



MINUTES

Tuesday, December 13, 2022: 6:00 PM

Town Council Business Meeting

Douglass Community Center: 1185 W. Pennsylvania Ave

1. CALL TO ORDER

Mayor Haney called the meeting to order. The following members of Town Council were present: Mayor Carol Haney; Taylor Clement; Paul Murphy; Bill Pate; and Ann Petersen.

Mayor Haney expressed her thanks to Town Manager Parsons and town staff for their hard work during the recent power outage. That same power outage is the reason the December Town Council Agenda Meeting was cancelled.

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda and advised the Council that the former Southern Pines Chief of Police, John Letteny, has recently been elected to the prestigious position of President of the International Association of Police Chiefs.

Town Manager Parsons also expressed his thanks to the town staff for their efforts during the recent power outage.

4. PUBLIC COMMENTS

Mayor Haney reminded constituents that there was a quasi-judicial hearing on the agenda and asked Town Attorney DeWitt McCarley to detail for the crowd the constraints on public comments during such a hearing. Town Attorney McCarley advised the crowd of the rules surrounding witnesses and public comments during a quasi-judicial hearing and offered to answer any questions from the crowd.

Rylee Bowman of 104 Chevoit Way, Southern Pines addressed the Council regarding starting a Southern Pines Youth Council, advising them of all the benefits for both the town and the citizens.

Larry Bergermeyer of 111 Cliff Court, Southern Pines questioned if the public would be allowed to speak regarding SU-07-22: Southern Pines Country Club. Mayor Haney informed him that due to it being a quasi-judicial hearing, any public comments could not be considered when

making a decision.

5. ARCHITECTURAL REVIEWS

a. AR-12-22: Waterworks Plus

PTAH, LLC is applying for an Architectural Compliance Permit for a second commercial building at the Waterworks Planned Development located at 1605 Central Drive, across the road from the entrance to Reservoir Park. The proposed 11,000 square foot building will be located behind the existing building that was recently approved for a significant expansion.

Principal Planner Pam Graham presented the request and staff report to the Council. Councilmember Pate questioned if the application was for both buildings and was told yes.

Councilmember Clement questioned the staff notation regarding windows.

Councilmember Petersen requested that the Planning Staff review the current UDO requirements in regards to the awnings and windows.

Planning Director Grieve has prepared suggested amendments and is presenting proposed changes to the Planning Board at the next meeting.

The applicants are present. No questions were asked.

Councilmember Pate motioned to approve AR-12-22: Waterwork Plus with the two (2) staff recommended deviations (UDO §4.10.4(C)(E) as contained in the staff report, seconded by Mayor Pro Tem Murphy; the vote was unanimous.

Motion passed.

b. AR-23-22: Gerber Collision

The applicant, Neal Smith Engineering, Inc., is requesting an Architectural Compliance Permit on behalf of the legal property owner, Gerber Real Estate, Inc., for renovations and an expansion to the property owner's existing building located at 255 Bell Ave. The development proposed will expand the commercial space by adding an addition to the rear side of the building for a total of 5,040 additional square feet. The applicant is proposing architectural design modifications to the existing building that will bring the existing building closer to compliance.

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

Mayor Haney questioned if the deviation being considered is being proposed on an existing building that was already non-compliant should the Council consider the deviations based on the existing building or on the original code requirements.

The applicant is present.

Neil Smith of Neil Smith Engineering spoke to the Council on behalf of the applicant.

Councilmember Pate appreciates the effort to transform an existing building rather than building new.

Councilmember Pate moved to approve AR-23-22: Gerber Collision with the following conditions: four (4) staff recommended deviations (UDO §4.10.4(A)(B)(D)(E)

as contained in the staff report, seconded by Mayor Pro Tem Murphy; the vote was as follows:

Mayor Haney - aye

Mayor Pro Tem - aye

Councilmember Pate - aye

Councilmember Clement - nay

Councilmember Petersen - aye

Motion passed.

6. LEGISLATIVE PUBLIC HEARINGS

a. Z-02-22: RJ Property Holdings

Mr. Brandon Goodman, on behalf of RJ Property Holding, LLC, has submitted a request to establish a rezoning of a single 13.81-acre parcel from FRR (Facilities, Resource, and Recreation) to RE (Rural Estate) in the extra-territorial jurisdiction (ETJ). The subject parcel was owned by the North Carolina State University Veterinary and Equestrian research center (a public entity) and was sold to RJ Property Holding, LLC (a private entity). The subject parcel is located on the south side of Equestrian Road, which is off of U.S. Route 1.

Councilmember Pate moved to open the hearing for Z-02-22: RJ Property Holdings, seconded by Mayor Pro Tem Murphy; the vote was unanimous.

Motion passed.

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

Councilmember Pate questioned some of the allowed uses for different zoning areas. Discussion ensued.

Councilmember Petersen questioned if the town could restrict future uses if the zoning is changed.

Discussion ensued.

Brandon Goodman, for the applicant, advised the council that an environmental survey had been conducted and no trees on the property were inhabited by the endangered red cockaded woodpeckers, but noted that the property is surrounded by their grazing area.

Discussion ensued.

Councilmember Pate moved to close the hearing for Z-02-22, seconded by Mayor Pro Tem Murphy; the vote was unanimous.

Motion passed.

Councilmember Pate moved to approve Z-02-22: RJ Property Holdings as submitted and set forth in the staff report, seconded by Mayor Pro Tem Murphy; the vote was as follows:

Mayor Haney - aye

Mayor Pro Tem Murphy - aye

Councilmember Pate - aye

Councilmember Clement - aye
Councilmember Petersen - nay
Motion passed

b. AX-05-22: Public hearing for annexation of .41 acres at 480 S. Pine St.

Veronica Lofton is requesting voluntary annexation of .41 acres that is currently outside of the corporate limits of the Town of Southern Pines. The deed recorded in Book 5881 at Page 586 describes the property as "Lots Numbers Twelve (12), Fourteen (14) and Fifteen (15) in Block One as shown on a map entitled 'Westhaven Grove' which is recorded in Map Book 3 at page 100 in the Office of the Register of Deeds of Moore County." Per the Moore County tax records, the subject property is identified as PIN 857216729769 (PARID 00033536).

Principal Planner Graham gave a brief overview of the application.

Councilmember Pate moved to open the hearing for AX-05-22: 480 S. Pine Street, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

No questions were asked.

Mayor Pro Tem Murphy moved to close the hearing for AX-05-22; 480 S. Pine Street, seconded by Councilmember Clement; the vote was unanimous.
Motion passed.

Councilmember Pate moved to adopt an Ordinance approving voluntary annexation request AX-05-22: 480 S. Pine St. for the property as defined in the submitted written metes and bounds description, and to have the Ordinance effective immediately, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

c. AX-06-22: Public hearing for annexation of .56 acres at 275, 285 and 295 Duncan Rd.

Dewey Holderfield, on behalf of Moore HL Properties, Inc., is requesting voluntary annexation of .56 of an acre that is currently outside of the corporate limits of the Town of Southern Pines. Per the Moore County tax records, the subject properties are identified as PIN 858220804641 (PARID 00032386) and PIN 858220805642 (PARID 20020514) and are owned by Moore HL Properties, Inc. The request also includes annexation of the portion of Duncan Road that abuts the subject property as well as the intersection of Duncan Road and Petty Street.

Councilmember Clement moved to open the hearing for AX-06-22: 275, 285 & 295 Duncan Road, seconded by Councilmember Petersen; the vote was unanimous.
Motion passed.

No questions were asked.

Mayor Pro Tem Murphy moved to close the hearing for AX-06-22; 275, 285 & 295 Duncan Road, seconded by Councilmember Clement; the vote was unanimous.
Motion passed.

Councilmember Pate moved to adopt an Ordinance approving voluntary annexation request AX-06-22: 275, 285, 295 Duncan Rd. for the property as defined in the submitted written metes and bounds description, and to have the Ordinance effective immediately, seconded by Councilmember Clement; the vote was unanimous.

Motion passed.

7. EVIDENTIARY (QUASI-JUDICIAL) HEARINGS

a. SU-07-22: Southern Pines Country Club

On behalf of Mid-Pines Development Group, LLC, Mr. Bob Koontz with KoontzJones Design has submitted an application for a special use permit for the development of ten guest cottages on a portion of property that formerly served as the Southern Pines Elks Club Facilities, also known as the Southern Pines Country Club. The development proposal is for ten detached golf cottage temporary dwellings housing a total of fifty-six guest rooms with associated parking and amenities such as a putting green and practice tee. No subdivision of property is proposed for the site, which constitutes a portion of the +/-292.11 total acreage of the property.

Mayor Haney swore in pending witnesses for the hearing. She asked Councilmembers to disclose the following relative to the application and property: any specialized knowledge; a fixed opinion not subject to change; close relation to the applicant or property owner; and/or a financial interest in the outcome.

Councilmember Clement drove by the property.

Councilmember Pate disclosed a conflict and requested to be recused.

Councilmember Clement moved to recuse Councilmember Pate from the hearing for SU-07-22, seconded by Councilmember Petersen; the vote was as follows:

Mayor Haney - aye

Mayor Pro Tem Murphy - aye

Councilmember Pate - recused

Councilmember Clement - aye

Councilmember Petersen - aye

Motion passed.

Mayor Pro Tem Murphy moved to open the hearing for SU-07-22: Southern Pines Country Club, seconded by Councilmember Petersen; the vote was as follows:

Mayor Haney - aye

Mayor Pro Tem Murphy - aye

Councilmember Pate - recused

Councilmember Clement - aye

Councilmember Petersen - aye

Motion passed.

Town Attorney McCarley advised the Council that a challenge has been made as to standing and he recommends that it be heard first.

Bill Brian, attorney with Morningstar Law Group, representing the applicants, challenges the standing of the people appearing in opposition to the application. Mr. Brian quoted N.C.G.S. 160D-406(d): *The applicant, the local government and any person who has standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party to an evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.* To participate as a party, Mr. Brian defined, is one presenting legal arguments, presenting expert witnesses, cross-examining witnesses. Mr. Brian further states that N.C.G.S.160D-1402 stipulates that anyone not already defined must prove that they will suffer special damages as the result of the decision being appealed in order to have standing. Mr. Brian advises that "special damages" are different than those that would be suffered by anyone else as a result of the application that is being considered. Specifically, all decisions made, including that as to standing, must be based on competent, material, substantial evidence of the record. Evidence that shall not be deemed to include the opinion testimony of lay witnesses as to any of the following: a) The use of property in a particular way affects the value of other property. b) The increase in vehicle traffic resulting from a proposed development poses a danger to the public safety. c) Matter about which only expert testimony would generally be admissible under the rules of evidence. His understanding from Mr. Petish is that he has no expert witnesses on standing and so the objection.

Andy Petish of Petish Law represents: Dennis & Lindsey Hunt of 775 S Ridge Rd., Michele Kiser of 770 Ridge Rd., Scott & Renee Weaver of 776 Ridge Rd., Ann & Holly McDonald of 749 S. Ridge Rd. and Bob Gallagher of 775 Highland Rd. Mr. Petish addressed Mr. Brian's claims and asserts that G.S. 160D-1402(j)(3) only pertains to the merits of the case, not the issue of standing, citing: 2012 Court of Appeals Case Fort v. Cumberland County. Mr. Petish also referenced the 2020 copy of The Land Use Guide by the North Carolina School of Government, page 602: *the requirement to use only competent expert testimony to show property value impacts that applies to evidentiary findings relative to meeting the standards of the ordinance, which means the standards of the ordinance does not apply to an allegation of property value impacts for standing purpose.* Mr. Petish concludes that a real estate appraiser or other expert witness is not necessary for a presentation as to standing.

Mr. Brian reiterated to the Council that their objection stands and requested a ruling. Mayor Haney asked Town Attorney McCarley for clarification regarding letting people speak but not considering them as witnesses.

Town Attorney McCarley advised the Council that the challenged party has to actually show or make some allegation as to standing and he had not yet heard an allegation of standing, only an objection. Mr. Petish stated that his understanding was that the challenge was as to whether a real estate expert was needed to prove standing and is

fully prepared to show that at least one of his witnesses has standing.

Town Manager Parsons questioned Town Attorney McCarley regarding G.S. 160D-406(d) *Participation as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.* The participant can object to evidence as it is presented and then the Chair or Council can determine if they wish to enter it into the record as competent and substantive. Town Attorney McCarley clarified that if you are not a party, then you cannot make legal statements, present a summation or cross-examine witnesses. Any other person can speak for their allowed time but not participate as a party. Standing defined per a 2017 case: Ring v. Moore County, the Court of Appeals held that to have standing, to participate as a party you had to have an actual or imminent injury resulting from the rezoning and, in this case, the parties who were denied standing owned the immediately adjacent property.

Councilmember Clement asked that they allow Mr. Petish to present the party in his case who he feels has standing.

Mr. Pettish called Mr. Dennis Hunt Jr. of 775 Ridge Street, who testified as to what he believes would be the adverse impacts on his property as a result of the development.

Discussion ensued.

Mr. Pettish argued that in the case of Ring vs Moore County, the NC Court of Appeal found that the hearing was legislative and not quasi-judicial, so the same standards of standing don't apply as under the standards for a quasi-judicial hearing, Mr. Hunt's testimony has standing as competent.

Mr. Brian objected and argued that actual special damage existing at the time of the application, not fear of damage, is required and decisions cannot be made based on fear of action if that action is illegal.

Councilmember Clement questioned Town Attorney McCarley on whether the placement of Mr. Hunt's property give him standing?

Mayor Pro Tem Murphy questioned if there was a subcategory of opinions being shared by persons not as participants.

Councilmember Petersen asked if the standard of being an expert was relevant to the issue of standing and Town Attorney McCarley advised that the focus should be on whether Mr. Petisch has shown that they have imminent quantifiable tangible damage to qualify as a participant.

Mayor Haney is of the opinion that Mr. Hunt can participate as a witness, but not a party.

Town Attorney McCarley advised the Council that procedurally the statute gives the decision to the Mayor and if a councilmember disagrees, then it would be up to the vote of the Council to decide if that person has standing or not.

Councilmember Clement clarified that the people that Mr. Petisch is representing is found to not have standing then Mr. Petisch cannot cross examine witnesses.

Councilmember Petersen questioned the juxtaposition of having standards with the project having consistency with the surrounding neighborhood but not allowing those people who own the surrounding property to testify? Town Attorney McCarley

advised that compatibility to a neighborhood would be up to a professional planner or an elected official.

Mr. Petisch asked to continue with Mr Hunt's testimony on his standing in the case. Mr. Hunt testified that the proposed project adversely affects his family and that it degrades and detracts from his ability to use and enjoy his residence. Mr. Hunt also stated that the increase in the transient population so close to his residence would cause him and his family emotional distress. Mr. Hunt estimates a decrease in value of \$40-50 thousand for his property and even with that decrease he would not have bought the property knowing the project was planned. The current plan shows the project's firepits approximately 65 - 30 feet from his backyard.

Councilmember Petersen questioned Mr. Petisch on how his opinion of standing differs from Mr. Brian. Mr. Petisch stated his understanding is that Mr. Brian is of the opinion that only a real estate professional can testify about adverse effects on property values where Mr. Petisch defines the standard that there must be allegations of special damages, distinct from the population at large, to establish standing. Mr. Petisch believes Town Attorney McCarley is basing his decision on the *Manga vs Riley Board of Adjustment 2008*, which proves standing is based on proximity and adverse effects are sufficient to prove special damages.

Discussion ensued.

Town Attorney McCarley advised the Council that none of the cases specify legislative vs quasi-judicial in regards to standing and that clarification is also not made in the statute.

Councilmember Clement questioned allowing Mr. Petisch to question witnesses and then make a determination on standing based on that testimony?

Mayor Prom Tem Murphy stated that if the town has an opportunity for people to speak, then it should be allowed, but he does not feel using it to prove standing is an error on the town's part.

Councilmember Petersen voiced her opinion that limiting the residents' ability to question witnesses harms them and she feels there are enough questions to give them standing.

Discussion ensued.

Mayor Haney moved that Mr. Hunt does have standing in the case.

Principal Planner Graham requested to enter the Staff Report into the record as *Exhibit 1* and the Staff Presentation as *Exhibit #2*.

Principal Planner Graham presented the application and Staff Report to the Council.

Councilmember Petersen questioned the 65ft setback and Principal Planner Graham advised that the plans show a 10ft buffer on Country Club Circle and the residences along Ridge Street get both a 10ft buffer and 25 feet of undisturbed land.

Councilmember Petersen questioned if this property was to be a timeshare and was advised that the town has no information as to how the properties are managed and rented. Mr. Fluit took an example of a high impact and low impact in his traffic impact analysis and went with high impact numbers.

Mr. Neil Gosch of Morning Star Law Group, representing Mid-Pines Development

Group, gave a brief overview of the proposed project and clarified that the project as defined by the town's UDO is a golf club resort which is not a hotel, motel or timeshare, and this is allowed on properties zoned FFR.

Mr. Gosch asked that all materials and reports used by or referred to by them and their witnesses be entered into the record and that judicial notice be taken of the contents of the UDO, the Comprehensive Plan and the adopted plans of Southern Pines.

Mr. Gosch requested that the following expert witnesses be acknowledged by the Council:

- Mr. Bob Koontz, Project Manager of KoontzJones Design
- Mr Travis Fluitt, Traffic Engineer of Kimely Horn & Associates
- Mr. Franklin Dean, Real Estate Appraiser of Village Appraisers LLC.
- Mr. Bill Mullen, Environmental Consultant of JCA Incorporated

The opposing council stipulates to the expert witnesses with the exception of Mr. Bob Koontz, whose status is to be determined later.

Mr. Bob Koontz of KoontzJones Design, reviewed his education and qualifications for the Council. Mr. Koontz presented his Powerpoint presentation (*Exhibit #3*)

Councilmember Petersen asked Mr. Koontz if he had any meetings with Mr. Parsons about this project and was advised that he had met with Mr. Parsons regarding the project at a TRC meeting. Councilmember Petersen then asked Mr. Koontz if he had met with any Councilmembers regarding the project and was told 'no'.

Mr. Travis Fluitt of Kimely Horne and Associates presented his background and qualifications and presented his traffic analysis to the council.

Councilmember Clement questioned how they produce numbers without any base numbers to start from. Mr. Fluitt based his numbers on projected trips.

Mayor Pro Tem Murphy questioned if the evening hours would be problematic traffic wise with people trying to go out to dinner and not being familiar with the area.

Councilmember Clement questioned the number of units per timeshare shown in the report and worried if the numbers were too conservative.

Mr. Fluitt advised that his analysis was done by combining numbers of units and also the number of rooms to get an average.

Mr. Franklin Dean of Village Appraisals presented his report (*Exhibit #5*) to the Council

Councilmember Petersen questioned Mr. Dean as to the location of Mid South. She then questioned if there are any properties for short-term rentals in Mid South and were they used in the analysis? Mr. Dean advised her that the properties used in the report were sales but the Cottages at Mid South are short-term rentals.

Mr. Gosch gave closing arguments: negligible impact on traffic and will not adversely effect surrounding property values, all competent and substantial

Councilmember Petersen asked to speak with Mr. Mullen Mr. Bill Mullen of JHC Incorporated reviewed his educational and professional qualifications and then presented his report (*Exhibit #6*) to the Council.

Mr. Petisch called Mr. Koontz for cross examination. Mr. Peisch asked Mr. Koontz how large the project area is (approx 9.4-9.5 acres) and the overall property size (292

acres). Mr. Petisch also asked if all permits and approvals had been received for the gated access entry on South Ridge Road and was told they had met with TRC and the Fire Marshall was told it was an acceptable use and that a Knox box would need to be installed.

Mr. Petisch then questioned Mr. Koontz if he was aware of a drawing including the fire pit within the traffic analysis report and was told by Mr. Koontz that he was unaware. Mr. Petisch confirmed the placement of a fire pit for each cottage and, if the placement was a condition, that the fire pit not be within direct line of sight of the existing homes? Mr. Koontz stated that the current plans show a fire pit on the golf course side of each cottage and that the fire pits could be moved. Mr. Petisch asked if Mr. Koontz consulted a noise engineer as to whether the cottages would be a sufficient barrier between the fire pits and the homes with Mr. Koontz indicating that a sound engineer was not consulted.

Mr. Petisch questioned Mr. Koontz regarding his statement that there would be 2 people per bedroom. Would 2 people per bedroom be a condition of the property?

Mr. Koontz is unaware, but though it was common practice at other local golf resorts.

Mr. Koontz was asked if the designs of smaller cottages would be identical or unique and he indicated that they would be similar if not identical with the intention of creating a small street scape.

Mr. Petisch rested with Mr. Koontz.

Mr. Gosch, on re-direct, asked Mr. Koontz if there were any sound requirements in Southern Pines and Mr. Koontz responded that there were not.

Mr. Petisch called Mr. Fluitt up for cross examination and confirmed that the trip count in his report was generated by a manual using properties with comparable uses. Mr. Fluitt was then asked if a computer program was used to predict the safety and functionality of the project. Mr. Fluitt responded that it was not, since a capacity analysis was not performed. This report was based on projected trips and the traffic patterns those trips would create. Mr. Petisch asked if the report took into effect the drivers' familiarity with the area and was told that yes, to some effect, using most likely anticipated traffic paths although unfamiliar driver errors were not included in calculations.

Mr. Petisch called Mr. Dean up for cross examination and asked him if, as a hypothetical, would there be a difference in a home's value should the golf course be within 200 ft versus 50 ft? Mr. Dean responded that closer would be more detrimental and that he did take that into account on his analysis but didn't include the figures in the report.

Mr. Gosch, on re-direct, asked Mr. Dean to reiterate if he found any detriment to a home's value based on distance. Mr. Dean stated that there would be no substantial detriment to existing properties by development.

Mr. Petisch asked the Council to let the voluntary witnesses make their comments.

Mr. Brian, upon reviewing the first voluntary witnesses handout, objected to the person wishing to speak, stating that the information was not competent, material or relevant in any way and appeared to be a personal attack on Mr. Kelly.

Mayor Haney, upon reviewing the handout, ruled that the information was not relevant and the testimony would not be allowed.

Mark Hillis of 655 South Valley Drive is a local resident to this project and asked the Council to consider the traffic impact, as the current traffic is minimal after dark and this would impact the neighborhood referencing the towns CLRP *'ensure that new development is compatible with the overall scale, architecture, transportation and public space characteristics in which it occurs'*. The current homes range in style and age and 10 identical cottages would stand out. Mr. Hillis also pointed out that there were no major roads for the traffic to feed in and out of to mitigate the new traffic.

George Lewis, a resident of South Valley Road, spoke to the Council about how the current neighborhood is a special place with walkers and children playing and does not want to commercialize the area as he wishes to retain the character of the neighborhood.

Kim Collins Cotty of 560 South Valley Road, stated that her house is 300 yards from one of the proposed buildings and she feels the noise associated with golfers socializing would be substantial. The current neighborhood is quiet and the traffic after dark is non-existent.

Ken McDonald, a resident of 749 South Ridge Street, is concerned regarding the noise that would increase and he would not be able to go out and enjoy his patio.

Councilmember Petersen made a motion to continue this hearing to the next meeting on January 10th, seconded by Mayor Pro Tem Murphy; the vote was as follows:

Mayor Haney - aye

Mayor Pro Tem Murphy - aye

Councilmember Pate - recused

Councilmember Clement - aye

Councilmember Petersen - aye

Motion passed.

8. ACTION ITEMS

a. Consider 2023 Town Council Meeting Schedule

Based on direction at the November 28th Council work session, staff has prepared two schedules for Council to review and consider.

Town Manager Parsons introduced the item with the requested changes from the work session. The proposed schedule has all of the meetings occurring on a Tuesday; now on the first, second and fourth Tuesday of each month. The only alterations will be for July (July 4th holiday) and November (Election Day), where the agenda meeting is moved to the following Wednesday. Please note that the time is inaccurate on the handout for the work session and will be corrected to 3:00 pm.

Mayor Pro Tem Murphy moved to approve the 2023 Town Council Schedule, seconded by Councilmember Petersen; the vote was unanimous.

Motion passed.

b. Consider Actions Related to Waste Collection

i. Direct Staff to Enter into a Consulting Agreement with DavenportLawrence

ii. Consider Amendment to FY 22-23 Budget to Increase Legislative Expenditures by \$31,000

At the November 28th work session, Council expressed an interest in reviewing a proposal for consulting services to formally evaluate the Town's solid waste services. The purpose of this study is to assist with making decisions on the future delivery method(s) for solid waste services. Staff has obtained a proposal from DavenportLawrence and will review the suggested next steps, if Council wishes to move forward with this evaluation.

Town Manager Parsons gave a brief overview of the item and advised the Council that a written agreement for a 6-month extension of the current contract will be brought back before the Council in January.

Discussion ensued.

Councilmember Petersen moved to approve the Consulting Agreement with DavenportLawrence and the corresponding Budget Amendment of \$31,000, seconded by Councilmember Clement; the vote was unanimous.

Motion passed.

c. Resolution #1037 Authorizing Sale of Surplus Property

Staff requests approval to sell surplus property, 2013 Freightliner DD1 Vacall Jet Truck, to the Town of Hamlet for \$75,000.00 pursuant to N.C. General Statute 160A-274.

Town Manager Parson gave an overview of the request to the Council.

Discussion ensued.

Mayor Pro Tem Murphy moved to approve Resolution #1037 Authorizing the Sale of Surplus Property to the City of Hamlet for \$75,000, seconded by Councilmember Pate; the vote was unanimous.

Motion passed.

9. CONSENT AGENDA

Town Manager Parsons reviewed the consent agenda for the Council.

Councilmember Pate moved to approve the Consent Agenda, seconded by Councilmember Petersen; the vote was unanimous.

Motion passed.

Councilmember Petersen asked for a new section be added to the work session agenda 'Old Business/New Business'.

a. Approve Town Council Meeting Minutes for November 2022

- November 7, 2022
- November 15, 2022
- November 28, 2022

Staff has prepared the November meeting minutes for review.

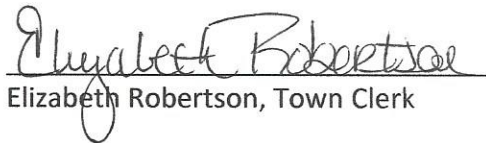
b. Accept the Fiscal Year 2022 Audit Report

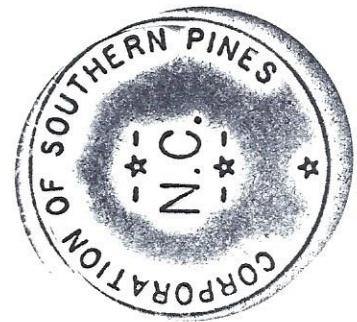
Staff is requesting approval of the FY22 Audit Report from Forvis, LLP.

10. ADJOURNMENT

Upon motion by Councilmember Petersen, seconded by Mayor Pro Tem Murphy and carried unanimously, Council adjourned at 11:18 pm.

Respectfully submitted:


Elizabeth Robertson, Town Clerk



TOWN OF SOUTHERN PINES ORDINANCE #2043
TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF SOUTHERN PINES,
NORTH CAROLINA AX-05-22; Pine Street

THAT WHEREAS, the Town Council has been petitioned under G.S. 160A-31 as amended to annex the area described herein; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation, AX-05-22, was scheduled to be held in regular session of the Town Council at the Douglass Community Center at 6:00 P.M. on the 8th day of November, 2022 after due notice by publication on December 3, 2022; and

WHEREAS, after the completion of said public hearing and upon consideration of any comments, objections or presentation at that hearing, and

WHEREAS, based on the certification of the Town Clerk and other information presented at said hearing, Council finds it proper and in the best interest of the Town to annex the following parcel according to the requirements of G.S. 160A-31:

A certain tract or parcel of land situated in McNeill Township, Moore County, North Carolina, fronting and lying on the northeast side of Indiana Avenue (60' Public right-of-way), being further described by metes and bounds as follows:

BEGINNING on the concrete monument found at the intersection of the northwest right-of-way line of Pine Street and the northeast right-of-way boundary of Indiana Avenue, said monument being the South corner of Lot 15, Westhaven Grove subdivision (see Map Book 3, Page 100, in the Moore County Register of Deeds Office);

Running thence from said beginning corner with said northeast right-of-way line of Indiana Avenue North 36°29' West a distance of 150.00 feet to a concrete monument found, said monument being the West corner of said Lot 15 and the South corner of Lot 18 and Parcel ID #00992018 described in Book 1552, Page 338;

Thence with the northwest lines of Lots 15, 14 and 12, said lines being common with the southeast line of said Parcel ID#00992018, North 53°30' East a distance of 119.99 feet to a concrete monument found, said monument being the North corner of Lot 12, the East corner of Lot 18, the South corner of Lot 19 and Parcel ID #87000247, the West corner of Lot 11 and Parcel ID #0034615;

Thence with the common line of said Lots 12 and 11 South 36°29' East a distance of 150.00 feet to a concrete monument found in said northeast right-of-way line of Pine Street, said monument being east corner of said Lot 12, the South corner of said Lot 11 and said Parcel ID # 0034615;

Thence with the common line of said Lots 12 and 11 South 36°29' East a distance of 150.00 feet to a concrete monument found in said northwest right of way line of Pine Street, said monument being East corner of said Lot 12, the south corner of said Lot 11 and said Parcel ID #0034615;

Thence with said northwest right of way line of Pine Street South 53°30' West a distance of 120.00 feet to the BEGINNING, containing 18,000 square feet (0.41 acres), and being all of said Lots 12,14 and 15 of said Westhaven Grove subdivision.

A map of the area herein described is provided with this Ordinance as Attachment A.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines, North Carolina in regular session this 13th day of December, 2022:

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the above described territory is hereby annexed and made part of the Town of Southern Pines as of the 13th day of December, 2022.

Section 2. Upon and after the 13th day of December, 2022 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Southern Pines and shall be entitled to the same privileges and benefits as other parts of the Town of Southern Pines. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

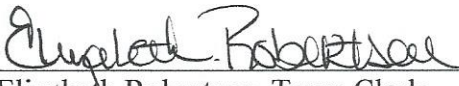
Section 3. The Mayor of the Town of Southern Pines shall cause to be recorded in the office of the Register of Deeds of Moore County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof. Such a map shall also be delivered to the County Board of Elections as required by G.S. 163-288.1.

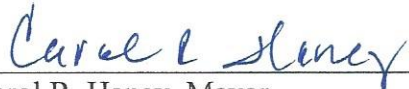
Section 4. This Ordinance shall be and remain in full force and effect from and after the date of its adoption.

Adopted this 13th day of December, 2022.

ATTEST:

TOWN OF SOUTHERN PINES


Elizabeth Robertson, Town Clerk

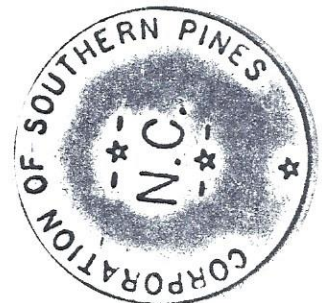

Carol R. Haney, Mayor

APPROVED AS TO FORM:


DeWitt McCarley, Town Attorney

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on December 13, 2022 as shown in the Minutes of the Town Council for that date.


Elizabeth Robertson, Town Clerk





Site

Notes: This map is not intended for recording.

Also by coordinate method.

Contours interval at one foot, from 2014 LIDAR Data.

The property shown herein lies within Zone X, minimal flood hazard area, per hydrotopography.

All distances shown herein are horizontal ground distances unless otherwise noted.

Subject property is currently zoned RS-1.

Legend:

1/4" = 100' Pine Street

1/4" = 100' Indiana Avenue

1/4" = 100' Pine Street

1/4" = 100' Indiana Avenue

1/4" = 100' Pine Street

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Hodgins Street (60' Public R/W)

Indiana Avenue (60' Public R/W)

Pine Street (80' Public R/W Not Open)

Indiana Avenue (80' Public R/W)

Pine Street (80' Public R/W)

Veronica Donnell
Block 3, Page 431
Map Book 3, Page 100

Dan Johnson
Block 3, Page 397
Map Book 3, Page 100



NE DOW MAPS (2011)
by GPS/RTK means

****Preliminary Map****
Not for recording, conveyances or sales.

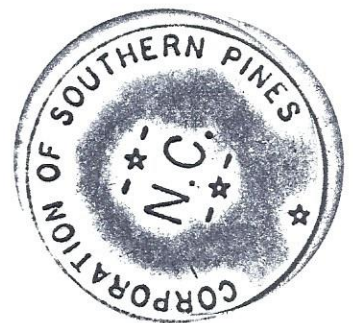
DATE: 08.01.2022	APPROVED BY: [Signature]	PROJECT: PFD# 00033536, LOTS 12, 14 & 15, Block 1	SPT. NAME: Veronica Donnell Lofton	SPT. NO.:
DATE: 08.01.2022	APPROVED BY: [Signature]	PROJECT: PFD# 00033536, LOTS 12, 14 & 15, Block 1	SPT. NAME: Veronica Donnell Lofton	SPT. NO.:
DATE: 08.01.2022	APPROVED BY: [Signature]	PROJECT: PFD# 00033536, LOTS 12, 14 & 15, Block 1	SPT. NAME: Veronica Donnell Lofton	SPT. NO.:

**COUNTY OF MOORE
STATE OF NORTH CAROLINA**

I swear that this is a true and accurate copy of Ordinance #2043 extending the corporate limits of the Town of Southern Pines adopted on December 13, 2022 (AX-05-22).


Elizabeth Robertson, Town Clerk

12-13-22
Date



TOWN OF SOUTHERN PINES ORDINANCE #2044
TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF SOUTHERN PINES,
NORTH CAROLINA AX-06-22; Petty Street

THAT WHEREAS, the Town Council has been petitioned under G.S. 160A-31 as amended to annex the area described herein; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation, AX-05-22, was scheduled to be held in regular session of the Town Council at the Douglass Community Center at 6:00 P.M. on the 8th day of November, 2022 after due notice by publication on December 3, 2022; and

WHEREAS, after the completion of said public hearing and upon consideration of any comments, objections or presentation at that hearing, and

WHEREAS, based on the certification of the Town Clerk and other information presented at said hearing, Council finds it proper and in the best interest of the Town to annex the following parcel according to the requirements of G.S. 160A-31:

A certain tract, parcel or parcels of land situated in McNeill Township, Moore County, near Southern Pines, North Carolina, fronting and lying on the north side of Duncan Road (S.R. 2031) and the west side of the abandoned right-of-way of Petty Street, and being further described by metes and bounds as follows:

BEGINNING at an iron rod found in the north right-of-way line of Duncan Road where it intersects with the centerline of the (abandoned) Petty Street, said rod being the westernmost corner of that parcel described in Book 2067, Page 39, in the Moore County Registry, said rod also being the southernmost corner of that parcel of said (abandoned) Petty Street described in Book 5230, Page 276;

running thence from said beginning corner with the north right-of-way line of Duncan Road North 43°03'51" West a distance of 25.61 feet to concrete monument found, said monument being the South corner of Lot 77;

thence continuing with the north right-of-way line of Duncan Road, North 43°50'17" West a distance of 50.67 feet to an iron rod found, said rod being the common corner of Lot 77 and Lot 75;

then continuing with the north right-of-way line of Duncan Road North 43°50'17" West a distance of 50.88 feet to an iron rod found, said rod being the common corner of Lot 75 and Lot 73;

thence continuing with the north right-of-way line of Duncan Road North 43°50'17" West a distance of 50.88 feet to a concrete monument found, said monument being the common corner of Lot 73 and Lot 71;

thence with the common line of said Lot 73 and Lot 71 North 35°28'59" East a distance of 122.21 feet to a concrete monument found, said monument being the common corner of Lot 73 and Lot 73A situate in the southeast line of Lot 71;

thence with the common line of Lot 73 and Lot 73A South 54°27'20" East a distance of 50.00 feet to an iron rod found, said being the common corner of Lot 73, Lot 73A, Lot 75A and Lot 75;

thence with the common line of Lot 75 and Lot 75A south 54°27'20" East a distance of 50.00 feet to an iron rod found, said iron rod being the common corner of Lot 75, Lot 75A, Lot 77A and Lot 77;

thence with the common line of Lot 77 and Lot 77A South 54°27'20" East a distance of 49.98 feet to a concrete monument found, said monument being the common corner of Lot 77, Lot 77A situate in the (original) northwest right-of-way line of Petty Street, said rod also being a corner of the aforementioned parcel of the (abandoned) Petty Street;

thence with the northeast line of the aforementioned parcel South 54°27'20" East a distance of 25.18 feet to the common corner of the aforementioned parcel and that parcel described in Book 2067, Page 47, situate in the northwest line of that parcel described in Book 2067, Page 39;

thence with the common line of said parcels, South 35°34'57" West a distance of 155.35 feet to the BEGINNING, containing 24,244 square feet, and being all of that land described in Book 5230, Page 276, in the Moore County Registry.

A map of the area herein described is provided with this Ordinance as Attachment A.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines, North Carolina in regular session this 13th day of December, 2022:

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the above described territory is hereby annexed and made part of the Town of Southern Pines as of the 13th day of December, 2022.

Section 2. Upon and after the 13th day of December, 2022 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Southern Pines and shall be entitled to the same privileges and benefits as other parts of the Town of Southern Pines. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

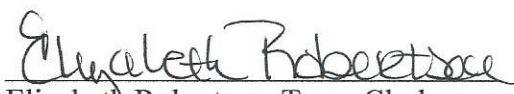
Section 3. The Mayor of the Town of Southern Pines shall cause to be recorded in the office of the Register of Deeds of Moore County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof. Such a map shall also be delivered to the County Board of Elections as required by G.S. 163-288.1.

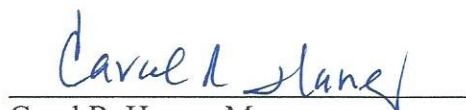
Section 4. This Ordinance shall be and remain in full force and effect from and after the date of its adoption.

Adopted this 13th day of December, 2022.

ATTEST:

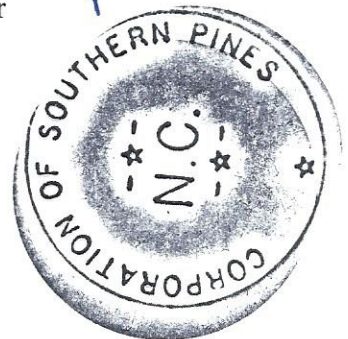
TOWN OF SOUTHERN PINES


Elizabeth Robertson, Town Clerk


Carol R. Haney, Mayor

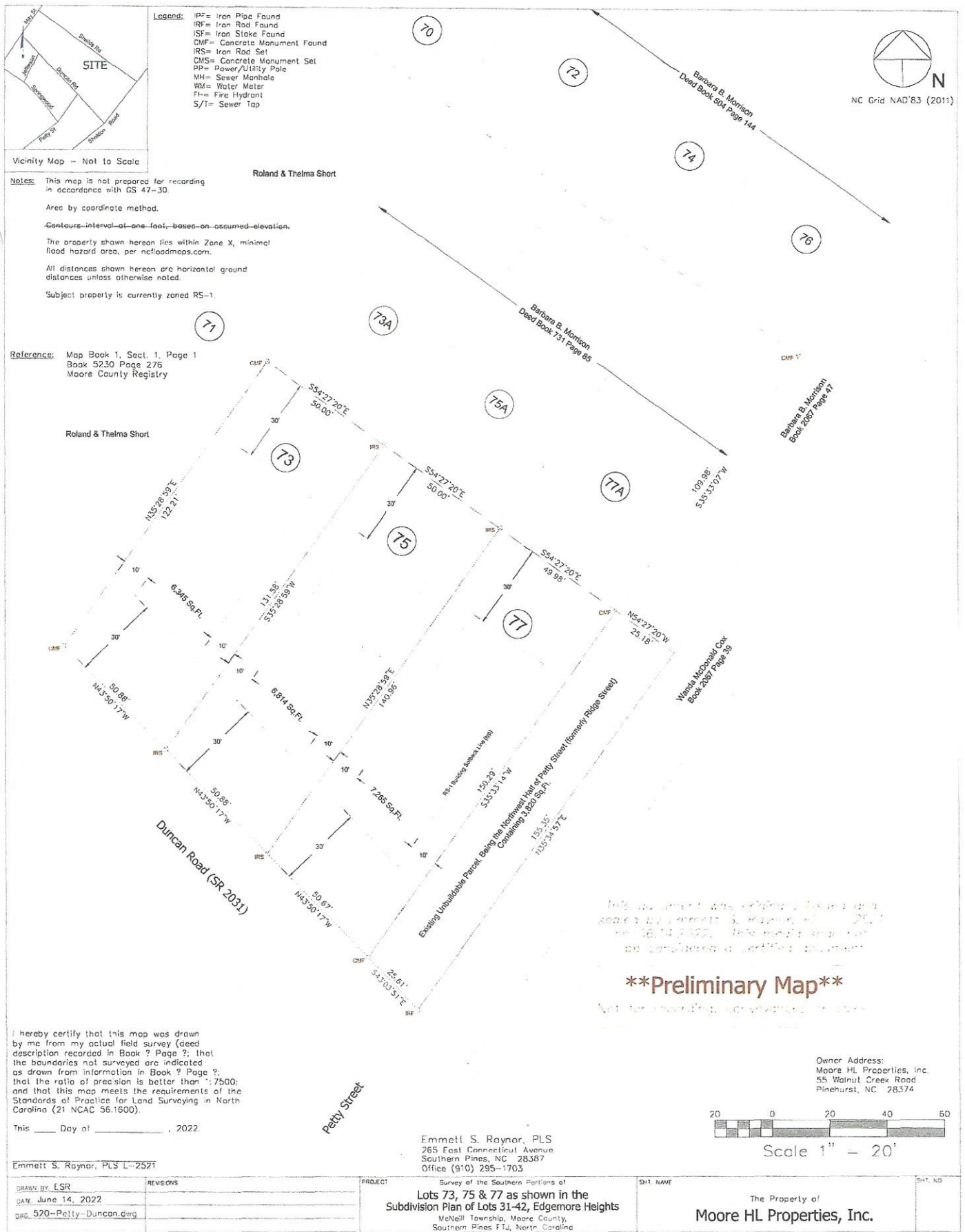
APPROVED AS TO FORM:


DeWitt McCarley, Town Attorney



I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on December 13, 2022 as shown in the Minutes of the Town Council for that date.


Elizabeth Robertson, Town Clerk

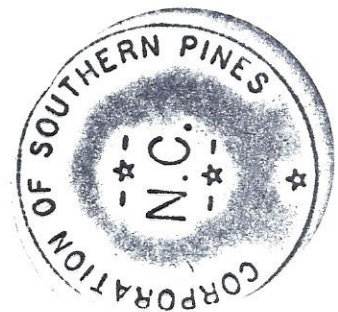


COUNTY OF MOORE
STATE OF NORTH CAROLINA

I swear that this is a true and accurate copy of Ordinance #2044 extending the corporate limits of the Town of Southern Pines adopted on December 13, 2022 (AX-06-22).

Elizabeth Robertson
Elizabeth Robertson, Town Clerk

12-13-22
Date



TOWN OF SOUTHERN PINES ORDINANCE #2045
AMENDING THE ZONING MAP OF THE TOWN OF SOUTHERN PINES
Z-02-22

THAT WHEREAS, after notice duly given according to law, a public hearing was held before the Town of Southern Pines Town Council at its regular business meeting on December 13, 2022 at 6:00 PM for the purpose of considering and passing of an ordinance amending the Zoning Map of the Town of Southern Pines, North Carolina; and

WHEREAS, after the completion of said public hearing, and upon consideration of the reasonableness of the request, compliance with the criteria for a zoning map amendment found in UDO §2.17.9, as well as consistency with the adopted Comprehensive Long Range Plan, the Southern Pines Town Council approved petition Z-02-22 to amend the Zoning Map of the Town of Southern Pines;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Town of Southern Pines Town Council, in regular session assembled on the 13th day of December, 2022:

Section 1. That the Zoning Map of the Town of Southern Pines on file in the office of the Town Clerk be amended to reflect that the parcel located off the north end of Equestrian Road be rezoned Residential Estate (RE). The subject parcel is described as follows:

All that certain piece or parcel of land situated in the Town of Southern Pines ETJ, County of Moore, and State of North Carolina depicted as "N/F RJ Property Holding, LLC, Book 5896 Page 163, Tract 1, Parcel ID 00037131, PIN 859200896310, U.S. Highway 1, Southern Pines FRR Zone, Area 601,633 sq. ft. or 13.81 Acres" on a map entitled "Boundary Survey Land of RJ Property Holding, LLC, U.S. Highway 1, Southern Pines, McNeill Township, Moore County, North Carolina, dated 09-20-2022, Sheet 1 of 1 by Craig Foster P.L.S., PLLC", and more particularly described as follows:

Beginning at a monument found on the southeasterly highway line of Equestrian Road (S.R. 2124) marking the northwesterly corner of property now or formerly of RJ Property Holding, LLC and the northeasterly corner of land now or formerly of The Walthour Moss Foundation fronting on Equestrian Road.

Thence, N 49°46'48" E a distance of 351.78 feet to point marked by an NCDOT ROW Monument.

Thence, N 66°13'07" E a distance of 410.53 feet to a point marked by an NCDOT ROW Monument.

Thence, N 55°21'42" E a distance of 81.39 feet to a point. The last 3 courses being along the southeasterly right of way of Equestrian Road (S.R.2124).

Thence, S 34°44'51" E a distance of 1272.23 feet to a point.

Thence, S42°39'49" W a distance of 71.00 feet to a point marked by a broken monument. The last two courses being along other land of RJ Property Holding, LLC.

Thence, N64°37'11" W along the northeasterly boundary of land now or formerly of The Walthour Moss Foundation a distance of 1536.55 feet to the point and place of beginning Said parcel area contains 601,663 square feet or 13.81 acres more or less.

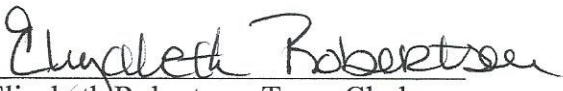
Section 2. That, pursuant to NC General Statute Chapter 160D-605(s), this zoning map amendment shall concurrently amend the Future Land Use Map within the Comprehensive Long-Range Plan (2016) for the subject parcel as described above from Parks/Open Space/Public Facilities to Rural/Equestrian.

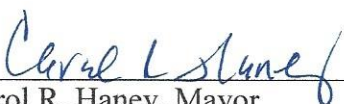
Section 3. That this Ordinance shall be and shall remain in full force and effect from the date of its adoption until otherwise amended.

Adopted this 13th day of December 2022.

ATTEST:

TOWN OF SOUTHERN PINES

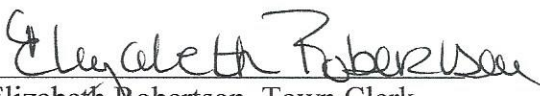

Elizabeth Robertson, Town Clerk

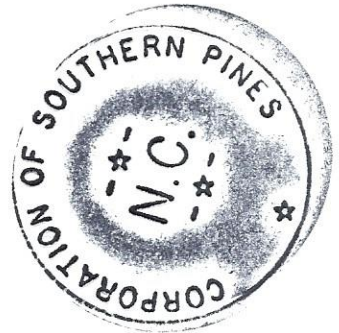

Carol R. Haney, Mayor

APPROVED AS TO FORM:


Mac McCarley, Town Attorney

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on December 13, 2022 as shown in the Minutes of the Town Council meeting for that date.


Elizabeth Robertson, Town Clerk



**TOWN OF SOUTHERN PINES ORDINANCE #2046
AMENDING THE 2022/2023 FISCAL YEAR BUDGET
Solid Waste Services Consultant – Davenport Lawrence**

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 13th day of December, 2022 that the Operating Budget for the Fiscal Year 2022/2023 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
General Fund	Fund Balance Appropriations	10-397-1000	\$31,000	
Legislation	Professional Services	10-410-4600	\$31,000	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of December 13, 2022 as shown in the minutes of the Town Council for that date.


Elizabeth Robertson, Town Clerk



**TOWN OF SOUTHERN PINES RESOLUTION #1037
AUTHORIZING DISPOSITION OF SURPLUS PROPERTY
UTILITIES DEPARTMENT VAC-TRUCK BY SALE**

THAT WHEREAS, the Town of Southern Pines possesses the item identified below as surplus, obsolete and/or unused by the Town; and

WHEREAS, the Town Council of the Town of Southern Pines desires to dispose of said surplus property in a manner that will aid non-profit organizations, sister cities, and/or other units of government; and

WHEREAS, pursuant to N.C. Gen. Stat. 160A-274, the Town may, upon such terms and conditions as it deems wise, sell to other governmental units' personal property; and

WHEREAS, the City of Hamlet is a governmental unit; and

WHEREAS, the City of Hamlet has expressed a desire to purchase the item identified below.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southern Pines:

1. That the following equipment as identified by the Fleet Maintenance Superintendent and Purchasing Agent be declared surplus property:

2013 Freightliner DD13 Vacall Jet Truck Vin: 1FVHC7DV0CHBK4680

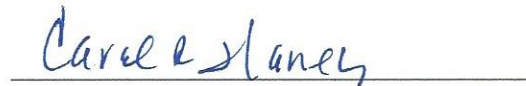
2. That the sale of said surplus property to the City of Hamlet for the sum of \$75,000.00 (seventy-five thousand dollars) is hereby approved and accepted.

Adopted this 13th day of December, 2022

ATTEST:

TOWN OF SOUTHERN PINES


Elizabeth Robertson, Town Clerk


Carol R. Haney, Mayor

I certify that this resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of December 13, 2022, as shown in the minutes of the Town Council for that date.


Elizabeth Robertson, Town Clerk

