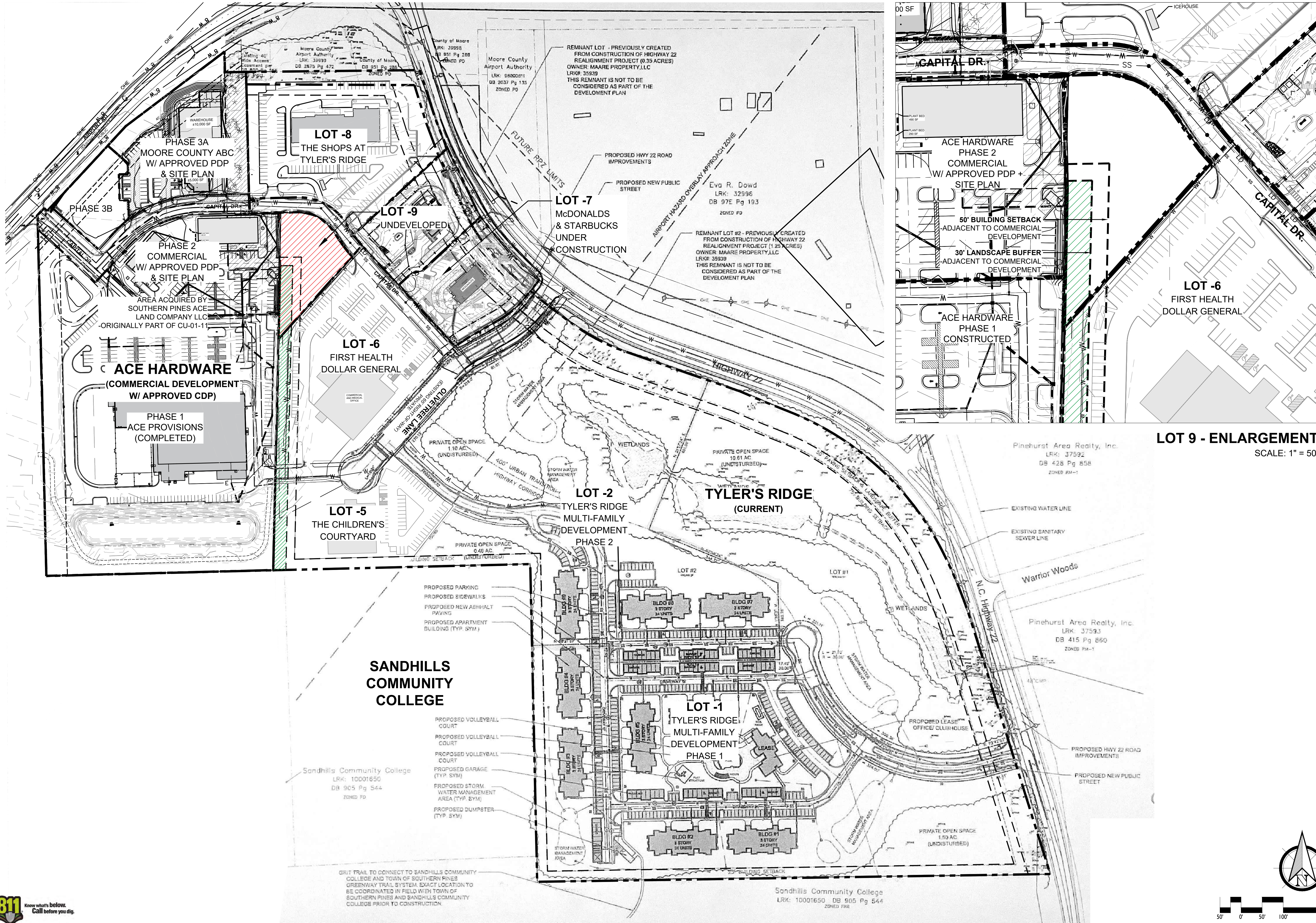
- (E) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, comfort or general welfare; and

Lot 9 will continue the existing development pattern and conform to all other development standards of the PD district, UDO, and engineering requirements of the Town. As a result, the use will not be detrimental to or endanger the public health, safety, comfort, or general welfare of the surrounding neighborhood.

- (F) The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use.

The requested special use permit is in compliance with the established development pattern and is only proposing to remove the increased 30' landscape buffer and 50' building setback from Lot 9. Aside from this proposal, the property will be in conformance with all other underlying conditional zoning district and

UDO regulations. This project is also consistent with the goals and objectives of the Comprehensive Long-Range Plan (CLRP) and establishes a development pattern that is in context with the surrounding neighborhood and the projects in this area of Southern Pines. The CLRP classifies this property as Retail, which is consistent with the overall plan.



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

TYLER'S RIDGE - LOT 9
SOUTHERN PINES, NORTH CAROLINA

EXHIBIT B - CURRENT DEVELOPMENT

EX-B

KOONTZJONESDesign
LAND PLANNING | LANDSCAPE ARCHITECTURE
140 APPLE CROSS RD, SUIT B
PINEHURST, NC 28374
P: (910) 684-6467
W: www.koontzjonesdesign.com

REVISIONS:

Agenda Item

To: Planning Board

From: Mason Mattox, Planner II

Subject: PD-02-25: Planned Development District – Penick Village Conceptual Development Plan

Date: July 24, 2025

I. APPLICATION REQUEST:

Koontz Jones Design + V3 Companies LLC, on behalf of Penick Village Inc., has submitted a Planned Development District – Conceptual Development Plan application pursuant to §2.18.4 of the Town of Southern Pines Unified Development Ordinance (UDO). The purpose of the request is to establish a unified entitlement framework for an existing continuing care retirement community and to support its ongoing operations and future expansion. The community currently includes, or is planned to include: independent living, assisted living, and supportive services such as home care, memory support, nursing care, and rehabilitation, all located on 44.04 acres on the south side of Ridge Street between E. Connecticut Avenue and E. Delaware Avenue.

The subject parcels are identified as PIN 858100680081 (PARID 00033227) owned by Penick Village Inc. PIN 858107687713 (PARID 00035653); PIN 858107686821 (PARID 00035655); PIN 858107685821 (PARID 00035657); PIN 858107684714 (PARID 00035656); PIN 858107684613 (PARID 00065658); PIN 858107685514 (PARID 00035438); 858107686534 (PARID 00035654); PIN 858107686401 (PARID 00037404); PIN 858107686269 (PARID 00035659); PIN 858107687156 (PARID 00035648); PIN 858107688070 (PARID 00035652); PIN 858107689081 (PARID 00035651); PIN 858107688267 (PARID 00041616); and PIN 858107688348 (PARID 00035647) owned by JA Greer Group, LLC.

II. PROJECT INFORMATION:

A. Property Owners:

Penick Village Inc. & JA Greer Group, LLC – both under the jurisdiction of Penick Village, Inc. See subject parcel and corresponding owner list above in “Application Request.”

B. Applicant & Authorized Agent:

Koontz Jones Design + V3 Companies LLC

C. Subject Property Description:

The subject property is bound by North Ridge Street, East Connecticut Avenue, East Delaware Avenue, and the Boyd Tract of Weymouth Woods.

Exhibit One – Existing Penick Village Campus (Green) & Shibui Expansion (Orange).

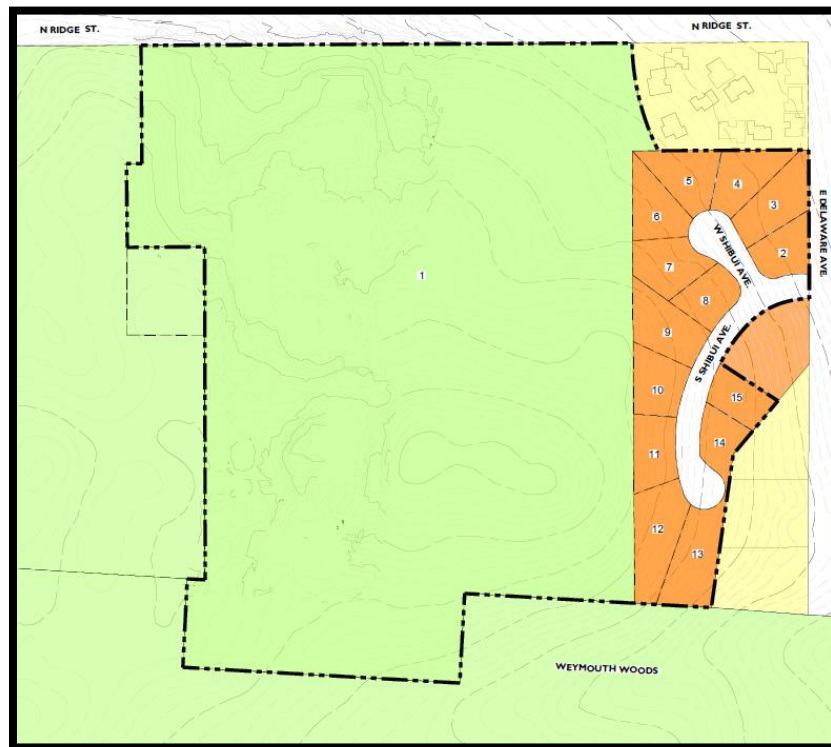


Exhibit Two – Conceptual Design Plan (Existing and Proposed Structures)



Exhibit Three – Phasing Plan (Existing and Proposed Structures Together)



Exhibit Four – Existing Zoning Map

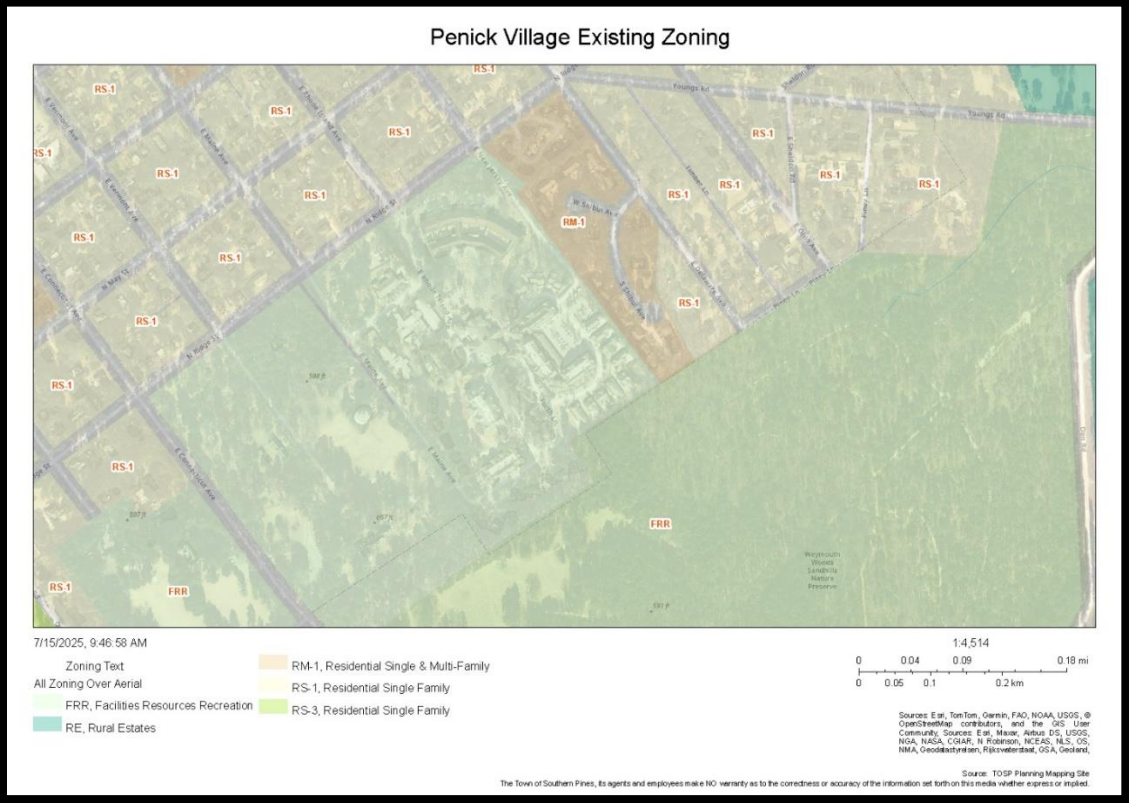


Exhibit Five – Aerial Image Looking South



III. STAFF REVIEW:

A. Review Process:

Applications for a Planned Development District (PD) are reviewed under UDO §2.18 through a three-step process: Conceptual Development Plan (CDP), Preliminary Development Plan (PDP), and Final Development Plan (FDP). This application is for a CDP, which establishes the zoning standards for the project through a rezoning process. As such, it must address the criteria for both a zoning map amendment (UDO §2.17.9) and a CDP (UDO §2.18.4(H)).

B. Procedural Timeline:

- Conceptual Development Plan Application Submitted: **June 09, 2025**
- Application Deemed Complete: **June 19, 2025**
- Internal Consultation with the Technical Review Committee: **July 01, 2025**
- Comments Requested from Outside Agencies: **June 30, 2025**
- Notice of **July 24, 2025**, Planning Board Preliminary Forum:
 - Posted On-site: **July 02, 2025**
 - Mailed: **July 01, 2025**
 - Internet: **June 27, 2025**
 - Published: **July 09 & July 17, 2025**

C. Criteria: Zoning Map Amendments (UDO §2.17.9)

Consistency with Comprehensive Plan

General Framework – Areas to Preserve & Areas to Enhance

The existing Penick Village campus lies within the Areas to Preserve designation, which emphasizes conserving rural character, open space, and natural features. While the site includes multi-story apartment buildings, the overall campus design retains substantial green buffers and open space, thereby supporting the conservation goals of this designation. The proposed Shibui Gardens expansion falls within the Areas to enhance designation, which encourages context-sensitive redevelopment and neighborhood-scale infill. The plan proposes compact residential clusters including townhomes, duplexes, and single-family homes, arranged in a way that integrates with surrounding development. As such, the proposal aligns with the General Framework map by maintaining natural elements within the existing campus and by promoting thoughtful infill in the current Shibui Gardens area.

Conservation and Development – Rural Living & Neighborhood

The existing Penick Village campus is designated Rural Living, which emphasizes low-density development, natural landscapes, and large lots. While the existing built form includes apartments, the campus retains open space and avoids large-scale grading, elements which align with the broader intent of the Rural Living designation. The Shibui Gardens expansion area lies within the Neighborhood designation, which supports walkable, mixed-type residential development with integrated open space. The proposed plan reflects this intent through its mix of housing types, pedestrian connectivity, and proposal to share green areas. Overall, the proposal demonstrates compatibility with the Conservation and Development Map by preserving key environmental features within the existing campus and delivering context-appropriate residential form within the expansion area.

Character Districts – Horse Country & Suburban Settlement

The existing Penick Village campus is located within the Horse Country Character District, which emphasizes rural landscapes, equestrian access, and low-profile development. While the campus includes larger-scale residential buildings, the existing portion of Penick Village has been established in this form for over 50 years. Despite its intensity, the design preserves mature trees and open space areas but does not reflect the core rural and equestrian character intended for this district. The Shibui Gardens expansion lies within the Suburban Settlement Character district, which supports shopping centers, office parks, single-family neighborhoods, and even apartment complexes. Staff find the inclusion of the Shibui area into the CDP to be consistent with this Character district.

Overall, staff finds the application to be generally consistent with the 2040 Comprehensive Plan, including the General Framework Map, the Conservation and Development map, and goals for housing diversity, infill development, and aging-in-place. The proposal preserves natural features within the existing campus and introduces a compatible mix of housing and pedestrian connectivity in the Shibui Gardens

expansion. However, the existing Penick Village campus is inconsistent with the current Horse Country Character District because that district prioritizes rural landscapes, equestrian access, and low-profile development; features not reflected by the current site. Pursuant to NCGS §160D-605, staff recommends a concurrent amendment to the Character Districts Map (2040 Comprehensive Plan, p. 65) to reclassify the existing Penick Village campus from Horse Country to Suburban Settlement. The campus has been long-established in its current form and the Conceptual Development Plan proposes a modest expansion of that existing use in a way that is contextually appropriate and consistent with the built environment surrounding the site.

Adverse Impacts on Neighboring Lands (Neighborhood Meeting Analysis)

A neighborhood meeting was held on June 12, 2025, and highlighted several potential adverse impacts on neighboring lands related to the Penick Village expansion. Key concerns included: stormwater management, construction traffic, traffic increases, and obstructed views from adjacent properties.

- **Construction Traffic** – The applicants have stated that the redevelopment of Shibui Gardens would likely be accessed from Delaware Avenue as no access points within the current Penick Village Development exist.
- **Obstructed Views** – Neighbors specifically cited concerns over the impact of Penick’s Redevelopment, as seen from Delaware Avenue.
- **Stormwater Management** – The locations of stormwater retention areas, whether dry ponds or wet ponds is yet to be determined as they are only conceptual in nature. Regardless, the design of these devices is finalized during site plan approval, and must comply with all Local and State Stormwater standards. Planning staff view concerns over stormwater runoff as minimal.
- **Traffic** – Based on the Traffic Design Analysis (TDA) prepared by Kimley-Horn and included as an attachment to this Staff Report, the proposed redevelopment of Penick Village is not expected to significantly impact surrounding traffic volumes. Although the project will increase total units from 310 to 474, it results in only 122 additional daily trips and actually projects a slight decrease in morning and evening peak-hour trips compared to existing conditions. The same analysis suggests that relocating or adding a stop sign near the North Ridge, East Delaware, and Youngs Road intersection is recommended. Planning staff view concerns over increased traffic as mitigated as long as the recommended traffic control devices are reviewed at the time of site plan and installed at the time of development.

(Other Adverse Impacts on Neighboring Lands Identified by Staff)

Staff also note that the approved list of land-uses included with this application are not expected to negatively impact neighboring lands as they are explicitly described as being accessory in nature, and not available for use by the general public.

Suitability as Presently Zoned

The existing Penick campus portion of the site is currently zoned FRR, and the Shubui Avenue expansion area is currently zoned RM-1. The proposed PD zoning allows unified development standards across parcels and ensures alignment with the existing continuing care retirement community and its proposed future operations, including or planned to include: independent living, assisted living, and supportive services such as home care, memory support, nursing care, and rehabilitation.

Health, Safety, and Welfare

The rezoning supports public welfare by increasing access to senior living options within an existing care network, leveraging existing services while minimizing suburban expansion through infill development.

Public Policy

The rezoning would support multiple public policy goals directly linked to the Town's 2040 Comprehensive Plan, including support for more diverse housing options, support for a walkable and connected network that increases daily physical activity for seniors, and

Specifically:

- Policy 4.12 – Be an Active Community
- Policy 7.1 – Support Housing Diversity in the Community, and
- Policy 7.6 – Ensure that Nearby Development Reinforces the Character and Quality of Existing Neighborhoods

Size of Tract

The total proposed PD area is just over 40 acres, including the existing (approximate) 31.5-acre Penick Village campus and 6.97 acres of the adjacent Shibui Gardens properties. The combined area provides sufficient land to support a continuing care retirement community with coordinated site design, open space, and connectivity. The Planned Development district allows the applicant to balance the needs of the existing campus with expansion provided through infill.

Other Factors

The applicant proposes development phasing responsive to market demands and infrastructure availability. The applicant noted that phasing often includes renovations to existing buildings.

Applicant Representations

The PD zoning binds the project to the land uses and standards described in the CDP and supporting documents.

D. Criteria: Conceptual Development Plan Process (UDO §2.18.4)

Zoning Map Amendment Compliance

See above.

Consistency with Comprehensive Plan and Other Documents

See above.

Appropriateness for Location

The property has operated as Penick Village since the 1960s and is surrounded by a mix of low-density residential neighborhoods and natural open space provided by Weymouth Woods. This CDP application does not propose the introduction of incompatible uses. The design framework anticipates infill in a manner consistent with the existing campus, while also preserving open space.

Public Infrastructure Efficiency

The project utilizes existing water and sewer connections and proposes no inefficient infrastructure expansion. Four access points exist or are proposed; stormwater will be managed on-site in compliance with local and state regulations.

E. Additional Comments

1. Requirement to pursue Planned Development Zoning

Staff note UDO §5.11.3(A) as a catalyst for Penick Village pursuing a Planned Development Zoning designation: Existing Continuing Care Retirement Communities that are not authorized by zoning classification shall be considered conforming uses for purposes of reconstruction or expansion, subject to the provisions of this section. All new or expanded structures for Principal or Accessory Uses shall be located on the existing site. Any expansion to adjacent or contiguous sites outside of the existing property boundaries will require approval through the PD zoning process.

2. Specific CDP Deviations Requested

The applicant has submitted a comprehensive narrative and CDP that meet the requirements of UDO §2.18.4. Staff notes the proposed PD zoning requests various deviations from the default UDO standards, pending approval of this CDP application. They are as follows:

- **Open Space Calculations:** The applicant requests a reduction from the 40' required width to count land toward open space, to 10' between buildings, citing enhanced pedestrian improvements.
- **Building Height:** The applicant requests that a maximum building height of up to 55 feet be permitted, with height being measured from the front of the building to the eave, and not the tallest feature as the UDO prescribes. This would exclude sloped roof structures from building height calculations. Special architectural features would be permissible up to 70 feet, and are listed as cupolas, spires, steeples, and dormers.

- **Brick Ratio:** The applicant requests a minimum of 25% brick on all exterior façades.
 - **Building Materials:** The applicant proposes a prohibition against vinyl as siding, but states that the material is permissible for doors and windows.
 - **Building Dimensions:** The applicant proposes that the long portion of buildings must be divided into smaller bump-out segments, which must project a minimum of two feet. This is the same as the standard listed in the UDO.
 - **Garages:** The applicant proposes that garages may face internal streets, roads, and driveways only, but shall not face external streets including Ridge Street and Delaware Avenue.
 - **Architectural Compliance Approval:** The applicant also requests that Town staff review all architectural compliance permits, regardless of building size, provided that the application is fully consistent with the CDP and UDO. If a deviation is requested, the application must go before the Town Council.
3. **Technical Review Committee (TRC)**
No major issues were identified during the internal March 14, 2023 TRC review. A detailed stormwater plan and preliminary site plan will be submitted during the Preliminary Development Plan (PDP) phase.
4. **Cooperating Agency Review**
- **RLUAC:** Recommends minimizing disturbance due to red-cockaded woodpecker habitat and proximity to High Quality Waters. The applicant provided a survey confirming no cavity trees exist onsite and committed to complying with USFWS guidance.
 - **USFWS:** A survey conducted in June 2025 confirmed that no active RCW cavity trees are present on site.

F. Staff Recommendation

Staff recommends approval of the Conceptual Development Plan and rezoning of Penick Village to Planned Development District (PD), with a concurrent Character District map amendment to reclassify the existing portion of the campus from the Horse Country designation to the Suburban Settlement designation.

IV. ATTACHMENTS:

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

1. Draft Planning Board Resolution
2. Application
3. Narrative and Design Standards
4. Conceptual Plans
5. Neighborhood Meeting Report
6. DH Carter Letter
7. RLUAC Letter
8. Traffic Design Analysis

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

V. PLANNING BOARD ACTION:

A request for approval of a Conceptual Development Plan is a request for a rezoning. Per North Carolina General Statute 160D-604(d), prior to consideration by the Town Council of the proposed Planned Development District - Conceptual Development Plan (CDP), the Planning Board shall advise and comment on whether the proposed CDP is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendments by the Town Council.

To assist the Planning Board in performing this task, town staff have prepared the following draft motions for the Planning Board's consideration, possible modification as necessary, and adoption:

I move that after reviewing the proposed Conceptual Development Plan and considering the criteria for approval of a Planned Development District found in UDO §2.18.4(H):

1. **The requested Conceptual Development Plan is *generally consistent* with the 2040 Comprehensive Plan, except for the Horse Country Character District, for the reasons set forth in Attachment "A" of staff report for PD-02-25;**

-OR-

2. The requested Conceptual Development Plan is *inconsistent* with the 2040 Comprehensive Plan for the reasons set forth in Attachment "A" of staff report for PD-02-25;

-OR-

3. The requested Conceptual Development Plan does not satisfy additional UDO criteria for zoning map amendments as set forth in Attachment "A" of staff report for PD-02-25.

I further move that the following other matters were considered by the Planning Board and shall be added to Attachment A by town staff as part of the Planning Board's written recommendation to the Town Council:

And therefore, I move to:

- 1. Recommend approval of PD-02-25 to the Town Council;**
2. Recommend denial of PD-02-25.



ATTACHMENT A
PLANNING BOARD RESOLUTION TO ADOPT A WRITTEN RECOMMENDATION
FOR ZONING MAP AMENDMENT APPLICATION PD-02-25

WHEREAS, Section 160D-604(d) of the North Carolina General Statutes specifies that the Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but that a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board;

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

WHEREAS, the Planning Board conducted a public hearing on July 24, 2025, for consideration of a Planned Development – Conceptual Development Plan for the Penick Village Planned Development;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board finds the application PD-02-25 to be generally consistent with the Town of Southern Pines 2040 Comprehensive Plan, including the General Framework Map, the Conservation and Development Map, and relevant policy goals. The request is consistent with the General Framework Map because the existing campus preserves much open space and tree cover within the “Areas to Preserve” designation, and the Shibui Gardens expansion supports context-sensitive infill in the “Areas to Enhance” designation.

The proposal is consistent with the Conservation and Development Map because the existing campus maintains green buffers and avoids over-grading in the “Rural Living” area, while the Shibui Gardens expansion proposes a walkable, mixed-type residential pattern in the “Neighborhood” designation. The proposal is consistent with several policy goals of the Comprehensive Plan, including Policy 4.12 (Be an Active Community), Policy 7.1 (Support Housing Diversity), and Policy 7.6 (Ensure Neighborhood Compatibility), because the project enhances pedestrian connectivity that supports physical activity, introduces varied housing types, and reinforces the existing scale and character of Penick Village as a whole.

While the existing campus lies within the Horse Country Character District, its built form does not reflect the district’s intended rural and equestrian character. Because the site has operated in this form for over five decades and already includes large-scale senior housing, the Planning Board supports a concurrent amendment to the Character Districts Map (Town of Southern Pines 2040 Comprehensive Plan, p. 65), to reclassify the existing campus from Horse Country to Suburban

Settlement because of the compatibility of the Suburban Settlement Character District with the existing built environment and modest proposed expansion. The proposed development is appropriate for its location, utilizes existing infrastructure, and is not expected to create significant adverse impacts. It satisfies the UDO criteria for zoning map amendments, including suitability of the site, compatibility with neighboring lands, and advancement of public health, safety, and welfare through improved access to aging-in-place options.

AND, THEREFORE, BE IT FURTHER RESOLVED that the Planning Board recommends a concurrent amendment to the Character Districts Map to reclassify the existing portion of Penick Village campus from Horse Country to Suburban Settlement, for the reasons outlined in the July 24, 2025 staff report and pursuant to NCGS §160D-605.

AND, FURTHER that the following additional matters were considered by the Planning Board as a basis for a recommendation of approval to the Town Council regarding PD-02-25:

1.

ADOPTED this the 24th day of July, 2025.

Matthew Walden, Chair

ATTEST:

Cindy Williams
Secretary to the Planning Board

OFFICE USE ONLY:

Fee: \$1,800.00

Date Received:

Case No.: PD-

Project Information:

Project Name: **Penick Village**

Physical address: **500 East Rhode Island Ave., Southern Pines, NC 28387**

PIN: **multiple (see attached exhibit)**

Parcel ID: **multiple (see attached exhibit)**

Site Size: **44.04 AC**

Zoning: **FRR / RM-1**

Applicant:

Name(s): **Penick Village Inc. c/o Chip Cromartie**

Email: **ccromartie@penickvillage1964.org**

Phone: **(910) 692-0300**

Mailing Address: **500 East Rhode Island Ave. Southern Pines, NC 28387**

Authorized Agent, if different from Applicant:

Name(s): **Koontz Jones Design + V3 Companies c/o Bob Koontz**

Email: **bkoontz@v3co.com**

Phone: **(910) 684-8487**

Mailing Address: **140 Applecross Rd., Suite B, Pinehurst, NC 28374**

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

Name(s): **Penick Village Inc. & JA Greer Group, LLC**

Email: **ccromartie@penickvillage1964.org**

Phone: **(910) 692-0300**

Mailing Address: **500 East Rhode Island Ave. Southern Pines, NC 28387**

11/08/2024

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

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

The property which is the subject of this application is located on the South side of Ridge St. (St./Ave.), between E. Connecticut Ave (St./Ave.) and E. Delaware Ave (St./Ave.). The property has a frontage of 1,185 feet and a depth of 1,520 feet.

The request is based upon **Section 2.18** of the **Town of Southern Pines Unified Development Ordinance**. The proposed use of the property is as follows:

A senior living community including independent living, assisted living, and services including home care, memory support, nursing, and rehabilitation.

Date:

6/9/25

Alva S. Cromartie

Applicant

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

APPOINTMENT OF AGENT

The undersigned owner(s), Penick Village Inc. & JA Gre, hereby appoint(s) Koontz Jones Design + V3 as the exclusive agent for the purpose of making an application to the Town of Southern Pines for the approval of the Planned Development District – Conceptual Development Plan described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

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

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

Signed this 9 day of June, 2025.

Alva S. Cromartie

Property Owner

Property Owner

[Signature]
Agent

ADJACENT PROPERTY OWNERS

REF	PARID	PIN	DEED_BOOK	DEED_PAGE	NAME	NAME2	ADDRESS	ADDRESS2	CITY	STATE	ZIP
1	00039730	858107575768	431	264	TOWN OF SOUTHERN PINES		PO BOX 870		SOUTHERN PINES	NC	28388
2	00033589	858107573504	446	59	FRIENDS OF WEYMOUTH INC		PO BOX 939		SOUTHERN PINES	NC	28388
3	00032064	858100489119	5649	273	GRINE, REYNOLD CARTER		410 N RIDGE STREET		SOUTHERN PINES	NC	28387
4	00040958	858106488299	5982	600	GRAU, DAGMAR	RITTER, INES	360 FAIRWAY DRIVE		SOUTHERN PINES	NC	28387
5	20170499	858100489252	5657	71	VEST, JACK T	AGUILAR, ANA M	420 N RIDGE STREET		SOUTHERN PINES	NC	28387
6	00033119	858106489297	3631	434	MARCHUN, ZACHARY O	GLANCY, ELIZABETH M	67 BLUE ROCK TRL		PITTSBORO	NC	27312
7	00034991	858107580362	4689	110	DIERKES, PETER		460 N RIDGE STREET		SOUTHERN PINES	NC	28387
8	00038549	858107581379	3790	289	ALEXANDER, JAMES GARY		1472 BETHAN DR		SUMMERFIELD	NC	27358
9	00033992	858100583436	5162	265	PENICK, EMILY RENEE	GRITZMACHER, MATTHEW AARON	375 E MAINE AVENUE		SOUTHERN PINES	NC	28387
10	20180360	858100583500	5055	136	HARDGROVE, MICHAEL W	HARDGROVE, PHYLLIS A	365 E MAINE AVE		SOUTHERN PINES	NC	28387
11	00035993	858107582595	5040	181	MOLNAR, JAMES STEPHEN		1001 ARTNETTE AVE		DURHAM	NC	27707
12	00033920	858107582695	4837	582	DALTON, CATHERINE C	DALTON, RANDALL M	530 ELMWOOD AVE		LYNCHBURG	VA	24503
13	00035932	858107583596	5090	3	BOOK, ANDREW RYAN	BOOK, JOURDAN CALLAWAY	520 N RIDGE STREET		SOUTHERN PINES	NC	28387
14	00040714	858107584671	5619	276	GOODMAN, ELIZABETH ANN		4707 MEADOW ROAD		MINNEAPOLIS	MN	55424
15	00032807	858107585676	2018E	553	DAVIS, EDITH		590 N RIDGE ST		SOUTHERN PINES	NC	28387
16	00032374	858107584766	3028	189	YOMANT, CHARLES MICHAEL		340 E RHODE ISLAND AVE		SOUTHERN PINES	NC	28387
17	00038979	858107586971	1788	412	FERRARI, MATTHEW Q	FERRARI, DENISE R	345 E RHODE ISLAND AVE		SOUTHERN PINES	NC	28387
18	00032738	858100586786	6040	267	LEHMBERG, WILLIAM G	LEHMBERG, ALEXANDRA D	377 E RHODE ISLAND AVE		SOUTHERN PINES	NC	28387
19	20210429	858100587739	5760	123	CMDI TOO, LLC		107 EDINBORO DRIVE		SOUTHERN PINES	NC	28387
20	00032737	858100587885	2014E	562	KELLOGG, W CRAIG		660 N RIDGE ST		SOUTHERN PINES	NC	28387
21	00032739	858107588930	5813	56	EISENHOWER, INC		76384 VIA VOLTERRS		INDIAN WELLS	CA	92210
22	20180332	858100588981	6136	278	SHOFFNER, MICHAEL	SCHOFFNER, ANDREA	686 N RIDGE ST		SOUTHERN PINES	NC	28387
23	00033366	858100589933	5737	478	VARGO, SHANONA		195 MCDEEDS CREEK RD		CARTHAGE	NC	28387
24	20180330	858100589976	5845	20	FISHOW, SAMANTHA		394 E NEW JERSEY AVE		SOUTHERN PINES	NC	28387
25	20180331	858100598090	5413	296	HAYNES, MEREDITH		388 E NEW JERSEY AVENUE		SOUTHERN PINES	NC	28387
26	20060483	858100690183	5653	568	WANNAMAKER, KENDALL WHITFIELD JR	WANNAMAKER, MOLLYROSE MILEWSKI	375 E NEW JERSEY AVENUE		SOUTHERN PINES	NC	28387
27	20060482	858101000000	5436	58	KAUFFMAN, JACOB	KAUFFMAN, LAURA	385 E NEW JERSEY AVENUE		SOUTHERN PINES	NC	28387
28	00033707	858100692117	5795	99	BAKER, JONATHAN STORY	JOHNSON, LINDSAY MCLEAN	760 N RIDGE STREET		SOUTHERN PINES	NC	28387
29	00035650	858107693212	1234	463	LESLIE, H B FAMILY LIMITED	PARTNERSHIP	7 LEVANTINO LANE		HOT SPRINGS VILLAGE	AR	71909
30	00041037	858107692279	4444	394	NANI, JOSEPH EUGENE	NANI, EMMA SUSAN	360 E DELAWARE AVENUE		SOUTHERN PINES	NC	28387
31	00037949	858107694366	904	213	PUGH, R T SECOND FAMILY	LIMITED PARTNERSHIP	PO BOX 2120		SOUTHERN PINES	NC	28388
32	00036344	858107695441	5580	447	MATTHIAS, LEON HENSON JR	MATTHIAS, DONETTE GRETLY	830 N RIDGE STREET		SOUTHERN PINES	NC	28387
33	00037147	858107697330	4953	50	BRUENING, DAVID L	BRUENING, LINDA L	4100 YOUNGS ROAD		SOUTHERN PINES	NC	28387
34	00040129	858107696182	92E	87	WEATHERSPOON, BRUCE CARLYLE		951 NORMAN LANE		LANCASTER	SC	29720
35	00039994	858107697072	5320	530	HOLMES, LUCAS C	HOLMES, FLORA	455 E DELAWARE AVE		SOUTHERN PINES	NC	28387
36	00036761	858107688962	4177	436	CARNER, JOEL C		465 E DELAWARE AVE		SOUTHERN PINES	NC	28387
37	00034807	858107689830	3184	103	GOLDEN, MOLLOY C	HOOD, ARLENE SUMMER	408 S WASHINGTON ST		COVINGTON	LA	70433
38	00031989	858107780629	6126	503	HARTIGAN, RACHELLE		240 N ASHE STREET		SOUTHERN PINES	NC	28387
39	00035174	858107781508	2355	228	SMITH, JASON CHRISTOPHER		525 E DELAWARE STREET		SOUTHERN PINES	NC	28387
40	00037329	858107781477	1730	440	SMITH, PATRICIA T		535 E DELAWARE STREET		SOUTHERN PINES	NC	28387
41	00033449	858107782356	2178	276	HUFFSTETLER, WILLIAM	HUFFSTETLER, NELDA	25 MEDLIN ROAD		PINEHURST	NC	28374
42	00031741	858100783203	5712	286	HANSEN, KIRSTIE		565 E DELAWARE STREET		SOUTHERN PINES	NC	28387
43	20180237	858100783288	5168	476	LAGASSE, ANDREW M	LAGASSE, CATHERINE F	3330 PINEY LANE		SOUTHERN PINES	NC	28387
44	00033590	858100765967	446	72	STATE OF NORTH CAROLINA		PO BOX 629		SOUTHERN PINES	NC	28387
45	00040298	858107781047	4090	164	O'HARA, LIAM	O'HARA, MAUREEN M	560 E DELAWARE AVE		SOUTHERN PINES	NC	28387

46	00032257	858107780250	5580	71	TLH HOLDINGS LLC		206 TAMARACK LANE	VASS	NC	28394
47	00041675	858107689385	1073	106	KING, CHARLES ALLEN	KING, LYNN M	2349 PRYTANIA CIR	NAVARRE	FL	32566
48	00037405	858107688533	95E	29	BARBERA, MICHAEL V SR	CAROL HAIRGROVE	16 SHIBUI AVE	SOUTHERN PINES	NC	28387
49	00035456	858107685958	4339	127	SMITH, JANE WILLIAMSON		10 ST JAMES CIR	SOUTHERN PINES	NC	28387
50	00038242	858107695013	5338	196	JA GREER GROUP, LLC		500 E RHODE ISLAND AVE	SOUTHERN PINES	NC	28387
51	00034216	858100694089	5327	230	JA GREER GROUP, LLC		500 E RHODE ISLAND AVE	SOUTHERN PINES	NC	28387
52	00037330	858107694017	4671	177	WATTS, ELIZABETH		7 ST JAMES CIR	SOUTHERN PINES	NC	28387
53	00031587	858107682924	1508	22	WHITTLE, ELIZABETH S		1 ST JAMES CIR	SOUTHERN PINES	NC	28387
54	00031802	858100682827	3178	573	WALL, BARRY E		2 ST JAMES CIR	SOUTHERN PINES	NC	28387
55	00039360	858107683811	6192	248	JA GREER GROUP, LLC		500 E RHODE ISLAND AVE	SOUTHERN PINES	NC	28387
56	00035562	858107684848	3657	31	JOE, RONALD KEITH		12 ST JAMES CIR	SOUTHERN PINES	NC	28387
57	00035479	858107684992	3818	521	GALBRAITH, EMILY C		11 ST JAMES CIR	SOUTHERN PINES	NC	28387
58	00031258	858107683997	5040	226	BIAMONTE, SHIRLEY E TRUSTEE		5 ST JAMES CIR	SOUTHERN PINES	NC	28387
59	00041413	858107683938	4696	83	COMBS, GREGORY M		4 ST JAMES CIR	SOUTHERN PINES	NC	28387
60	00034575	858107683941	4977	39	560 RIDGE, LLC		927 MULBERRY AVE	HAGERSTOWN	MD	21742

PD DISTRICT CONCEPTUAL DEVELOPMENT
PLAN APPLICATION
PENICK VILLAGE
SOUTHERN PINES, NORTH CAROLINA

PROJECT NARRATIVE AND DESIGN STANDARDS

1.0 PURPOSE

The purpose of this PD – Conceptual Development Plan application is to:

- To establish a Planned Development (PD) District with a Conceptual Development Plan (CDP) for Penick Village to continue the development of the property, add area to the property, formerly the Shibui Gardens apartments, that would have common zoning, and provide future flexibility for the development of the property. The overall use of the property would continue as already established for continuing care retirement communities, senior and assisted living facilities.
- Establish the permitted uses, density, standards, and conditions under which the subject property shall be developed through this narrative and the associated plans being submitted with this application.

The submitted documents include the Town's Conceptual Development Plan application form. This request includes all required items as specified in Section 2.18.4, Conceptual Development Plan, of the Town's Unified Development Ordinance (UDO). The Conceptual Development Plan of this property shall include all standards and conditions contained in this document and the submitted supporting documents.

2.0 PROJECT OVERVIEW

2.1 Location

The proposed project described in this application is geographically located on the Eastern side of downtown Southern Pines on the southeastern side of Ridge Street, between East Vermont Avenue and East Delaware Avenue. A site location map showing the site and immediate surroundings is included with this application. The property is adjacent to the Weymouth Center in Weymouth and a residential neighborhood development. The site is accessible from North Ridge Street via East Rhode Island Avenue, Maine Avenue, and East New Jersey Avenue. Access is also available from East Delaware Avenue via the former apartment entrance of

Shibui Gardens. The site is fully annexed into the Town of Southern Pines. Utilities are available at the site with the capacity to accommodate the proposed development.

2.2 Vision

The vision for the project is to continue developing Penick Village in a manner consistent with the existing community's character. Additional properties have been added to the overall Penick Village property, which previously included the Shibui Gardens Apartments, and will be subject to the standards outlined in this document. This will provide clarity for both the Town of Southern Pines and Penick Village as the property continues to develop over several years, allowing flexibility within the project area. As part of the project, the residential units may be a mix of single-family, duplex, or multi-family buildings and will be carefully integrated into the surrounding area. Development may also include skilled nursing facilities, assisted living facilities, amenity buildings, and other facility buildings. Building architecture will be compatible with the existing community. Landscaping and design elements common to Southern Pines and the existing property will be used. Maintaining the attractive aesthetic character of the existing community is crucial to the future of Penick Village and will enable it to remain a vibrant, active residential community.

The property will have four (4) points of ingress/egress. The primary Ingress/egress to the development will be provided from North Ridge Street through the three (3) existing entrance locations. Additionally, a fourth gated resident access will be provided from East Delaware Avenue, connecting at the former Shibui Gardens access point, which has recently been added to the overall development area. A new gated entry (unmanned) will be located at the East Delaware Avenue entrance point. The gate will be set back far enough from East Delaware Avenue to prevent cars from being stacked on the public street. Additional details will be provided in the Planned Development Plan (PDP) phase.

The property will continue to provide a 15-foot building setback along its perimeter and a 20-foot landscaped buffer.

Best management practices for development, stormwater management, and erosion control will be implemented.

The Conceptual Development Plan section of this document provides a detailed description of the development program, including its conditions and standards.

2.3 Compliance

All development within the site must adhere to the approved standards and conditions stated in this document. As allowed under UDO Section 3.5.14, unique conditions and standards, differing from baseline UDO conditions and standards, can be established to facilitate a planned development district. The conditions and requirements stated in this document that vary from the UDO shall supersede the UDO. Before issuing a building permit and commencing any construction, a Preliminary Development Plan for each phase must be submitted and approved in accordance with the requirements of Section 2.18.5 of the UDO. All development and building permits are subject to all Local, State, and Federal permitting guidelines, architectural review, rules, and regulations, and must be approved by the Town of Southern Pines. To the extent this document does not otherwise establish a development standard, the UDO standard in effect at the time of application will apply.

The current zoning on the property is Facilities Recreation and Resources (FRR) and Residential Mixed Housing (RM-1). These designations permit housing services (LBCS 1200) and multifamily housing. The proposed PD development will be consistent with the uses designated in the UDO.

The proposed CDP and land uses are consistent with the TCP, the property's existing use, and the surrounding and adjoining properties. The TCP has designated the property as Rural Living and Residential close to the Downtown Activity Center.

3.0 EXISTING CONDITIONS

3.1 Existing Natural Features

3.1.1 Prevalent Tree Canopy and Vegetation

The Existing Conditions map included in Exhibit 1 shows the existing tree canopy on the site. The trees are a mix of Longleaf Pine trees and ornamental plantings that have been installed over time for Penick Village and the Shibui Gardens apartments.

3.1.2 Orchards or Other Agricultural Groves

No portion of the site is currently being used for an orchard or agricultural use, and none exists on the site.

3.1.3 Streams, Wetlands, and Floodplain

This property does not have streams or wetlands. The proposed development is within a high-quality watershed area in the Little River (Intake No. 2) WS-IIIP watershed.

3.1.4 Topographic Features

A topographic map with two (2') foot contours is included in the application exhibits on sheet L-1.0, Existing Conditions.

3.1.5 Unique Land Formations, Endangered/Threatened Species

Dr. Jay H. Carter III & Associates, Inc., prepared a red-cockaded woodpecker survey, which is included with this application.

All development and building permits within the site are subject to all Local, State, and Federal permitting guidelines, rules, and regulations. Additional studies will be conducted if required for permitting.

3.2 Existing Man-made Features

3.2.1 Streets, Roads, Parking, or Other Structures

The property has four (4) points of ingress/egress. The primary Ingress/egress to the development will be provided from North Ridge Street through the three (3) existing entrance locations. In addition, a fourth access is provided from East Delaware Avenue at South Shibui Avenue.

3.2.2 Stormwater Facilities and Structures

There are existing stormwater facilities located on the property.

3.2.3 Utilities

Sewer—The existing buildings on the site are currently served by sewer, and any additional future development can be connected to the existing infrastructure. The Town of Southern Pines has sufficient service capacity to accommodate any proposed development.

Electric - Electric power is available. All new electric lines will be installed underground.

Telephone/Cable—Telephone and cable service are available at the site. All new service lines will be installed underground.

Water—Public water line connections are located near the site and currently serve the property's existing structures. The lines are adequate to accommodate any proposed development.

3.3 Existing Legal Features

3.3.1 Zoning Information - The current zoning on the property (FRR) and Residential Mixed Housing (RM-1). These designations permit housing services (LBCS 1200) and multifamily housing.

3.3.2 Property Lines - See plans and deeds included with this application

3.3.3 Right-of-Ways – The Adjacent rights-of-way along North Ridge Street and East Delaware Avenue are shown on the plans included with this application, as well as on the Existing Conditions map in Exhibit 1. Additionally, public rights-of-way are indicated for South and West Shibui Avenue.

3.3.4 Easements – All identified easements have been provided on the Existing Conditions on Exhibit 1.

3.3.5 Ownership Information—See the existing conditions plan for depictions of the tracts listed in the table below. Copies of the corresponding recorded deeds evidencing ownership are provided as exhibits with this application. The property to be rezoned will be described using the property descriptions provided in the attached deeds and survey.

3.3.6 Adjacent Parcel information—The adjacent parcel owners, zoning, use, PINs, and Parcel ID numbers are listed on the Adjacent Property Owners list in the exhibit included in this application.

4.0 DEVELOPMENT CONDITIONS

4.1 Development Program

The development of the property will continue and expand the existing uses for residential services. Existing facilities include the following:

Existing and proposed development

	Units/beds	
Existing Uses		
Independent Living Apartments	154	units*
Single Family (Garden Cottages)	9	units
Duplex	31	units
Assisted Living/Memory Care	42	units
Health Center/Skilled Nursing	32	units
Total Existing	268	units

Future Development		
Independent Living Apartments	206	Combined Total
Single Family		
Skilled Nursing		
Duplex		
Assisted Living/Memory Care		
Total Development	474	units

* 44 Independent Living Units currently under construction

Other Amenities currently include or may include

(These amenities are available to residents and guests only and not open to the public):

Community Gardens
 Facilities Management Building
 Village House
 Dining Areas
 Chapel
 Hair Salon and Barbershop
 Fitness Center
 Multimedia Room
 Library
 Classroom
 Studio Space
 Walking Trails
 Multipurpose Rooms
 Café
 Movie theater
 Gift Shop
 Dog park
 Pet washing station
 Car Wash Station
 Workshop / Woodshop
 Art studio
 Pool
 Sauna/steam room / hot tub
 Childcare
 Adult day care/day health
 Clinic space

4.2 Additional Design Conditions

The following additional development standards will control development on the site:

4.2.1 Vehicular & Pedestrian Circulation, Parking, and Streets

The property will have four (4) points of ingress/egress. The primary Ingress/egress to the development will be provided from North Ridge Street through the three (3) existing entrance locations. In addition, a fourth access will be provided from East Delaware Avenue. At such time as development begins in phase 5, an application to abandon the existing South and East Shibui Avenue rights-of-way will be submitted and incorporated into the overall development. Access to any remaining occupied lot(s) will be provided and maintained.

All roadways and parking facilities will be designed to meet the Town of Southern Pines' engineering paving standards. Additional geotechnical engineering cross sections may be prepared by a licensed geotechnical engineer and provided as an alternative, based on the specific soil conditions on the property. These alternative paving requirements may be approved and implemented with the approval of the Town Engineer.

Reductions to the number of required parking spaces required by the UDO for specific uses within the project area may be requested and approved during the PDP process as detailed designs for the site are prepared. The Town of Southern Pines governs roadways adjacent to the community, and therefore, any new ingress/egress locations will require Town approval during the PDP process.

Sidewalks and Trails – Sidewalks will be provided throughout the property and will connect to the existing sidewalk network. Sidewalk locations shown on the conceptual plan may be modified and located throughout the project to connect buildings, amenities, and parking areas. Since Penick Village is an integrated campus, sidewalks will be provided as necessary and may not be located per UDO standards. Safe pedestrian access to all areas of the campus will be provided on a minimum four (4) foot wide concrete sidewalk.

4.2.2 Open Space

A minimum of 20% of the total open space shall be provided. A minimum of 10% of the provided open space shall be usable open space as described in Section 3.5.14 of the UDO. The existing open space has been calculated to be 25%. A running tabulation will be provided during the PDP process for each phase.

Due to the unique design and layout of the Penick Village campus, we request a reduction from the UDO standard to allow areas with a minimum width of 10 feet to be counted as open space between buildings, in amenity areas, and throughout the campus. Though small, pocket gardens, pedestrian ways, and other areas within the development will be highly landscaped and are essential to the overall character of the project. These spaces will create pleasing walks, offer passive outdoor areas for the community's residents, and are critical open space components of the design.

4.2.3 Architectural Standards

All buildings will be required to meet the standards of the commercial building design guidelines described in Section 4.10 of the Town of Southern Pines UDO, with some exceptions. Buildings will be designed to reflect the existing campus structures. Modifications to the requirements of Section 4.10 shall be permitted to maintain a residential nature for all structures throughout the community. Requested modifications include the following:

- **Building Height:** A building height of up to 55'-0" is permitted. Building height is to be measured from the front of the building to the eave of the building. Sloped roofs will not be included in the calculation of building height. Special architectural features may be permitted up to 70' in height and would consist of cupolas, spires, steeples, dormers, and other types of features.
- **Brick Ratio:** Buildings will be required to have a minimum of 25% brick on the exterior facades.
- **Building Materials:** No vinyl siding will be permitted. Vinyl may be used for windows and doors. The building materials will be consistent with those of the other buildings on campus.
- **Building Dimensions:** Long elevations will be divided as required by the UDO to create smaller segments using bump-outs. Bump outs will be required to have a minimum of two feet.
- **Garages:** Garages may face internal roads, streets, and driveways. Garages may not face external streets, including Ridge Street and Delaware Avenue.
- **Approvals:** The staff will review architectural plans to determine compliance with the UDO, the standards included above in Section 4.2.3, and existing design features within the campus. Architectural approvals are not subject to Town Council ARB review and will be performed by staff, including buildings exceeding 10,000 square feet. If modifications to the standards in the UDO and those listed

above are requested, Town Council review will be required to issue an Architectural Compliance Permit.

4.2.4 Landscaping and Buffering

Landscape standards will meet or exceed the Town of Southern Pines' UDO requirements, as outlined in Section 3.5.14(H), for areas within the buffers and visible from adjoining properties. Landscaping within the development will be designed to be consistent with the current campus and will be installed in a manner consistent with the existing campus development. Penick Village will design landscaping within the development to provide connected pedestrian walkways, visually connected open spaces, and a safe community environment. Landscaping will help maintain the campus feel and overall character of Penick Village.

Buffering along the property boundaries will be consistent with the standards required in the UDO. As permitted by the UDO, fencing may be used to provide screening from adjacent properties. If fencing is used for buffering, landscaping may be reduced in accordance with the standards outlined in the UDO.

4.2.5 Utilities

Electric, water, and sewer utilities are currently available near the property described in Section 3.2.3. Any new utility lines will be installed underground, in accordance with the policies of the local utility providers and the Town of Southern Pines.

Occasionally, temporary services may be required and allowed at community facilities, temporary construction offices, and other standard amenities such as parks. Drainage easement areas will be provided as required by the UDO and applicable regulations, and they will be designed, detailed, and located during the detailed engineering and permitting of the development phases. The duration, scope, and location of temporary services will be designed to ensure that they will not disrupt surrounding development and will be reviewed by the Town Engineer during the site plan review process.

The Town of Southern Pines will provide water and sewer utilities. Waterlines will be looped throughout the development as required. The developer will bear the cost of construction, and once certified, utility lines will be dedicated to the Town of Southern Pines if required. Duke Energy will provide power and electric utilities.

4.2.6 Lighting

Appropriate lighting for any future development will be provided, consistent with the existing development in terms of lighting levels and fixture types. Parking area lighting will be designed in accordance with the requirements of Section 4.8 in the Town of Southern Pines (UDO). The cost of installation of any lighting shall not be the responsibility of the Town of Southern Pines. Duke Energy Progress will supply lighting for the parking lot and safety lighting throughout the community. Other low-level landscape lighting may be designed and installed by Penick Village, meeting the standards of the UDO. The comfort and safety of residents will be taken into consideration during the lighting design.

4.2.7 Signage

Any new signage will be designed to be consistent with the existing community and conform to the Town of Southern Pines UDO requirements in Section 4.6. Signage internal to the development and not visible from off-site may be provided throughout the property for purposes of identification and wayfinding, and it is permitted without a separate sign permit.

4.2.8 Temporary Uses/Special Events

Temporary construction trailers, including, but not limited to, real estate, construction, and sales offices, may be installed during construction and real estate sales. The appropriate permits must be obtained from the Town of Southern Pines for any temporary uses or special events, and comply with UDO standards and the time limitations of the UDO unless extensions are requested and specifically listed as part of a PDP application.

4.2.9 Storm Water Management and Water Quality Management

The property is located within a state-regulated and protected drainage basin. As such, stormwater design will fully comply with all aspects of applicable local and state standards and regulations for stormwater management and watershed protection, including specific requirements for erosion and sedimentation control. Best management practices for each phase shall be utilized during development, in accordance with NCDEQ guidance. Drainage facilities will be located in the general areas shown on the conceptual site plan included with this application. These locations are subject to change as the property continues to develop, based on detailed engineering and grading plans. Stormwater must be maintained on the overall property to meet the Town of Southern Pines, NCDEQ, and any other stormwater regulations.

As permitted by the Town of Southern Pines, based on the density and existing conditions of both the existing Penick Village property and the additional incorporation of the adjacent developed properties, a watershed protection permit will be maintained. This will enable the development to provide up to 70% impervious surface, thereby establishing the community as outlined in this document.

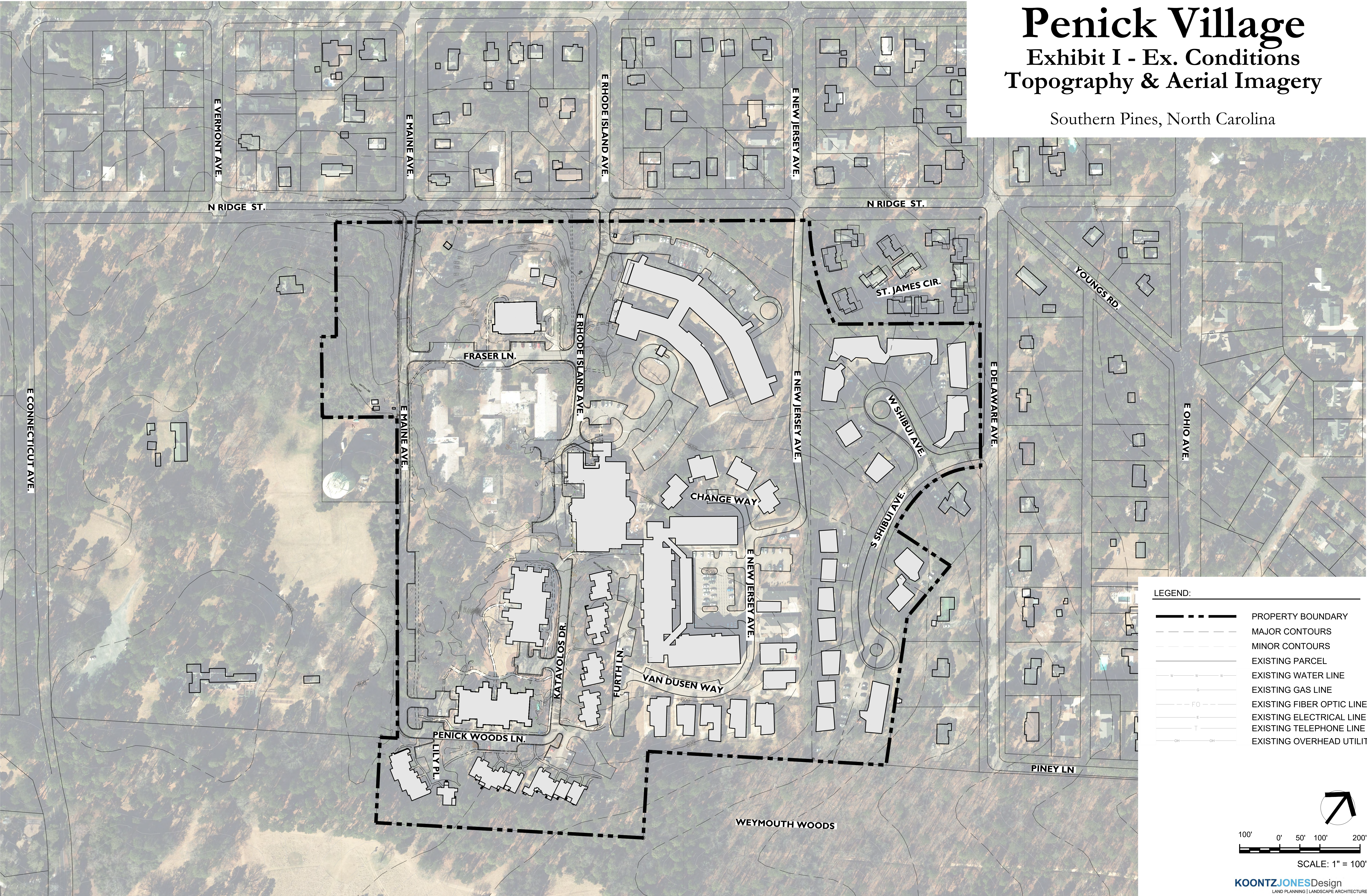
5.0 Phasing

Due to the uncertainty of economic factors that influence land development, some flexibility in the sequencing of phases is necessary and is to be based on market demands and necessary infrastructure improvements. Rather than tying the phasing to specific dates and sequencing, phasing is tied to the required infrastructure improvements, including roadway, waterline, and sewerline construction, as well as fire access, which are adequate to serve the phase to be developed. Utilities to serve new phases of development will be provided and may require upgrades to existing services. In addition, no more than a temporary interruption in service for occupied buildings within the property area will be permitted. Phases are not required to develop sequentially within this plan, but may not be developed until adequate infrastructure is provided to accommodate the proposed phase. Phases may also be developed and combined with other phases or broken into subphases. Phasing and requirements for each phase will be reviewed at the time a PDP is submitted for an individual phase.

Penick Village

Exhibit I - Ex. Conditions Topography & Aerial Imagery

Southern Pines, North Carolina

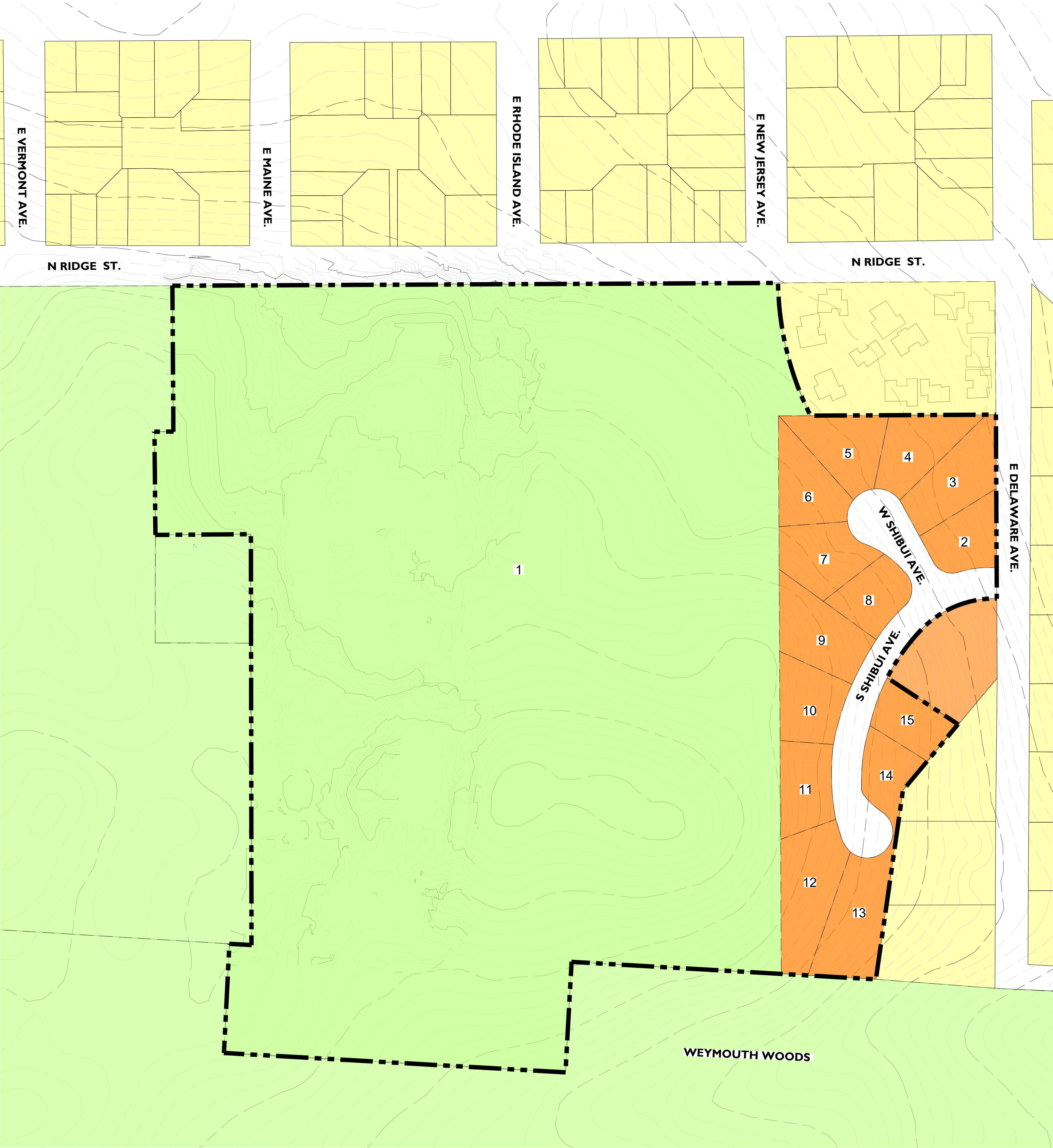


Penick Village

Exhibit II - Ex. Conditions

Property Information

Southern Pines, North Carolina

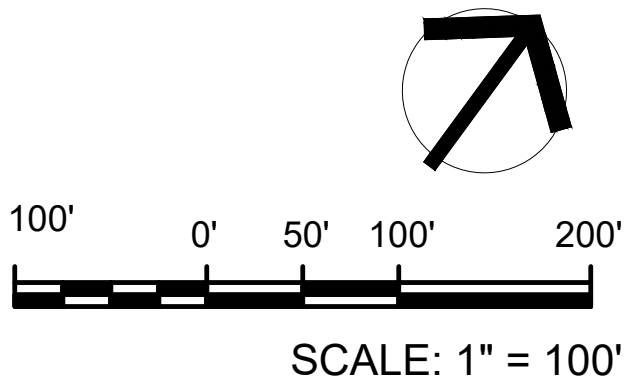


PROPERTY OWNERS:

1 PENICK VILLAGE INC. 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00033227 PIN: 858100680081 DB: 3647 PG: 291	6 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035658 PIN: 858107684613 DB: 4749 PG: 146	11 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035648 PIN: 858107687156 DB: 4749 PG: 146
2 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035653 PIN: 00035653 DB: 4749 PG: 146	7 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035438 PIN: 858107685514 DB: 4965 PG: 476	12 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035652 PIN: 858107688070 DB: 4749 PG: 146
3 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035655 PIN: 858107686821 DB: 4749 PG: 146	8 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035654 PIN: 858107686534 DB: 4749 PG: 146	13 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035651 PIN: 858107689081 DB: 4749 PG: 146
4 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035657 PIN: 858107685821 DB: 4749 PG: 146	9 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00037404 PIN: 858107686401 DB: 4749 PG: 146	14 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00041616 PIN: 858107688267 DB: 4749 PG: 146
5 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035656 PIN: 858107684714 DB: 4749 PG: 146	10 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035659 PIN: 858107686269 DB: 4749 PG: 146	15 JA GREER GROUP, LLC 500 E RHODE ISLAND AVE SOUTHERN PINES, NC 28387 PARCEL ID: 00035647 PIN: 858107688348 DB: 4749 PG: 146

EXISTING ZONING:

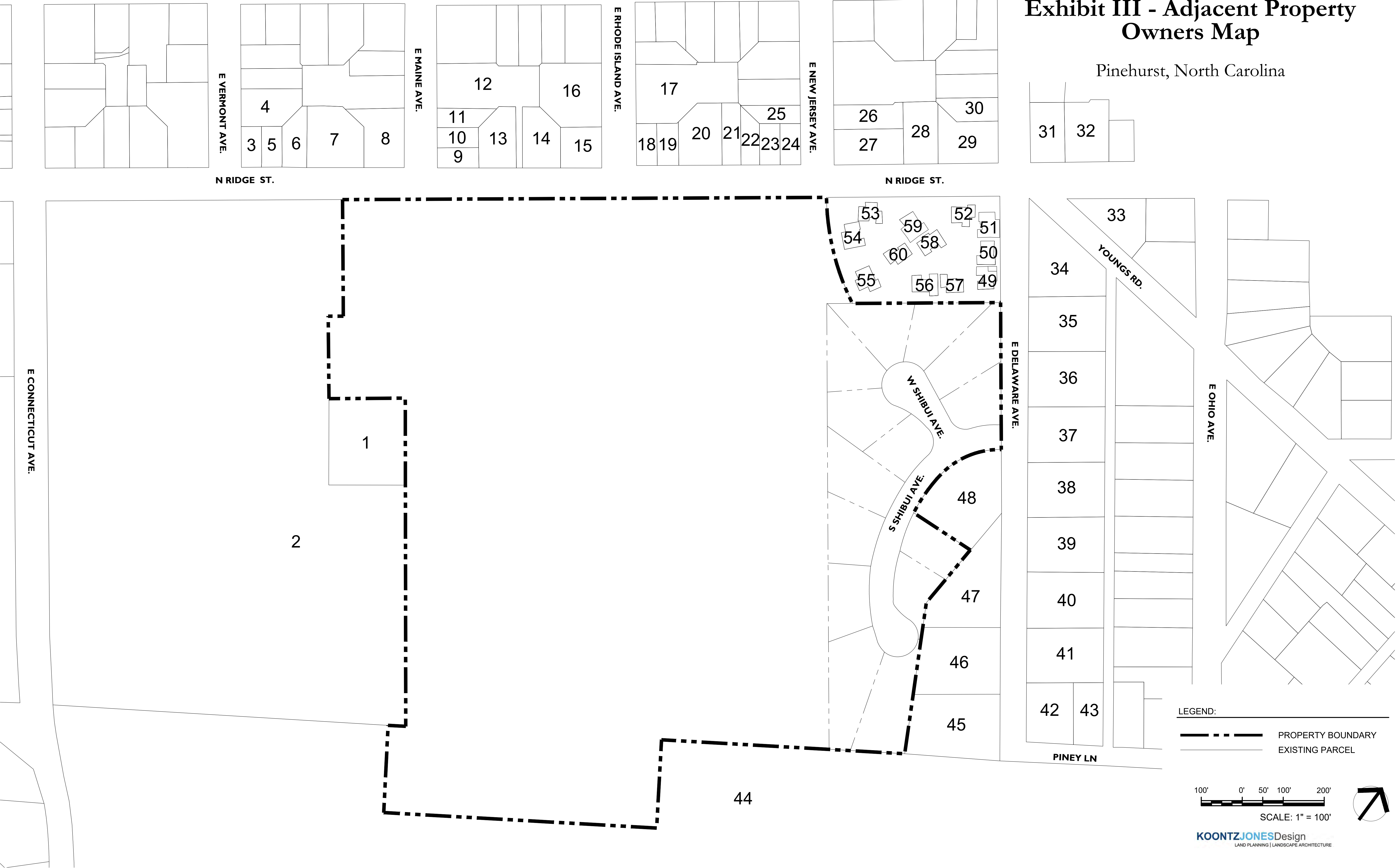
- FRR - FACILITIES RESOURCES RECREATION
- RM-1 - RESIDENTIAL SINGLE & MULTI-FAMILY
- RS-1 - RESIDENTIAL SINGLE FAMILY



Penick Village

Exhibit III - Adjacent Property Owners Map

Pinehurst, North Carolina



Penick Village

Exhibit IV - Conceptual Master Plan

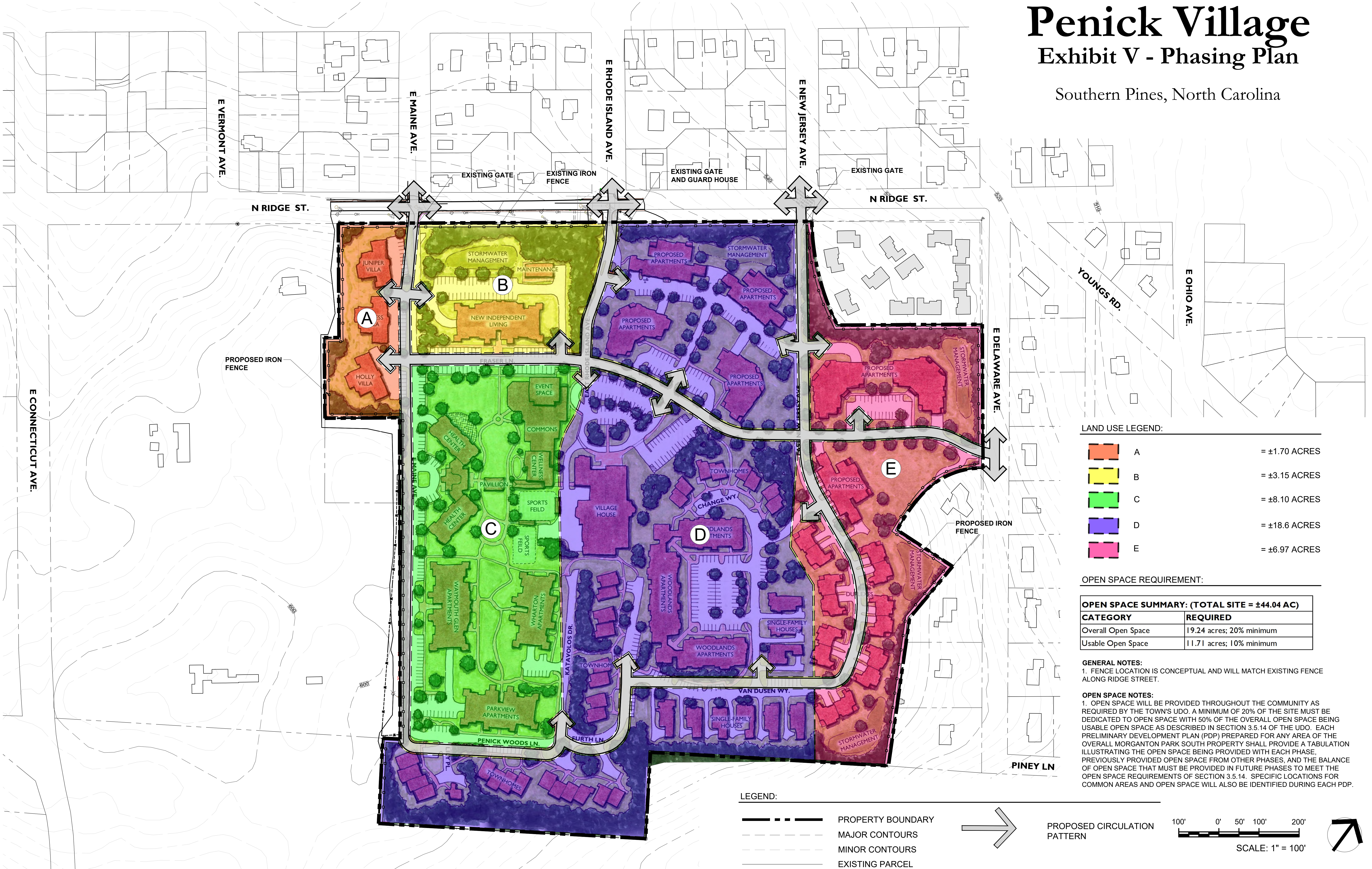
Southern Pines, North Carolina



Penick Village

Exhibit V - Phasing Plan

Southern Pines, North Carolina



LAND USE LEGEND:

	A	= ±1.70 ACRES
	B	= ±3.15 ACRES
	C	= ±8.10 ACRES
	D	= ±18.6 ACRES
	E	= ±6.97 ACRES

OPEN SPACE REQUIREMENT:

OPEN SPACE SUMMARY: (TOTAL SITE = ±44.04 AC)	
CATEGORY	REQUIRED
Overall Open Space	19.24 acres; 20% minimum
Usable Open Space	11.71 acres; 10% minimum

GENERAL NOTES:
1. FENCE LOCATION IS CONCEPTUAL AND WILL MATCH EXISTING FENCE ALONG RIDGE STREET.

OPEN SPACE NOTES:
1. OPEN SPACE WILL BE PROVIDED THROUGHOUT THE COMMUNITY AS REQUIRED BY THE TOWN'S UDO. A MINIMUM OF 20% OF THE SITE MUST BE DEDICATED TO OPEN SPACE WITH 50% OF THE OVERALL OPEN SPACE BEING USABLE OPEN SPACE AS DESCRIBED IN SECTION 3.5.14 OF THE UDO. EACH PRELIMINARY DEVELOPMENT PLAN (PDP) PREPARED FOR ANY AREA OF THE OVERALL MORGANTON PARK SOUTH PROPERTY SHALL PROVIDE A TABULATION ILLUSTRATING THE OPEN SPACE BEING PROVIDED WITH EACH PHASE, PREVIOUSLY PROVIDED OPEN SPACE FROM OTHER PHASES, AND THE BALANCE OF OPEN SPACE THAT MUST BE PROVIDED IN FUTURE PHASES TO MEET THE OPEN SPACE REQUIREMENTS OF SECTION 3.5.14. SPECIFIC LOCATIONS FOR COMMON AREAS AND OPEN SPACE WILL ALSO BE IDENTIFIED DURING EACH PDP.

LEGEND:

- PROPERTY BOUNDARY
- MAJOR CONTOURS
- MINOR CONTOURS
- EXISTING PARCEL

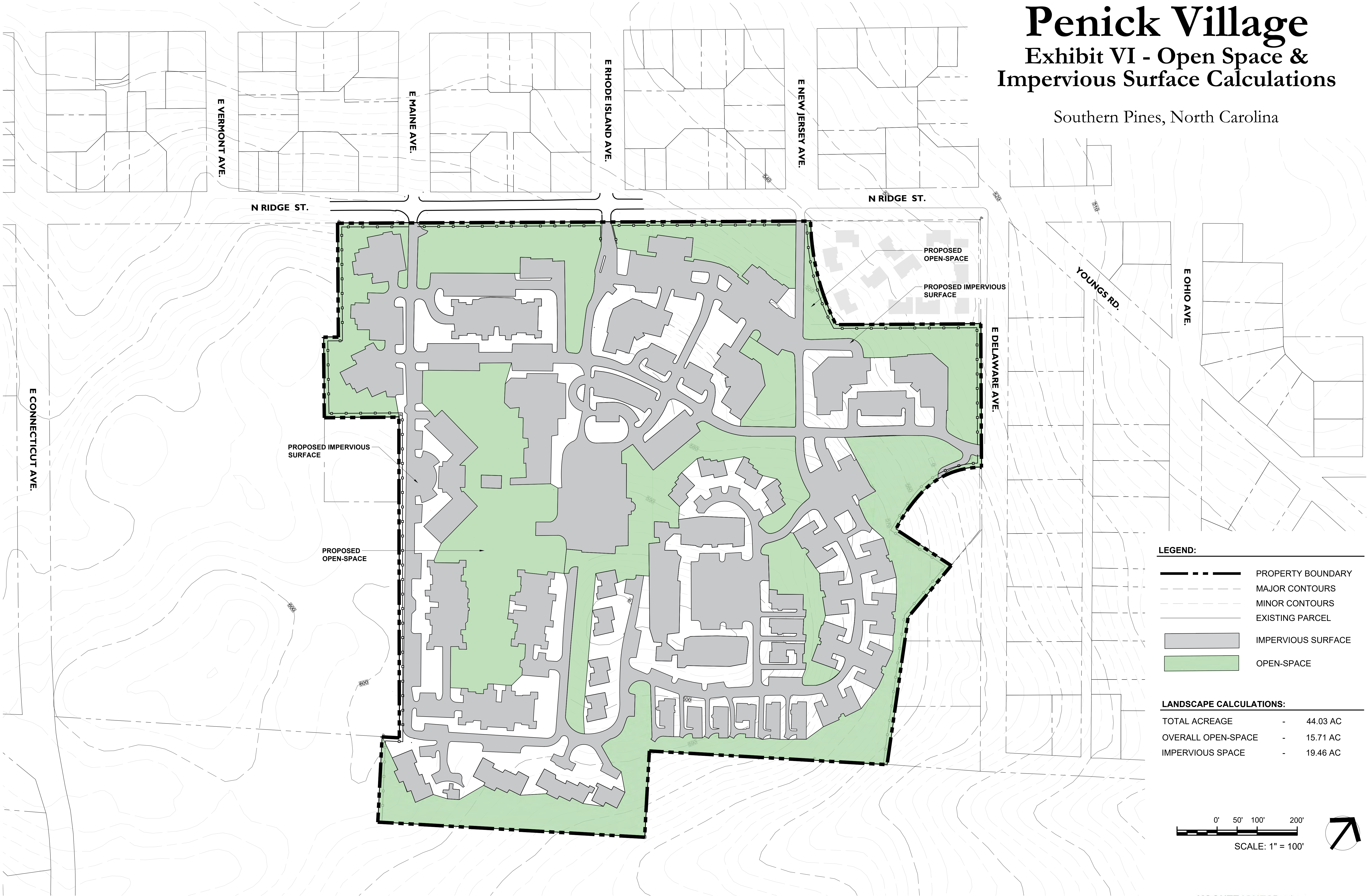
PROPOSED CIRCULATION PATTERN

100' 0' 50' 100' 200'
SCALE: 1" = 100'

Penick Village

Exhibit VI - Open Space & Impervious Surface Calculations

Southern Pines, North Carolina



NEIGHBORHOOD MEETING REPORT

DATE: June 12, 2025

PROJECT: Penick Village CDP Application

LOCATION: Penick Village – Village House
500 East Rhode Island Ave
Southern Pines, NC 28387

SUBMITTED BY: Paul Saathoff

ATTENDEES: Paul Saathoff, Koontz Jones Design + V3, PLLC
Tony Bornhorst, Penick Village
Chip Cromartie, Penick Village

A second informal Neighborhood Meeting was held on Thursday, June 12th, 2025, from 4:00 p.m. to 6:00 p.m. in the Chapel at the Village House in Penick Village at 500 East Rhode Island Avenue in Southern Pines. The Town of Southern Pines requires this meeting for Planned Development District (PD) and Conceptual Development Plan (CDP) rezoning applications. This meeting allowed adjoining property owners to review the proposed plans for the project and discuss the plans with the development team. Neighborhood meetings provide the applicant with an important dialogue with adjacent owners to understand the issues and concerns of residents living near the proposed project. A site plan, existing site conditions, an aerial photograph, and an overall aerial property map were available for review. All adjoining parcel owners, within 200', in the direct vicinity of the proposed property, were notified by letter (see attached copy of the letter) before the meeting date.

Many of the neighbors who attended the first neighborhood meeting, along with a few additional neighbors, took the opportunity to review the plans and discuss the project with the development team. (See attached sign-in sheet)

Questions related to various aspects of the development were raised and addressed by the development team, based on the current direction of the plan. The project team described the current progress of the CDP submittal, stating that the application has been submitted to the town and that no changes had been made to the plans reviewed during the first neighborhood meeting.

Overall, there was excellent participation and dialogue during the meeting. The adjoining owners were interested in the current progress of the application and approval process and had additional



questions for the development team. The following is a list of questions posed to the development team and dialogue related to those questions:

- Traffic: Concerns related to additional traffic along Delaware Avenue were discussed. It was explained that the Delaware Avenue entrance would be gated for residents and potentially for construction traffic. This access point will become one of four (4) access points for a significantly lower traffic-generating use. The Penick Village team discussed with the property owners that very few residents within Penick Village have or use personal vehicles, and that residents with cars would need to have an access decal to enter the proposed unmanned gate on Delaware Avenue. The Penick Village team stated that the intention is for employees and visitors to continue using the main entrance, located at North Ridge Street and East Rhode Island Avenue.
- Construction Access/Traffic: Concerns related to construction traffic and access along Delaware Avenue were discussed. It was explained that, at this time, no construction documents have been approved, and future construction access and circulation will be determined at the time of site plan approval, following town and state regulations. The project team discussed that the existing residential buildings within Shibui Gardens would be demolished, and plans would need to be approved by the town to proceed. It was explained that construction traffic during demolition would likely need to access the property from Delaware Avenue, as there are currently no access points within the current Penick Village Development to the adjacent Shibui parcels.
- Views from Adjacent Properties: Concerns related to views from adjacent properties along Delaware Avenue were discussed. Neighbors asked the development team about how the existing 'look' along Delaware Avenue would be impacted and what they would be viewing in the future. It was explained that the current plan is conceptual in nature and that at the time of PDP and site plan approval, town standards for building setbacks, building heights, and landscaping, including street trees, buffers, screening, and parking lot landscaping, would be followed as required for approval.
- Stormwater Management: Questions regarding the location of stormwater management devices, as depicted on the conceptual development plan, and the placement of outfalls were also addressed. The development team explained that these locations are conceptual in nature and that at this time, the size, location, and treatment (wet/dry) are yet to be determined. It was explained that the design of such devices would be determined at the time of site plan approval and would need to comply with local and state standards and regulations, as well as be reviewed and approved by the town engineer.
- What properties are subject to the CDP area? – Using the aerial map and adjoining property owner map, it was explained that the Penick Village area designated in the CDP would expand the area of the property to include the existing Shibui Gardens apartments. The 15 additional parcels zoned RM-1 in Shibui Gardens would be incorporated into the Penick Village CDP.
- What will happen to the house located at 540 East Delaware Avenue that Penick Village owns? - It was explained that this property is not included in the CDP application and PD

zoning and that the property would remain zoned RS-1, and there were no plans to include this property within the Penick Village campus. It was further explained that if any additional properties were to be incorporated into the Penick Village campus in the future, the same approval process would be required to do so.



Paul Saathoff

These notes reflect the author's interpretation of the events during the referenced meeting. Any additions or modifications required should be submitted to the author in writing.

Photos of the Neighborhood meeting setup:





PENICK VILLAGE CDP
NEIGHBORHOOD MEETING SIGN-IN SHEET

Name	Address	Email Address
Joel Carner	465 Del	jcarner67@yahoo.com
Parker Dunahay		parkerdunahay@gmail.com
Holmes Hall		Holmes@Weymouthcenter.org
Maureen O'Hara		mosopines@gmail.com
ARTHUR ROTONDO	473 SOLITAIRE FARM ROAD	

May 30, 2025

Dear Neighbor,

A second Neighborhood Meeting will be held to discuss a proposed Conceptual Development Plan (CDP) for Penick Village. The CDP is being proposed to bring the existing development into conformance with the current Town of Southern Pines Unified Development Ordinance and incorporate additional adjacent property recently acquired by Penick Village along the Shibui Gardens cul-de-sac. The applicant is seeking to add fourteen additional parcels to the overall Penick Village area, which would be developed in a manner consistent with the rest of the facility.

This meeting is not a public hearing. The purpose of this meeting is to inform neighboring property owners of the proposal and to seek comments. The drop-in meeting will be held on Thursday, June 12th, from 4:00 pm to 6:00 pm at Penick Village, in the Village House. The address for Penick Village is 500 East Rhode Island Avenue. Guests may check in at the guard gate, where they will be directed to the meeting location within Penick Village. This meeting will be informal with no scheduled presentation, so feel free to stop by at your convenience during the designated hours. Plans will be made available for review and discussion with the project team members. For more information about this project, please call (910) 684-8487.

Best Regards,



Robert Koontz, RLA

DR. J.H. CARTER III & ASSOCIATES, INC.

Environmental Consultants
P.O. Box 891 • Southern Pines, N.C. 28388
(910) 695-1043 • Fax (910) 695-3317

16 June 2025

Mr. Bob Koontz
140 Applecross Road
Pinehurst, NC 28374

Dear Mr. Koontz:

On 6 June 2025, a biologist from Dr. J. H. Carter III & Associates, Inc. (JCA) conducted a red-cockaded woodpecker (*Dryobates borealis*=*Picoides borealis*) (RCW) survey of the previously developed Shibui apartment complex located on the east side of East Delaware Ave in Southern Pines, Moore County, North Carolina (NC). The apartment site contains 14 parcels with a 7.80-acre foot print including abandoned apartment buildings, paved roads and areas of landscaped grass and small wooded areas as illustrated on the attached figure.

The wooded areas had a sparse to moderately dense overstory of longleaf (*Pinus palustris*) and loblolly (*P. taeda*) pines and southern red oak (*Quercus falcata*), a moderately dense midstory of red cedar (*Juniperus virginiana*), tree of heaven (*Ailanthus altissima*), flowering dogwood (*Bethamedia flordia*) and southern red oak and a sparse ground cover of broomsedge (*Andropogon virginicus*).

No RCW cavity trees were found on the property. The apartment complex is within the one-half mile radius foraging partition for abandoned SOPI Cluster 20. The nearest known RCW cavity tree (#16217) contains an inactive start and is located approximately 265 feet (ft.) southeast of the parcel in SOPI 20.

The RCW Recovery Plan (United States Fish and Wildlife Service (USFWS) 2003) defines a cluster as the aggregation of cavity trees used and defended by a group of RCWs plus a 200-ft. buffer of contiguous forest. The Recovery Plan also outlines the minimum acreage, distribution and stocking levels of foraging habitat required to conserve a family group of RCWs. Foraging habitat is defined as stands of pine or pine-hardwood more than 30 years old, located within one-half mile of, and contiguous to, an active or managed RCW cluster. Landowners within RCW habitat have a responsibility to minimize the removal of RCW

foraging habitat (pine trees ≥ 10 inches in diameter at breast height (dbh)) and must notify the USFWS Raleigh Area Field Office prior to such removals.

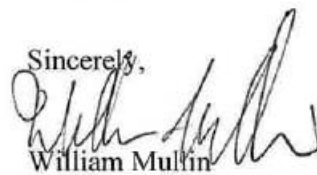
Property development within a cluster and associated foraging habitat is potentially harmful to RCWs, may violate the Endangered Species Act and must be authorized by the USFWS. Removing pine trees within the cluster contributes to habitat fragmentation making RCWs more vulnerable to predation and more susceptible to having other species take over their cavities.

Based on the results of this survey there are no RCW-related restrictions on re-developing this site. Please note that the USFWS is recommending minimizing the removal of pine trees ≥ 8 inches in dbh to the extent practicable.

The USFWS will require additional information prior to issuing a response/concurrence to this letter. To obtain that concurrence submit this letter along with the attached cover page (completed) and a site plan to the USFWS Raleigh Area Field Office in North Carolina. The letter and associated materials can be sent to Raleigh@fws.gov. A copy of this letter along with a letter from the USFWS may be required when you request a building permit from your local Planning and Zoning office.

The RCW survey results are valid for a period of **one year** from the date of this letter. If a RCW constructs a cavity in a pine tree on the aforementioned lot within the one-year time frame, this letter **does not** allow disturbance (within 50 ft.) or removal of the cavity tree. You **must** get additional approval from the USFWS for removal or disturbance of a RCW cavity tree.

Please feel free to call if you have any questions or comments.

Sincerely,

William Mullin
Wetland & Wildlife Biologist



Red-cockaded Woodpecker Cavity Map

RLUAC

Fort Bragg Regional Land Use Advisory Commission

SOUTHERN PINES COURTESY REVIEW

Project: PD-02-25 (Penick Village)

Location: South side of Ridge St. between E. Maine Ave. and E. Delaware Ave.

PIN#: 858100680081 et. al.

July 10, 2025

Following a review of the above referenced application by the RLUAC Land Use Committee, it has been determined that:

- The site is designated as Critical to Protect in the Fort Bragg Compatible Use Rating system due to its location within a previously identified red-cockaded woodpecker active foraging area.
- The site is designated as Important to Protect in the Fort Bragg Compatible Use Rating system due to its location within a designated High Quality Waters drainage area (Mill Creek HQW Management Area).

Preserving red-cockaded woodpecker (RCW) habitat, both on and off the installation, is critical to the success of Fort Bragg's environmental mission and the long-term sustainment of its military training and operational missions. The cumulative effect of RCW habitat loss throughout the region can reduce the amount of land available for training on Fort Bragg, which, in-turn, impacts military readiness.

Due to the presence of endangered red-cockaded woodpeckers in the vicinity of the property, care should be taken to limit potential impacts to their habitat during the development of the site. It is recommended that the owner have the property surveyed by personnel experienced in management and monitoring of the species prior to the removal of any mature pine trees. Information about RCW survey protocols can be found here: <https://www.fws.gov/office/eastern-north-carolina/sandhills-rcw-safe-harbor>. The owner / developer is also encouraged to preserve as many mature pines and as much contiguous undisturbed forested land on the site as possible.

RLUAC also encourages the Town of Southern Pines and the owner / developer to take such measures as are feasible to limit the impact of stormwater runoff from the future development of the site on McDeeds Creek (a tributary of Mill Creek) and the Mill Creek High Quality Waters Management Area. Maintaining the integrity of important environmental assets contributes to the overall compatibility of our region with Fort

Bragg's environmental protection mission, which goes hand-in-hand with its military training and operational missions. Beyond the potential environmental impact of the proposed development, the nature of the use proposed for the site does not present any compatibility concerns with regard to military training or operations.

While RLUAC's findings and recommendations are non-binding on the Town of Southern Pines, their consideration and incorporation into your review of this case will help to improve compatibility outcomes for our region as a whole by protecting Fort Bragg's military training and operational missions.

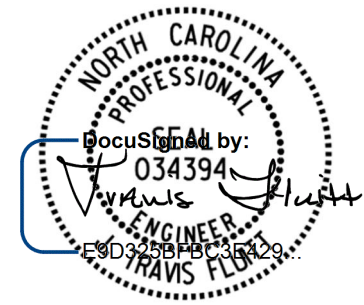
Thank you for providing the opportunity for RLUAC to review this case.

Hon. Kia Anthony, Chairwoman
Fort Bragg Regional Land Use Advisory Commission

Vagn K. Hansen II, AICP, Executive Director
Fort Bragg Regional Land Use Advisory Commission

June 16, 2025

James Michel, P.E.
Town of Southern Pines
500 E Rhode Island Ave
Southern Pines, NC 28387



RE: Penick Village, Southern Pines, NC - Traffic Design Analysis

6/16/2025

Kimley-Horn has prepared this traffic design analysis (TDA) for the proposed redevelopment and expansion of Penick Village located on the south side of N Ridge St in Southern Pines, NC. Penick Village is currently a 268-unit senior adult community with a variety of unit types including: independent living garden cottages, duplexes, and apartments as well as assisted living, memory care, and skilled nursing units. The development is currently accessed via three gated driveways on N Ridge Street across from E Maine Avenue, E Rhode Island Avenue, and New Jersey Avenue.

The development is proposing to take over the existing 42 apartment units on S Shibui Avenue and will redevelop portions of the existing site to add 164 units for a total of 474 units. The development is proposed to be accessed via the three existing connections to N Ridge Street and the extension of Fraser Lane out to E Delaware Avenue in the approximate location of S Shibui Avenue.

Trip Generation and Assignment

Traffic for this project was generated using data from the 11th Edition of the ITE *Trip Generation Manual*. Based on the existing mix of unit types, trips for the existing and proposed Penick Village development were generated as continuing care retirement community (ITE land use code 255). The definition of the continuing care retirement community land use from the *Trip Generation Manual* is attached. The 42 existing apartments were generated as low-rise multifamily housing (ITE LUC 220). The estimated trip generation of the existing land uses is summarized in [Table 1](#) below.

Table 1 ITE Trip Generation (Vehicles) – Existing Land Uses							
Land Use	Size	Daily		AM Peak Hour		PM Peak Hour	
		In	Out	In	Out	In	Out
(LUC 220) Low-Rise Multifamily Housing	42 units	173	173	9	27	25	14
(LUC 255) Continuing Care Retirement Community	268 units	402	402	36	20	35	55
Total Existing Trips		575	575	45	47	60	69

[Table 1](#) shows that the existing land uses generate approximately 1,150 daily trips, 92 AM peak hour trips, and 129 PM peak hour trips. The trip generation potential of the proposed development is summarized in [Table 2](#).

Table 2 ITE Trip Generation (Vehicles) – Proposed Development							
Land Use	Size	Daily		AM Peak Hour		PM Peak Hour	
		In	Out	In	Out	In	Out
(LUC 255) Continuing Care Retirement Community	474 units	636	636	54	29	46	71
<i>Existing Land Uses</i>		575	575	45	47	60	69
Difference (Proposed vs. Existing)		61	61	9	-18	-14	2

Table 2 shows that the proposed development is expected to generate 1,272 daily trips, 83 AM peak hour trips, and 117 PM peak hour trips. This represents an estimated increase of approximately 122 new daily trips but a net reduction of 9 AM peak hour trips and 12 PM peak hour trips. In reality it may be unrealistic to expect a reduction in overall site trips with this redevelopment; however, the conclusion to be drawn from this analysis is that the project is not anticipated to result in a significant change in traffic volumes in this part of Southern Pines.

It is anticipated that the majority of site traffic currently uses and will continue to use the existing driveways on N Ridge Street to get to/from downtown Southern Pines or continuing to Morganton Road to access the commercial developments west of US 1. It is not anticipated that a significant portion of the traffic will utilize the connection to E Delaware Ave as aside from more direct access to US 1 there are not many destinations to the east and northeast.

Street Network

N Ridge Street and E Delaware Avenue are two-lane undivided roadways consistent with the street grid network in this section of Southern Pines. There is curb and gutter along the existing site frontage of N Ridge Street, but there are sections of N Ridge Street in the vicinity of the site with ditch sections. There is curb and gutter on the east side of E Delaware Avenue but none on the west side of the street including the frontage of the existing apartment site. There are no reported daily traffic volumes on either N Ridge Street or E Delaware Avenue adjacent to the site, but volumes are expected to be low given the limited amount of development along both roadways.

There are no proposed changes to the adjacent street network with the proposed redevelopment. Based on the very low volume of projected site traffic and the nature of the existing roadways, no capacity issues are expected due to the proposed redevelopment.

Site Access and Circulation

Penick Village is currently served by three gated driveways on N Ridge St: the western driveway serves the site via connection through Penick Woods Lane and Fraser Lane, the middle driveway with corresponding guardhouse serves as the main access to the site, and the eastern driveway connects down to the southeast of the site via Van Dusen Way. While there will be some realignment of the street network internal to the site, no changes are proposed to these driveways as part of this redevelopment. With the proposed plan, a fourth driveway will be constructed via the extension of Fraser Lane out to E

Delaware Avenue to replace S Shibui Avenue. This access will provide cross connection between the eastern and western portions of the site across. The E New Jersey Avenue connection will be realigned to the east to connect the Shibui Avenue portion of the site with the rest of the development. Internal circulation patterns are not expected to interfere with traffic flow on N Ridge St or E Delaware Ave.

There are no existing bicycle, pedestrian, or transit facilities on any of the adjacent roadways. However, there is currently pedestrian connectivity and walking trails within the site for resident use, and further development of internal pedestrian connectivity will be included with this redevelopment.

Safety

While sight distance does not appear to be an issue at any of the existing driveways, there may be some concern at the intersection of E Delaware Avenue/Youngs Road at N Ridge Street. The intersection of eastbound N Ridge Street and northbound E Delaware Avenue is slightly offset from the main intersection. While both approaches have stop control where they intersect, there is no stop sign at E Delaware Avenue/Youngs Road, which could pose a safety hazard. It is recommended that consideration be given to adding a stop bar and stop sign closer to the edge of the curve on E Delaware Avenue/Youngs Road or moving the existing stop sign on eastbound N Ridge Street to this location so that vehicles coming from either eastbound N Ridge Street or northbound E Delaware Avenue stop before entering the intersection.

Conclusions

Based on this review and the low projected trip volume, site traffic is not expected to have a significant impact on the existing transportation network. It is advised to consider placing a stop bar and stop sign at the merge point of the eastbound approach of N Ridge Street at E Delaware Avenue/Youngs Road. No other improvements to the existing street network or transportation infrastructure are recommended with this proposed redevelopment.

Please let me know if you have any questions or require any further information.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



Travis Fluitt, P.E.
Project Manager

Land Use: 255
Continuing Care Retirement Community

A continuing care retirement community (CCRC) is a land use that provides multiple elements of senior adult living. A CCRC enables a resident to transition in place from independent living to increased care as the medical needs of the resident change. Housing options may include various combinations of senior adult housing (both single-family and multifamily), congregate care, assisted living, and nursing home. The community may also contain special services such as medical, dining, recreational, communal transportation, and some limited, supporting retail facilities. A CCRC is usually a self-contained village. Senior adult housing—single-family (Land Use 251), senior adult housing—multifamily (Land Use 252), congregate care facility (Land Use 253), assisted living (Land Use 254), and nursing home (Land Use 620) are related uses.

Table 1

ITE Trip Generation (Vehicles) - Existing Land Uses

Land Use	Intensity	Daily			AM Peak Hour			PM Peak Hour		
		Total	In	Out	Total	In	Out	Total	In	Out
<u>220</u> Multifamily Housing (Low-Rise)	42 d.u.	346	173	173	36	9	27	39	25	14
<u>255</u> Continuing Care Retirement Community	268 units	804	402	402	56	36	20	90	35	55
Total Existing Trips		1,150	575	575	92	45	47	129	60	69

Table 2

ITE Trip Generation (Vehicles) - Proposed Development

Land Use	Intensity	Daily			AM Peak Hour			PM Peak Hour		
		Total	In	Out	Total	In	Out	Total	In	Out
<u>255</u> Continuing Care Retirement Community	474 units	1,272	636	636	83	54	29	117	46	71
<i>Existing Land Uses</i>		1,150	575	575	92	45	47	129	60	69
Difference (Proposed vs. Existing)		122	61	61	-9	9	-18	-12	-14	2

Penick Village

Exhibit II - Phasing Plan

Pinehurst, North Carolina



LAND USE LEGEND:

	A	= ±1.70 ACRES
	B	= ±3.15 ACRES
	C	= ±8.10 ACRES
	D	= ±18.6 ACRES
	E	= ±6.97 ACRES

OPEN SPACE REQUIREMENT:

OPEN SPACE SUMMARY: (TOTAL SITE = ±44.04 AC)	
CATEGORY	REQUIRED
Overall Open Space	19.24 acres; 20% minimum
Usable Open Space	11.71 acres; 10% minimum

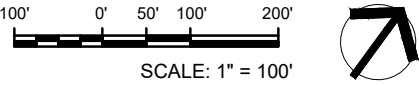
GENERAL NOTES:
1. FENCE LOCATION IS CONCEPTUAL AND WILL MATCH EXISTING FENCE ALONG RIDGE STREET.

OPEN SPACE NOTES:
1. OPEN SPACE WILL BE PROVIDED THROUGHOUT THE COMMUNITY AS REQUIRED BY THE TOWN'S UDO. A MINIMUM OF 20% OF THE SITE MUST BE DEDICATED TO OPEN SPACE WITH 50% OF THE OVERALL OPEN SPACE BEING USABLE OPEN SPACE AS DESCRIBED IN SECTION 3.5.14 OF THE UDO. EACH PRELIMINARY DEVELOPMENT PLAN (PDP) PREPARED FOR ANY AREA OF THE OVERALL MORGANTON PARK SOUTH PROPERTY SHALL PROVIDE A TABULATION ILLUSTRATING THE OPEN SPACE BEING PROVIDED WITH EACH PHASE, PREVIOUSLY PROVIDED OPEN SPACE FROM OTHER PHASES, AND THE BALANCE OF OPEN SPACE THAT MUST BE PROVIDED IN FUTURE PHASES TO MEET THE OPEN SPACE REQUIREMENTS OF SECTION 3.5.14. SPECIFIC LOCATIONS FOR COMMON AREAS AND OPEN SPACE WILL ALSO BE IDENTIFIED DURING EACH PDP.

LEGEND:

	PROPERTY BOUNDARY
	MAJOR CONTOURS
	MINOR CONTOURS
	EXISTING PARCEL

PROPOSED CIRCULATION PATTERN



Agenda Item

To: Planning Board

From: Mason Mattox, Planner II

Subject: Z-04-25: Request to Rezone One Parcel Located on N. Hardin Street from Residential Single Family (RS-1) to Residential Multi-Family Conditional Zoning District (RM-1CD).

Date: July 24, 2025

I. SUMMARY OF APPLICATION REQUEST

Tony Fairley, authorized agent for Sandhills Community Action Program Inc., has submitted a request to rezone a single parcel from RS-1 to RM-1CD (Conditional Zoning District) to allow for the development of four single-family attached dwelling units, configured as two structures with two dwelling units each, on a 0.23-acre parcel. The current parent parcel measures 0.54 acres. This application also includes a request for 0.54 acres of watershed allocation credit (i.e., WP-03-25).

II. PROJECT INFORMATION

A. Physical Address
PARID 00040522

B. Property Owner
Sandhills Community
Action Program, Inc.
(Registered Agent:
Nina Walker)

**C. Applicant &
Authorized Agent**
Tony Fairley

D. Existing Zoning

The subject property is currently zoned Residential Single-Family 1 (RS-1). The subject property is also within the West Southern Pines District Overlay, and the Watershed Protection Overlay District (specifically, the Protected Area). Each building footprint would be approximately 2,340 sq. ft., or 1,170 sq. ft. per dwelling unit. The total built upon area would be approximately 28.4 percent according to Planning staff's calculations. UDO Exhibit 3-14 states that: "New Development with a Development disturbance area less than one (1) acre shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built upon land area. The same table notes that high-density attached residential development may be developed up to seventy (70) percent built upon area with 5/70 exemption allocation.

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

General Framework – Areas to Enhance

These are established places – such as residential neighborhoods – that are considered stable but may benefit from small-to-medium improvements over time. Enhancements

may respond to evolving economic conditions, new technologies, consumer preferences, or aging infrastructure. The focus is on modest interventions that maintain long-term community viability.

Conservation and Development – Neighborhood

These areas promote the preservation and enhancement of residential areas while encouraging a variety of housing types. The designation supports efforts to introduce context-sensitive housing diversity, particularly forms of “missing middle” housing, and aims to sustain the quality and character of neighborhoods while meeting changing residential needs.

Character District – West Southern Pines

West Southern Pines is a historically significant area with a legacy of self-sufficiency and strong neighborhood identity. The Plan encourages reinvestment that respects traditional lot patterns, low-profile residential forms, and community cohesion. Development should reinforce the residential character while contributing to the preservation of cultural identity.

F. Applicant’s Proposed Conditions

Condition I. That the parcel shall be developed in accordance with the narrative and plans submitted with the application for this Conditional Zoning District.

Condition II. That the permitted land use shall be limited to: Land-Based Classification Standard (LBCS) #1112: “Single-Family attached (Townhouses),” may include manufactured homes permanently affixed to the ground or built on-site structures.

Condition III. That Parcel ID 00040522 may be subdivided into four (4) lots, subject to the approval of this Conditional Zoning District and in accordance with all applicable subdivision regulations of the Town.

Condition IV. That all dwelling units shall be constructed within the setbacks illustrated in the “Proposed Sketch Plan for Tony Fairley for Lot No. 99,” dated June 12, 2025 and submitted with this application. The minimum lot size requirement shall not apply.

Condition V. That a 10-foot-wide undisturbed buffer shall be maintained along the three exterior sides of the parent parcel not adjacent to North Hardin Street. The buffer shall remain vegetated and comply with the Town’s adopted UDO landscaping standards, as applicable. All existing trees within the buffer that are 6 inches in diameter or greater shall be preserved.

Condition VI. That the architecture and design of all proposed structures shall be consistent with the “Architectural Rendering” attachment included in the Town Council Staff Report dated July 22, 2025, as depicted below for reference.

Figure 2: Zoning Map (Subject property is outlined in blue).

Parcel 00040522 - Southern Pines, NC



7/8/2025, 10:26:00 AM

Parcels (Black Lines)

Zoning Text

All Zoning Over Aerial

RS-1, Residential Single Family

1:1,128

0 0.01 0.02 0.04 mi
0 0.02 0.04 0.07 km

Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community. Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatasysteem, Rijkswaterstaat, GSA, Geoland,

Source: TOSP Planning Mapping Site

The Town of Southern Pines, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media whether express or implied.

III. STAFF REVIEW

1. Application Review Dates

Application Submitted: **June 09, 2025**

Application Complete: **June 16, 2025**

Planning Board Public Hearing Notice

Publication: **July 09, 2025** and **July 16, 2025**

Mail: **July 01, 2025**

Signage: **July 01, 2025**

Internet: **July 01, 2025**

Planning Board Regular Meeting: **July 24, 2025**

2. Review Process and Standards – Rezoning (Conditional [Zoning] District)

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

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

General Framework – Areas to Enhance

The proposed development aligns with the intent of *Areas to Enhance* by introducing small-scale infill housing within an established neighborhood, offering modest improvements that support long-term community vitality. Its size, configuration, and residential nature are consistent with the guidance for tactical enhancements that respect surrounding character while addressing evolving housing needs.

Conservation and Development – Neighborhood

The proposed attached units contribute to the broader goal of diversifying housing types within Southern Pines by incorporating a “missing middle” form, as encouraged in the *Neighborhood* designation. While small in scale, the project is consistent with the plan’s emphasis on variety. and neighborhood-supportive design.

Character District – West Southern Pines

Located within historically significant West Southern Pines, the project respectfully integrates with the area’s traditional small-lot, low-profile residential pattern while reinvesting in an established community. The proposal supports the community’s legacy of self-sufficiency and neighborhood cohesion by introducing compatible housing that reinforces the area’s residential character.

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

Planning staff find that potential adverse impacts have been appropriately mitigated through the applicant's proposed conditions, which include: a 10-foot-wide undisturbed buffer along three property boundaries, the preservation of all trees six inches in diameter or greater within the buffer, limiting the use of the property to single-family attached housing consistent with the surrounding residential scale, and site-specific architecture compatible with the West Southern Pines Character District.

(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 existing RS-1 zoning permits only single-family detached dwellings by-right, with single-family attached being permitted by-right within RM-1. The proposal expands the permissible use within the character of the area and responds to community goals for housing diversity. Staff has not identified any evidence of unsuitability under RS-1 that would preclude rezoning for public benefit.

Exhibit 3-15: Table of Authorized Land Uses															
Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
RESIDENCE OR ACCOMMODATION FUNCTIONS	1000	Homes, apartments, housing for the elderly, and hotels													
Private Dwelling	1100	Single-Family homes, doubles, apartments, Condominiums, mobile homes, Townhouses; excludes households with special provisions													
Single-Family	1110														
Single-Family detached	1111	Typical Single-Family Dwelling	Z	Z	Z	Z	Z	Z	Z	ZS		Z	Z		
Single-Family attached (Townhouses) (Ord. # 1716)	1112	Each Dwelling Unit on a separate Lot; fire wall may protrude from roof or roofs may be staggered						ZS	ZS	ZS		ZS	ZS		
Class A Single-Family Manufactured Home	1113	modular homes and other structures that comply with the NC Residential Building Code as amended	Z	Z	Z	Z	Z	Z	Z	ZS					
Class B Single-Family Manufactured Home	1114	Manufactured Homes that comply with HUD standards and other local criteria		Z											
Class C Single-Family Manufactured Home	1115	Manufactured Homes that comply with HUD standards and do not meet the standards for Class A or Class B Manufactured Homes		SU											
Manufactured Home Park	1116	a group of three or more spaces for sale or lease that are designed to accommodate Manufactured Homes		CZ											
Two-Family (double or Duplex)	1120				CZ			Z	Z	Z		Z	Z		
Accessory Dwelling	S1130		ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		

*(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.*

Planning staff have identified no negative impacts on public health, safety, or welfare based on the application materials, a site visit conducted on June 06, 2025, and routine analysis of the subject parcel and surrounding area.

*(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.*

The rezoning would support multiple public policy goals directly linked to the Town's 2040 Comprehensive Plan.

Specifically:

- Policy 5.2 encourages infill development and reinvestment within certain character districts.
- Policy 7.1 calls for greater housing diversity, including duplexes and townhomes, to meet the needs of a wide range of residents.
- Chapter 4 supports housing types that fill the gap between single-family homes and large apartment buildings, known as "Missing Middle" housing.
- Policies 1.1 and 1.2 promote equity and neighborhood stability, especially in West Southern Pines, by supporting context-sensitive, affordable housing options.

*(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 subject is a 0.54-acre parent parcel. This parcel, once subdivided in to four lots, will result in parcels significantly smaller than the UDO's minimum lot size standard for RM-1 (10,000 sq. ft.). However, the proposed Conditional Zoning District allows for deviation from these standards, and the applicant has submitted a proposal with lot sizes of approximately 5,000-6,000 sq. ft. Given the site's configuration and proximity to other small-lot parcels, staff do not find the lot size to be inconsistent with surrounding development patterns.

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

The property lies within the Watershed Protection Overlay District (Protected Water). As the proposed built-upon area (approximately 28.4% according to staff's calculations) exceeds the 24% baseline limit for developments under one acre, a 5/70 Watershed Allocation Exemption will be required. Staff is inclined to support the allocation due to the project's modest scale and location within a targeted infill character district.

*(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 June 30, 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). The comment of "no comment" was received by The Town's Utilities Department. Any comments received after the publication of this staff report will be shared during the public hearing.

4. Staff Recommendation

Planning staff recommend that the hearing bodies approve the conditions on the Residential Mixed Housing (RM-1) Conditional Zoning District as submitted in the application as well as the watershed protection permit (i.e., #WP-03-25).

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).

IV. ATTACHMENTS

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

1. Draft Planning Board Resolution
2. Application and Narrative
3. Conditions
4. Site Plan
5. Architectural Rendering

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.

V. PLANNING BOARD ACTION

To assist the Planning Board in performing this task, town staff have prepared the following draft motions for the Planning Board's consideration, possible modification as necessary, and adoption.

* * *

I move that after reviewing the proposed map amendments 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 amendments are consistent with the 2040 Comprehensive Plan for the reasons set forth in Attachment 1 of staff report Z-05-24;**
2. The proposed amendments are consistent with the 2040 Comprehensive Plan for the reasons set forth in Attachment 1 of staff report Z-05-24 as revised by the Planning Board;
3. The proposed amendments are inconsistent with the 2040 Comprehensive Plan for the reasons set forth in Attachment 1 of staff report Z-05-24 as revised by the Planning Board;

I further move that the following other matters were considered by the Planning Board and shall be added to Attachment 1 by Planning staff as part of the Planning Board's written recommendation to the Town Council:

And, therefore, I move to:

1. **Recommend approval of Z-05-24 and to the Town Council with the conditions on the RS-1 Conditional Zoning District as submitted by the Applicant.**
2. Recommend denial of Z-05-24 to the Town Council

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



**PLANNING BOARD
RESOLUTION TO ADOPT A WRITTEN RECOMMENDATION
FOR ZONING MAP AMENDMENT APPLICATION
FOR A CONDITIONAL ZONING DISTRICT
Z-04-25**

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 July 24, 2025, to listen to public comments, ask questions of the Town’s planning staff, and consider zoning map amendment application #Z-04-25.

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 and watershed allocation (i.e., #WP-03-25) for the subject parcel, identified as PIN 858213134257 (PARID 00040522), totaling 0.54 acres, which rezones the property from Residential Single-Family (RS-1) to Residential Multi-Family 1 Conditional Zoning District (RM-1CD) with the following conditions, to which the applicant has consented:

Condition I. That the parcel shall be developed in accordance with the narrative and plans submitted with the application for this Conditional Zoning District.\

Condition II. That the permitted land use shall be limited to: Land-Based Classification Standard (LBCS) #1112: “Single-Family attached (Townhouses),” may include manufactured homes permanently affixed to the ground or built on-site structures.

Condition III. That Parcel ID 00040522 may be subdivided into four (4) lots, subject to the approval of this Conditional Zoning District and in accordance with all applicable subdivision regulations of the Town.

Condition IV. That all dwelling units shall be constructed within the setbacks illustrated in the “Proposed Sketch Plan for Tony Fairley for Lot No. 99,” dated June 12, 2025 and submitted with this application. The minimum lot size requirement shall not apply.

Condition V. That a 10-foot-wide undisturbed buffer shall be maintained along the three exterior sides of the parent parcel not adjacent to North Hardin Street. The buffer shall remain vegetated and comply with the Town’s adopted UDO landscaping standards, as applicable. All existing trees within the buffer that are 6 inches in diameter or greater shall be preserved.

Condition VI. That the architecture and design of all proposed structures shall be consistent with the “Architectural Rendering” attachment included in the Town Council Staff Report dated July 22, 2025, as depicted below for reference.



Condition VII. That concurrent with the approval of Z-04-25, watershed allocation is hereby granted to allow for up to seventy percent (70%) built-upon area on the subject parcel.

ADOPTED this the 24th day of July, 2025.

Matthew Walden, Chair

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: N. Hardin St.

PIN: 858213134257 Parcel ID: 00040522

Site Size: 0.539 Current Zoning: NBHD CODE 747 / class RA

Applicant:

Name(s): _____

Email: _____ Phone: _____

Mailing Address: _____

Authorized Agent, if different from Applicant:

Name(s): Tony T. Fairley

Email: pastorfairley@gmail.com Phone: 910.603.0642

Mailing Address: 2739 Army Rd. Raeford, N.C. 28376

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

Name(s): Sandhills Community Action Program.

Email: NINA@Sandhillscap.org Phone: 910.947.5675

Mailing Address: 340 Commerce Ave Ste 20 Southern Pines, N.C. 28387

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 _____ - 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: 6-6-25


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), Sandhills Community Action Program Inc., hereby appoint(s) Tony Fairley 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 4th day of June, 2025.

Sandhills Community Action Program, Inc.
Property Owner

N. Wark
Property Owner

Tony Fairley
Agent

Narrative

As a community developer committed to fostering inclusive and sustainable growth, I present this narrative to underscore the critical need for "missing middle" affordable housing in West Southern Pines, North Carolina. This initiative aligns with the town's 2040 Comprehensive Long Range Plan, which emphasizes diverse housing options to accommodate residents across various income levels and life stages.

Understanding the Housing Landscape in West Southern Pines:

West Southern Pines holds a unique place in North Carolina's history as one of the first incorporated African American towns in the state. Over the years, the community has faced challenges, including economic disparities and limited housing options. The 2040 Comprehensive Plan identifies the necessity to diversify housing types to meet these evolving needs. "Missing middle" housing—such as duplexes, triplexes, townhomes, and cottage courts—offers a solution by providing affordable, high-quality homes that blend seamlessly into existing neighborhoods.

Benefits of Missing Middle Housing:

- 1. Affordability and Accessibility:** These housing types are typically more affordable than single-family homes, making them accessible to first-time buyers, young families, and seniors.
- 2. Efficient Land Use:** By increasing density thoughtfully, missing middle housing maximizes land use without compromising the town's character.
- 3. Community Integration:** These housing options promote diverse, walkable neighborhoods, enhancing social cohesion and reducing reliance on vehicles.

Alignment with the 2040 Comprehensive Plan:

The town's 2040 Comprehensive Plan advocates for housing diversity and affordability. Implementing missing middle housing directly supports these goals by:

Promoting Economic Diversity: Providing housing options for various income levels supports a robust local economy.

Sustaining Community Character: Thoughtful integration of diverse housing maintains the aesthetic and cultural fabric of West Southern Pines.

Enhancing Quality of Life: Accessible housing options contribute to residents' overall well-being and satisfaction.

Call to Action:

To realize the vision outlined in the 2040 Comprehensive Plan, it is imperative to:

Revise Zoning Regulations: Amend zoning laws to permit and encourage the development of missing middle housing types.

Engage Stakeholders: Collaborate with community members, developers, and policymakers to ensure developments meet local needs and preferences.

Secure Funding and Incentives: Identify financial mechanisms to support the construction and maintenance of affordable housing units.

By embracing missing middle housing, West Southern Pines can address current housing challenges and pave the way for a more inclusive, vibrant, and sustainable community.

Conditions for Z-04-25 – RM-1CD (Conditional Zoning District)
Revised 11 July 2025

- Condition I.** That the parcel shall be developed in accordance with the narrative and plans submitted with the application for this Conditional Zoning District.
- Condition II.** That the permitted land use shall be limited to: Land-Based Classification Standard (LBCS) #1112: “Single-Family attached (Townhouses),” may include manufactured homes permanently affixed to the ground or built on-site structures.
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- Condition IV.** That all dwelling units shall be constructed within the setbacks illustrated in the “Proposed Sketch Plan for Tony Fairley for Lot No. 99,” dated June 12, 2025 and submitted with this application. The minimum lot size requirement shall not apply.
- Condition V.** That a 10-foot-wide undisturbed buffer shall be maintained along the three exterior sides of the parent parcel not adjacent to North Hardin Street. The buffer shall remain vegetated and comply with the Town’s adopted UDO landscaping standards, as applicable. All existing trees within the buffer that are 6 inches in diameter or greater shall be preserved.
- Condition VI.** That the architecture and design of all proposed structures shall be consistent with the “Architectural Rendering” attachment included in the Town Council Staff Report dated July 22, 2025, as depicted below for reference.



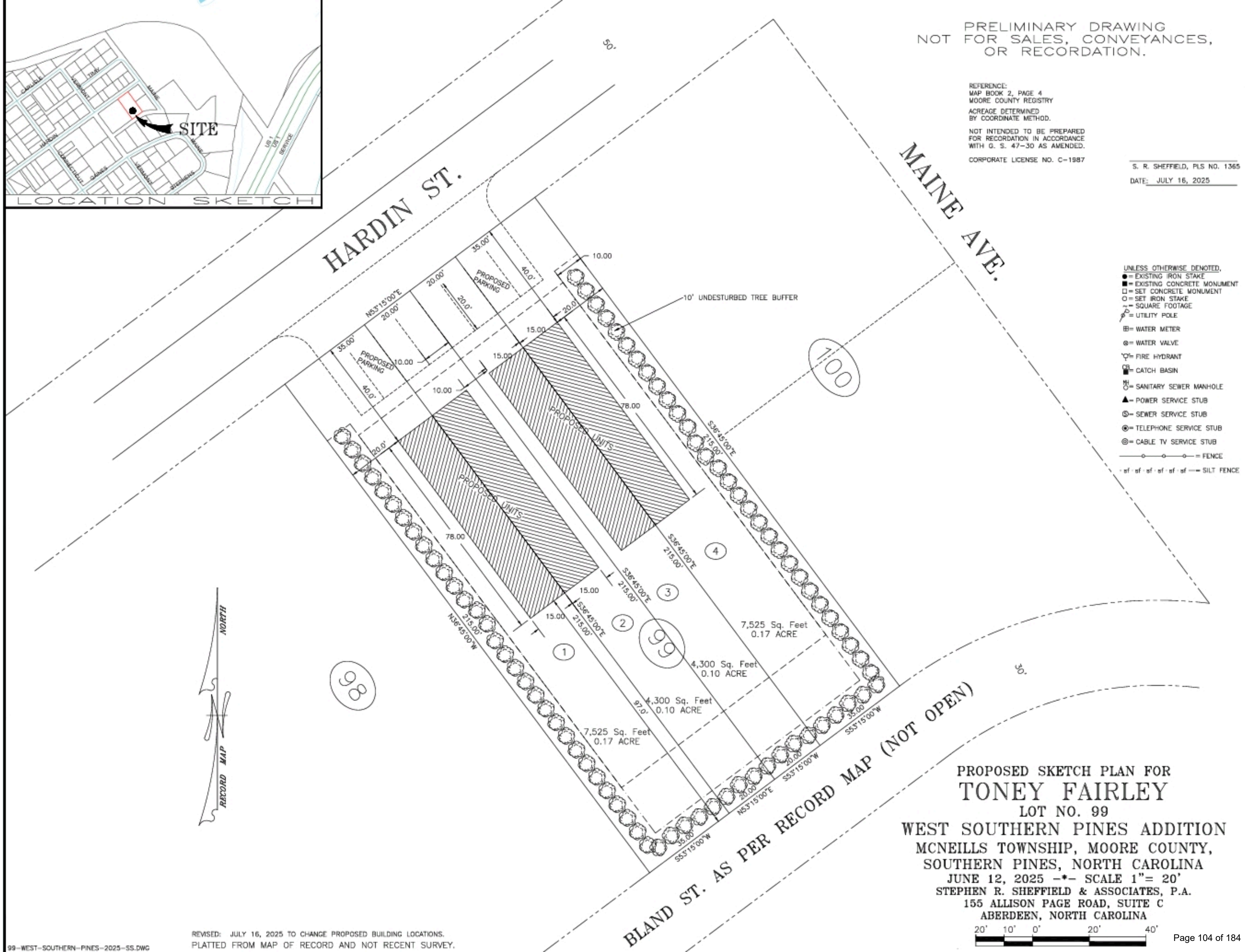
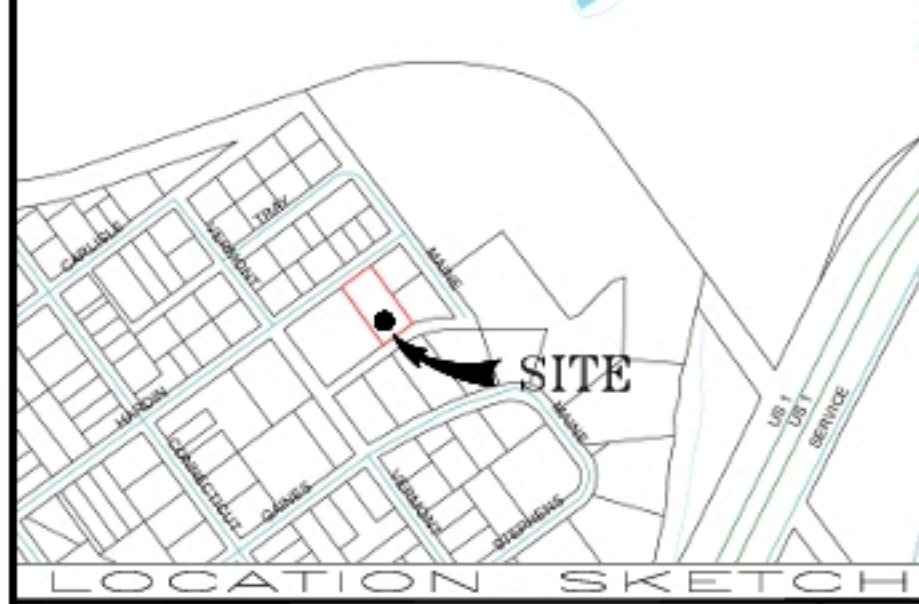
- Condition VII.** That concurrent with the approval of Z-04-25, watershed allocation is hereby granted to allow for up to seventy percent (70%) built-upon area on the subject parcel.

REFERENCE:
MAP BOOK 2, PAGE 4
MOORE COUNTY REGISTRY
ACREAGE DETERMINED
BY COORDINATE METHOD.

S. R. SHEFFIELD, PLS NO. 1365
DATE: JULY 16, 2025

UNLESS OTHERWISE DENOTED,

- = EXISTING IRON STAKE
- = EXISTING CONCRETE MONUMENT
- = SET CONCRETE MONUMENT
- = SET IRON STAKE
- ◻ = SQUARE FOOTAGE
- ⚡ = UTILITY POLE
- ⊗ = WATER METER
- ⊕ = WATER VALVE
- ⦿ = FIRE HYDRANT
- CB = CATCH BASIN
- MH = SANITARY SEWER MANHOLE
- ▲ = POWER SERVICE STUB
- ⊙ = SEWER SERVICE STUB
- ⊞ = TELEPHONE SERVICE STUB
- ⊠ = CABLE TV SERVICE STUB
- = FENCE
- sf sf sf sf sf sf sf sf— = SILT FENCE



REVISED: JULY 16, 2025 TO CHANGE PROPOSED BUILDING LOCATIONS.
PLATTED FROM MAP OF RECORD AND NOT RECENT SURVEY



Agenda Item

To: Planning Board

From: BJ Grieve, Planning Director

Subject: OA-02-25: Sign Code & Appendix B Amendments to the Unified Development Ordinance (UDO).

Date: July 24, 2025

I. SUMMARY OF AMENDMENT REQUEST:

The Town of Southern Pines Planning Department is proposing to amend multiple sections of the Unified Development Ordinance (UDO) related to the regulation of signs. This includes UDO §2.41, §4.6 and the definitions section in Chapter 9. Regulations that are based on the content of signs are being revised because the content of signs is protected as free speech. The proposed revisions will ensure the UDO only restricts signage based on time, manner and place. The proposed amendments help to implement Policies 3.2, 3.11 and 7.4 in the Town's 2040 Comprehensive Plan.

Additionally, the Engineering Department is proposing to amend Chapter 9 of Appendix B of the UDO. The proposed amendments remove many of the Certification and Permit forms found in Chapter 9 of Appendix B because the forms are administrative in nature and are not required to be in the UDO. The Utility Closeout Documentation Checklist and the Engineering Site Plan Closeout Documentation Checklist will remain in Chapter 9 of Appendix B.

The specific text of each proposed amendment, along with margin comments providing additional explanation and staff analysis of each change may be found in the attachments to this staff report. Planning staff will also present the proposed changes at the public hearing on July 24, 2025.

II. 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:

The first part of this package of text amendments to the UDO is related to improving the town's sign regulations by removing or substantially revising restrictions that are based on the content of the sign. The reason is that content-based zoning regulations have consistently been found by courts to violate constitutional protection of free speech. However, the use of zoning regulations to regulate signage with regard to time, manner and place has consistently been found by courts to be acceptable.

Planning staff worked closely on this project with both Town Attorney Mr. Mac McCarley as well as a consulting attorney Dr. David Owens (retired Professor of Public Law and Government at the UNC School of Government) starting in January of 2025. Dr. Owens conducted a thorough review of the most recent federal and state case law pertaining to local zoning and the regulation of signage. A copy of Dr. Owens' analysis is included as an attachment to this staff report.

Dr. Owens also conducted a review of the UDO that identified language that was in need of revision or, in a few instances, deletion. Dr. Owens typically did not write specific revisions to the UDO because there are few one-size-fits-all solutions in local zoning. Planning staff and Mr. McCarley used Dr. Owens' analysis as a guide to work through the sign regulations line-by-line. Following completion of a draft revised sign code, Dr. Owens conducted a review of the draft revisions and offered further suggestions for improvements.

The second part of this package of text amendments includes revisions to template documents and forms found in UDO Appendix B. The Town Engineer explains the

reasons for the proposed amendments in a memo dated May 19, 2025 that is included as an attachment to this staff report.

All proposed amendments to the UDO and UDO Appendices are depicted on copies of the UDO that are attached to this staff report using ~~strikeout~~ for deletions and underline for additions. Only the pages of the UDO and UDO Appendices with sections being amended are attached. Margin comments are also provided that explain the reason and/or context for each proposed amendment.

The Planning Board's primary role when reviewing proposed amendments to the UDO is to advise and comment on whether the proposed amendment is consistent with the comprehensive plan. The 2040 Comprehensive Plan identifies the visual impact of signage as a major contributing factor to community character. Therefore, the fair and defensible regulation of signage in a manner that is consistent with federal and state case law is of critical importance to plan implementation. The proposed amendments to UDO §2.41, §4.6 and Chapter 9 Definitions implement Policies 3.2, 3.11 and 7.4 as well as many other policies related to protection of community character by ensuring that sign regulations only contain defensible restriction on time, manner and place. In particular, Policy 3.11 states "The 2040 Comprehensive Plan is focused on content-neutral sign regulations that target the time, place, and manner that speech occurs."

The 2040 Comprehensive Plan also identifies many ways to improve the efficiency of providing town services. Multiple policies identify and prioritize opportunities to achieve operational efficiencies that will save taxpayers money over the short- and long-term. To that end, the proposed amendments to Chapter 9 of Appendix B to remove outdated templates and forms and checklists are in the public interest because greater clarity in the process of administering local land use regulations results in more efficient and fair public service delivery.

D. Outside Agency Comments:

A request for comment was emailed to representatives from the Regional Land Use Advisory Commission (RLUAC), North Carolina Department of Transportation (NCDOT), U.S. Fish and Wildlife Service, Moore County Airport and representatives of the Town of Southern Pines on May 29, 2025.

As of the completion of the staff report on July 17, 2025 no comments have been received. Any responses received from agencies following completion of this staff report but prior to the public hearings will be provided verbally at the hearings.

III. ATTACHMENTS:

1. Draft Planning Board Resolution to Adopt a Written Recommendation
2. Consulting Attorney Dr. David Owens' Analysis of Sign Regulation Case Law
3. Town Engineer Memo Describing Appendix B Amendments

4. Copy of UDO §2.41, §4.6 and Chapter 9 Definitions with margin comments explaining proposed amendments and showing proposed amendments using ~~strikeout~~ for proposed deletions and underline for proposed additions.
5. Copy of UDO Appendix B, Chapter 9 showing proposed amendments, using ~~strikeout~~ for proposed deletions and underline for proposed additions.

IV. PLANNING BOARD ACTION:

The Planning Board shall consider the criteria for text amendments found in UDO §2.17.10, including consistency with the Comprehensive. Per North Carolina General Statute 160D-604(d), prior to consideration of the proposed text amendments by the Town Council, the Planning Board shall advise and comment on whether the proposed amendments are consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendments by the Town Council.

To assist the Planning Board in performing this task, Town staff has prepared the following draft motions for the Planning Board's consideration, possible modification as necessary, and adoption:

I move that after reviewing the proposed text amendments to the UDO and considering the criteria for approval of text amendments found in UDO §2.17.10:

- 1. The proposed amendments are consistent with the Comprehensive Plan for the reasons set forth in Attachment A of staff report OA-02-25;**
2. The proposed amendments are consistent with the Comprehensive Plan for the reasons set forth in Attachment A of staff report OA-02-25 and as revised by the Planning Board as follows;
3. The proposed amendments are inconsistent with the Comprehensive Plan for the reasons set forth in Attachment A of staff report OA-02-25 as revised by the Planning Board as follows;

And, therefore, I move to:

- 1. Recommend approval of OA-02-25 to the Town Council.**
2. Recommend approval of OA-02-25 to the Town Council with the following changes:
3. Recommend denial of OA-02-25 to the Town Council.



ATTACHMENT A

PLANNING BOARD RESOLUTION TO ADOPT A WRITTEN RECOMMENDATION FOR ORDINANCE AMENDMENT APPLICATION OA-0-25

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 conducted a duly-noticed public hearing during a meeting held on July 24, 2025 to listen to public comments, ask questions of the Town's Planning staff and to consider ordinance amendment application OA-02-25.

NOW, THEREFORE BE IT RESOLVED that the Planning Board finds and recommends to the Town Council that the revisions to the Unified Development Ordinance (UDO) that have been prepared by consulting attorney Dr. David Owens, Town Attorney Mac McCarley and town planning staff are reasonable, in the public interest and are consistent with the Town of Southern Pines Comprehensive Plan (Comprehensive Plan).

The 2040 Comprehensive Plan identifies the visual impact of signage as a major contributing factor to community character. Therefore, the fair and defensible regulation of signage in a manner that is consistent with federal and state case law is of critical importance to plan implementation. The proposed amendments to UDO §2.41, §4.6 and Chapter 9 Definitions implement Policies 3.2, 3.11 and 7.4 as well as many other policies related to protection of community character by ensuring that sign regulations only contain defensible restriction on time, manner and place.

The 2040 Comprehensive Plan also identifies many ways to improve the efficiency of providing town services. Multiple policies identify and prioritize opportunities to achieve operational efficiencies that will save taxpayers money over the short- and long-term. To that end, the proposed amendments to Appendix B, Chapter 9 to remove outdated templates and forms and checklists are

in the public interest because greater clarity in the process of administering local land use regulations results in more efficient and fair public service delivery.

Therefore, the proposed text amendments are reasonable and in the public interest and consistent with the 2040 Comprehensive Plan.

ADOPTED this the 24th day of July, 2025.

Matthew Walden, Chairman

ATTEST:

Cindy Williams
Secretary to the Planning Board

Owens Law, PLLC

P.O. Box 16
Kitty Hawk, N.C. 27949

David W. Owens
Attorney
919-260-1949
owens@dwowenslaw.com

DELIVERED VIA EMAIL

TO: B.J. Grieve
FROM: David Owens
RE: First Amendment Issues to Address Regarding Current Sign Regulations
DATE: February 26, 2025

You asked me to review the Town's sign regulations for potential amendments needed to address First Amendment issues. You wanted me to assess issues raised by the U.S. Supreme Court decisions in Reed v. Town of Gilbert, 576 U.S. 155 (2015), City of Austin v. Reagan National Advertising of Austin, Inc., 596 U.S. 61 (2022), as well as subsequent cases applying those rulings.

I have completed that review. In addition to the general comments below, I have also attached an appendix that is a copy of the text of the sign regulations in the UDO with my notes on where the current language raises concerns about its constitutionality. In a number of instances, I have included potential corrective language for your consideration.

Overview of First Amendment Considerations

Signs are a form of speech and as such they have First Amendment protection. There is a considerable body of law on the First Amendment and signs. The details can be complex and there are constantly evolving nuances in its application.

That said, the basic legal constraints on your sign regulations are straight forward. When assessing the legality of local government sign regulations, several interrelated First Amendment concepts must be considered:

1. Signs that are not "content neutral" are subject to strict scrutiny by the courts. If a sign regulation is not content neutral it is usually found to be unconstitutional as it will be upheld if only it addresses a *compelling* government interest, such as public health and safety, and is the least restrictive means of addressing that interest. On the other hand, a sign regulation that is content neutral is required to address *substantial* governmental interests, such as traffic safety and protecting community aesthetics, and are narrowly tailored to address those interests. This is less demanding than having to address a

compelling interest and do so in the least restrictive manner. Most sign regulations can meet this test. Therefore a key consideration is defining what is and is not content neutral.

2. Commercial speech that concerns lawful activity and that is not misleading also has First Amendment protection. Regulation of commercial speech must address substantial governmental interests. This is similar to the test for content neutral regulations of noncommercial speech.
3. Political speech has the highest level of First Amendment protection. This poses a challenge in regulating noncommercial speech. For example, many local governments desire to provide greater latitude for campaign yards signs than is allowed for other noncommercial yard signs. However, differential standards for different types of noncommercial yard signs may be a content-based distinction that jeopardizes the regulation.
4. Some speech does not have First Amendment protection. This includes defamatory speech, speech that incites immediate violence, and obscenity. This is usually not an issue with sign regulations. However, limits on profane and obscene signs are permissible in most situations. See this blog post for more details on potential regulation of profane and offensive language on yard signs in residential areas: <https://canons.sog.unc.edu/2022/09/can-offensive-content-on-signs-be-prohibited/>. The law also allows consideration of adult entertainment content when addressing adverse secondary impacts of the speech, such as adverse property value impacts on property near adult entertainment uses.
5. If the speech is taking place in an area that is not a public forum for speech, more restrictive regulations are allowed. This allows more restrictive regulation of signs on public land and public street rights of way. While signs can be banned or highly limited in these areas, if non-governmental signs are allowed there, they are subject to the constitutional limits noted above.

Content Neutrality

The two U. S. Supreme Court cases noted at the outset addressed the definition of what is considered content neutral for First Amendment analysis.

The Court in the Reed case invalidated a sign regulation that had different size and durational limits for different types of noncommercial signs. The sign restrictions varied based on the content of the sign. For example, there were different rules for political signs, ideological signs, directional signs, and so forth. Reed sets a clear precedent that such content-based distinctions trigger strict scrutiny by the courts and likely invalidation of the regulation.

After Reed, some lower courts took this ruling to stand for the proposition that if you had to read a sign to know how to categorize it, that made it by definition not content neutral. These cases raised the possibility that all sign categorizations might be considered to be content based.

The Court in the City of Austin case held that this is not the case. The Court upheld the long-standing practice of treating on-premise and off-premise advertising signs differently. Simply

reading a sign to know whether it was on or off premise advertising does not remove content neutrality since the regulatory difference in sign treatment is based on location of the sign rather than its subject matter. The fact that this was a long-standing practice of many sign regulations and had been acknowledged as permissible by decades of sign litigation was a factor in the Court's acceptance of this distinction as content neutral. Also, the Court in Austin continued to apply less stringent review of limits on commercial signs than is the case with noncommercial signs. The Court did again, however, note the importance of not singling out specific subject matter of signs for differential treatment.

A number of courts have applied these cases in the past few years in a variety of contexts. While the law is still evolving, several trends have emerged.

- Distinctions between on-premise and off-premise messages are routinely upheld.
- Treating digital signs differently from conventional signs has also been held to be content neutral. Adams Outdoor Advertising, LP v. City of Madison, 56 F.4th 1111 (7th Cir. 2023); Adams Outdoor Advertising, LP v. Town of Mount Pleasant, 2023 WL 4491197 (D. S.C. 2023); Fairway Outdoor Advertising, LLC v. City of High Point, 2022 WL 17975990 (M.D. N.C. 2022).
- Distinctions between commercial and noncommercial messages are generally but not uniformly upheld. See., e.g., SteetMediaGroup, LLC v. Stockinger, 79 F.4th 1243 (10th Cir. 2023) (statute distinguishing display of paid messages from unpaid upheld); Geft Outdoor, LLC v. City of Evansville, 650 F.Supp.3d 660 (S.D. Ind. 2023).
- Creating exemptions for certain signs within a category has often been held to remove content neutrality. In Camp Hill Borough Republican Ass'n v. Borough of Camp Hill, 101 F.4th 266 (3rd Cir. 2024), the court found two exemptions problematic: exempting "holiday decorations" from restrictions on temporary signs and regulating "personal expression signs" more strictly than other temporary signs. In Norton Outdoor Advertising, Inc. v. Village of St. Bernard, 2025 WL 277387 (S.D. Ohio 2025), the court held an exemption for "Public service signs which disclose information such as time or weather, provided such signs are not used to advertise or promote goods, products, services, or events" was an impermissible content-based exemption. Similarly, the court in Florek v. Bedora, 2023 WL 280833 (E.D. Wis. 2023) held an ordinance with different time limits for temporary signs based on distinctions between signs of the same nature as this ordinance was an impermissible content-based regulation.
- Some exemptions are permissible, as for example most courts allow an exemption for governmental signs, finding these to be government speech rather than regulated private speech. Norton Outdoor Advertising, Inc. v. Village of St. Bernard, 99 F.4th 840 (6th Cir. 2024) (approving exemption of signs posted by government authority).

Application to Current Regulation

I have reviewed Sections 4.6 and 9.3 of the current UDO for potential First Amendment issues regarding the sign regulations. The attached appendix highlights in yellow those provisions in the regulations that may pose a concern.

Where I have alternative language for your consideration, it is included it in the ordinance text as highlighted text for ease in distinguishing it from the existing ordinance language. Potential

deletions are shown with strike-through text (~~delete~~) and additions with underlining. I have also included a box at the end of selected sections with comments about that section.

Let me know if you have any questions or would like to discuss this in more detail. I would be happy to draft or review ordinance language for specific additional provisions or amendments you would like to consider.

cc: Mac McCarley



MEMO

To: BJ Grieve, Planning Director
From: James Michel, PE Town Engineer/Assistant Public Works Director
Date: 5/19/2025
Re: UDO Amendment to Appendix B, Chapter 9

The Engineering department is requesting that the Unified Development Ordinance (UDO), Appendix B, Chapter 9 be revised as noted in the attached markup. Chapter 9 primarily consists of various forms and permit documents. Many of the permitting documents were created due to other sections of the Town Code of Ordinances or State Law and do not need to be captured in the UDO. Some of the documents are obsolete and/or redundant. This amendment will simplify Appendix B and improve communication to outside parties.

Southern Pines Unified Development Ordinance

Adopted October 8, 2013
Edits through May 14, 2024
Includes G.S. 160D Revisions

UDO. The Planning Director is further authorized to render interpretations of the flood hazard area regulations that are consistent with its spirit and purpose.

2.40.3. Initiation and Action

Application for a Floodplain Development Permit involving any Flood Hazard Area shall be made to the Planning Director prior to any Development activities. The Planning shall issue a Floodplain Development Permit if the application demonstrates compliance with all applicable provisions of this UDO.

2.41. SIGN PERMIT

2.41.1. Purpose

This section documents the procedures for issuance of Sign Permits for Signs that comply with this ~~section and section 4.6 of this~~ UDO.

2.41.2. Applicability

Except as otherwise provided in the Sign regulations of this UDO, no Sign may be erected, moved, enlarged or substantially altered except in accordance with the provisions of this ~~section~~ UDO. ~~Mere r~~Repainting or changing the message of a Sign shall not be considered a substantial alteration. Changes to the location, height, width, thickness or structure of the Sign shall be considered substantial changes.

(A) Sign permit applications and Sign permits shall be governed by the same provisions of this chapter applicable to Zoning Permits.

(B) ~~A sign permit is not required for routine ordinary maintenance of conforming signs so long as the maintenance does not change the sign dimensions, the method of lighting, conversion to a digital sign, or make changes that are in any other way not in compliance with the provisions of this UDO.~~

~~(B)(C)~~ In the case of a Lot occupied or intended to be occupied by multiple business enterprises (e.g., a Shopping Center), Sign permits shall be issued in the name of the Lot owner or his agent rather than in the name of the individual business enterprise requesting a particular Sign. The Town may assist the owner by suggesting a formula whereby the maximum square footage of Sign area allowed on the Lot may be allocated equitably among

all tenants, but the Town shall be responsible for enforcing only the provisions of this UDO and not the provisions of any allocation formula, lease or other private restriction.

2.41.3. Unified Sign Plan Required for Sites with Multiple Uses

A Unified Sign Plan is required where a Parcel or Development Project in a commercial, industrial or PD district contains more than one (1) Principal Use or establishment.

- (A) The Unified Sign Plan shall apply to the Parcel or Development Project as a whole.
- (B) The Unified Sign Plan shall allocate the allowed number and area of Signs among the individual uses or establishments.
- (C) The Unified Sign Plan shall show the locations and maximum dimensions of all Signs proposed thereon and establish design standards to ensure that all Signs are of comparable design and proportionate scale.

2.41.4. ~~Substitution of Noncommercial Speech for Commercial Speech~~

~~Notwithstanding anything contained in this section or Sign code to the contrary, any Sign erected pursuant to the provisions of this section or Sign code, or otherwise lawfully existing with a commercial message, may, at the option of the owner, contain a noncommercial message unrelated to the business located on the Premises where the Sign is erected. The noncommercial message may occupy the entire Sign face or any portion thereof. The Sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the Sign, provided that the Sign is not a prohibited Sign or Sign type.~~

2.41.5. ~~Content Neutrality as to Sign Message~~

~~Notwithstanding anything in this section or Sign code to the contrary, no Sign or Sign structure shall be subject to any limitation based on the content of the message contained on such Sign or displayed on such a Sign structure.~~

(Ord. # 1716)

Commented [BG1]: Delete because there are also sign definitions in Chapter 9 that contribute to regulating signs.

Commented [BG2]: Attorneys recommend broadening to be clear that requirements of Section 4.6 as well as definitions in Chapter 9 also apply.

Commented [BG4]: This entire subsection is the same as UDO Section 4.6.3, so delete here. Having the same text in two places is redundant and could lead to confusion and inconsistencies over time.

Commented [BG3]: Attorneys recommend this be added, fits best here as opposed to elsewhere.

Commented [BG5]: Per attorneys, a clear statement about the intent of the regulations to be content-neutral has been added in Section 4.6.1. Including it here as well, under permitting, is redundant and unnecessary.

2.41.6-2.41.4. Signs Excluded From Regulation

See section 4.6.13 for a listing of Signs that are exempt from the regulation.

2.41.7-2.41.5. Certain Temporary Signs

See section 4.6.14 for regulations applicable to certain Temporary Signs that do not require permits.

2.41.8-2.41.6. Submittal

An application for a Sign Permit shall be filed with the Planning Director in accordance with Appendix A of this UDO.

2.41.9-2.41.7. Signs Requiring Certification

~~If deemed necessary by the Planning Director, Landmark Signs and Signs with structural features that make the Sign more susceptible to wind damage, a North Carolina registered structural engineer or architect shall certify the structural integrity of the structure and foundation as compliant with all standards for wind loads as set forth by the Building codes. If the Planning Director determines that structural features of a proposed Sign make it more susceptible to wind damage, the Planning Director may require that a North Carolina registered structural engineer or architect certify the structural integrity of the structure and foundation as compliant with all standards for wind loads as set forth by the building codes.~~

(Ord. # 1716)

2.41.10-2.41.8. Approval

The Planning Director shall issue a Sign Permit for proposed Signs that comply with previous Development Approvals, this UDO and any other applicable ordinance of the Town. If the application is for an electrical Sign a separate electrical permit shall be required plus the fee therefore.

2.41.11-2.41.9. Timing

The work under a Sign permit must be begun within three (3) months of its issue date and must be completed no more than six (6) months after the permit issue date, otherwise the permit shall lapse.

2.41.12-2.41.10. Inspection

All billboards and freestanding, on-site Signs shall be subject to a footing inspection prior to erection of the Sign. All Signs shall be subject to a final

Amended

inspection to ensure that they comply with the Sign permit and this ordinance. The Planning Director shall direct the Applicant to bring non-compliant Signs into compliance within a specified time upon determining that the Sign does not comply with the terms of the permit. Upon failure to do so, the permit shall be revoked and the Sign removed.

2.41.13-2.41.11. Non-Conforming Signs

Non-Conforming Signs are subject to the provisions of section 4.6.21 of this UDO.

2.41.14-2.41.12. Sign Removal

Any Temporary Sign erected in violation of the provisions of this section may be removed immediately by the Planning Director. Any Sign so removed shall be retained at a designated municipal facility until recovered by the Sign owner following payment to the Town of a \$5.00 fee per Sign. Any Sign not recovered within 10 days will be destroyed.

2.41.15-2.41.13. Discontinued Signs

Upon the discontinuance of business occupancy of an establishment for a consecutive period of ninety (90) days, the administrator shall require the removal of the on-premises Sign(s) advertising or identifying the establishment. The administrator shall give thirty (30) days notice to the property owner to remove the Sign(s), including all of its attendant supports, frames and hardware unless such Sign is proposed to be used by a new establishment on the Premises in conformance with all current regulations of this section 4.6. Failure to remove the Sign(s) within the thirty (30) day period shall constitute a violation of this chapter and shall be remedied in accordance with the provisions of this UDO.

Commented [BG6]: Attorneys recommend rewording to better guide the discretion of the Planning Director position on this matter.

2.42. DRIVEWAY PERMIT / RIGHT-OF-WAY PERMIT**2.42.1. Purpose**

To ensure that any person or entity engaging in Development activities within the Town's Right-of-Way complies with applicable conditions to protect the public health, safety and welfare.

- (3) The loading area requirements of this section cannot be satisfied because there is not sufficient area available on the Lot that can practicably be used for loading and unloading.

4.6. SIGNS

This section shall be known as the Town of Southern Pines Sign Code and may be referred to as the Sign code throughout this UDO.

4.6.1. Purposes

This Sign Code is intended to promote the public health, safety and general welfare through reasonable, consistent, ~~content neutral~~ and non-discriminatory Sign standards. The Sign regulations are intended to:

- (A) Encourage the effective use of Signs as a means of communications in the Town;
- (B) ~~Regulate the appearance and design of Signs in a manner that promotes and enhances the beautification of the Town, and that complements the natural surroundings in recognition of the Town's reliance on its natural surroundings and beautification efforts in retaining economic advantage for the community; Maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic Development and growth;~~
- (C) Improve pedestrian and traffic safety;
- (D) Minimize the possible adverse affect of Signs on nearby public and private property;
- (E) Foster the integration of Signage with architectural and landscape designs;
- (F) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height and excessive size (area) of Signs that compete for the attention of pedestrian and vehicular traffic;
- (G) Allow Signs that are Compatible with their surroundings and aid orientation, while precluding the placement of Signs that contribute to Sign clutter or that conceal or obstruct adjacent land uses or Signs;
- (H) Encourage and allow Signs that are appropriate to the zoning district in which they are located and consistent with the category of use, activity and function to which they pertain;
- (I) Curtail the size and number of Signs and Sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business;
- (J) Establish Sign size in relationship to the scale of the Lot and Building on which the Sign is to be placed or to which it pertains;
- (K) ~~Categorize Signs based upon the function that they serve, and tailor the regulation of Signs based upon their function Prescribe time, place, and manner regulations appropriate for different locations, uses, and zoning districts consistent with applicable state and federal law;~~
- (L) Preclude Signs from conflicting with the Principal Permitted Use of the site and adjoining sites;
- (M) Regulate Signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;
- (N) Except to the extent expressly preempted by state or federal law, ensure that Signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe Signs;
- ~~(O) Preserve, conserve, protect and enhance the aesthetic quality and scenic beauty of all districts of the Town;~~
- ~~(P)~~~~(O)~~ Allow for traffic control devices consistent with national standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;

Commented [BG7]: Attorney recommends adding an "express reference to an intent to be content neutral." This two-word addition was the simplest option to achieve this. This two-word addition also allows deletion of UDO 2.41.5 because the topic is better addressed here in the actual sign code rather than in the permit requirements section.

Commented [BG9]: David Owens recommends rewording or deleting to avoid confusion with what is meant by "function." Mac McCarley recommends rewording for clarity and another explanation of the purpose to regulate time, manner and place (not content).

Commented [BG8]: Moved (S) up to here and propose deleting (B) and (O) because they are redundant.

Commented [BG10]: Similar to (B) and (S) so combining into one, see (B).

~~(Q)(P)~~ Protect property values by precluding, to the maximum extent possible, Sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness or movement;

~~(R)(Q)~~ Protect property values by ensuring that Sign types, as well as the number of Signs, are in harmony with Buildings, Neighborhoods and conforming Signs in the area; and

~~(S) Regulate the appearance and design of Signs in a manner that promotes and enhances the beautification of the Town, and that complements the natural surroundings in recognition of the Town's reliance on its natural surroundings and beautification efforts in retaining economic advantage for the community; and~~

~~(T)(R)~~ Enable the fair and consistent enforcement of these Sign regulations.

4.6.2. Applicability

The provisions of this Sign Code are applicable to all Signs, except as specifically provided in this section, authorized as part of a Variance, PD, Conditional Zoning district, or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district.

(Ord. #3031)

4.6.3. Substitution of Noncommercial Speech for Commercial Speech

Any Sign erected pursuant to this Sign Ordinance, or otherwise lawfully existing with a commercial message, may, at the option of the owner, contain a noncommercial message ~~unrelated to the business located on the Premises where the Sign is erected.~~ The noncommercial message may occupy the entire Sign face or any portion thereof. The Sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the Sign, provided that the Sign is not a prohibited Sign or Sign type.

(Ord. # 1716)

4.6.4. Severability clause.

If any provision of the Sign Code is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Sign Code or this UDO regulating Signs, and all of such provisions shall remain in full force and effect.

(Ord. # 1716)

4.6.5. Determining the Number of Signs

(A) For the purpose of determining the number of Signs, a Sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single Sign.

(B) A multi-sided Sign shall be regarded as one Sign.

(C) One (1) Logo Emblem Sign is allowed in addition to the permitted number of Wall Signs.

4.6.6. Computation of Sign Area

(A) The surface area of a Sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the Sign from the backdrop or structure against which it is placed; but not including any supporting framework or bracing that is clearly incidental to the display itself.

(B) If the Sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in

Commented [BG11]: 4.6.1 (B), (O) and (S) are all very similar so we're using this opportunity to combine into one purpose statement regarding the importance of regulating signs to the aesthetics and character of the town and economic development. Moved this up to replace (B) because it's important, and deleted (B) and (S).

Commented [BG12]: See attorney comment regarding possible addition covering routine maintenance of conforming signs. It's been addressed with the addition to 2.41.2 above.

Commented [BG13]: Attorney feedback is that the ability to substitute a noncommercial message for a commercial message is important. However, it is more complicated to distinguish between on-premise and off-premise noncommercial speech so this portion of the sentence can be deleted to avoid confusion. See similar deletion in similarly-worded Section 2.41.4.

the computation of the Sign area. The area between a Wall Sign and a Logo Emblem Sign is exempt from the computation of Sign area. In the instance an establishment has a Wall Sign and Logo Emblem Sign on the same frontage, the area between the Wall Sign and the Logo Emblem Sign will not count towards the computation of the Sign area; only the surface area of the Sign shall be included in the computation of the Sign area.

- (C) With respect to two-sided, multi-sided or three dimensional Signs, the surface area shall be computed by including the total of all sides designed either to attract attention or communicate information that can be seen at one time by any person from any vantage point. For example, with respect to a typical two-sided Sign where a message is printed on both sides of a flat surface, the Sign area of one side (rather than the sum total of both sides) shall be regarded as the total Sign area of that Sign, since one can see only one side of the Sign from any vantage point.
- (D) With respect to V-shaped Signs, the surface area shall be calculated as in paragraph (C) above provided that the angle of the intersecting Sign planes does not exceed ninety (90) degrees. If the angle of the intersecting Sign planes exceeds ninety (90) degrees, Sign area shall be computed as it would for a one-sided Sign.
- (E) In computing items of information, letters less than three (3) inches in height, if contained in a Wall Sign, shall not be counted.

4.6.7. Total Sign Area

- (A) **Total Sign Area Limited.** Unless otherwise provided in this section 4.6, the total surface area devoted to all Signs on any Lot shall not exceed the limitations set forth in this section, and all Signs except Temporary Signs shall be included in this calculation.
- (B) **Residential Districts.** Unless otherwise provided in this article or chapter 5, the maximum Sign area permitted on any Lot in any residential district is four (4) square feet.

- (C) **GB and I Districts.** Subject to the other provisions of this section, the maximum total Sign area on any Lot in the GB or I district shall be determined by multiplying the number of feet of street frontage of the Lot by one (1) foot. However, in no case may the total Sign area exceed five-hundred (500) square feet.
- (D) **Other Commercial Districts.** Subject to the other provisions of this section, the maximum Sign area permitted on any Lot in a commercial district other than the GB district or I district shall be determined by multiplying the number of feet of street frontage of the Lot by one-half (0.5) feet. However, in no case may the total Sign area exceed one-hundred (100) square feet.
- (E) **Multiple Frontage Lots.** If a Lot has frontage on more than one (1) street, then the total Sign area permitted on that Lot shall be the sum of the Sign area allotments related to each street on which the Lot has frontage. However, the total Sign area that is oriented toward a particular street may not exceed the portion of the Lot's total Sign area allocation that is derived from frontage on that street.
- (F) **Lots with No Frontage.** Whenever a Lot has no street frontage on any Lot boundary and an Applicant desires to install on such a Lot a Sign that is oriented toward a street, then the total Sign area permitted on that Lot shall be the Sign area that would be allowed if the Lot boundary closest to the street toward which such Sign is to be oriented fronted on such street.
- (G) **Wall Signs.** The area of any Sign located on a wall of a structure may not exceed fifty (50) percent of the total surface area of the wall on which the Sign is located.
- (H) **Signs within the Historic District Overlay.** Subject to other provisions of this section, the maximum total Sign area permitted for ~~Signs for commercial entities on-premise commercial signs~~ located within the Historic District Overlay is fifteen (15) square feet for establishments with frontage on one street and twenty-five (25) square feet for

establishments with frontage on two streets. Residential properties and Dwellings located in Residential zoning districts within the Historic District Overlay are limited to a maximum total Sign area of four (4) square feet.

(Ord. #1775)

4.6.8. Freestanding Sign Area

- (A) For purposes of this section, a side of a Freestanding Sign is any plane or surface included in the calculation of the total Sign area as provided in section 4.6.6. For example, Wall Signs typically have one side. Freestanding Signs typically have two sides (back-to-back), although four-sided and other multi-sided Signs are also common.
- (B) A single side of a Freestanding Sign may not exceed thirty-five (35) square feet on Lots with less than four-hundred (400) feet of frontage and fifty (50) square feet on Lots with four-hundred (400) or more feet of frontage on the street toward which the Sign is primarily oriented.
- (C) With respect to Freestanding Signs that have no discernible "sides", such as spheres or other shapes not composed of flat planes, no such Freestanding Sign may exceed the maximum total surface area allowed under paragraph (B) of this section for a single side of a Freestanding Sign.

4.6.9. Number of Signs Allowed

(A) Freestanding Signs

- (1) Except as authorized by this section, no Development shall have more than one (1) Freestanding Sign.
- (2) If a Development is located on a corner Lot that has at least one-hundred (100) feet of frontage on each of the two (2) intersecting public streets, then the Development may have not

more than one (1) Freestanding Sign along each side of the Development bordered by such streets.

- (3) If a Development is located on a Lot that is bordered by two public streets that do not intersect at the Lot's boundaries (double front Lot), then the Development may have not more than one (1) Freestanding Sign on each side of the Development bordered by such streets.
- (4) For property with no less than nine-hundred (900) feet of frontage that abuts the US Highway 1 corridor that has topography substantially or completely blocking the view of a business Sign by passerby motorists from each direction, the positioning of one (1) additional Sign (no more than (2) two frontage Signs in total), one at each end of the property will be permitted. This is intended to provide the business with reasonable highway motorist exposure as other businesses have located on either side of the highway corridor. The additional Sign must conform to the requirements as specified in this section 4.6 of the UDO, and shall not to exceed sixteen (16) square feet in size.
- (5) All Freestanding Signs shall be of a shape that the ratio between the maximum and minimum dimensions shall not exceed 2 to 1.

(B) Wall and Logo Emblem Signs

- (1) Only one (1) Wall Sign and one (1) Logo Emblem Sign per establishment are permissible except as authorized in this section.
- (2) A second Wall Sign may be established if the business has frontage on more than one street.
- (3) A secondary Wall Sign may be placed between the business establishment and its principal parking area if there is no parking between the business establishment and a street. The area of the secondary Wall Sign shall not exceed the lesser of

Commented [BG14]: Attorney recommends distinguishing by type of sign or underlying zoning district rather than particular land use.

thirty-five (35) square feet or the maximum size allowed for the street facing Wall Sign.

- (4) A Plaque-inset Sign that does not exceed 3.5 square feet is not considered a Wall Sign.

4.6.10. Sign Location and Height Requirements

- (A) No Sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. ~~This provision shall not apply to displays, including lighting, erected in connection with the observance of holidays on the roofs of residential structures.~~
- (B) No Wall Sign attached flat to a Building may project more than twelve (12) inches from the Building wall. Projecting Signs may, however, exceed the twelve (12) inch limit. One Projecting Sign not to exceed four (4) square feet in Sign area, may be allowed per establishment in the CB zoning district. The bottom edge of such Projecting Signs must be located at least eight (8) feet above the sidewalk.
- (C) No Sign or supporting structure may be located in or over the traveled portion of any public Right-of-Way unless the Sign is attached to a structural element of a Building and an encroachment permit has been obtained from the Town.
- (D) No part of a Freestanding Sign may exceed a height, measured at average grade at the base of the Sign, established in Exhibit 4-9.

Exhibit 4-9: Maximum Sign Height

District	Height
All residential districts and uses	7 feet
All non-residential districts and uses	10 feet

- (E) Additional Sign height restrictions for Lots located within an airport hazard overlay district are established section 3.6.7.

4.6.11. Sign Illumination and Signs Containing Lights

Unless otherwise prohibited by this section 4.6, Signs may be illuminated only if such illumination is in accordance with this section.

- (A) No Sign within one-hundred-fifty (150) feet of a Residential Zone may be illuminated between the hours of 12 midnight and 6:00 a.m., ~~unless the impact of such lighting beyond the boundaries of the Lot where it is located is entirely inconsequential.~~
- (B) Lighting directed toward a Sign shall be shielded so that it illuminates only the face of the Sign and does not shine directly into a public Right-of-Way or residential Premises.
- (C) Subject to paragraph (E) of this section, illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows or similar areas are prohibited.
- (D) Subject to paragraph (E) of this section, any illuminated Sign shall be lighted with non-flashing and motionless illumination. Signs shall not include or have the appearance of animation or electronic changeable message(s).
- (E) Exceptions to these Sign illumination requirements as follows:
- (1) ~~Paragraphs (C) and (D) of this section do not apply to Temporary Signs erected in connection with the observance of holidays.~~
- (2) Paragraph (C) does not apply to:
- Strings of miniature white lights in the **CB** District;
 - Lights used on theater marquees in the Central Business District;

Commented [BG16]: According to the attorney, the term “entirely inconsequential” is likely “impermissibly vague.” Staff feel this second part can simply be removed. This is the simplest option.

Commented [BG15]: Attorney’s advise that an exemption for holiday displays is problematic because specifically allowing temporary displays and lighting on a roof only to observe a holiday would likely be a content-based restriction on other forms of noncommercial speech. Staff’s simplest option is to remove this last sentence about displays in connection with the observance of holidays because staff do not typically consider holiday decorations to be signs anyways. The only problem here is with the language, not actual administration/enforcement in the field.

Commented [BG17]: Similar problem with 4.6.10(A). Since staff typically do not have problems with holiday decorations, it seems best to fix the problem of this exemption by simply removing it. However, as is the case with 4.6.10(A), another option may be to insert language allowing lighting for all kinds of noncommercial displays but limiting the total amount of time these displays are allowed. One can see how that may create a bigger problem then simply removing this.

- (c) A single lighted Window Sign measuring no larger than one square foot in area; and
- (d) Architectural accent lights for which the source is completely screened from view from all streets, sidewalks and abutting property lines. Such accent lights shall be downlit, shall not illuminate more than thirty (30) percent of the length of any wall and shall be subject to approval through the Architectural Compliance Permit process.

4.6.12. Subdivision and Multi-Family Development Entrances Signs

- (A) At any entrance to a residential Subdivision or Multi-Family Development, there may be either one double faced identification Sign not to exceed thirty-two (32) square feet in size or two (2) single faced ~~identification~~ Signs not to exceed thirty-two (32) square feet per face. Such Signs must be of a Monument style and shall not exceed six (6) feet in height.
- (B) In addition to any ~~entrance~~ Signs ~~at an entrance~~, Subdivisions may have Signs within the Development ~~identifying at the entrances to~~ specific sections within the Subdivision. A section may have two (2) single face Signs not to exceed sixteen (16) square feet in size per face. The Subdivision may have one (1) section Sign (up to two (2) Sign faces) for each thirty (30) Lots, Townhouses or Condominium Dwelling Units. Section Signs shall be available to PD districts and shall not be visible from the main thoroughfare or any other street from which the Subdivision obtains access. Such Signs must be of a Monument style and shall not exceed six (6) feet in height.
- (C) At any entrance to an office/commercial/industrial Development there may be one double-faced Sign not to exceed one-hundred (100) square feet in size. Such Signs must be of a Monument style. Maximum height of such Sign(s) is ten (10) feet. To qualify for such Signage the Development must be a minimum of fifty (50) acres in

size; the Development is limited to two (2) Signed entrances with a minimum one-thousand (1,000) feet of separation between Signs on the same street. Such Signs shall be located parallel to the entrance road outside of any Traffic Visibility Triangle.

- (D) At any entrance to an office-subdivision there may be one (1) double-faced Sign not to exceed thirty-two (32) square feet in size. Such Signs must be of Monument style. Maximum height of such Sign(s) is seven (7) feet. To qualify for such ~~a~~ Signage the Development must be a minimum of ten (10) acres in size. The Development is limited to two (2) Signed entrances with a minimum one-thousand (1,000) feet of separation between Signs on the same street. Such Signs shall be parallel to the entrance road outside of any Traffic Visibility Triangle.

4.6.13. Shopping Center Signs

- (A) Shopping Centers are required to maintain a Unified Sign Plan.
- (B) Signs in Shopping Center Developments are restricted to Monument Signs, Wall Signs, Projecting Signs, Canopy Signs and certain Temporary Signs delineated in section 4.6.16.
- (C) One (1) Monument Sign per Shopping Center is permitted. However, for Developments having multiple arterial street frontages one additional Monument Sign may be approved for each arterial street frontage. Monument Sign area is calculated at one (1) square foot of Sign area for each linear foot of street frontage or one-hundred (100) square feet of Sign area, whichever is less. Monument Signs shall not exceed a height of ten feet. Additional Monument Signs may be permitted for outParcel Buildings within a Shopping Center Development provided that:
 - (1) There is only one (1) Freestanding Sign per out-Parcel;
 - (2) The maximum Sign area for the Monument Sign is thirty-two (32) square feet;

Commented [BG18]: These changes are a very simple change of words that now allow signs at entrances to subdivisions which is merely regulating the place, as opposed to "Identification Signs" which is arguably closer to regulating content.

- (3) The maximum height of the Monument Sign is ten (10) feet; and
 - (4) The Sign is not located within one hundred (100) feet of any other Freestanding Sign.
- (D) One Wall Sign per separate business establishment is permitted. A second Wall Sign may be established if the business establishment has frontage on more than one street or if the business establishment's parking is not located between the establishment and street. Allowable Wall Sign area is determined as follows:
- (1) Establishments with a Building Frontage of fifty (50) feet or less shall have no Sign greater than thirty-five (35) square feet.
 - (2) Establishments with a Building Frontage greater than fifty (50) feet shall have a maximum Wall Sign area of one (1) square foot of Sign area for each 1 foot of Building Frontage or two-hundred (200) square feet of Sign area, whichever is less.
- (E) One (1) Projecting Sign per separate business establishment is permitted. Projecting Signs may exceed the twelve (12) inch limit for Signs attached to a wall. Projecting Signs are not to exceed four (4) square feet in Sign area. The bottom edge of such Projecting Signs must be located at least eight (8) feet above the sidewalk.

4.6.14. Landmark Signs

- (A) Landmark Signs are on-premise monument structures identifying the name of a specific sub-area or major mixed-use Development. Landmark Signs shall only display the name of the sub-area or overall Development and shall not depict the name of any businesses or Subdivisions within the project area.
- (B) Landmark Signs are only permitted in the PD (Planned Development) zoning classification.

- (C) The location and number of Landmark Signs permitted within a Development will be determined during the Planned Development application process for the entire Development. For Existing Developments eligible for Landmark Signs, the location and number of Landmark Signs will be determined by the Town of Southern Pines Planning Staff.
- (D) No Landmark Sign shall be located within one thousand two hundred (1,200) feet of another Landmark Sign.
- (E) If a Landmark Sign is used as part of commercial Development project, the Sign shall be counted as an authorized Monument Sign.
- (F) Landmark signs must be submitted to the Town Council for review and approval through the Architectural Compliance Permit process. The Town Council will approve the architectural design of Landmark Signs through the Architectural Compliance Permit process. Landmark Signs must compliment the character and architectural design of the Development. Landmark Signs must also be consistent with other permitted signage to create a unified signage character for the entire Development.
- (G) Landmark Signs shall not exceed the following dimensional restrictions:
 - (1) The maximum height for a Landmark Sign is twenty-five (25) feet;
 - (2) The base of the structure shall not exceed one hundred square feet; and
 - (3) The maximum profile area of the Landmark Sign shall not exceed one-hundred and fifty (150) square feet. Profile area is the area within the maximum height and width extent of the Sign as viewed horizontally from any side.

Commented [BG20]: Comment from Mac McCarley, making it clearer that Town Council has discretion. As opposed to this stating "...Town Council will approve..."

Commented [BG19]: Added to provide clarity.

- (H) Illumination of Landmark Signs must be internal to the Sign monument or lit from above in a downward fashion. No up-lighting of these Signs will be permitted.

4.6.15. Signs Exempt from These Regulations

The following Signs are exempt from regulation under this chapter except for those stated in sections 4.6.17(D) through 4.6.17(G).

- (A) Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as ~~(i)~~ Signs giving property identification names or numbers or names of occupants, including identification on mailboxes, (ii) Signs on mailboxes or paper tubes, and ~~(iii)~~ Signs posted on private property relating to private parking or warning the public against trespassing or danger from animals. In the HCO district, such Signs shall not exceed two (2) Signs per zoning Lot nor two (2) square feet in area per display surface and shall not be taller than three (3) feet in height
- (B) Noncommercial Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including notice of community events, legal notices, identification and informational Signs and traffic, directional or regulatory Signs.
- (C) Official Noncommercial Signs of a non-commercial nature erected by a regulated public utilities utility.
- (D) Noncommercial ~~F~~ flags, pennants or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device. However no greater than 15 square feet each in Residential zones. ~~+~~ The number of such noncommercial flags, pennants or insignia shall be limited to three (3) per Premises.
- ~~(E) Legal notices, identification and informational Signs and traffic directional or regulatory Signs erected by or on behalf of a governmental body.~~

~~(F)~~(E) Memorial Signs or tablets and names and construction dates of Buildings when cut into any masonry surface or mounted bronze Plaque.

~~(G)~~(F) Integral decorative or architectural features of Buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts or lights.

~~(H)~~(G) Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and that bear no advertising matter visible from public Right-of-Way.

~~(H)~~(H) Church bulletin boards and church identification Signs that do not exceed one (1) per abutting street and sixteen (16) square feet in area. A maximum of two (2) off-premises church identification Signs may be permitted provided that each Sign does not exceed two square feet in area.

~~(J)~~(I) Devices, depictions, letterings, or symbols painted on or otherwise affixed to currently licensed motor vehicles and not used in violation of this chapter.

~~(K)~~(J) School identification Signs that do not exceed one per abutting street and sixteen (16) square feet in area. The Development in which the school is located cannot exceed (1) one Sign per street frontage per section 4.6.9.

4.6.16. Certain Temporary Signs Not Requiring Permits

The following Temporary Signs are permitted without a zoning special use or Sign permit. However, such Signs shall conform to the requirements set forth below as well as all other applicable requirements of this chapter except those contained in sections 4.6.7 (Total Sign Area) and 4.6.9 (Number of Signs Allowed). Other Temporary Signs not listed above shall be regarded and treated in all respects as permanent Signs, except that (as provided for the Historic Overlay District) Temporary Signs shall not be included in calculating the total amount of permitted Sign area.

Commented [BG24]: This is a First Amendment risk. We need to either allow these signs for all nonprofit/noncommercial uses, or not allow this special exception for churches. When you review the rest of the sign code, churches can still have plenty of signs like all other land uses, but should follow the same time, manner and place as other land uses without this specific "exemptions." Staff proposes deleting rather than granting the same 16 square foot bulletin board to every nonprofit/noncommercial land use. Most of the needs for a church bulletin board are met with other types of allowed permanent and temporary signage, such as for permitted wall and monument signs, special event signage, identification signs, etc.

Commented [BG21]: Replaces one of the troublesome exemptions below, letter (E).

Commented [BG22]: This allows for national and state flags, sports team flags, and other things folks like to use to decorate around the house provided it's noncommercial and there is a limit to the number.

Commented [BG23]: Same as (B) above. Delete due to redundancy.

(Ord. # 1919)

(A) ~~Signs containing the message that the Real estate on which the Sign is located (including Buildings) that is for sale, lease or rent, together with information identifying the owner or agent in addition to any other permissible signs may have one additional sign as defined below.~~

- (1) ~~Such Signs may not exceed six (6) square feet in area and shall be removed not more than seven (7) days immediately after sale, lease or rental.~~
- (2) For Lots of less than five (5) acres, a single Sign on each street frontage may be erected. For Lots of five (5) acres or more in area and having a street frontage in excess of four hundred (400) feet, a second Sign not exceeding six (6) square feet in area may be erected.
- (3) Each Sign shall be located no closer than ten feet to the paved portion of a road (street) or ten (10) feet from the edge of the travel portion of a non-paved road (street).
- (4) In the HCO districts such Signs may include up to sixteen (16) square feet per display surface for property zoned non-residential or located within an approved ~~p~~lanned Development

~~(5) All such Signs shall be removed not more than seven (7) days after sale, rental or lease of the Premises.~~

(B) ~~Construction site/opening soon identification Signs. Construction Signs may identify the project, the owner or Developer, architect, engineer, contractor and subcontractor, funding sources and related information. Properties under construction may have one sign in addition to any other permissible signs.~~ Not more than one such Sign may be erected per site and it shall not exceed four (4) square feet in area per display surface for Single-Family or Duplex construction or thirty-two (32) square feet in area for Multi-Family or non-residential

construction. Such Signs shall not be erected prior to the issuance of a Building permit and shall be removed within ten (10) days after the issuance of a Certificate of Occupancy.

~~(B)(C)~~ On commercial sites where a business is opening or closing, One "Opening Soon" Sign in addition to any other permissible signs may be permitted per Building site is allowed provided such Sign does not exceed thirty-two square feet in area and is erected for a period not to exceed sixty (60) days.

~~(C)(D)~~ Signs attached temporarily to the interior of a Building window or glass door, such Signs, individually or collectively, may not cover more than fifty percent of the surface area of the transparent portion of the window or door to which they are attached.

~~(D)(E)~~ During the months of October, November and December Displays, including lighting are allowed, erected in connection with the observance of holidays. Such ~~Signs displays~~ shall be removed within ten (10) days following the ~~holidays~~ end of December.

~~(E)(F)~~ During the period beginning on the 30th day before the beginning date of early voting for a primary, general or special election, an unlimited number of signs may be placed on private property. Signs erected in connection with elections or political campaigns. The maximum allowable Sign area of any each such Sign shall be six (6) square feet. Each Sign shall be located on private property but in no case shall a sign be allowed closer than ten (10) feet to the paved portion of a road or ten (10) feet from the edge of the travel portion of a non-paved road and may not be attached to a tree or other living plant material. No more than one Sign per candidate shall be permitted for each street frontage per Lot. Such Signs may only be erected within two (2) weeks of the date of the primary, general or special election and must be removed within twoten (210) days following the primary, general or special election voting day for which the Signs are intended to serve. If the period of time between a primary and a general or special election for which the primary is

Commented [BG27]: Removes reference to the content of the sign and focuses on a circumstance related to the property.

Formatted: Superscript

Commented [BG28]: This gets away from exempting political signs, which is a content-based standard. Now, you can have any kinds of signs around an election. Content is up to you. To limit the number of what have previously been called "political signs" is difficult anyways. The size and placement is still regulated and will still be enforced very defensibly.

Commented [BG25]: Added to (A)(1) above.

Commented [BG26]: Removes reference to the content of the sign and focuses on a circumstance related to the property.

serving is less than four (4) weeks, measured from the date of the primary voting day to the date of the general or special election voting day, the Signs shall be allowed to remain in place. Such Signs may be erected at officially designated polling places on the day of the election ~~and shall be limited to one (1) Sign per candidate.~~

~~(F)(G)~~ ~~Banners and other Signs indicating that Properties on which a special event such as a fair, carnival, circus, or festival is to take place on the Lot where the Sign is located may have one banner or sign in addition to any other permissible sign(s). Such Signs may not exceed thirty-two (32) square feet and may be erected up to one (1) week fourteen (14) days before the event and must be removed not later than three (3) days after the event.~~

~~(G)~~ ~~Temporary Signs announcing the openings of new businesses, provided such Signs are on the Premises in which the business is located do not exceed thirty-two (32) square feet of display area per business site and are displayed for a period not to exceed thirty (30) days.~~

~~(H)~~ ~~Any residential property may have Yard, auction or garage sale Signs announcing yard or garage sales, provided such Signs do not exceed one (1) Sign per site of such sale nor not exceeding four (4) square feet in area per display surface per lot or parcel and are removed within twenty (24) hours of erection.~~

~~(I)~~ ~~Temporary Off Premises directional and instructional Signs concerning an annual public event may be allowed on private property and public street rights of way provided that the following conditions are met:~~

~~(1) A \$100.00 fee is paid to the Planning Department. A maximum of \$75.00 of the fee is refundable at such time as the administrator is assured that all such Signs erected have been removed.~~

~~(2) The Signs contain only directional and instructional information solely for the purpose of directing pedestrian and/or vehicular~~

~~traffic to an annual non-profit and non-commercial activity or function.~~

~~(3) The public event or function for which the Signs are proposed is undertaken by a bona fide non-profit, civic, religious, charitable or fraternal organization. The Signs not exceed four (4) square feet in area and not exceed a height of three (3) feet.~~

~~(4) The Signs shall be independently free-standing ground Signs (not attached to a tree or other living plant material, utility poles or Building) and be located so as not to infringe on a sight distance triangle.~~

~~(5) The Signs shall be erected for no more than one day prior to the start of the event and removed one day after the completion of the event but in no case shall such Signs be erected for a total period to exceed seven (7) days.~~

~~(J)~~ ~~Signs or banners indicating the following Special Events: Rockingham NASCAR races, Stoneybrook Steeplechase, professional golf tournaments, Springfest/Tour de Moore, Autumnfest, Elk's National Golf Tournament or other Special Events recognized by resolution of the Town Council, public service messages by the Police or Fire Departments. Such Signs or banners may be erected up to one (1) week before the event and must be removed not later than the first business day after the event. Maximum size of temporary banners shall be forty (40) square feet. Not more than one (1) Sign or banner shall be allowed per business. Such Signs or banners must be produced by a commercial Sign company.~~

~~(K)~~ ~~Banners indicating the 50th, 75th and 100th year celebration for churches. Such banners shall be a maximum size of forty (40) square feet and shall be permitted for one (1) year.~~

~~(L)~~ ~~Banner flags displayed on any theater in the Central Business (CB) District when they are used to call attention to a forth coming or current performance or event at the theater. Banner flags shall not~~

Commented [BG29]: Removes reference to the content of the sign and focuses on a circumstance related to the property.

Commented [BG31]: This subsection is not used and is now covered in various other modified parts.

Commented [BG30]: This is a final catchall to make sure folks can express their feelings about any issue without restrictions other than on the size and number.

Commented [BG32]: If the town wishes to put up banners to recognize community events, it's now covered under a section above, same as messages by police and fire. If it's banners for special events, it's covered by another subsection above and is allowed for everyone equally. Other than that, we shouldn't have exemptions for certain events that need to be enforced based on content.

Commented [BG33]: Now covered by (G) above.

~~exceed thirty (30) square feet in size. Banners shall be erected no more than ten (10) days prior to an event and must be removed within two (2) days after the event.~~

~~(M)(I)~~ In the C.B. district, Signs placed by the occupant of the Premises within twelve (12) feet of the Premises if:

- (1) The Sign does not interfere with vehicular or pedestrian traffic;
- (2) The Sign's area is no greater than six square feet;

The Sign is removed when the Premises are not open for business.

(Ord. #1703)

4.6.17. Miscellaneous Restrictions and Prohibitions

(A) No Off-Premises Signs (except those exempted from regulation or from permit requirements under sections 4.6.13 and 4.6.14) may be located in any district. Off-Premises Signs are prohibited in all HCO Districts, except those which existed on March 1, 1995 in, the Town of Southern Pines that:

- (1) Are located along federal aid primary highways for which Sign compensation is regulated by state and federal law; and
- (2) Were erected and are permitted and maintained in compliance with state regulations.

(B) All Signs, including the supports, frames and embellishments thereto, shall be located outside of any public Right-of-Way.

(C) No Sign shall be attached, affixed or painted on any utility pole, light standard, telecommunications pole, any tree or other natural object.

(D) No Sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(E) Signs shall not include or have the appearance of animation or changeable information. Without limiting the foregoing, banners,

streamers, animated display boards, pennants and propellers are prohibited. The restriction of this section shall not apply to exempt flags, pennants or insignia.

(F) Freestanding Signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the Sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(G) No Portable Signs except those meeting the requirements of Section 4.6.16 shall be allowed in any zoning district.

(H) Canopy Signs are permitted when suspended or attached to the underside of a canopy provided such Signs do not exceed six (6) square feet in area and shall be located at least eight feet above the sidewalk.

~~(I) Flags, pennants or insignia of any governmental or non-profit organization shall be limited to three (3) per Premises.~~

~~(J)(I)~~ The Sign area of a Sign permanently painted, affixed or placed in a Building window that is visible from a street Right-of-Way shall be restricted to no more than forty (40) percent of the total window area.

~~(K)(J)~~ Awning Signs shall be located on the awning valance and shall not exceed twelve (12) square feet in area or cover more than twenty (20) percent of the awning area.

~~(L)(K)~~ No Sign on a vehicle shall be located in any zoning district when the vehicle on which the Sign appears is placed so that the practical effect of the Sign on the vehicle is to advertise the entity or activity to which the Sign refers rather than to identify the vehicle, unless the vehicle is being used off-premises in the regular course of business or is being operated, loaded, or unloaded.

~~(M)(L)~~ Nothing in this code shall be interpreted to allow for the use of Digital Signs, Dynamic Digital Signs or Electronic Message Centers

Commented [BG34]: Also now covered by (G) above.

Commented [BG35]: Now addressed under 4.6.15(D).

~~(electronic message centers, television screen type)~~ or apparatus as part of a permissible Sign. This provision is not intended to limit the use of LED bulbs to illuminate Signs.

(Ord. # 1716)

~~(N)~~~~(M)~~ **Traffic Safety Precautions.** Notwithstanding any other provision in this section, the following restrictions shall apply to Signs to preserve the safety of pedestrian, bicycle and vehicular movement:

- (1) No permanent Sign or part thereof shall be located within a Traffic Visibility Triangle as defined by the Town or N.C.D.O.T., nor within the public Right-of-Way.
- (2) No Sign shall make use of the words "STOP", "SLOW", "CAUTION", "DANGER" or any other word, phrase, symbol, light or character in such manner as is reasonably likely to be confused with traffic directional and regulatory Signs.
- (3) No Sign shall be erected so that by its location, color, nature or message is likely to be confused with or obstruct the view of traffic Signals or Signs or is likely to be confused with the warning lights of an emergency or public safety vehicle.
- (4) No Sign shall contain flashing lights.
- (5) No Sign shall be located within any public or private Right-of-Way except as specifically approved through the PD process.

~~(O)~~~~(N)~~ Signs in Residential Districts

- (1) Lighting of Signs in Residential and Planned Development districts is permitted with only direct illumination. All fixtures must be concealed and spillover of light must be minimal.
- (2) No Sign shall be erected or displayed in any Residential or Planned Development district except as exempted by section 4.6.15, or specifically allowed by this Sign Code.

~~4.6.18.~~ **Non-Conforming Signs**

~~Non-Conforming Signs are subject to the provisions of Chapter 7 of this ordinance.~~

~~4.6.19.~~~~4.6.18.~~ **Sign Removal**

Any Temporary Sign erected in violation of the provisions of this chapter may be removed immediately by the administrator. Any Sign so removed shall be retained at a designated municipal facility until recovered by the Sign owner following payment to the Town of a \$5.00 fee per Sign. Any Sign not recovered within 10 days will be destroyed.

~~4.6.20.~~~~4.6.19.~~ **Discontinued Signs**

Upon the discontinuance of business occupancy of an establishment for a consecutive period of ninety (90) days, the administrator shall require the removal of the on-premises Sign(s) advertising or identifying the establishment. The administrator shall give thirty (30) days notice to the property owner to remove the Sign(s), including all of its attendant supports, frames and hardware unless such Sign is proposed to be used by a new establishment on the Premises in conformance with all current regulations of this section 4.6. Failure to remove the Sign(s) within the thirty (30) day period shall constitute a violation of this UDO.

~~4.6.21.~~~~4.6.20.~~ **Non-Conforming Signs**

A non-conforming Sign is a Sign that was ~~legally established~~lawfully erected but which no longer complies with the Sign regulations of this UDO.

(A) In order to comply with G.S. 160D-912.1, a lawfully erected on-premises advertising sign may be relocated or reconstructed within the same parcel so long as the square footage of the total advertising surface area is not increased, and the sign complies with the local development rules in place at the time the sign was erected. The construction work related to the relocation of the lawfully erected on-premises advertising sign shall commence within two years after

Commented [BG36]: This change, and some definitions being added in Chapter 9, is to make very clear what is not allowed now or in the future. No functional changes here besides to add clarity. This is based on some recent NC case law where a lack of a clear definition of types of digital signage resulted in the courts ruling that video screens with moving displays were actually allowed.

Commented [BG37]: This section refers to Chapter 7, and unfortunately Section 7.2.4 in Chapter 7 refers back to Section 4.6.21. So something's got to give to improve clarity. Given the changes to statute per S.L. 2024-45 (SB 607), it would seem that signs are to be treated special with regard to non-conformities, so better to have it all here and avoid confusion with other broader provisions for non-conformities found in Chapter 7.

Commented [BG38]: In an attempt to incorporate recent changes in state law (S.L. 2024-45, SB 607) into our ordinance, add new Section (A) pertaining to on-premise signs and modify remaining sections.

~~the date of removal. The town shall have the burden to prove that the on-premises advertising sign was not lawfully erected.~~

~~(A)(B)~~ Expansion and ~~enlargement~~ improvement. A non-conforming Sign shall not be enlarged ~~or~~, expanded ~~or otherwise improved, except for change of text or Sign panels, routine maintenance or repair.~~

~~(B)(C)~~ Moving. A non-conforming ~~off-premise~~ Sign shall not be moved in whole or in part to any other location unless the move results in the entire Sign being brought into compliance with all applicable regulations of this UDO.

~~(C)(D)~~ Loss of Non-Conforming Status. ~~If an off-premise~~ Sign is destroyed by any means, by more than fifty (50) percent of the replacement cost of the Sign, it shall not be reestablished except in compliance with all applicable regulations.

~~(D)(E)~~ Repairs. Repairs to damage to a non-conforming Sign shall be completed within three (3) months of the time of such damage ~~or the Sign shall be removed.~~

~~(E)~~ Signs in existence on the effective date of this ordinance that do not comply with the provisions regulation the use of strobe lights, zip lights, flashing lights, rotating beacons, flags, streamers or strings of lights shall be made to conform with the provisions of this UDO within ninety (90) days of its adoption.

4.6.22.4.6.21. Signs Within the Historic District Overlay

- (A) Signs in the Historic District shall obtain a Certificate of Appropriateness prior to any installation, with the exception of certain Temporary Signs not requiring a permit.
- (B) Signs in the Historic District are restricted to Monument Signs, Wall Signs, Projecting Signs, Canopy Signs, Awning Signs and certain Temporary Signs as set forth in UDO Section 4.6.16.

(C) One (1) Monument Sign per Parcel is permitted. However, the Monument Sign shall be located on private property and subject to the following:

- (1) When multiple tenants share a structure located on a single Parcel, only one (1) Monument Sign is permitted.
- (2) The maximum Sign area for the Monument Sign is ten (10) square feet.
- (3) The maximum height of the Monument Sign is four (4) feet; and
- (4) The Monument Sign is not located within any site distance triangle and does not interfere with any vehicular or pedestrian way.

(D) One (1) Wall Sign per separate business establishment is permitted. A second Wall Sign may be established if the business establishment has frontage on more than one street or if the business establishment's parking is not located between the establishment and the street. Wall Signs shall not exceed six (6) square feet in area.

(E) One (1) Projecting Sign per separate business establishment is permitted. Projecting Signs may exceed the twelve (12) inch limit for Signs attached to a wall. Projecting Signs are not to exceed four (4) square feet in Sign area. The bottom edge of such Projecting Signs must be located at least seven (7) feet above the sidewalk.

(F) Canopy Signs are permitted when suspended or attached to the underside of a canopy provided such Signs do not exceed four (4) square feet in area and shall be located at least seven (7) feet above the sidewalk.

(G) Awning Signs are permitted to be located on the awning valance and shall not exceed six (6) square feet in area or cover more than twenty (20) percent of the awning area.

(H) The Sign area of a Sign permanently painted, affixed or placed in a Building window that is visible from a street Right-of-Way or

Commented [BG39]: G.S. 160D-912.1(b) addresses relocating or reconstructing on-premise signs and clearly states as long as the square footage of the total advertising surface area is not increased, so it would seem this provision about expansion and enlargement may remain and may be applicable to both on-premise and off-premise. UDO Section 4.6.3 still applies as to the message being changed.

Commented [BG40]: G.S. 160D-912.1(b) only addresses relocating or reconstructing on-premise signs so it would seem this provision can stay for off-premise signs.

Commented [BG41]: G.S. 160D-912.1(b) only addresses relocating or reconstructing on-premise signs so it would seem this provision can stay for off-premise signs.

Commented [BG42]: G.S. 160D-912.1(b) gives owners of on-premise sign 2 years to construct an on-premise sign being relocated on the property, but does not address repairing damaged signs so this provision may remain. However, the last part about removal should go since removal requires the Town to pay for the sign. A violation of this would simply be a civil penalty until it's fixed to compel repair, like many other types of zoning violations.

Commented [BG43]: We don't have any non-conformities with regard to strobes, zip lights, beacons, etc. and new signs must follow current regulations and these are not allowed.

pedestrian way shall be restricted to no more than forty (40) percent of the total window area.

(Ord. #1775)

4.7. FENCES AND WALLS

All fences and walls shall comply with the requirements of this section unless specifically approved as part of a Planned Development, Architectural Compliance Permit, Conditional Zoning or Special Use Permit, Variance or Certificate of Appropriateness.

(Ord. #2052)

- (A) Except as otherwise provided in this section, fences that are no taller than six (6) feet may be built along interior side and rear property lines.
- (B) Exterior Side Yard fences that are no taller than six (6) feet shall be at least two feet from the Right-of-Way and no closer than two (2) feet from the inside edge of the sidewalk.
- (C) Fences in Front Yards are discouraged, but must be:
 - (1) Located least two (2) feet from the Right-of-Way and no closer than two (2) feet from the inside edge of the sidewalk;
 - (2) Less than sixty (60) percent opaque;
 - (3) Be designed as picket or wrought-iron style fences (chain link and chicken wire are prohibited); and
 - (4) Not exceed four (4) feet in height, except that wrought iron and split rail style fences may be up to five (5) feet tall.

(Ord. #1714)

- (D) Perimeter chain link fences that are installed in any Institutional, Commercial or Residential Development must locate the fence no closer to the property line than the middle of the Setback or buffer. Existing vegetation cannot be removed in the Setback/buffer. If berms are located in the buffer or Setback then the fence must be behind the

berm, inside the Development. The fence cannot be taller than (6) six feet from ground level and must be of a non-reflective color such as brown, black or dark green.

- (E) Fences shall be considered to be structures that are subject to the zoning district Setback requirements if they are located in a Yard adjacent to a street Right-of-Way, exceed (6) six feet in height and are substantially opaque.
- (F) No fence shall obstruct any traffic safety visibility zone.
- (G) Barbed wire, razor wire or other fence materials designed to cut or puncture are prohibited in all districts, except in the I and GB districts. In the HCO districts, such fences shall be limited to side and rear property lines that are screened from the highway corridor and abutting residential properties.
- (H) Deer fences may be erected around gardens provided that the fences are located at least ten (10) feet from the nearest property line.

(Ord. #1714)

4.8. LIGHTING

4.8.1. Title

The provisions contained in this section 4.7(G) shall be known and may be cited as the Southern Pines Lighting Code (or Lighting Code).

4.8.2. Purposes

The general purpose of this section is to protect and promote the public health, safety and welfare, the quality of life, the ability to view the night sky, and ongoing operations on Fort Bragg by establishing regulations and a process of review for exterior lighting. These provisions establish standards for exterior lighting to:

- (A) Protect against direct glare and excessive lighting;
- (B) Provide safe roadways for motorists, cyclists and pedestrians;

Southern Pines Unified Development Ordinance

Residence, Accessory Dwelling: A residential Dwelling that is secondary to the Principal Use.

Residence, Multi-Family: A Building including three (3) or more Dwelling Units.

Residence, Condominium: A Multi-Family Residential use consisting of individually owned Dwelling Units and common elements owned by an association of the owners of the Dwelling Units.

Residence, Multi-Family Conversion: A Multi-Family Residence containing not more than four Dwelling Units and results from the conversion of a single Building containing at least 2,000 square feet of Gross Floor Area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a Single-Family residence.

Residence, Townhouse: A Single-Family attached Dwelling in which each Dwelling Unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one other Dwelling Unit and in which each Dwelling Unit has living space on the ground Floor and a separate ground Floor entrance and each Dwelling Unit is conveyed through a Subdivision plat.

Residence, Two-Family or Duplex: A Two-Family Residential use in which the Dwelling Units share a common wall (including without limitation the wall of an attached garage or porch) and in which each Dwelling Unit has living space on the ground Floor and a separate ground Floor entrance.

Residential Zone: Areas zoned for residential use include Residential Single-Family (RS), Residential Multi-Family (RM), Rural Residential (RR), Rural Estate (RE), and Planned Development (PD) districts.

Retention Pond: A pond that has a permanent pool and which also collects storm water runoff, filters the water and releases it slowly over a period of days.

Reviewing Body or Recommending Body: The entity assigned responsibility for reviewing and making recommendations or taking action on an application pursuant to this UDO.

Right-of-Way: An interest in land to the Town, County or State that provides for the perpetual right and privilege of the Town, its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove,

Amended

5-14-24

Chapter 9. Definitions

replace, inspect, repair, maintain, and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and Signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the rights-of-way.

Setback: The shortest distance between the Building and the property line.

Setback, Front: The shortest distance between the Building Front and the front property line or the distance from the street centerline where the Right-of-Way line is undefined.

Setback, Exterior Side: The shortest distance between the street side of the Building and the side property line abutting a street or the distance from the street centerline where the Right-of-Way line is undefined.

Setback, Interior Side: The shortest distance from the side of a Building and the property line abutting another Lot or Parcel.

Setback, Rear: The shortest distance from the rear of a Building and the property line abutting another Lot or Parcel.

Shopping Center: A collection of commercial businesses located in one or more Buildings on a site that is under common ownership or management. Shopping Centers may include Outlots.

Sign: Any device, depiction, lettering, or symbol that:

- (A) Is sufficiently visible to persons not located on the Lot where it is located to accomplish either of the objectives set forth in paragraph (b) of this definition, and
- (B) Is designed to attract the attention of such persons or communicate information to them.

Sign, Awning: A Sign that is printed, painted or otherwise placed on an awning.

Sign, Digital: A sign, any portion of which displays moving, static or stationary illuminated digital images, produced by technology such as LED (light emitting diode) or LCD (liquid crystal display) display screens, plasma, high-definition, interactive touch-screen, or other such technology.

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Southern Pines Unified Development Ordinance

Sign, Dynamic Digital: Dynamic Digital Sign means any electronic display or signage capable of changing its content or appearance based on real-time data, interaction with individuals or vehicles, or environmental conditions. This includes, but is not limited to, signs that alter their images, text, brightness, or messages in response to movement, presence, or other external stimuli.

Sign, Electronic Message Center: An electrically activated, changeable Sign with a variable message and/or graphic presentation capability that can be electronically programmed by computer from a remote location or at the Sign. Also known as an EMC or digital Sign, these Signs typically use arrays of LED lights to create an illuminated message.

Sign, Freestanding: A Sign that is attached to, erected on or supported by some structure (such as a pole, mast, frame or other structure) that is not itself an integral part of or attached to a Building or other structure having principal function other than the support of a Sign. A Sign that stands without supporting elements such as a "sandwich Sign" is also a Freestanding Sign.

Sign, Internally Illuminated: A Sign where the source of the illumination is inside the Sign and light emanates through the message of the Sign, rather than being reflected off the surface of the Sign from an external source. Without limiting the generality of the foregoing, Signs that consist of or contain tubes that:

- (A) Are filled with neon or some other gas that glows when an electric current passes through it; and
- (B) Are intended to form or constitute all or part of the message of the Sign, rather than merely providing illumination to other parts of the Sign that contain the message shall also be considered Internally Illuminated Signs.

Sign, Landmark: A Freestanding Sign located within a Planned Development that identifies a Planned Development by integrating the name of the Planned Development into a structure that is consistent with the key design theme of the Development.

Sign, Logo Emblem: A type of Wall Sign in which the logo of the business is displayed separately from the Wall Sign. Logo Emblem Signs contain no words or text. One (1) Logo Emblem Sign is allowed to accompany the permitted

Amended

5-14-24

Chapter 9. Definitions

number of Wall Signs. Logo Emblem Signs are calculated into the permitted Wall Sign square footage. The Logo Emblem Sign is subject to the same standards as a Wall Sign and must adhere to all other applicable requirements.

Sign, Monument: A type of Freestanding Sign, often referred to as a ground Sign, in which there is not exposed frame, mast or pole, which has a low profile and which is built of brick or other substantial material resembling a monument is called a Monument Sign.

Sign, Noncommercial: Messages and emblems that relate primarily to interests other than economic interests and that do not function to direct attention to, advertise, or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

Sign, Non-conforming: A Sign that on the effective date of this chapter does not conform to one or more of the regulations set forth in section 4.6.18.

Sign, Off-Premises: A Sign containing a commercial message directing that draws attention to or communicates information about a business, service, commodity, accommodation, entertainment, attraction or other activity not related to the premises at which the sign is located or that is conducted, sold or offered at a location other than the Premises on which the Sign is located.

Sign, Plaque or Plaque-Inset: A Sign embedded in the wall during the construction of the Building. The face of the Plaque shall not protrude from the main wall facade more than one inch. A Plaque-Inset Sign that exceeds 3.5 square feet is considered a Wall Sign.

Sign, Portable: A Sign is designed to be moved from place to place and which is not permanently installed.

Sign, Projecting: A Sign which is attached to and projects more than twelve (12) inches from a Building face or wall.

Sign, Temporary: A Sign that:

- (A) Is used in connection with a circumstance, situation or event that is designed, intended or expected to take place or to be completed

Commented [BG44]: This definition is being added because the sign code presently refers to "Dynamic Digital Sign" in 4.6.17(M) and we want to be clear that the latest technology interactive signs that are fed data or that assess and respond to folks walking by are not allowed.

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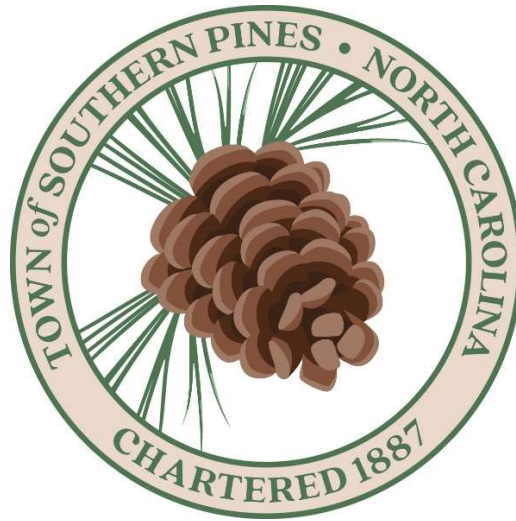
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Commented [BG45]: This term is used in a variety of places in the sign code now in order to distinguish commercial vs. noncommercial speech so a definition is warranted.

Town of Southern Pines, North Carolina

Unified Development Ordinance

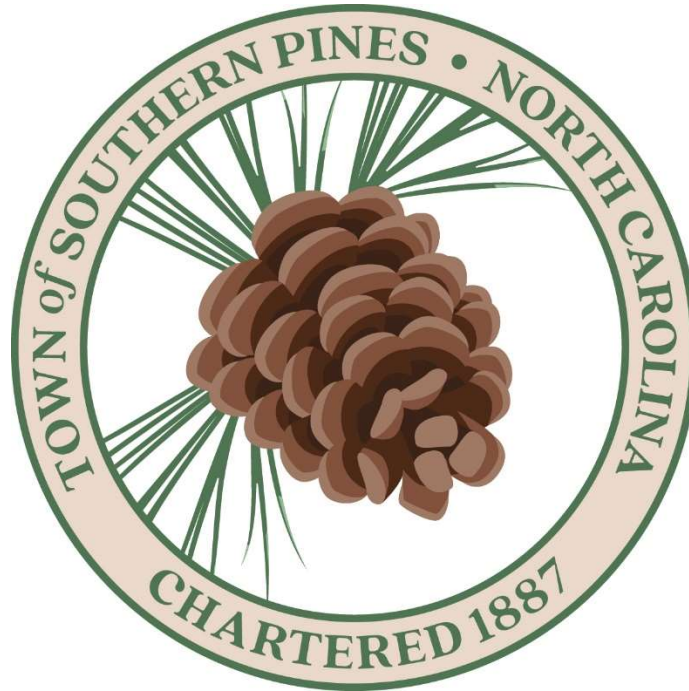
Appendices



Updated

October 10, 2023

APPENDIX B: ENGINEERING AND CONSTRUCTION STANDARDS MANUAL



Engineering and Construction Standards Manual January 6, 2021

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CHAPTER 9 CERTIFICATIONS, FORMS, AND PERMITS

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~~INSTALLATION OF WATER/SEWER SERVICE APPLICATION~~

Forms

~~PAVEMENT COORDINATION MEETING REQUEST CHECKLIST~~

UTILITY CLOSEOUT DOCUMENTATION SUBMITTAL CHECKLIST

ENGINEERING SITE PLAN CLOSEOUT DOCUMENTATION SUBMITTAL CHECKLIST

DESIGN CERTIFICATION REQUIREMENTS AND DEVIATIONS REQUEST

The Town of Southern Pines Engineering and Construction Standards contained herein are to be utilized as a minimum standard for construction within the jurisdiction of the Town of Southern. The purpose of these specifications is to present typical standards for typical conditions encountered. This manual may also be subject to periodic change by the Town. It is not the intent of these standard specifications and details to relieve the Owner of any responsibility for the correct adaptation of these standards to the actual site conditions encountered on any project. The Owner's engineer preparing detailed drawings for a specific project must review the applicable portions of these specifications and details and satisfy himself or herself that these minimum standards will function correctly for the Owner's project. There may be circumstances in which the Owner's engineer will wish to increase the material strengths, stone bedding requirements, reinforcing, etc. In situations where these modifications occur, the Town shall be consulted regarding these proposed changes prior to plan submittal to the Town. This will help insure that plan review takes a minimum amount of time. To ensure good engineering design, the Town may occasionally require more stringent standards than those presented herein. Where the Owner and/or their engineer believes that conformance with this manual would create an unreasonable hardship or where an alternative design may be more appropriate, those items must be submitted to the Town for written authorization from the Town Engineer, or designee prior to inclusion on construction documents presented for review by the Town. In addition, any proposed deviations from these specifications must be listed below and clearly shown on the construction drawings. All deviations will be subject to approval by the Town Engineer, or designee. Any proposed exceptions or deviations from either the standards are listed below: (The professional engineer shall then list such deviations).

1. _____

2. _____

3. _____

Signature & Seal of Professional Engineer

Owner's Printed Name, Title, and Company Name

Owner's Signature _____ Date

~~STORM DRAINAGE CONVEYANCE SYSTEM CERTIFICATION~~**~~As-Built Certification~~**

I, _____, attest that this certification, for the _____ Project, has been reviewed by me and is accurate, complete and consistent with the information supplied in the plans, specifications, engineering calculations, and all other supporting documentation to the best of my knowledge. I further attest that to the best of my knowledge the Storm Drainage As-Built Plans have been prepared based on an accurate account of the stormwater piping and appurtenances installed during construction and any deviations from the approved construction plans shall not adversely impact the drainage system, discharge points, and/or adjacent properties analyzed during the approval process of the construction plans. Although other professionals may have developed certain portions of this submittal package, inclusion of these materials under my signature and seal signifies that I have reviewed this material and have judged it to be consistent with the proposed design.

SEAL: _____

 _____ (Date) _____ (Signature)

 _____ Engineer:
 _____ Firm:
 _____ Firm License #:
 _____ Address:

STORMWATER CONTROL MEASURE (SCM) CERTIFICATION**As-Built Certification**_____

I, _____, attest that this certification, for the _____ Project, has been reviewed by me and is accurate, complete and consistent with the information supplied in the plans, specifications, engineering calculations, and all other supporting documentation to the best of my knowledge. I further attest that to the best of my knowledge the As-Built Plans have been prepared based on an accurate account of the SCM and appurtenances installed during construction and any deviations from the approved construction plans were analyzed and verified to not adversely impact the performance of the SCM during the approval process of the construction plans. Although other professionals may have developed certain portions of this submittal package, inclusion of these materials under my signature and seal signifies that I have reviewed this material and have judged it to be consistent with the proposed design.

SEAL: _____

 _____ (Date) _____ (Signature)

 _____ Engineer:
 _____ Firm:
 _____ Firm License #:
 _____ Address:



Public Works Department
 140 Memorial Park Court, Southern Pines, NC 28387
 Phone: 910-692-1983 Fax: 910-692-1085

CONSTRUCTION ON TOWN RIGHT-OF-WAY

PERMIT VOID IF WORK NOT BEGUN WITHIN 30 DAYS OF APPROVAL

Call Before you Dig NC811 800.632.4949

Site Address: _____

Applicant Information

Name: _____ Address: _____

Phone #: _____ Email: _____

Property Owner

Name: _____ Address: _____

Phone #: _____ Email: _____

Contractor Information

Name: _____ Address: _____

Phone #: _____ Email: _____

DESCRIPTION OF WORK (check all that apply)

- ☐ Pavement Cut Driveway ☐ Storm Drainage ☐ Tree Removal in R/W ☐ Sidewalk
☐ Driveway Pipe Installation by Town of Southern Pines ☐ Other

Description: Attach a separate lot drawing depicting location of driveway, home and any trees proposed to be removed within the Town right-of-way. Include dimensions of driveway and distance from site features such as trees or property lines:

***Note: Applicant shall physically mark the driveway location on the lot using paint, flags, stakes, or similar prior to submitting this form for review. Provide picture showing location as marked.**

Applicant Signature: _____ Date: _____

Approved By: _____ Date: _____

~~Applicant must contact the Town of Southern Pines to perform a driveway inspection prior to certificate of occupancy failure to arrange for an inspection from the Town could result in applicant being responsible for reinstalling the driveway.~~

INITIAL INSPECTION APPROVALS

Inspection Request Date: _____

Inspection Date: _____ By: _____

Comments: _____

- | | |
|---|--|
| ☐ Driveway Pipe Required; See APP. B of the UDO | ☐ Tree Removal Permit Required |
| ☐ No Pipe Required | ☐ Install Per Approved Site Plan |
| ☐ NCDOT Road, Contact NCDOT at 910-944-7621 | ☐ Invoice Paid |
| ☐ Private Road, Contact owner of road for approval | ☐ Install 6" Thick Sidewalk through Drive |

FINAL INSPECTION APPROVALS

Inspection request Date: _____

Inspection Date: _____ By: _____

Comments: _____

- | | |
|---|---|
| ☐ Installed Per Approved Plans | ☐ Re-inspection Required Date: _____ |
| ☐ Installed Incorrectly, Reinstall per Plans | |

~~The Property owner accepts responsibility for any repair and or replacement of new infrastructure for one year from the date of Certificate of Occupancy. Failure to repair damage within 30 day of Town notice will result in necessary work being completed and then billed to property owner.~~



Public Works Department

140 Memorial Park Court Southern Pines, NC 28387

Telephone: 910-692-1983 Fax: 910-692-1085

FINANCIAL RESPONSIBILITY/OWNERSHIP FORM SEDIMENTATION POLLUTION CONTROL ACT

No person may initiate any land-disturbing activity greater than 30,000 sq. ft. as covered by the Town's Code of Ordinances before this form and an acceptable erosion and sedimentation control plan have been completed and approved by the Town of Southern Pines and the Land Quality Section, NC Department of Environmental Quality. (Please type or print and, if the question is not applicable or information unavailable, place N/A in the blank.)

Part A.

1. Project Name _____
2. Location of land-disturbing activity: Highway/Street/Address: _____
Latitude _____ Longitude _____ County Moore City: _____
3. Approximate date land-disturbing activity will commence _____
4. Percent Impervious _____
5. Purpose of development (residential, commercial, industrial, institutional, etc.): _____
6. Total acreage disturbed or uncovered (**including off-site borrow and waste areas**): _____
7. Amount of fee enclosed: \$ _____
The application fee of \$300.00 per acre plus \$150.00 for each additional acre, or part thereof, and is assessed without a ceiling amount. Any substantial revision to a previously approved, active plan is \$50 per acre, or part thereof.
8. Has an erosion and sediment control plan been filed? Yes _____ No _____ Enclosed _____
9. Person to contact should erosion and sediment control issues arise during land-disturbing activity:
Name _____ E-mail Address _____
Telephone _____ Cell _____ Fax _____
10. Landowner(s) of Record (attach accompanied page to list additional owners):

Name _____ Telephone _____ Fax Number _____

Current Mailing Address _____ Current Street Address _____

City _____ State _____ Zip _____ City _____ State _____ Zip _____
11. Deed Book No. _____ Page No. _____ **Provide a copy of the most current deed.**

Part B.

1. ~~Person(s), Company(ies), or firm(s) who are financially responsible for the land-disturbing activity (**Provide a comprehensive list of all responsible parties on an attached sheet.**) If the company or firm is a sole proprietorship the name of the owner or manager may be listed as the financially responsible party.~~

 Name _____ E-mail Address _____

 Current Mailing Address _____ Current Street Address _____

 City _____ State _____ Zip _____ City _____ State _____ Zip _____

 Telephone _____ Fax _____

2. ~~(a) If the Financially Responsible Party is not a resident of North Carolina, give name and street address of the designated North Carolina Agent:~~

 Name _____ E-mail Address _____

 Current Mailing Address _____ Current Street Address _____

 City _____ State _____ Zip _____ City _____ State _____ Zip _____

 Telephone _____ Fax _____

~~(b) If the Financially Responsible Party is a Partnership or other person engaging in business under an assumed name, **attach a copy of the Certificate of Assumed Name.** If the Financially Responsible Party is a Corporation, give name and street address of the Registered Agent:~~

 Name of Registered Agent _____ E-mail Address _____

 Current Mailing Address _____ Current Street Address _____

 City _____ State _____ Zip _____ City _____ State _____ Zip _____

 Telephone _____ Fax Number _____

~~The above information is true and correct to the best of my knowledge and belief and was provided by me under oath (This form must be signed by the Financially Responsible Person if an individual or his attorney-in-fact, or if not an individual, by an officer, director, partner, or registered agent with the authority to execute instruments for the Financially Responsible Person). I agree to provide corrected information should there be any change in the information provided herein.~~

Type or print name _____ Title or Authority _____

Signature _____ Date _____

I, _____, a Notary Public of the County of _____

~~State of North Carolina, hereby certify that _____ appeared personally before me this day and being duly sworn acknowledged that the above form was executed by him.~~

Witness my hand and notarial seal, this _____ day of _____, 20____

Notary

Seal

My commission expires _____

FOR TOWN USE ONLY:

Covered by 5/70 Provision: Yes ☐ No ☐

REVISED: December 17, 2020



Public Works Department
 140 Memorial Park Court, Southern Pines, NC 28387
 Phone: 910-692-1983 Fax: 910-692-1085

APPLICATION FOR MINOR SEDIMENTATION & EROSION CONTROL PLAN APPROVAL

Projects that will disturb less than 30,000 square feet of but are part of a larger Common Plan of Development in which the total disturbance will exceed 30,000 square feet.

PROPERTY INFORMATION

1. Project Name: _____
2. Project Description: _____
3. Address: _____
4. Pin #: _____ Recorded: Book of Maps No. _____ Page No. _____
5. River Basin: _____ (Cape Fear/Lumber)
6. Watershed Classification: _____ (WS-III, HQW, etc) use NCDEQ Stormwater Maps & GIS Resources
7. Total area to be disturbed in acres: _____
8. Lot Number(s) _____
9. Total Number of Lots _____

DOCUMENTS SUBMITTED TO TOWN PERMITTING PORTAL:

1. Copy of this application _____
2. Erosion Control Site Plans (standard plan or custom plan) _____
3. Lot Plan (Recorded Plat or Plot Plan showing lots) _____
4. Checklist _____
5. S&E Calculations _____
6. Proof of Ownership/Consent Letter _____
7. Signed and notarized Financial Responsibility/Ownership Form: _____

GENERAL INFORMATION

1. **Property Owner** (s) (specify the name of the corporation, individual, etc., who owns the property):

Name: _____

Street Address: _____

Mailing Address: _____

E-Mail Address: _____

Phone#: (____) _____ Cell#: (____) _____ Fax#: (____) _____

2. **Applicant*** (Person to whom all correspondence will be sent):

Name: _____

Firm/other: _____

Street Address: _____

Mailing Address: _____

E-Mail Address: _____

Phone#: (____) _____ Cell#: (____) _____ Fax#: (____) _____

Relationship to Owner: _____

****If not a resident of North Carolina, a North Carolina agent must be designated for the purpose of receiving correspondences.***

APPLICANT'S CERTIFICATION

PRINT NAME _____

SIGNATURE _____ **DATE** _____

OWNER/PERSON FINANCIALLY RESPONSIBLE

**Public Works Department**

140 Memorial Park Court, Southern Pines, NC 28387

Phone: 910-692-1983 Fax: 910-692-1085

SOIL EROSION AND SEDIMENTATION CONTROL COMPLIANCE FORM

Tracts Less than Thirty Thousand Square Feet (30,000SF) Residential and
Commercial, and Not Part of a Larger Common Plan of Development

This compliance forms shall be prominently displayed at the primary entrance to the site of the land disturbing activity before construction begins and remain until construction is complete.

Property Address: _____ Pin: _____

Name Of Subdivision: _____ Lot #: _____

Name Of Property Owner: _____

Address Of Property Owner: _____

Name Of Construction Company: _____

Name Of Construction Manager: _____

Company Telephone: _____ Email: _____

Proposed Start Date of Construction: _____

PLEASE READ THE BACK SIDE BEFORE COMPLETING.

Choose one of the following approaches:

- ☐ The most appropriate option from the back of
this form is option _____ or a
combination of options _____ and _____.

The sediment control plan is as drawn in the space to the
right or is attached.

Describe the purpose of the proposed construction activity**EROSION CONTROL PLAN**

The undersigned hereby certifies that he/she has read the information on the back of this form and is aware of and will
comply with the stated requirements of the soil erosion and sedimentation control chapter.

**Erosion Control Compliance approval does not grant permission to remove ANY TREES with in street right of ways of the
TOWN. Contact the ToSP Building and Grounds Dept. at 910-692-4863 for removal procedures of trees within the R-O-W.
Property Owner is to contact US Fish and Wildlife Services at 910-695-3323 to determine compliance with all rules and
regulations regarding Red cockaded Woodpeckers.**

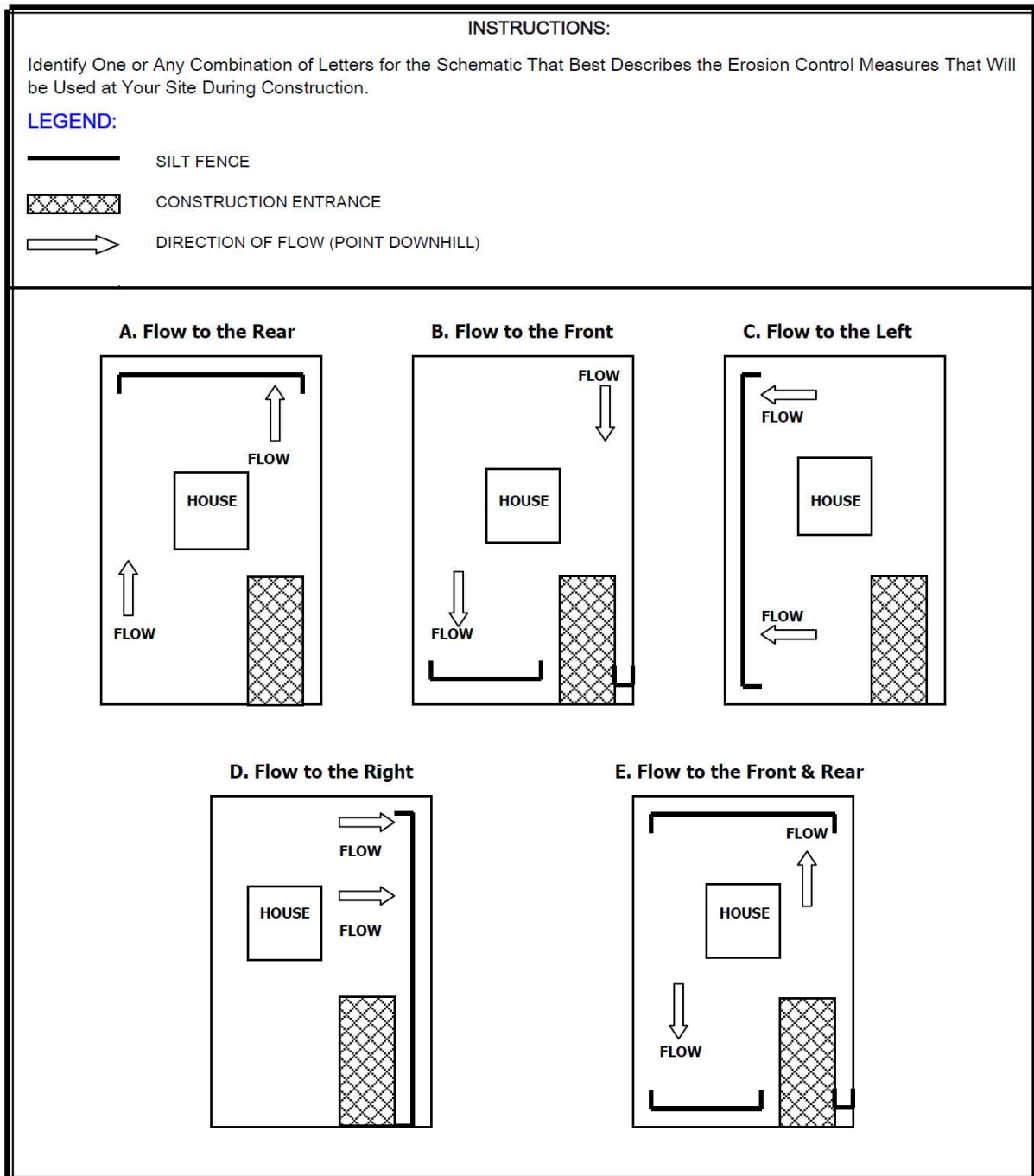
Property Owner's Signature_____
Print Name_____
Date**FOR OFFICE USE ONLY:**

- ☐ Exempt from installation of ESC measures. **REASON:** _____
- ☐ An Erosion Control Plan Approval is required. **REASON:** _____
- ☐ An Existing driveway will be used as the Temporary Construction Entrance.
- ☐ A Town driveway permit is required to construct the proposed Temporary Construction Entrance.
- ☐ Install Temporary Gravel Construction Entrance in accordance with Town detail attached and as indicated above.
- ☐ Install Silt Fencing in accordance with Town detail attached and as indicated above.
- ☐ Call Town of Southern Pines Construction Inspector for compliance 48 hours prior to start of work for inspection of measures.
- ☐ Groundcover on all slopes shall be established within 21 days of completion of any phase of construction. Upon completion of any phase of construction permanent groundcover shall be established within 15 working days or 90 calendar days; or 15 working days or 60 calendar days for property located within High Quality Water Zone.

☐ ~~Within a Red cockaded Woodpecker cluster – Advise OWNERS to contact US Fish and Wildlife.~~

SOIL EROSION AND SEDIMENTATION CONTROL PLAN OPTIONS

The Town of Southern Pines Soil Erosion and Sedimentation Control Chapter requires that the minimum erosion control measures, as outlined in Section 154.07 (A), be installed when the disturbed area on a tract of land is less than thirty thousand square feet (30,000 SF), unless otherwise exempt from installation of measures/devices or ESC Plan Approval is required. Furthermore, no person shall initiate any land-disturbing activity on a tract if more than thirty thousand square feet (30,000 SF) is to be uncovered unless, thirty (30) days or more prior to initiating the activity; a Plan for such activity is filed with and approved by the Town. Failure to install and/or maintain erosion control measures/devices may result in penalties of up to \$5,000.00 per day.



**Public Works Department**

140 Memorial Park Court, Southern Pines, NC 28387

Phone: 910-692-1983 Fax: 910-692-1085

SOIL EROSION AND SEDIMENTATION CONTROL COMPLIANCE FORM

Tracts less than thirty thousand square feet (30000 SF) land disturbance
Residential and Commercial Not Part of a Larger Common Plan of Development

Minimum Erosion Control Measures Required, Unless Otherwise Approved

The approved and minimum required erosion control measures to be placed on an individual residential or commercial construction site that is less than thirty thousand square feet (30,000 SF) in surface area are:

- (1) A construction entrance,
- (2) Silt fencing on all lower elevation perimeters, and
- (3) Established groundcover.

The site must comply with the Town's Soil Erosion and Sedimentation Control Chapter by installing and maintaining all required controls measures as indicated on permit approval.

The only land disturbing activity to take place before the erosion control measures are completed is the cutting of trees and/or vegetation necessary to install the erosion control measures and/or devices.

If it is determined that: a significant risk of accelerated erosion exist; off-site sedimentation may occur as a result of the land disturbing activity; and/or other conditions exist that require the preparation and approval of a Plan and that a grading permit be secured for land disturbing activity of areas less than thirty thousand square feet (30,000 SF), the Compliance Form is not valid.

Compliance Procedure

The property owner shall notify the Town of Southern Pines Construction Inspector to schedule an inspection of the ESC measures required. If the erosion control measures are not installed by the scheduled footing inspection and/or the Construction Inspector observes any erosion control problems on the site, including, but not limited to, failure to install erosion control measures, a written Notice of Violation will be issued in accordance with Section 154.17 (C). The footing inspection or any subsequent inspection approval will not be rendered until all control measures are in place and functioning.

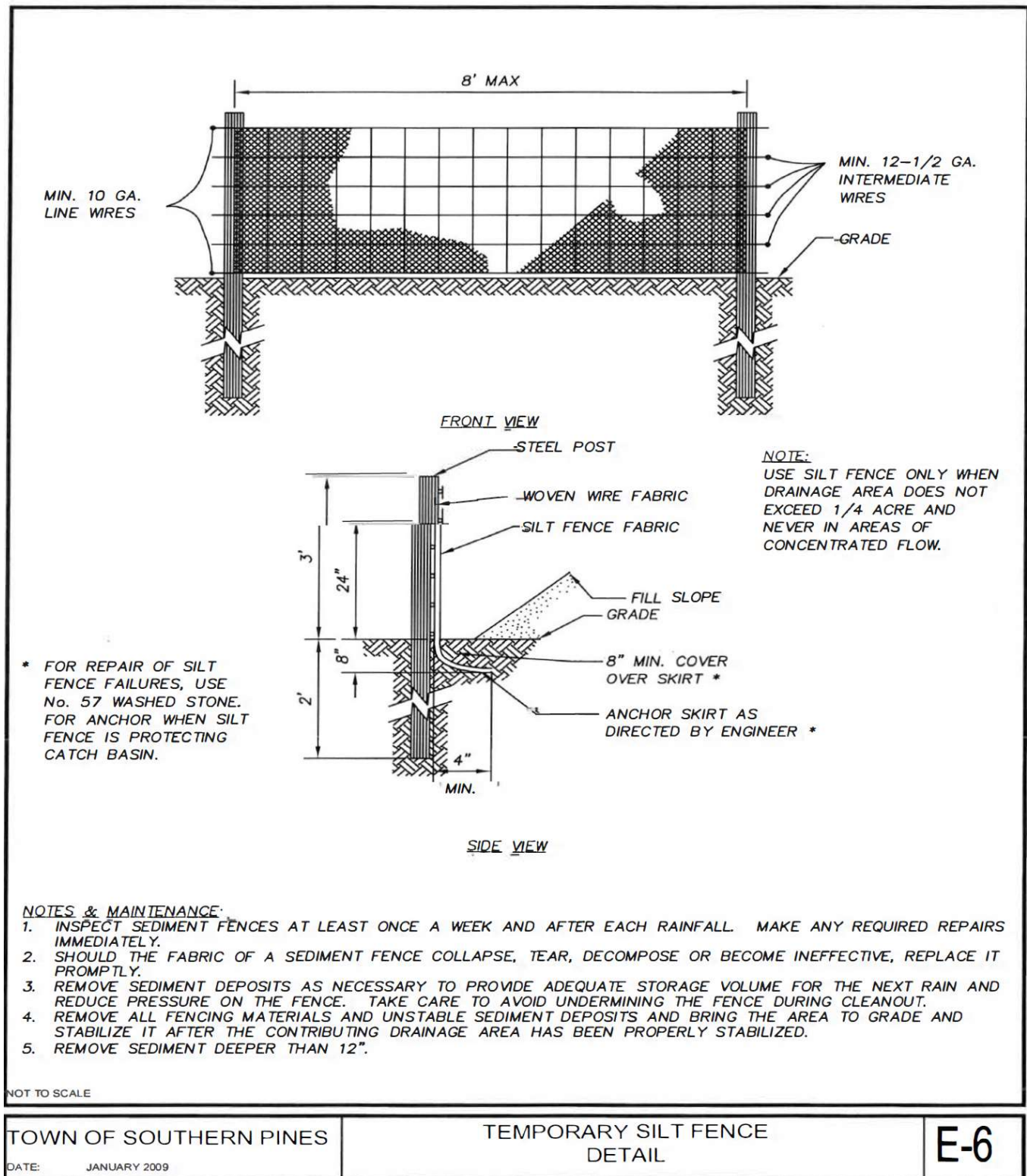
Final Inspections

When all construction on the project is complete, call the Construction Inspector to schedule an inspection. The inspection will evaluate the site and all permanent erosion control features and off-site impacts to other properties, if applicable. If found to be in compliance, the Building Inspector will be advised, giving approval for the Certificate of Occupancy.

A Soil Erosion and Sedimentation Control Compliance Form, indicating the minimum control measures to be installed at the site, must be completed before a building permit can be issued, unless otherwise approved.

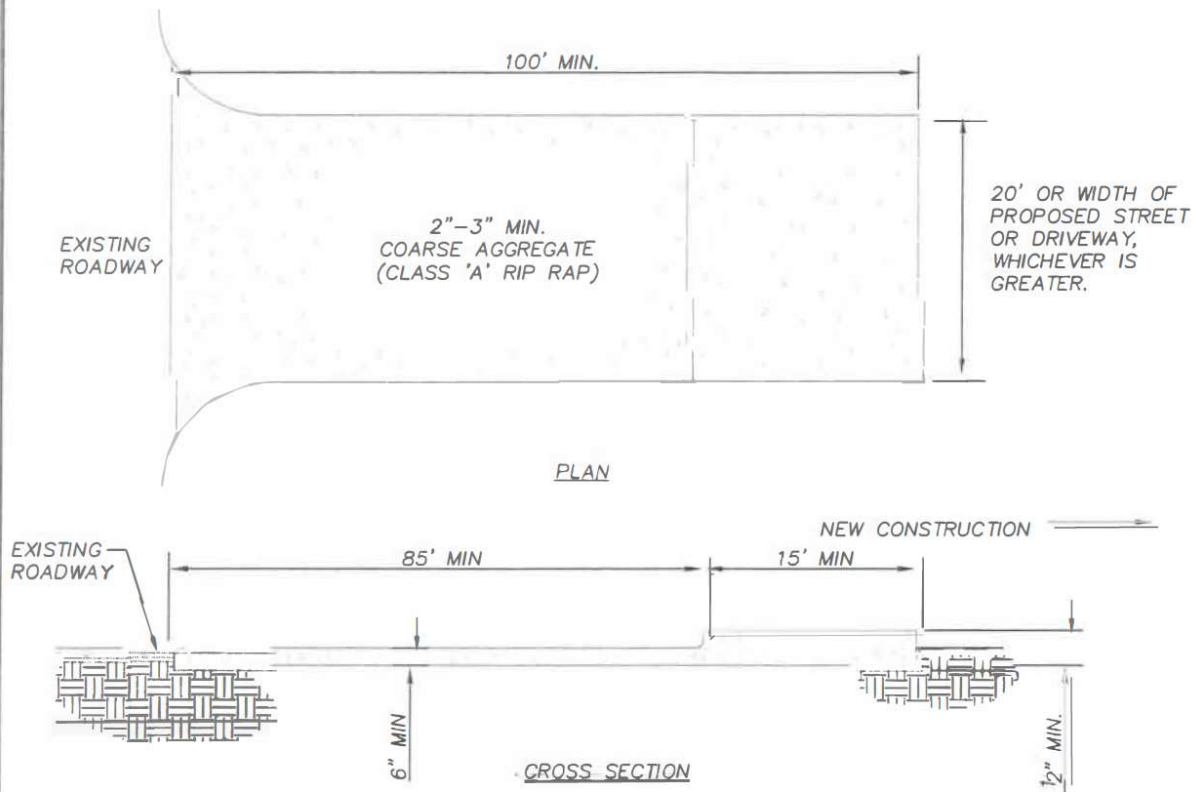
APPROVAL PROCESS:

- ☐ 1. Obtain an ESC Compliance Form, along with other application forms such as Water and/or Sewer Service and Driveway Permit, at Town offices or web site www.southernpines.net.
- ☐ 2. Complete and submit to the Town through the On-line Permitting Portal.
- ☐ 3. The Public Works Department will review / approve / comment on the application.
- ☐ 4. The approved ESC Compliance Form will be returned to the applicant or construction manager.
- ☐ 5. The Building Permit holder shall prominently display the approved ESC Compliance Form at the entrance to the construction site until the project is complete.
6. Attachments:
 - ☐ ESC Compliance Form.
 - ☐ Construction Details for installation of Temporary Construction Entrance & Temporary Silt Fence.



NOTES & MAINTENANCE:

1. ENTRANCE(S) SHALL BE LOCATED TO PROVIDE MAXIMUM UTILITY BY ALL CONSTRUCTION VEHICLES.
2. TURNING RADIUS SUFFICIENT TO ACCOMMODATE LARGE TRUCKS IS TO BE PROVIDED.
3. MUST BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR DIRECT FLOW OF MUD ONTO STREETS. PERIODIC TOPDRESSING WITH 2" STONE WILL BE NECESSARY. CONTRACTOR SHALL MAINTAIN AS NECESSARY.
4. ANY MATERIAL WHICH STILL MAKES IT ONTO THE ROAD MUST BE CLEANED UP IMMEDIATELY.
5. FREQUENT CHECKS OF THE ENTRANCE(S) AND TIMELY MAINTENANCE SHALL BE PROVIDED.
6. NOTES ARE APPLICABLE AT ALL POINTS OF INGRESS AND EGRESS UNTIL SITE IS STABILIZED.



NOT TO SCALE

TOWN OF SOUTHERN PINES

DATE: JANUARY 2009

TEMPORARY GRAVEL CONSTRUCTION
ENTRANCE DETAIL**E-3**



Public Works Department
 140 Memorial Park Court, Southern Pines, NC 28387
 Phone: 910-692-1983 Fax: 910-692-1085

INSTALLATION OF WATER/SEWER SERVICE PERMIT APPLICATION

Today's Date _____ Lot # _____ LRK / Parcel ID / PIN _____
 Applicant's Name _____ Email _____
 Phone Numbers: Cell _____ Other _____
 Service Address _____ City _____
 Property Owner _____ Phone _____

Type of Account _____ Service & Meter Size Requested

- | | | | | | |
|---|-------------------------------------|-------------------------------|-----------------------------|---------------------------------|-----------------------------|
| ☐ Single Family Detached | ☐ Water | ☐ 3/4" | ☐ 1" | ☐ 1-1/2" | ☐ 2" |
| ☐ Multi-Family | ☐ Sewer | ☐ 4" | ☐ 6" | | |
| ☐ Commercial | ☐ Irrigation | ☐ 3/4" | ☐ 1" | ☐ 1-1/2" | ☐ 2" |
| ☐ Other | ☐ Other | | | | |

OFFICE USE

Date Paid _____ In Town ☐ Yes ☐ No _____ \$ _____
 Account # _____ \$ _____
 Work Order # _____ \$ _____
 Route & Sequence # _____ \$ _____
 _____ \$ _____
TOTAL AMOUNT PAID \$ _____

	<u>WATER</u>	<u>SEWER</u>	<u>IRRIGATION WATER</u>	<u>FIRE CONTROL WATER</u>	<u>MC SEWER</u>
Service Available	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Pre-Installed	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	
Size	_____ "	_____ "	_____ "	_____ "	
Tap Fee	\$ _____	\$ _____	\$ _____	\$ _____	
System Development Fee	\$ _____	\$ _____	\$ _____	\$ _____	
Street Cut	\$ _____	\$ _____	\$ _____	\$ _____	
Sub Totals	\$ _____	\$ _____	\$ _____	\$ _____	
Total	\$ _____				

*Backflow Preventer
 required—see memo
☐ Yes ☐ No

*Fee schedules are updated annually, October 1st, according to CPI-U. **Applications are subject to current fees at time of payment***
 Delinquent Water Bill ☐ Yes ☐ No Quoted by _____ (signature) Date Quoted _____

UTILITY BILLING OFFICE
 TOWN OF SOUTHERN PINES
 180 SW BROAD STREET
 SOUTHERN PINES, NORTH CAROLINA 28387

ub@southernpines.net PH: 910-692-2206 FAX: 910-692-1652 www.southernpines.net



Public Works Department
 140 Memorial Park Court, Southern Pines, NC 28387
 Phone: 910-692-1983 Fax: 910-692-1085

Pavement Coordination Meeting Request Checklist

Submittal Date: _____

Submitted By: _____

Project: _____

ZP : _____

The Town of Southern Pines requires that the following information be provided to the Town prior to scheduling a pavement coordination meeting. No asphalt work may occur prior to receipt of the below items and attendance at the meeting. By checking the items below the developer or his/her representative acknowledges that they have provided the follow documentation. If an item is not applicable mark as such:

1. ☐ Geotechnical reports with testing results from compaction testing

Road subgrade	1 test group for every 500'
Parking subgrade	1 test group for every 10,000 square feet
Trenches	1 test group for every 500'
Embankment Fill	1 test group for every 10,000 square feet

*A test group shall consist of 1 test for every 2' of fill in the test location

2. ☐ Geotechnical reports for inspection of subgrade to verify conformance with the asphalt design report.
3. ☐ Geotechnical reports for stone base compaction and thickness testing. Testing shall be performed at a rate of 1 set of tests/ 500 linear feet with a minimum of three tests.
4. ☐ Geotechnical reports for subgrade and base proof roll. Proof rolls shall not occur more than 10 days prior to the placement of the associated work.
5. ☐ Pavement Job Mix Submittals

Owner/Owner's Representative

Printed Name and Title and Company Name

Email address

Signature _____ Date _____



Public Works Department
 140 Memorial Park Court, Southern Pines, NC 28387
 Phone: 910-692-1983 Fax: 910-692-1085

Utility Closeout Documentation Submittal Checklist

Submittal Date: _____

Submitted By: _____

Project: _____

ZP : _____

If this is a partial phase then it shall be noted as such. The requested items to be certified with exact lengths and locations shall be noted below (an overall map may be used):

The Town of Southern Pines requires that the following information be provided prior to its acceptance of any public utility or item for a project before those system(s) may be put into service. By checking the items below the developer or his/her representative acknowledges that they have provided the follow documentation. If an item is not applicable mark as such:

1. ☐ Hold utility walkthrough with Town Inspector, Town Engineer, and Utility Superintendent and complete all punchlist items.
2. ☐ A copy of any required easements and/or plats
3. ☐ One (1) Mylar As-built drawing showing: Water lines and appurtenances, Sewer lines and appurtenances. As-Built conditions shall be surveyed by a PLS and certified by the design engineer.
4. ☐ As-built information shall be provided for all of the following:
 - Water lines and appurtenances (including valves, meters and BFP's)
 - Sewer lines and appurtenances (including cleanouts at the public right of way's or easements)
 - Public lift stations and force mains---include all independent test results as well as O&M manuals
 - Storm drain systems and appurtenances
 - All items including sidewalks, landscaping, street lights, etc. within 10' of the utility lines
5. ☐ A CD/USB memory stick or email to the Town GIS department (email from: _____ dated: _____ containing the GIS information in a comma delimited text file that contains survey points with the following data:
 - Point #
 - X (even if assumed)
 - Y (even if assumed)
 - Elevation (even if assumed)

- Point description (MH, CB, DI, WM, HYD, GV, etc.)
 - Depth of manhole
 - Depth to pipe for manholes or other feature

 - Material type
 - Tie point (a point on a nearby street intersection, existing hydrant, existing manhole, property corner, etc.)
6. ☐ PDF file of As-built drawings & final construction drawings
 7. ☐ DWG file of As-built drawing (Non-Civil 3D)
 8. ☐ PDF file with all contact information (Engineer, Surveyor, Owner, Developer, etc.)
 9. ☐ Provide Hydrant flow test documentation from a Registered Professional that states the fire flow meets design criteria as presented by original fire flow calculations. A table showing the design flow vs. actual flow shall be provided for each node.
 10. ☐ Water line testing documentation
 11. ☐ Sewer line testing documentation
 12. ☐ Geotechnical reports for trench backfill.
 13. ☐ Utility Electronic Location Testing Results.
 14. ☐ Electronic copy of CCTV of all sewer lines
 15. ☐ Engineer's Certification(s) water
 16. ☐ Engineer's Certification(s) sewer
 17. ☐ A copy of the official well and/or septic abandonment letter
 18. ☐ Back flow preventer test result submitted to town and to the company below:
 BSI Online
 PH: 1-800-414-4990
 FAX: 1-888-414-4990
 EMAIL: bsionline@backflow.com
 19. ☐ No New Food Service Establishments will be allowed to initiate operations until grease handling facilities are installed and approved by the Town Engineer. Written records are to be maintained and sent to Public Works. Contact the Town of Southern Pines Public Works to obtain Registration Form and Documentation. (1989 Code, § 50.59) (Ord. passed 3-13-1984;

Am. Ord. 209, passed 2-12-1991; Am. Ord. passed 9-13-1994; Am. Ord. 1201, passed 4-11-2006;
Am. Ord. 1507, passed 6-11-2013)

20. ☐ A digital copy (PDF) of all required acceptance package documents.
21. ☐ Written warranty letter (1yr) to the Town of Southern Pines for all public utilities.

Owner/Owner's Representative

Printed Name and Title and Company Name

Email address

Signature

Date

Office use:

☐ Confirmation of all documents received.

Reviewer: _____



Public Works Department
140 Memorial Park Court, Southern Pines, NC 28387
Phone: 910-692-1983 Fax: 910-692-1085

Engineering Site Plan Closeout Documentation Submittal Checklist

Submittal Date: _____

Submitted By: _____

Project: _____

ZP : _____

If this is a partial phase, then it shall be noted as such. The requested items to be certified with exact lengths and locations shall be noted below (an overall map may be used):

The Town of Southern Pines requires that the following information be provided prior to the approval of a Final Plat. By checking the items below the developer or his/her representative acknowledges that they have provided the follow documentation. If an item is not applicable mark as such:

1. ☐ Hold final walkthrough with Town Inspector, Town Engineer, Utility Superintendent, and Street Superintendent, and complete all punchlist items.
2. ☐ A copy of any required recorded easements and/or plats
3. ☐ One (1) Mylar As-built drawing showing: Water lines and appurtenances, Sewer lines and appurtenances, Storm drain lines and appurtenances, street trees, street lights and required landscaping.
4. ☐ As-built information shall be provided for all of the following:
 - Water lines and appurtenances (including valves, meters and BFP's)
 - Sewer lines and appurtenances (including cleanout's at the public right of way's or easements)
 - Public lift stations and force mains---include all independent test results as well as O&M manuals
 - Storm drain systems and appurtenances
 - Sidewalks
 - Street lights
 - Street signs
 - Street pavement markings
 - Identify pavement cross section on all streets—Curb& Gutter, ribbon etc.
 - Traffic islands on public streets
 - Gates blocking required Emergency Access
 - Other site-specific items as required

5. ☐ A CD/USB memory stick or email to the Town GIS department (email from: _____ dated: _____ containing the GIS information in a comma delimited text file, shapefiles, or geodatabase that contains survey points with the following data:
 - Point #
 - X (even if assumed)
 - Y (even if assumed)
 - Elevation
 - Point description (MH, CB, DI, WM, HYD, GV, etc.)
 - Depth of manhole/junction box
 - Depth to pipe for manholes/junction box or other features
 - Material type
 - Tie point (a point on a nearby street intersection, existing hydrant, existing manhole, property corner, etc.)
6. ☐ PDF file of As-built drawings & final construction drawings
7. ☐ DWG file of As-built drawing (Non-Civil 3D)
8. ☐ PDF file with all contact information (Engineer, Surveyor, Owner, Developer, etc.)
9. ☐ Provide Hydrant flow test documentation from a Registered Professional that states the fire flow meets design criteria as presented by original fire flow calculations. A table showing the design flow vs. actual flow shall be provided for each node.
10. ☐ Documentation of asphalt paving inspections from a third party QMS Roadway Technician.
11. ☐ Documentation from a qualified professional stating the fire lanes have been independently tested and that the lanes meet TOSP requirements.
12. ☐ Electronic copy of CCTV inspection for all storm lines.
13. ☐ Engineer's Certification(s) Stormwater Conveyance
14. ☐ Engineer's Certification(s) Stormwater Control Measures
15. ☐ Engineer's Certification(s) Roadway
16. ☐ Back flow preventer test result submitted to town and to the company below:
 BSI Online
 PH: 1-800-414-4990
 FAX: 1-888-414-4990
 EMAIL: bsionline@backflow.com
17. ☐ Surety (cash, letter of credit, or bond) for outstanding public improvements, if applicable. Surety information to be coordinated through Planning prior to request for final inspection. Surety provide for the following: _____
18. ☐ A digital copy (PDF) of all required acceptance package documents.

19. ☐ All Federal, State or local Government final approval letter(s) as applicable listed below:

- ☐ Water Permit #
- ☐ Sewer Permit #
- ☐ Storm Water #
- ☐ DOT Permit #
- ☐ _____
- ☐ _____

20. Written warranty letter (1yr) to the Town of Southern Pines for all public utilities, streets and street trees. List of warranties below:

- ☐
- ☐
- ☐
- ☐

Owner/Owner's Representative

Printed Name and Title and Company Name

Email address

Signature

Date

Office use:

☐ Confirmation of all documents received.

Reviewer: _____

**Office of the Town
Attorney**

Memo

To: Chair & Members of the Southern Pines Planning Board

From: Mac McCarley, Town Attorney

cc: BJ Grieve, Planning Director

Date: July 17, 2025

Re: Draft Rules of Procedure for the Southern Pines Planning Board

North Carolina law allows a planning board to adopt rules of procedure to govern its conduct of business. Here is the text of GS 160D-308:

§ 160D-308. Rules of procedure. *Rules of procedure that are consistent with the provisions of this Chapter may be adopted by the governing board for any or all boards created under this Article. In the absence of action by the governing board, each board created under this Article is authorized to adopt its own rules of procedure that are consistent with the provisions of this Chapter. A copy of any adopted rules of procedure shall be maintained by the local government clerk or such other official as designated by ordinance and posted on the local government Web site if one exists. Each board shall keep minutes of its proceedings. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)*

The Planning Director and I have confirmed that neither the Council nor the Planning Board have adopted rules of procedure for the Planning Board. My guess is that the Board has been operating on the common understanding of the basics of Robert's Rules of Order (Robert's). However, with no adopted rules, and the potential for error, the Planning Director and I recommend that the Board adopt procedural rules.

In the agenda packet for July 24 you will find a draft of "Rules of Procedure for the Southern Pines Planning Board". These rules are modeled after the Town Council's rules which are modeled after Suggested Rules of Procedure for City Councils,

published by the UNC School of Government. Regarding the suggested Rules of Procedure, here were my guiding principles in drafting:

- 1 The rules should be easily understood, remembered, and capable of application to a small body (as opposed to a body the size of Congress or the English Parliament).
- 2 The rules must comply with state law on prescribed procedures, especially where those are different from Robert's. There are state law requirements related to quorum determinations, voting, open meetings, public hearings, public comment periods, disruptive speakers, the roles of the chair and vice chair, and Town Charter provisions. All of those have been incorporated into the proposed Rules.
- 3 To the extent possible, the rules should follow what the Board, staff, and public generally expect the rules to be. In many cases that translates to following Robert's (or what people *think* Robert's rules are...).

No action is requested at the July meeting. Please take the next month to review the draft Rules of Procedure at your leisure. I will attend your August 21 meeting to answer any questions the Board has and to take your comments, corrections, and suggestions for improvement so that we can bring back a revised version ready for adoption in September.



Rules of Procedure for the Southern Pines Planning Board

Adopted _____, _____, 2025

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Southern Pines Planning Board. For purposes of these rules, a meeting of the Board occurs whenever a majority of the Board's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the Board's jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the board to conduct business. A majority of the board's actual membership, excluding vacant seats, constitutes a quorum. A member who withdraws from a meeting without being excused by majority vote of the remaining members in attendance is deemed present for quorum purposes.

Part III. Open Meetings

Rule 3. Remote Participation in Board Meetings

Members of board may participate remotely during declared emergencies as allowed by state law. In all other instances If a member attends via electronic means the member may take part in discussion and debate but the member will not be counted toward a quorum or allowed to vote on any matter before the board unless authorized by state law.

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5, all meetings of the board shall be open to the public, and any person may attend its meetings.

Rule 5. Closed Sessions

(a) Motion to Enter Closed Session. The planning board may enter a closed session from which

the public is excluded only upon a motion duly made and adopted in open session. The motion to enter closed session must cite one or more of the permissible bases listed in paragraph (b) of this rule. A motion to enter closed session under subparagraph (b)(1) or (b)(2) must contain the additional information specified in those provisions.

(b) Bases for Closed Session. A closed session is permissible under the following circumstances and no others:

- (1) Privileged or Confidential Information: To prevent the disclosure of information that is privileged or confidential pursuant to the law of North Carolina or of the United States or that does not constitute a public record within the meaning of Chapter 132 of the General Statutes. The motion to enter closed session must name or cite the law that renders the information confidential or privileged.
- (2) Attorney-Client Confidentiality: To consult with the town attorney or another attorney employed or retained by the town in order to preserve the attorney–client privilege. If the board expects to discuss a pending lawsuit with its attorney, the motion to enter closed session must include the names of the parties to the lawsuit.
- (3) Economic Development and/or Military Installation: To discuss matters relating to (a) the location or expansion of industries or other businesses in the area served by the town or (b) the closure or realignment of a military installation.
- (4) Personnel: To consider the qualifications, competence, performance, character, fitness, or conditions of appointment or employment of a public officer or employee or prospective public officer or employee. Final action to appoint or employ a public officer or employee must take place in open session.
Exclusion: An open session is required when the individual in question is a member of the board or is being considered to fill a vacancy on the board.
- (5) Charge or Complaint: To hear or investigate a charge or complaint by or against a public officer or employee. Final action discharging an employee or removing an officer must occur in open session.

(6) On any other basis permitted by law.

(c) Closed Session Participants. Unless the board directs otherwise, the town manager, the planning director, and town attorney may attend closed sessions of the board. No other person may attend a closed session unless invited by the board.

(d) Motion to Return to Open Session. Upon completing its closed session business, the board shall end the closed session by adopting a duly made motion to return to open session.

Rule 6. Meeting Minutes

(a) Minutes Required for All Meetings. The board must keep full and accurate minutes of all of its meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the board. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of the board, though the board in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member of the board, the minutes shall list each member by name and record how each member voted on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the board must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The board may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(d) Sealing Closed Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the board or, if the board delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the board. The sealed minutes and general account of any closed session may be withheld from public inspection so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a board meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any media entity may broadcast any such part of a council meeting.

(b) Advance Notice. Any media entity that plans to broadcast any portion of a board meeting shall so notify the planning director before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a board meeting.

(c) Equipment Placement. The planning director or the director’s designee may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a board meeting, so long as the equipment is allowed to be placed where it can carry out its intended function. If the planning director determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the planning director may require the pooling of the equipment and the personnel operating it.

(d) Alternative Meeting Site. If the news media request an alternative meeting site to accommodate news coverage, and the board grants the request, the news media making the request shall pay the costs incurred by the town in securing an alternative meeting site.

Part IV. Organization of the Council

Rule 8. Organizational Meeting; Selection of Mayor Pro Tempore

(a) Scheduling Organizational Meeting. The board must hold an organizational meeting at least once each year. The organizational meeting may be held on any date set by the board.

(b) Oath of Office. As the first order of business at the organizational meeting, all newly appointed members of the board must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution. Each member's oath must be filed with the town clerk.

Although a member who is not present for the organizational meeting may take the oath of office at another time, every member must take, subscribe, and file the oath before he or she begins performing any of the duties of the member's office.

(c) Selection of Officers. At the organizational meeting, the board shall elect from among its members a chair and vice chair. The officers shall serve at the board's pleasure.

Part V. Types of Meetings

Rule 9. Regular Meetings

(a) Regular Meeting Schedule. The board shall hold a regular meeting on the third Thursday of each month. The meetings shall be held at the times and locations as set out on the meeting schedule adopted by the board. A copy of the board's current meeting schedule shall be filed with the town clerk and may be posted on the town's website.

(b) Change to Meeting Schedule. Notwithstanding paragraph (a) of this rule, the board may amend its regular meeting schedule to add or delete meetings or to change the date, time, or location of one or more meetings on the schedule. The amended schedule shall be filed with the town clerk at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule.

Rule 10. Special Meetings

(a) Calling Special Meetings. A special meeting may be called in either of two ways:

- (1) called by vote of the board in open session during a regular meeting or another duly called special meeting; or
- (2) called by the chair or the vice chair.
 - a. A written notice of the meeting—setting out the time and place and the subjects to be considered—must be prepared and signed by the person calling the meeting.
 - b. Said notice must be posted and distributed in accordance with sub paragraphs (b) and (c).

(b) Notice to the Public. At least 48 hours before a special meeting of the board, the Clerk to the

Board or the Clerk's designee shall provide notice of the date, time, place, and purpose of the meeting:

(1) posted on the board's principal bulletin board or, if the board has no such board, at the door of the board's usual meeting room.

(2) delivered, e-mailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the town clerk or the clerk to the board, and

(3) posted on the town website in advance of the meeting.

(c) Notice to Members.

(1) ***Meeting called by the chair or vice chair.*** At least 48 hours before a special meeting called by the chair or vice chair, written notice of the meeting stating its date, time, and place, as well as the subjects to be considered, shall be delivered to each board member or left at his or her usual dwelling place.

(2) ***Meeting called by vote of the board in open session.*** When a special meeting is called by vote of the board in open session during a regular meeting or another duly called special meeting, the motion or resolution calling the special meeting shall state the meeting's date, time and place.

(d) Transacting Other Business. The board may only take up those business items specified in the notice of the special meeting, unless all members are present or any absent member has signed a written waiver of notice.

Even when all members are present or any absent member has signed a waiver, the board may take up an item of business not covered by the notice only if the board first determines in good faith that the item must be discussed or acted upon immediately.

Rule 11. Emergency Meetings

(a) Grounds for Emergency Meeting. Emergency meetings of the board may be called only to address generally unexpected circumstances demanding the board's immediate attention.

(b) Calling Emergency Meetings. There are two methods by which an emergency meeting of the board may be called.

(1) The chair or vice chair may at any time call an emergency council meeting by signing a written notice stating the date, time, and place of the meeting and the subjects to be considered. The notice shall be delivered to each board member or left at his or her usual dwelling place at least six hours before the meeting.

(2) An emergency meeting may be held when all members of the board are present and consent thereto, or when any absent member has signed a written waiver of notice.

(c) Notice to Media of Emergency Meetings. The Town Clerk or the Clerk to the Board shall provide notice of an emergency meeting to the media as follows:

- (1) to each local newspaper, local wire service, local radio station, and local television station that has filed a written request with the town clerk or the clerk to the board for notice of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number.
- (2) Notice may be given by telephone, e-mail, or the same method used to notify board members.
- (3) Notice must be provided immediately after board members have been notified.

(d) Transaction of Other Business Prohibited. Only business connected with the emergency may be considered at an emergency meeting.

Rule 12. Recessed Meetings

(a) Calling Recessed Meetings. The board may recess any properly called meeting to another date, time, and/or place by adopting a procedural motion in open session. The motion must:

1. Be made as provided in Rule 31, Motion 3, in open session.
2. Must state the date, time, and place at which the meeting will reconvene.

(b) Notice of Recessed Meetings. Notice of the recessed meeting's date, time, and place shall be posted on the town's website prior to the meeting. No further notice of a properly called recessed meeting is required.

Part VI. Agenda

Rule 13. Agenda

(a) Draft Agenda.

- (1) **Preparation.** The planning director or the director's designee shall prepare a draft agenda in advance of each planning board meeting.
- (2) **Requesting placement of items on draft agenda.** For a regular meeting, the chair or the planning director may place items on the agenda.
- (3) **Agenda Package.** The Clerk to the Board or Clerk's designee shall prepare an agenda package that accompanies the draft agenda. The package shall include, for each item of business listed on the draft agenda, an explanation and/or background information sufficient for the board's consideration of the item. If the board is expected to consider a proposed ordinance or ordinance amendment, a copy of the proposal shall be included in the package.
- (4) **Delivery to board members.** Each board member shall receive an electronic copy of the draft agenda and the agenda package. Except in the case of an emergency meeting, the Clerk to the Board shall distribute the agenda and agenda package at least 24 hours before the meeting.
- (5) **Public inspection.** Once the Clerk has distributed the draft agenda and agenda package to

the board, the Clerk shall publish it to the Town's website, making it available to the public.

(b) Adoption of the Agenda.

- (1) **Adoption.** At each meeting, the board shall review the draft agenda, make whatever amendments it deems appropriate, and adopt a formal agenda for the meeting.
- (2) **Amending the agenda.** Both before and after it adopts the agenda, the board may add or remove agenda items by majority vote of the members present and voting, except that:
 - a. the board may not add to the items stated in the notice of a special meeting unless the requirements in Rule 10(d) are satisfied; and
 - b. only business connected with the emergency may be considered at an emergency meeting.

(c) Consent Agenda. The board may designate part of any regular meeting agenda as the *consent agenda*. Items may be placed on the consent agenda by the person(s) charged with preparing the draft agenda if the items are judged to be noncontroversial and routine. All items on the consent agenda must be voted on and adopted by a single motion.

Prior to the board's adoption of the meeting agenda under subparagraph (b)(1) of this rule, any member may request to have an item removed from the consent agenda, which must be honored by the board.

(d) Informal Discussion of Agenda Items. The board may informally discuss an agenda item even when no motion regarding that item is pending.

Rule 14. Acting by Reference to Agenda or Other Document

The board shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document with the intention of preventing persons in attendance from understanding what action is being considered or undertaken. The board may deliberate and vote by reference to the agenda or any item on the agenda, including the consent agenda, provided:

- a) copies of the agenda are available for public inspection at the meeting; and
- b) the agenda is sufficiently worded to enable the public to understand what is being deliberated or acted upon.

Rule 15. Agenda Items from Members of the Public

If a member of the public wishes to request that the board include an item on a future agenda, he or she may communicate that to the Planning Director, a member of board, or make the request at the public comment section of a regular meeting. The board is not obligated to place an item on the agenda merely because such a request has been received.

Rule 16. Order of Business

Items may be placed on an agenda in any reasonable order and the board may remove, add or rearrange the order as part of the motion to adopt the agenda. Without objection, the chair may call agenda items in any order most convenient for the dispatch of business.

Part VII. Role of the Presiding Officer

Rule 17. The Chair

(a) Presiding Officer. When present, the chair shall preside at meetings of the board.

(b) Right to Vote. The chair votes on the same basis as other board members, though in no event may the chair break a tie on a motion on which he or she has already voted. The chair shall have the right to make motions.

(c) Recognition of Members. A member must be recognized by the chair (or other presiding officer) in order to address the board, but recognition is not necessary for an appeal pursuant to Rule 31, Motion 1.

(d) Powers as Presiding Officer. As presiding officer, the chair is to enforce these rules and maintain order and decorum during board meetings. To that end, the chair may:

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time;
- (5) open and close public hearings, and
- (6) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or answer given by the chair under subparagraph (d)(1), (2), or (3) in accordance with Rule 31, Motion 1.

Rule 18. The Vice Chair

(a) Presiding in Chair's Absence. When present, the vice chair shall preside over board meetings in the chair's absence with all the powers specified in Rule 17(d).

(b) Delegation of Chair's Powers/Duties. In the chair's absence, the board may confer on the vice chair any of the chair's powers and duties. Likewise, if the chair becomes physically or mentally unable to perform the duties of his or her office, the board may by unanimous vote declare the chair incapacitated and confer any of the chair's powers and duties on the vice chair. When the chair announces that he or she is no longer incapacitated, and a majority of the board concurs, the chair shall resume the exercise of his or her powers and duties.

(c) Duty to Vote. Even when presiding over a board meeting, the vice chair has the same duty as other members to vote on all questions unless he or she has been excused from voting on a matter in accordance with Rule 28.

Rule 19. Other Presiding Officer

If both the chair and vice chair are absent, the board may elect from among its members a temporary presiding officer to chair the meeting. While serving as temporary presiding officer, a member has the powers listed in Rule 17(d). Service as a temporary presiding officer does not

relieve a member of the duty to vote on all questions unless excused from voting pursuant to Rule 28.

Rule 20. Chair may be Active in Debate

In recognition of the fact that the chair is a member of the board, the chair, or vice chair when presiding, shall have full rights to be active in debate and need not relinquish the duties of presiding officer when so engaged.

Part VIII. Motions and Voting

Rule 21. Action by the Board

Except as otherwise provided in these rules, the board shall act by motion. Any member may make a motion, including the chair.

Rule 22. Second Required

A second is required on any motion.

Rule 23. One Motion at a Time

A member may make only one motion at a time.

Rule 24. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or the presiding officer has put the motion to a vote.

Rule 25. Debate

The presiding officer shall state the motion and then open the floor to debate. To the extent practicable, the presiding officer shall call on members in the order they request to be recognized.

Rule 26. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Rule 27. Changing a Vote

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may only change his or her vote with the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote must be made immediately following the presiding officer's announcement of the result.

Rule 28. Duty to Vote

(a) Duty to Vote. Every board member must vote except when excused from voting as provided by this rule.

(b) Grounds for Excusal. A member may be excused from voting on a matter involving the member's own financial interest or official conduct.

Members may also be excused from voting when prohibited from voting under:

1. G.S. 14-234 (contract providing direct benefit to member),
2. G.S. 160D-109(a) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or
3. G.S. 160D-406(i) and -109(d) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker).

Questions about whether a basis for excusal exists should be directed to the town attorney.

(c) Procedure for Excusal.

1. (1) **At member's request.** Upon being recognized at a duly called meeting of the board, a member who wishes to be excused from voting shall so inform the presiding officer, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.
2. (2) **On the board's initiative.** Even when a member has not asked to be excused from voting on a matter, a majority of the remaining board members present may by motion and vote excuse the member from voting if grounds for doing so exist under paragraph (b).

(d) Consequence of Non-Excused Failure to Vote. Except as specified in paragraph (e), if a member who has not been excused from voting fails to vote on a matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the council chamber or
- (2) the member has physically withdrawn from the meeting without being excused by majority vote of the remaining members present.

(e) Failure to Vote on Certain Zoning Matters. A member's unexcused failure to vote shall not be recorded as an affirmative vote if the motion concerns a proposal to amend, supplement, or repeal a zoning ordinance. Instead, the member's unexcused failure to vote shall be recorded as an abstention.

Rule 29. Voting by Written Ballot

(a) Secret Ballots Prohibited. The board may not vote by secret ballot.

(b) Rules for Written Ballots. The board may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public

inspection in the office of the clerk to the board immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 30. Substantive Motions

A substantive motion is not in order if made while another motion is pending. Once the board disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting, unless it first adopts a motion to reconsider pursuant to Rule 31, Motion 14.

Rule 31. Procedural Motions

(a) Certain Motions Allowed. The board may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 12, and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 9.

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, provided that a motion to amend or end debate on the highest priority motion must be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. It is not in order if the board is in closed session.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the board is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is proposed; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive

affirmative votes equal to at least three-fifths of the board's actual membership, excluding vacant seats. The board may not suspend provisions in these rules that are required under state law.

Motion 7. To Divide a Complex Motion. This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

Motion 8. To Defer Consideration. The board may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires, unless the board votes to revive it pursuant to Motion 13 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 9. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member present has had an opportunity to speak once on the pending motion.

Motion 10. To Postpone to a Certain Time. This motion may be employed to delay the board's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the board may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

Motion 11. To Refer a Motion to a Committee. The board may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the board may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within 60 days of the referral date, the board must take up the motion if asked to do so by the member who introduced it.

Motion 12. To Amend.

(a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.

(b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

(c) Amendments to Ordinances. Any amendment to a proposed ordinance must be reduced to writing before the vote on the amendment.

Motion 13. To Revive Consideration. The board may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 8, provided it does so within 100 days of its vote to defer consideration.

Motion 14. To Reconsider. The board may vote to reconsider its action on a matter, provided the motion to reconsider is made (a) at the same meeting during which the action to be reconsidered

was taken and (b) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the board’s deliberation on a pending matter.

Motion 15. To Rescind. The board may vote to rescind an action taken at a prior meeting provided rescission is not forbidden by law.

Motion 16. To Prevent Reintroduction for Six Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive votes equal to at least three-fifths of the board’s actual membership, excluding vacant seats. If this motion is adopted, the ban on reintroduction remains in effect for six months or until the board’s next organizational meeting, whichever occurs first.

Motion 17. To Ratify. The board may ratify any action that it had or has authority to take.

Part IX. Special Provisions

Rule 32. Requesting a Legal Opinion

The chair, the planning director, or the board may request a legal opinion from the Town Attorney. The Town Attorney shall decide the format of the opinion (written or oral). The Town Attorney may provide the board with a legal opinion on his or her own motion without a request from the board.

Rule 33. Staff to the Board

The staff of the Southern Pines Planning Department shall staff the planning board. The board may make suggestions and requests to the Planning Director but shall not have the authority to direct the work of the Director or the Planning Department staff.

Rule 34. Duties of the Planning Board

The Planning Board shall have the duties and responsibilities authorized by NCGS 160D-301 along with any other related duties that the Town Council may direct.

Rule 35. Reserved

Part X. Public Hearings and Comment Periods

Rule 36. Public Hearings

(a) Calling Public Hearings. In addition to holding public hearings required by law, the board may hold any public hearings it deems advisable. The board or the staff may schedule and advertise hearings as appropriate..

(b) Public Hearing Locations. Public hearings may be held anywhere within Southern Pines or within Moore County.

(c) Rules for Public Hearings. The following rules shall apply to public hearings before the board:

- Legislative hearings: each side is allotted up to twenty (20) minutes for their presentation. If the applicant desires a rebuttal, an additional time of five (5) minutes per side shall be allowed for rebuttal.
- Evidentiary hearings: the chair or board may limit the time for presentations to a reasonable period and may limit the number of speakers if the presentations become repetitive.
- Groups supporting or opposing the same positions may designate a spokesperson(s).
- When the number of persons wishing to attend the hearing exceeds the capacity of the meeting location, the chair or board may provide for the selection of delegates from groups of persons supporting or opposing the same positions. In this event, if the hearing is subject to the open meetings law, arrangements must be made so that those excluded from the meeting location may listen to the hearing.
- The chair shall have the authority to maintain order and decorum in the conduct of hearings. The chair may rule speakers out of order and take other measures necessary to maintain order, to include the exclusion of disorderly persons from the meeting location.

(d) Notice of Public Hearings. Any public hearing at which a majority of the board is present shall be considered part of a regular or special meeting. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 9 through 12, apply to such hearings. If state law mandates additional notice for particular types of hearings, such notice must be provided together with notice of the meeting during which the hearing will take place.

(e) Continuing Public Hearings. The board may continue any public hearing without further advertisement to a date, time, and place certain, provided the details of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g), if a quorum of the board is not present for a properly scheduled public hearing, the hearing shall be deemed continued until the board's next regular meeting without further advertisement.

(f) Conduct of Public Hearings. At the time appointed for the hearing, the chair shall call the hearing to order and proceed to allow public input in accordance with rules adopted by the board for the hearing. The chair shall declare the hearing closed, and the board shall resume the regular order of business:

1. unless the board extends or continues the hearing;
2. when the time allotted for the hearing expires; or
3. when each person who wishes to speak has had an opportunity to do so.

(g) Public Hearings by Less Than a Majority of Board Members. Nothing in this rule prevents the board from appointing a member or members of board, or a staff member, to hold a public hearing on the board's behalf, except when state law requires that the board itself conduct the hearing.

Rule 37. Public Comment Periods

(a) Provision for Public Comment Periods. The board may provide the opportunity for public comment related to items not on the agenda at its meeting, but is not required to.

(b) Rules for Public Comment Periods. If the board allows public comment at its meetings, the following rules for public comment periods shall apply:

- the maximum time allotted to each speaker shall be three (3) minutes,
- groups supporting or opposing the same positions may appoint spokespersons and yield their time to the spokespersons,
- the chair shall have the authority to maintain order and decorum in the conduct of public comment periods and may rule speakers out of order and may take other measures necessary to maintain order including excluding disorderly persons from the meeting location.
- a maximum of ten (10) speakers per board meeting will be allowed to speak during the public comment period. Further, to allow for a variety of issues to be presented to the board, a maximum of six (6) speakers on any single issue or topic will be allowed at any public comment period. Speakers must sign up with the Clerk (preferably upon arriving at the meeting) and sign-up is on a first come, first served basis.
- the chair has the authority to call the speakers in any order desired.
- comments regarding matters subject to a legally required public hearing are out of order during public comment periods and may only be made during the public hearing.

(c) Content-Based Restrictions Generally Prohibited. The board may not restrict speakers based on subject matter, as long as their comments do not:

1. Pertain to subjects outside the board's real or apparent jurisdiction.
2. Promote, foster, or perpetrate discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, age or physical disability.
3. Advocate illegal activity or compromise safety or security of the public.

Part XI. Appointments and Appointed Bodies

Rule 38. Committees and Boards

(a) Establishment and Appointment. The board may establish temporary and standing committees to help carry on the work of the board. Unless otherwise provided by law the power of appointment to such bodies lies with the chair or the board as the board directs.

(b) Open Meetings Law. The requirements of the open meetings law apply whenever a majority of an appointed body's members gather in person or simultaneously by electronic means to discuss or conduct official business. They do not apply to meetings solely among the town's professional staff.

Part XII. Miscellaneous

Rule 39. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes. Any amendment to these rules must be consistent with the town charter, any relevant statutes, and generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the board's members (including the chair), excluding vacant seats.

Rule 40. Reference to Robert's Rules of Order Newly Revised

The board shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert's*, the chair shall make a ruling on the issue subject to appeal to the board under Rule 31, Motion 1.