AGENDA

Tuesday, October 3, 2023: 6:00 PM
Town Council Agenda Meeting
C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave

1. CALL TO ORDER

2. TOWN MANAGER'S COMMENTS

3. ACTION ITEMS

a. PD-03-23: Written Decision for Morganton Park South Phase 3 PDP

Staff has prepared a draft Written Decision for application PD-03-23, Morganton Park South Phase 3 PDP, for the Town Council's review and approval.

4. REVIEW PROPOSED ACTION ITEMS FOR OCTOBER 10TH AGENDA

a. AR-07-23: Tiara Properties, LLC

A request by Seven Lakes Engineering Services, on behalf of Tiara Properties, LLC, for an Architectural Compliance Permit for a 7,200 square foot office building located on the east side of the intersection of SE Service Road and West Wisconsin Avenue.

5. REVIEW PUBLIC HEARING APPLICATIONS FOR OCTOBER 10TH AGENDA

a. OA-04-23: Text Amendments to the Unified Development Ordinance (UDO)

The Town of Southern Pines Planning Department is proposing to amend the Unified Development Ordinance (UDO) with text amendments related to deleting an incomplete sentence in the FRR zoning classification, code compliance provisions, and platting certification requirements.

b. SU-01-23: Expansion of authorized land uses in 1998 Mill Creek Mixed-Use Development Master Plan.

Mr. Bob Koontz of Koontz Jones Design, on behalf of Mill Creek Partners, LLC, has submitted a Special Use Permit amendment application pursuant to §2.21.12(A) of the Town of Southern Pines Unified Development Ordinance (UDO) to expand the authorized land uses in the General Business conditional zoning district (GB-CD) portion of the Mill Creek development.

6. REVIEW PROPOSED CONSENT AGENDA FOR OCTOBER 10TH AGENDA

a. Authorize Relief from §50.035 of the Town Code of Ordinances

Ryan Paschal is requesting relief from §50.035 of the Town Code of Ordinances requiring any new house, lot, or subdivision to connect to the Town's water system if it is within 300 feet (plus 100 feet multiplied by the number of additional dwellings) of an existing [water] distribution pipe.

b. Approve Solid Waste Contract with Meridian Waste

This contract is for garbage and recycling collection and disposal, effective July 1, 2024. The final contract document is being reviewed by attorneys and will be available prior to the October 10th business meeting.

c. Approve Meeting Minutes

Staff has prepared the following meeting minutes for approval:

- August 1, 2023 Agenda Meeting
- August 8, 2023 Business Meeting
- August 22, 2023 Work Session
- September 5, 2023 Agenda Meeting
- September 12, 2023 Business Meeting
- September 26, 2023 Work Session

7. ADJOURNMENT

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

Agenda Item

To: **Reagan Parsons, Town Manager**

From: **Alaina Mallette, Senior Planner**

Subject: **PD-03-23: A Planned Development District - Preliminary Development Plan for Morganton Park South Phase 3 Commercial/Retail; Applicant: Midland Atlantic Properties; Bob Koontz of KoontzJones Design PLLC, Authorized Agent; Property Owners: Morganton Road Enterprises, LLC, Robert W. Van Camp and Julie M. Van Camp, Trustees of the Robert W. and Julie M Van Camp Living Trust**

Date: **October 3, 2023**

I. PURPOSE

Per UDO §2.14.6(F)(11), "A written decision must be approved for every quasi-judicial application, either by entering the decision at the end of the hearing or at a subsequent meeting of the hearing body, which shall generally be the next scheduled meeting. As part of the written decision, the hearing body must make findings of fact and conclusions as to applicable standards and any conditions. The chair may direct the planning director or town attorney to draft a written decision for approval by the hearing body at its next regularly scheduled meeting, which approval may be on a consent agenda."

Planning staff have prepared a draft of the written decision of the Town Council's approval of application PD-03-22 that was heard by the Town Council at the regular meeting on September 12, 2023, and work session on September 26, 2023, and that the Town Council may now wish to adopt. If the Town Council approves the drafted written decision, the Mayor will sign the document. The original signed version will be delivered to the applicant, authorized agent, and property owner with Planning staff and the Town Clerk maintaining copies of the signed document for their respective files.

II. SUMMARY OF APPLICATION REQUEST

Mr. Robert Koontz has applied on behalf of Midland Atlantic Properties—who is the applicant for Morganton Road Enterprises, LLC—for a Planned Development Preliminary Development Plan without preliminary plat in association with the Morganton Park South Development Plan that was approved in 2021. A 101,840-square foot wholesale retail building, a fuel service station without convenience store, and a 2,050-square foot drive-through restaurant are being proposed on +/- 13.89 acres. Up to 650,000 square feet of retail is authorized in the Conceptual Development Plan (CDP).

The application is for the 3rd phase of development within the Morganton Park South Planned Development district. The preliminary development plans for the 1st phase (PD-09-21) and the 2nd phase (PD-07-22) were approved on October 12, 2021, and July 12, 2022, respectively.

III. TOWN COUNCIL EVIDENTIARY HEARING AND ACTION

An evidentiary hearing regarding a proposed Planned Development Preliminary Development Plan (PDP) for Morganton Park South Phase 3 Retail development application, under file PD-03-23, was called to order with 4 members present on September 12, 2023. The Mayor Pro Temp **Paul Murphy** administered the oath to all witnesses choosing to speak. **Alaina Mallette**, Senior Planner, entered Planning staff's September 12, 2023, report into the record as Exhibit A and presented changes submitted by the Authorized Agent on September 7, 2023; Planning staff's presentation was entered as Exhibit B. Then, **Robert Koontz** of KoontzJones Design, Authorized Agent, presented on behalf of the applicant—his September 12, 2023, presentation was entered as Exhibit C—and the applicant, **John Silverman** of Midland Atlantic Properties, spoke, as well. Members of the Town Council asked the witnesses—including a representative for the firm that completed the Traffic Impact Analysis, **Travis Fluitt** of Kimley-Horn—clarifying questions.

Several members of the public also spoke as witnesses, and the applicant and their representatives responded to concerns that were raised. A motion was made by the Town Council to continue the hearing until the following Town Council work session so that the applicant could (1) clarify with Planning staff what version of the PDP is the final version and (2) work with Planning staff to address shared parking concerns regarding the Unified Development Ordinance (UDO)-described intent of the Planned Development district. The motion carried.

The evidentiary hearing continued on September 26, 2023, at the Town Council work session with all 5 members of the Town Council in attendance. Planning staff presented changes made to the PDP site plan layout and provided a handout of recommended motions and conditions of approval; Planning staff's September 26, 2023, presentation was entered into the record as Exhibit E and the Planning staff's handout was entered as Exhibit D. Legal counsel for the applicant, **William J. Brian, Jr., Esq**. of Morningstar Law Group, and **Robert Koontz**, also spoke to changes that were made to the PDP site layout and responded to Planning staff's concerns. **Robert Koontz**' September 26, 2023, presentation was entered into the record as Exhibit F, one particular slide of the presentation showing pedestrian connections with illustrations was entered as Exhibit G, and a slide showing a table for prior Morganton Road Overlay district parking deviations was entered as Exhibit H.

Members of the Town Council and the Town Manager, **Reagan Parsons**, asked the witnesses—including the applicant, **William M. Mees, Jr.** of Midland Atlantic Properties—additional clarifying questions. Regarding utilities on the site, **Tim Carpenter** of LKC Engineering, provided testimony. Planning staff's September 26, 2023, staff report was added into the record as Exhibit I. No additional testimony was provided by the applicant or members of the public. For detailed minutes on the topics discussed during the evidentiary hearing, see the Town Clerk's minutes for each meeting.

The Town Council voted 5-0 to adopt Finding of Facts #1 and #2 of Exhibit D. The Town Council then voted 5-0 to adopt the proposal PD-03-23 with additional stated conditions as written in Attachment 1 to this staff report.

IV. ATTACHMENTS

1. Draft Written Decision for PD-03-23

V. TOWN COUNCIL ACTION

The Town Council may wish to take one of the following actions.

1. No action;
2. Accept the Written Decision for PD-03-23 as prepared by the Town staff;
3. An action listed above with the following conditions…; or
4. Action not listed above...

TOWN OF SOUTHERN PINES

AGENDA MEETING OF THE TOWN COUNCIL
October 3, 2023
6:00 pm
The Haney Community Room
450 W Pennsylvania Ave, Southern Pines, NC 28387

DECISION OF THE BOARD

Case Number: PD-03-23

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Several members of the public also spoke as witnesses, and the applicant and their representatives responded to concerns that were raised. A motion was made by the Town Council to continue the hearing until the following Town Council work session so that the applicant could (1) clarify with Planning staff what version of the PDP is the final version and (2) work with Planning staff to address shared parking concerns regarding the Unified Development Ordinance (UDO)-described intent of the Planned Development district. The motion carried.

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Members of the Town Council and the Town Manager, **Reagan Parsons**, asked the witnesses—including the applicant, **William M. Mees, Jr.** of Midland Atlantic Properties—additional clarifying questions. Regarding utilities on the site, **Tim Carpenter** of LKC Engineering, provided testimony. Planning staff's September 26, 2023, staff report was added into the record as Exhibit I. No additional testimony was provided by the applicant or members of the public. For detailed minutes on the topics discussed during the evidentiary hearing, see the Town Clerk's minutes for each meeting.

Matter at Issue

Written Decision of the Board for PD-03-23: A Planned Development District - Preliminary Development Plan for Morganton Park South Phase 3 Commercial/Retail

Town Council Action:

Having heard all evidence submitted by those wishing to speak, the Town Council then closed the public hearing. After closing the public hearing and discussing the application and information presented at the hearing, the Town Council approved the following findings of fact on the application by a vote of 5-0:

The Council voted on the following Findings of Fact and Conclusions of Law as required by UDO Section 2.18.5(H) and as presented in Exhibit D of PD-03-23:

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

Finding of Fact #2: The Town Council finds that the application complies with Section 2.18.5(H) Criteria for a Preliminary Development Plan, Criteria 1-4, in that:

1. **The application demonstrates that it will achieve the purposes of the PD district and the UDO.**
   The Town Council finds that the Preliminary Development Plan (PDP) for the Morganton Park South Phase 3 Retail development implements the purposes of the Planned Development District because the proposed wholesale retail building, restaurant, fuel station, open space, and multi-model greenway trails adjoining passive and active recreation amenities represent a mix of commercial and recreational land uses—components of a full Planned Development district. The proposed uses are a broad mix of land uses supporting the stated purpose of the district as being "to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational Development..." Furthermore, the design of the PDP is consistent with at least eleven of the fourteen stated intentions of the Planned Development district regulations as set forth in Chapter 3 of the UDO.

2. **The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of the UDO.**
   The Town Council finds that the PDP is generally consistent with the Morganton Park South Conceptual Development Plan (CDP; i.e., PD-08-21) and that the proposed PDP meets the general intent of the UDO standards for the base district. The applicant has requested a deviation from compliance with the CDP §5.5.1, CDP Exhibit XIII, and UDO §3.6.6(F)(4) Morganton Road Overlay parking maximum (i.e., 1 space per 250 square feet of gross floor area, or 10 total parking spaces for a 2,500-square foot drive-through restaurant). The applicant is proposing 23 parking spaces over the permitted maximum. Furthermore, per CDP §5.5.2, a network of pedestrian sidewalks, multimodal trails, and open space is required throughout the development, and development properties shall make connections to the multi-modal paths [in the linear park] where they install sidewalks and other pedestrian ways for accessibility. The applicant has agreed to include the pedestrian connection between the large wholesale building and the linear park as shown in their August 10, 2023, site plan layout submittal (i.e., "Version 2" referenced in Exhibits I and E). No evidence of public street lighting, large-scale retail building articulation, nor landscape screening for fuel canopies were provided on the PDP site layout.

   The PDP is appropriate with conditions agreeable to the applicant given the specific mix of uses and character of the development and achieves a more efficient, safe, or economical land use without detracting from the quality of the development or the community as a whole.

3. **The proposed Development is located in an area of the Town that is appropriate.**
   Town Council finds that the proposed PDP is located in an appropriate area of town because the proposed multi-phased, mixed-use development is proposed for an area that is designated as Traditional Mixed Use by the Comprehensive Long-Range Plan (2016)'s Future Land Use Map. Furthermore, the development may be served by existing public utilities or by utilities that will be improved by the developer and at the expense of the developer, and is located in an area of town with existing access to necessary infrastructure and where the street system is adequate, or will be improved to be adequate, to accommodate the projected traffic volumes. Additionally, the risk of negative impacts to the environmentally sensitive lands within and adjacent to the project site are being adequately mitigated through the development design.

4. **The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.**
   Town Council finds that the proposed PDP includes efficient extensions of public facilities, utilities and services because sewer and water facilities exist near the proposed development and any necessary extensions or improvements will be made by the developer. Furthermore, a portion of the property in which the development is proposed has been annexed by the Town and currently benefits from the public safety services available to properties within the Town's corporate boundary.

<u>Decision of the Council:</u>

By a vote of 5-0 the Town Council voted to approve the Preliminary Development Plan Application PD-03-23, with the following conditions:

1. That the approved PDP site layout is for the September 20, 2023 version—referred to as "Version 4" in Exhibits I and E—with an updated revision block

and the inclusion of the pedestrian connection between the large-scale retail building and the linear park (see Condition #9).

2. Southern Road shall be constructed with this Phase 3 and dedicated to the Town prior to issuance of a certificate of occupancy for any building within the development, per CDP §5.5.1 and CDP §10.
3. The geometry of the connection of Southern Road to the Carolina Green Parkway roundabout shall be approved by the Town Engineer prior to construction.
4. Public street lighting shall be LED and placed at each intersection and at such block spacing as may be required by the Public Service Director, per CDP §5.5.6 and UDO §4.8. Public street lights shall not be accepted by the Town until the road has also been accepted, per UDO §4.8.
5. Parking shall remain shared between the large-scale retail development parcel and the small retail parcel, per UDO §3.5.14(A)(6).
6. Fuel pump canopies shall have a landscape screen between the canopy and Southern Road as well as the adjacent proposed small retail development, per the Town of Southern Pines Landscaping Code standards and UDO §5.5.8, UDO §5.3, and UDO §5.4.
7. Outdoor recreation opportunities and amenities (e.g. multi-modal trails, benches, shade structures, bike racks, pet waste and trash receptacles) shall be included in the design of the linear park and other usable open space areas within the development in accordance with the CDP and PDP.
8. The multi-modal trail shall be dedicated to the Town as part of its Greenway Trail System per CDP §5.4. Amenities within the linear park such as benches and shade structures shall be maintained by the owner of each property having frontage along the linear park, per CPD §5.5.2.
9. Per CDP §5.5.2, the required network of pedestrian sidewalks, multimodal trails, and open space shall include the pedestrian connection between the large-scale retail building and the linear park—as shown in the August 10, 2023, PDP site plan layout submittal and referred to as "Version 2" in Exhibits I and E.
10. The Southern Road-facing and Carolina Green Parkway Road-facing facades shall have articulation along each elevation to satisfy large-scale retail development standards in UDO §4.10.6.
11. Prior to site plan review approval and the issuance of a Certificate of Occupancy for the large-scale retail and fuel station site within the PDP, all requirements within UDO §4.3.4 Buffers for existing vegetation and/or plantings within the 20-foot buffer between the site and the adjacent Southern Pines Village development shall be met without requests for variations in buffer standards.

This is the 3rd day of October, 2023.

FOR THE TOWN COUNCIL:

_____

Carol Haney, Mayor

cc: John Silverman, Midland Atlantic Properties, jsilverman@midlandatlantic.com
Robert Koontz, KoontzJones Design, bkoontz@koontzjones.com
Thomas Vancamp. Morganton Road Enterprises, thomasv@vancamplaw.com

Agenda Item

To: **Reagan Parsons, Town Manager**

From: **Alaina Mallette, Senior Planner**

Subject: **AR-07-23, Tiara Properties Business Park on SE Service Road; Applicant Tiara Properties, LLC, and Authorized Agent Seven Lakes Engineering Services, Inc.**

Date: **September 10, 2023**

I. SUMMARY OF APPLICATION REQUEST

The applicant, Tiara Properties, LLC, is requesting an Architectural Compliance Permit for new development of a business and office park on SE Service Road between the West Wisconsin Avenue and West Illinois Avenue rights-of-way. The site is located in the Office/Service (OS) district on 4 undeveloped parcels—PARIDs 98000377, 20020660, 00037470, and 20160148. No particular use within the OS district has been proposed; however, the application states "office" as "type of building." The new vertical development includes a total of 21,600 square feet of office space separated equally between 3 buildings, at 7,200 square feet per building. Town staff have been informed that the applicant intends to phase the development, but are currently seeking a single architectural compliance permit for all three buildings and the accessory dumpster.

The proposed development is within the Urban Transition Highway Corridor Overlay (HCO) district and the high-quality water, protected area of the Watershed Protection Overlay (WPO) district for the Little River Intake #2, as well. This parcel will have access from SE Service Road. This project has site plan approval dated May 24, 2023, per file ZP-15-22.

II. PROJECT INFORMATION

A. Property Owner

PIN 858100080569 (**PARID** 98000377)
PIN 858100080718 (**PARID** 20020660)
PIN 857100989888 (**PARID** 00037470)
PIN 857100988668 (**PARID** 20160148)
Tiara Properties, LLC
2236 Kivett Drive
Greensboro, NC 27406

B. Applicant and Authorized Agent

Shawn Rodriguez
Seven Lakes Engineering Services, Inc.
277 MacDougall Drive
Seven Lakes, NC 27376

Figure 1. Zoning and Vicinity Map for Properties Outlined in Blue. The lined areas with purple edges represent the Urban Transition HCO district and the dark grey filled areas with blue edges represent the high quality water areas of the WPO district.

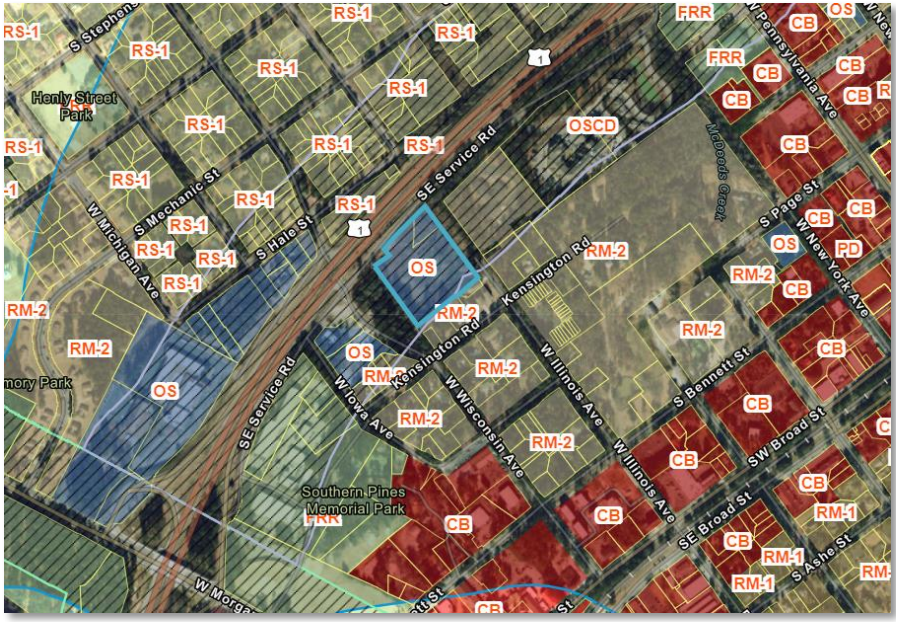


Figure 2. Comprehensive Plan with Subject Properties Highlighted in Orange. On the Conservation and Development Map, subject properties are designated as "Neighborhood" while the Character Districts Maps designation is "Downtown Adjacent Neighborhood."

Figure 3. Google Street View of site from SE Service Road.

Figure 4. Drone imagery (February 15, 2023) of site with adjacent land uses and rights-of-way.

III. STAFF REVIEW

1. Application Review Dates

Application Submitted: **June 23, 2023**
Application Deemed Incomplete: **June 26, 2023**
Application Deemed Complete: **September 18, 2023**
Town Council Agenda Meeting: **October 3, 2023**
Town Council Regular Meeting: **October 10, 2023**

2. Criteria for Review per UDO §2.26.7 and Staff Comments

Applications for Architectural Compliance Permits are reviewed pursuant to UDO §2.26. When reviewing an application for an Architectural Compliance Permit, the Town Council shall approve, conditionally approve, or deny the application based on the following criteria, as set forth in **UDO §2.26.7**. See staff comments for each criterion below.

(A) *For Buildings with ten thousand (10,000) square feet or more of Gross Floor Area or that do not comply with the commercial Building design standards in Section 4.10, the application is consistent with the applicable Comprehensive Plan goals and policies;*

On the Conservation and Development Map, subject properties are designated as "Neighborhood" while the Character Districts Maps designation is "Downtown Adjacent Neighborhood." Neighborhood areas should be primarily residential in nature, but may include limited civic (church, school, or small community center) or neighborhood-supporting non-residential uses. An office-park could provide jobs as well as office-related services within walking distance of adjacent residential areas. The character of downtown-adjacent neighborhoods is overwhelmingly defined by single-family detached homes on small lots. Three churches, a neighborhood school, and Southern Pines Memorial Park are represented in the different neighborhoods identified as adjacent to downtown. Offices are not envisioned to be included in the Downtown Adjacent Neighborhood. However, the property is presently zoned OS - Office Services and the applicant has a valid development approval as part of the project (site plan) that predates the adoption of the 2040 Comprehensive Plan.

(B) *The application substantially conforms with the applicable Multi-Family or commercial design standards and other applicable provisions of the UDO; and*

For clarity, the applicant considers the rear of the building to be the "Front Elevation." The UDO defines "Building Front" and "Frontage" as "the length of that side of the Principal Building that faces the street. For corner Lots, the front shall be determined by the Planning Director based on other Development along the faces of the block on which the corner Lot is located." Building frontage has been determined to be the elevation that faces SE Service Road as there is no access to W. Wisconsin Avenue, which is densely vegetated. So, Planning staff refer to the applicants' elevations as follows:

- Applicant's Front Elevation = Actual Rear Elevation, side facing away from SE Service Road.

- Applicant's Rear Elevation = Actual Front Elevation, side facing SE Service Road.
- Applicant's Left Side Elevation = Actual Right Side Elevation
- Applicant's Right Side Elevation = Actual Left Side Elevation

Comments are provided solely for sections where non-compliance has been identified.

- UDO §3.5.11 Office/Service District. *Building sides facing streets and residential Lots shall have parapets, mansard or false mansard roofs or shingled or standing seam roofs with a minimum pitch of 6:12 (vertical rise:horizontal run).* The West Wisconsin Avenue-facing elevation has a portion of the roofing showing a 3.5:12 pitch, which is flatter than what is permitted for street-facing elevations. The applicant is requesting a deviation from this standard.
- UDO §4.3.5. Dumpster enclosures and HVAC must be screened from unobstructed off-site views. The applicants are proposing to screen the dumpster with a dumpster enclosure structure made of cement block and an HVAC enclosure made of wood. Staff recommends that the dumpster enclosure be built with building materials consistent with the architecture of the main building by utilizing the sand white brick proposed on the main building.
- UDO §4.10.4 Development Design Standards. Of the 10 standards, 7 apply. The applicant's proposed design complies with 6 of the 7 standards and compliance for 1 standard could not be determined, despite multiple email requests. See staff comments in the following section for more details.
- UDO §4.10.5. Frontage. *Minimum 3-foot frontage zone; Minimum 8-foot pedestrian zone; and a minimum 5-foot furniture zone*. The applicant has only 9 feet of frontage zone approved, which was approved during site plan review for file ZP-15-22.
- Note that daycare centers are an authorized land use in the Office/Service district and could be proposed in these buildings. If so, the center would have to meet supplemental requirements within UDO §5.7, which includes architectural standards for "residential character."

(C) *The application is consistent with applicable conditions of prior Development approvals.*

- ✓ To the planning staff's knowledge, there are no prior conditions on the subject properties. There is a development approval for the site plans, which can be found in the Planning Department's file ZP-15-22.

3. Staff Comments based on Commercial Building Design Requirements per UDO §4.10.4

The proposed new development includes the construction of a 6,132 square-foot convenience store with restaurant, 12 fueling stations under a fuel pump canopy, outdoor seating area, trash enclosure, signage, a propane exchange station, and

outdoor ice freezer and display. Staff has reviewed the project for compliance with UDO §4.10.4 *Building Design Requirements*. See staff comments for each requirement below.

- **Applicant is generally compliant** for UDO §4.10.4 (A), *which states that the front of buildings shall face and have the primary customer entry facing the street. Maximum spacing or distance between customer entries shall not exceed the standards in Exhibit 4-15, 100 feet in the OS district and there must be at least one entry per business.*
- **Applicant is generally compliant** for UDO §4.10.4 (B), *which states in non-CB and non-DTO districts, the width of buildings or building segments shall not be more than twice the building height. Building segments may be created through a combination of vertical features such as changes in material, building offsets, courtyards, changes in rooflines or architectural features that create the appearance of building segments.*
- **Compliance cannot be determined** for UDO §4.10.4 (C), *which states the exterior finish of building walls shall be primarily comprised of brick. Cementitious horizontal lap siding, textured concrete masonry, cast stone and stucco may be used for accents, provided that they cover no more than twenty (20) percent of the exterior walls, exclusive of doors and windows. Wood and metal may be used as trim around doors and windows.*
  - ✘ The columns shown on the front elevation (i.e., SE Service Road-facing elevation) and rear elevations—that are also visible from the side elevations—are made of MiraTEC, which are made from wood fibers, wax, phenolic resins, zinc borate, and other proprietary materials, according to the MiraTEC wesite[1].
  - ✘ No building material calculations were provided for the rear (i.e., facing Kensington Road homes) or left (i.e., unimproved West Illinois Avenue right-of-way) elevations.
  - ✘ The building material calculations for the front (i.e., SE Service Road-facing) and right (i.e., West Wisconsin Ave-facing) elevations did not include the fascia or freeze boards nor the area in the peak of the gable dormer in the middle of the frontage zone—over the patio and balcony areas—or the building material used around the edge of the 2nd story balconies. However, the walls excluding the columns, the balcony materials, and the fascia and freeze boards appear to be 100% brick, including the brick soldier accents.

  The Town Council may consider approving the use of alternative building materials that establish an equivalent appearance and have equal or greater durability as well as alternative building materials that satisfy minimum

[1] https://miratecextira.com/the-tec-process/

building code standards on walls that are screened and not visible from public streets.

- **Applicant is generally compliant** for UDO §4.10.4 (D), *which states that windows shall be glazed in non-reflective clear glass. The following standards apply in the OS district: windows and doors shall comprise at least twenty-five (25) percent of street-facing building façades between the elevations of two (2) and ten (10) feet above the grade of the building entry*.
- **Requirement does not apply** for UDO §4.10.4 (E), Awnings, as there are no awnings proposed.
- **Requirement does not apply** for UDO §4.10.4 (F), Galleries and Arcades, as there are no galleries or arcades proposed.
- **Applicant is generally compliant** for UDO §4.10.4 (G), *which states that in the OS district, buildings may use parapets with cornices, gable or hip roofs. The provision further states that shingles or standing seam, non-reflective metal shall be used on all roofs visible public streets. Brightly colored roofs, such as intense blues, reds or oranges are prohibited.*
- **Applicant is generally compliant** for UDO §4.10.4 (H), *which states that mechanical equipment shall be screened from view from the street and cannot be located between the building and the street.*
- **Requirement does not apply** for UDO §4.10.4 (I), Loading Zones and Garage Bays, as none are being proposed with this application.
- **Compliance will be determined during sign permit review** for UDO §4.10.4 (J), *which states signage shall comply with the standards in section 4.6 and any applicable zoning district standards.*

4. Staff Recommendation

Despite multiple email requests, as of the deadline for completion of this staff report (September 28, 2023), planning staff have not received final building material calculations for each elevation that clearly demonstrate that each elevation will have at least 80% brick. Staff must recommend a continuance to the November 14, 2023 Town Council Regular Meeting so that the applicant can provide the needed materials to verify compliance.

Following receipt of these materials, if compliance of building materials can be verified, staff would recommend approval of AR-07-23 with the following deviations and conditions:

- Deviation 1. Regarding UDO §3.5.11 Office/Service District, the Planning Department recommends granting the deviation, since the majority of the roof does comply with the 6:12 minimum roof pitch.
- Condition 1. The dumpster enclosure made of cement block be painted to match the appearance of the principal building.

IV. ATTACHMENTS PROVIDED BY THE APPLICANT

1. Completed Application
2. Approved Site Plan (page from ZP-15-22)
3. Exterior Building Elevations and Renderings
4. Staff Communication with Applicant

V. TOWN COUNCIL ACTION

The Town Council should consider the purpose of an architectural compliance permit per UDO §2.26 and shall vote on whether the proposed application complies with the criteria per UDO §2.26, the commercial building design requirements per UDO §4.10.4, and additional provisions in UDO §3.5.11, Urban Transition HCO district standards, §4.10.5, and §5.3.

The Town Council may make one of the following motions or any alternative they wish:

I move to:

1. Approve AR-07-23;
2. Approve AR-07-23 with the following deviations and/or conditions:
   _____
   _____
   _____
   _____;
3. Continue AR-07-23 to the November 14 Town Council Regular Meeting to allow for submittal of building material calculations for each elevation.
4. Deny AR-07-23.

Town of Southern Pines
Chartered 1887
North Carolina

Architectural Compliance Permit Application

Date Received: _____ Fee Paid: _____ Case No.: AR-____-____

TO THE TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES:

I, the undersigned, do hereby make application for an Architectural Compliance Permit regarding for the following project:

Project Information:

Project Name: TIARA PROPERTIES BUSINESS PARK

Street Address: _____

PIN: 20160148 Parcel ID: 857100988668 Zoning: OS

Type of building (retail, office, etc.): OFFICE Total square footage: 7200

Applicant:

Name: TIARAPROPERTIES, LLC

Email: TIARAPROPERTIESLLC@GMAIL.COM Phone: 304-541-1492

Mailing Address: 2236 KIVITT DR., GREENSBORO, NC 27406

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

Name(s): _____

Email: _____ Phone: _____

Mailing Address: _____

Date: 05/04/23

Applicant

1/12/22

APPOINTMENT OF AGENT

The undersigned owner(s), TIARA PROPERTIES, hereby appoint(s) SEVEN LAKES ENGINEERIN as the exclusive agent for the purpose of making an application to the Town of Southern Pines for an **Architectural Compliance Permit** for improvements to the property described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;

2. to appear at public meetings and give representation and comments on behalf of the owner(s);

3. to accept conditions or recommendations made by the Town of Southern Pines Town Council for the issuance of an **Architectural Compliance Permit** for improvements to the subject property; and

4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for an **Architectural Compliance Permit** under the Southern Pines Unified Development Ordinance.

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

Signed this 4TH day of MAY, 2023.

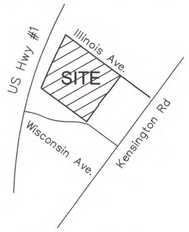
Tiara Properties

Property Owner

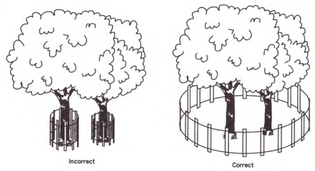
Property Owner

Agent

1/12/22



VICINITY SKETCH
SCALE 1" = 500'



NOTES:

In spite of precautions, some damage to protected trees may occur. In such cases repair any damage to the crown, truck or root system immediately.

– Repair roots by cutting off the damaged areas and painting them with tree paint. Spread peat moss or moist topsoil over exposed roots.

– Repair damage to bark by trimming around the damaged areas, taper the cut to provide drainage, and paint with tree paint.

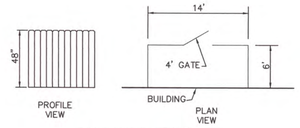
– Cut off all damaged tree limbs above the tree collar at the trunk or main branch. Use three separate cuts to avoid peeling bark from healthy areas of the tree.

–Barrier should be installed at the drip line of tree branches.

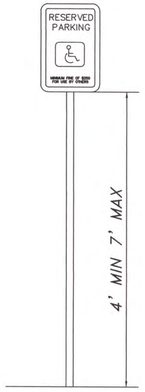
Post & Fence Detail

1. Fence posts shall be either standard steel posts or wood posts with a minimum cross sectional area of 3.0 sq. in.
2. The fence may be either 40" plastic web fencing or any other material as approved by the engineer/inspector.

Tree Protection Fencing Detail
Scale : None

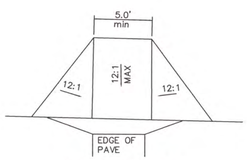


HVAC WOOD FENCE DETAIL



HANDICAP PARKING SIGN DETAIL

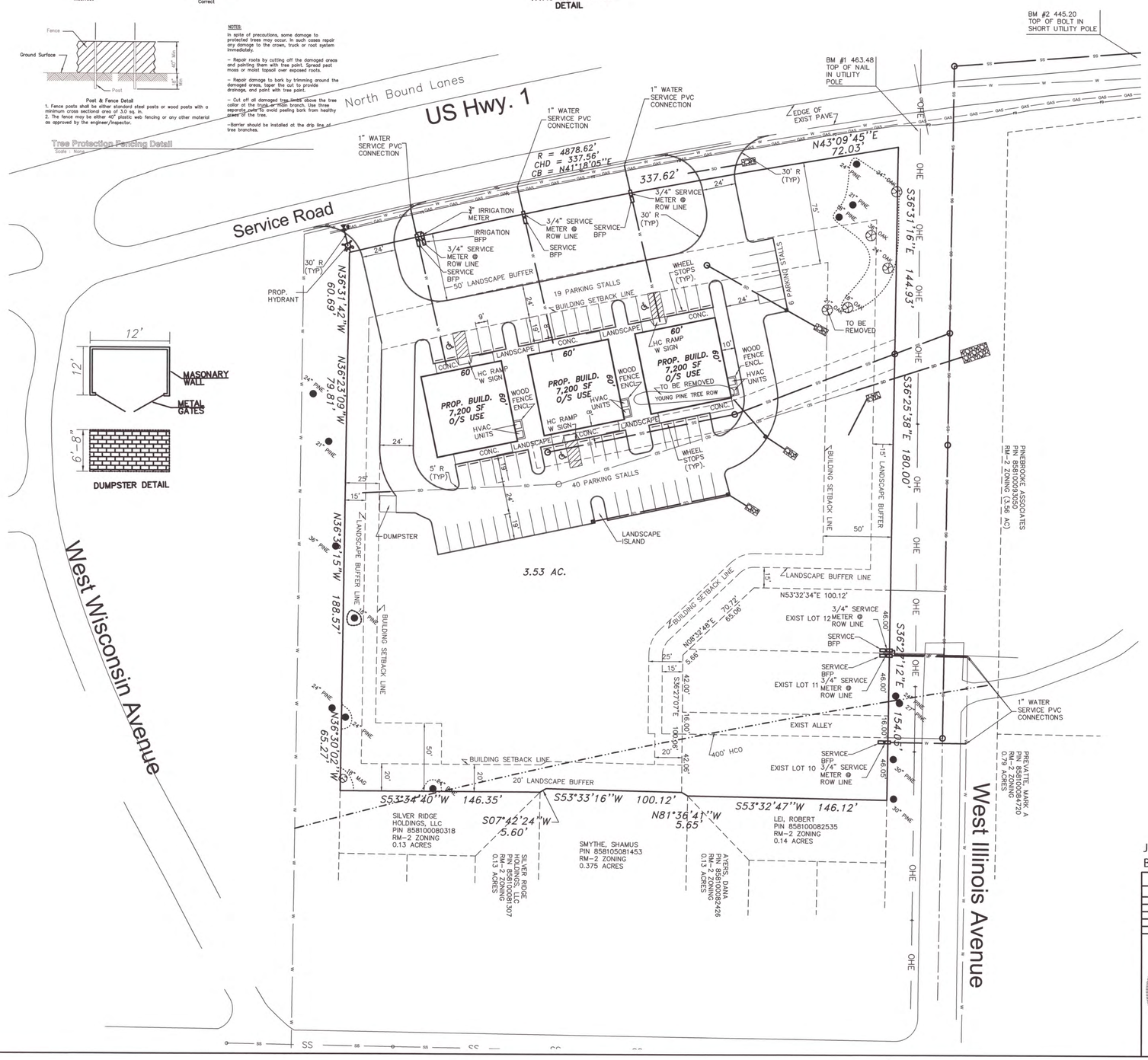
DUMPSTER DETAIL



ADA RAMP DETAIL

BENCH MARK DISCRIPTIONS
BM #1 NAIL IN UTILITY POLE AT SOUTHEAST EDGE OF PAVEMENT AT SERVICE ROAD AND ILLINOIS AVE. (463.48)

BM #2 BOLT IN SHORT UTILITY POLE LOCATED ON THE NORTH SIDE OF SERVICE ROAD JUST NORTH OF ENTRANCE DRIVE TO APARTMENTS (455.20)



LEGEND

- EXISTING WATER MAIN
- PROPOSED WATER MAIN
- PROPOSED SANITARY SEWER
- EXIST STORM SEWER
- PROPOSED STORM SEWER
- EXISTING PROPERTY LINE
- PROPOSED BUILDING
- EXIST. FIBER OPTIC LINE
- EXIST. TELEPHONE LINE
- EXIST. GAS LINE
- EXIST. OVERHEAD UTILITY LINES
- PROPOSED CURB
- PROPOSED TREE PROTECTION FENCING

NOTES:

PARCEL NUMBERS	98000377/858100080569 00037470 / 857100989888 20160148 / 857100988668 20020660 / 858100080718
TOTAL ACRES	4.03 ACRES (3.53 DEVELOPED 0.50 REMAIN)
CURRENT ZONING	OFFICE SERVICE & A CURRENTLY UN-ZONED PARCEL
WATERSHED	HQW CAPE FEAR BASIN LITTLE RIVER (INTAKE #2) TYPE WS-IIIP

MAXIMUM PARKING PER TABLE 3-13 SOUTHER PINES UDO
5 SP/1,000 SF BUILDING = 108 SPACES

PARCEL IS PARTIALLY WITHIN THE HIGHWAY CORRIDOR URBAN TRANSITION OVERLAY DISTRICT. REQUIRED BUFFERS AND SETBACKS WITHIN THIS DISTRICT SUPERSEDE THOSE OF THE BASE ZONING DISTRICT AND ANY UN-ZONED PORTIONS OF THE PROPERTY.

	HCO Building Setback Requirements	O/S Building Setback Requirements
Front (Highway Yard)	75'	15'
Exterior Side	25' from non-residential zones' 50' from residential zones	20'
Rear	25' from non-residential zones; 50' from residential zones	20'
Parking Setback from Highway	50'	

	HCO Min. Buffer Width	OS Min. Buffer Width
Front (Highway Yard)	50'	0' when property abuts NB,OS or GB zoned property. 20' when property abuts any other zoning
Side and Rear Yard	15'	0' when property abuts NB, OS, or GB zoned property. 20' when property abuts any other zoning

* PARCEL IS PARTIALLY WITHIN THE HIGHWAY CORRIDOR URBAN TRANSITION OVERLAY DISTRICT. REQUIRED BUFFERS AND SETBACKS WITHIN THE DISTRICT SUPERSEDES THOSE OF THE BASE ZONING DISTRACT AND ANY UN-ZONED PORTIONS OF THE PROPERTY.

PREPARED FOR:
TIARA PROPERTIES LLC
2236 KIVETT DR.
GREENSBORO, NC. 27406

GRAPHIC SCALE
40 0 20 40 80
(IN FEET)
1 inch = 40 ft.

Jeffrey D. Barczak
Digitally signed by Jeffrey D. Barczak
Date: 2023.05.15 11:45:08 -04'00'

FIRM NO. P-1808
DRAWING NO. C22214R0

REVISIONS	
DATE	BY
02/02/23	JDB
03/02/23	JDB
04/11/23	JDB
04/28/23	JDB
05/15/23	JDB

NORTH CAROLINA PROFESSIONAL SEAL 035213 APEX, NC. ENGINEER JEFFREY D. BARCZAK

BARCZAK ENGINEERING SERVICES PLLC.
139 Grantham House Way, Apex, NC. 27523
414-429-4865 barczakengineering@gmail.com

TOWN OF SOUTHERN PINES, NC

PROPOSED SITE PLAN
TIARA OFFICE PARK

SCALE: HORZ. 1" = 40'	JOB NO.: C22214R0	DATE: 11/15/22
DESIGNED. BY: JEFFREY BARCZAK	DRAWN BY: JDB	CHECKED BY: JDB
APPROVED BY: City Engineer	Date	PAGE 2 OF 12

FOR VISUAL REPRESENTATION ONLY

FRONT

REAR

SEVEN LAKES ENGINEERING SERVICES, INC.

2223 Seven Lakes South
Seven Lakes, NC 27376
Telephone: 910.673.0978
Email: 7lakesengrg@gmail.com

NORTH CAROLINA PROFESSIONAL SEAL 010163 ENGINEER CHARLES R. FARWELL, JR.

ARTIGA DESIGN EST. 2009
Enrique J. Artiga
(910)-637-0350

REVISIONS

CILENT:
TIARA PROPERTIES
OFFICE BUILDING
W WISCONSIN AVE
& SE SERVICE RD
Southern Pines, NC 28387

PROJECT NO: 22-226-657

DATE: 1/12/2023

DRAWN BY:

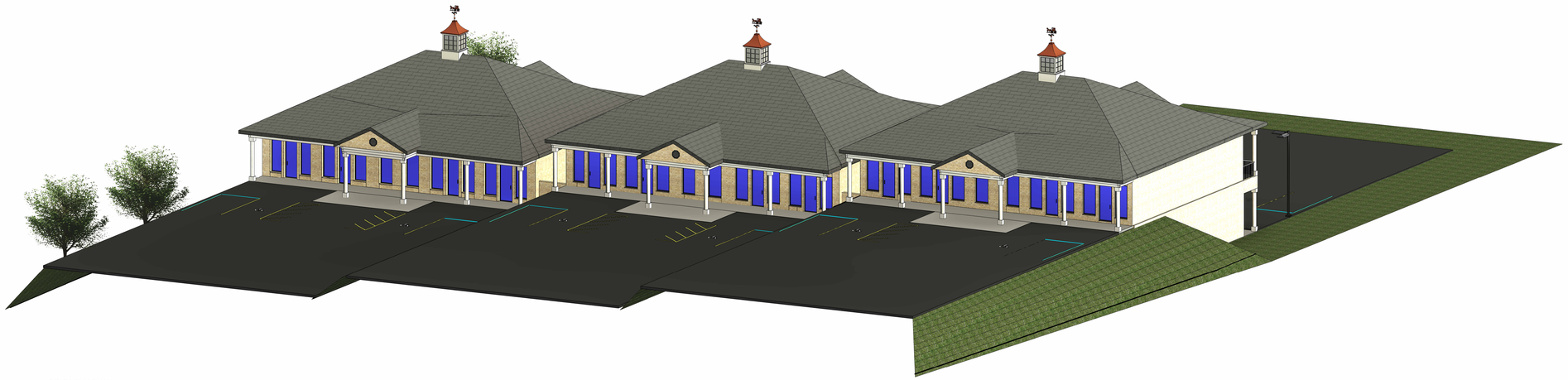
Scale: 1/4" = 1'0"

TITLE: RENDERINGS

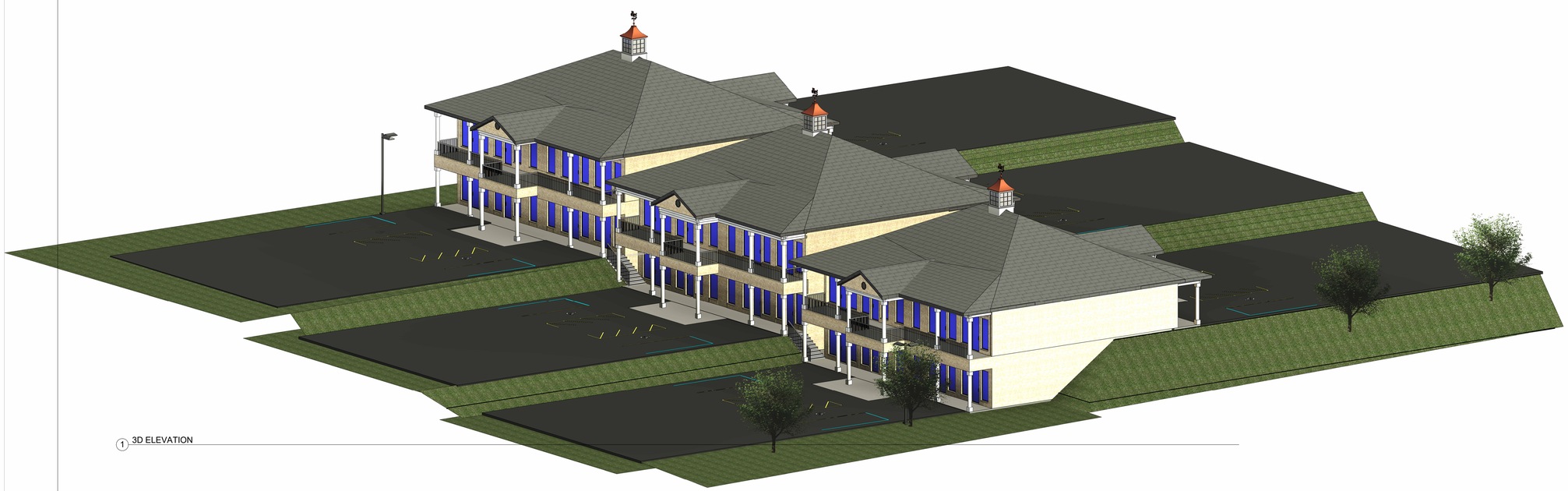
Sheet Number:

1 of 3

FOR VISUAL REPRESENTATION ONLY



2 3D ELEVATION,



1 3D ELEVATION

FOR VISUAL REPRESENTATION ONLY

SEVEN LAKES ENGINEERING SERVICES, INC.

2223 Seven Lakes South
Seven Lakes, NC 27376
Telephone: 910.673.0978
Email: 7lakesengrg@gmail.com

NORTH CAROLINA PROFESSIONAL SEAL 012183 ENGINEER CHARLES R. STARWALT, JR.

ARTIGA DESIGN EST. 2009

Enrique J. Artiga
(910)-637-0350

REVISIONS

CILENT:
TIARA PROPERTIES
OFFICE BUILDING
W WISCONSIN AVE
& SE SERVICE RD
Southern Pines, NC 28387

PROJECT NO: 22-226-657

DATE: 1/10/2023

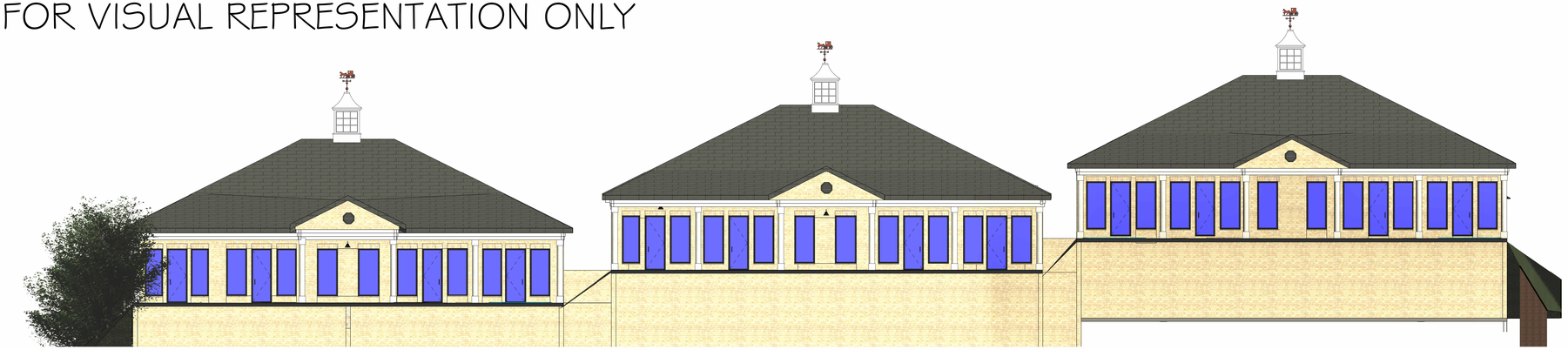
Scale: 1/4" = 1'0"

TITLE: 3D VIEW

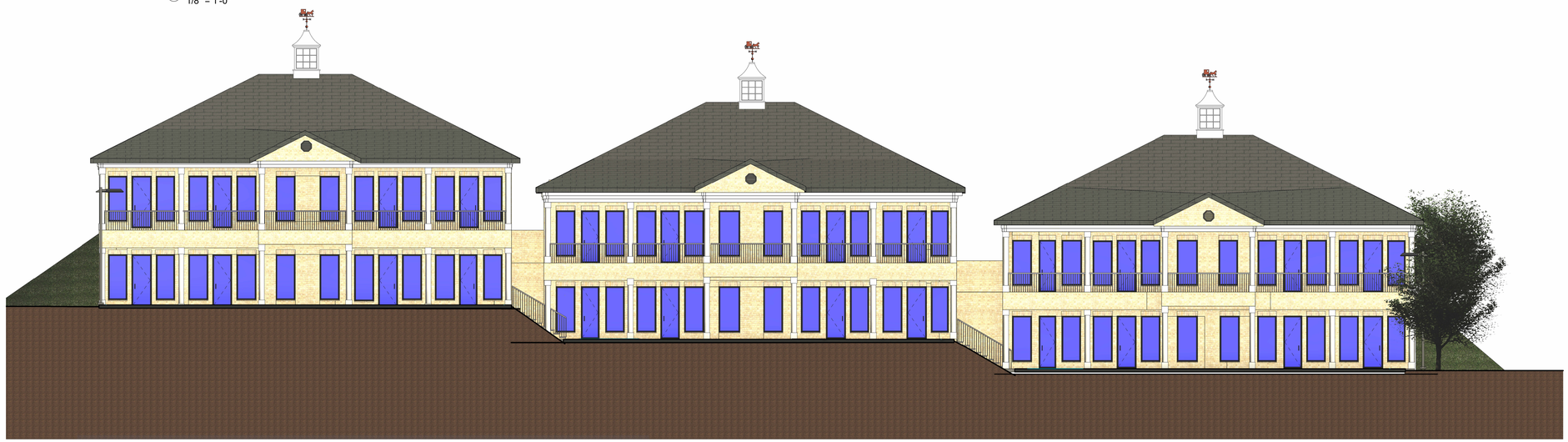
Sheet Number:

2 of 3

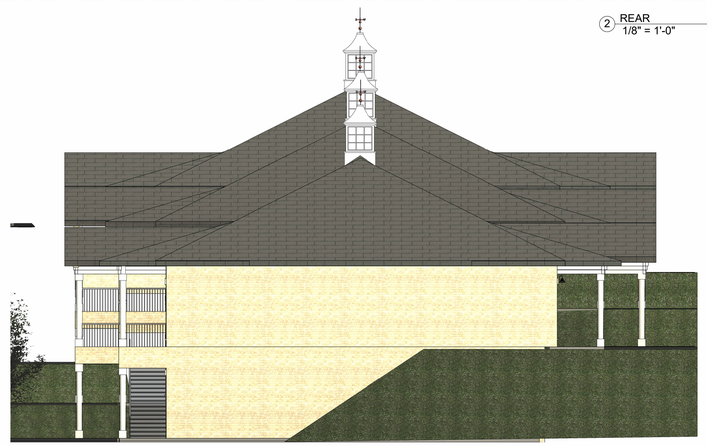
FOR VISUAL REPRESENTATION ONLY



3 FRONT
1/8" = 1'-0"

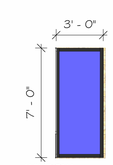


2 REAR
1/8" = 1'-0"

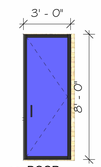


4 LEFT
1/8" = 1'-0"

1 RIGHT
1/8" = 1'-0"



5 WINDOW
1/4" = 1'-0"



6 DOOR
1/4" = 1'-0"

SEVEN LAKES
ENGINEERING SERVICES, INC.
2223 Seven Lakes South
Seven Lakes, NC 27376
Telephone: 910.673.0978
Email: 7lakesengrg@gmail.com

NORTH CAROLINA PROFESSIONAL SEAL 010183 ENGINEER CHARLES R. FARRELL, JR.

ARTIGA DESIGN EST. 2009
Enrique J. Artiga
(910)-637-0350

REVISIONS

CILENT:
TIARA PROPERTIES
OFFICE BUILDING
W WISCONSIN AVE
& SE SERVICE RD
Southern Pines, NC 28387

PROJECT NO: 22-226-657

DATE: 1/10/2023

Scale: 1/4" = 1'0"

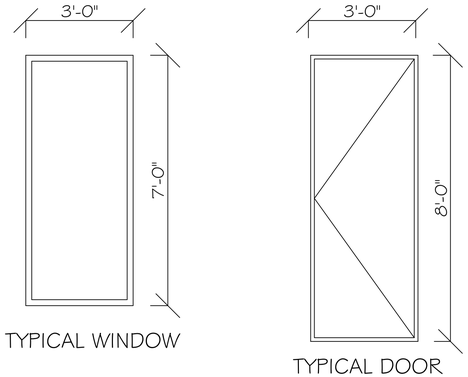
TITLE: ELEVATIONS

Sheet Number

3 of 3

FRONT ELEVATION

MATERIAL LIST
BRICK: SAND WHITE
SHINGLES: GRAY
WINDOW GLAZE: NON-REFLECTIVE CLEAR GLASS



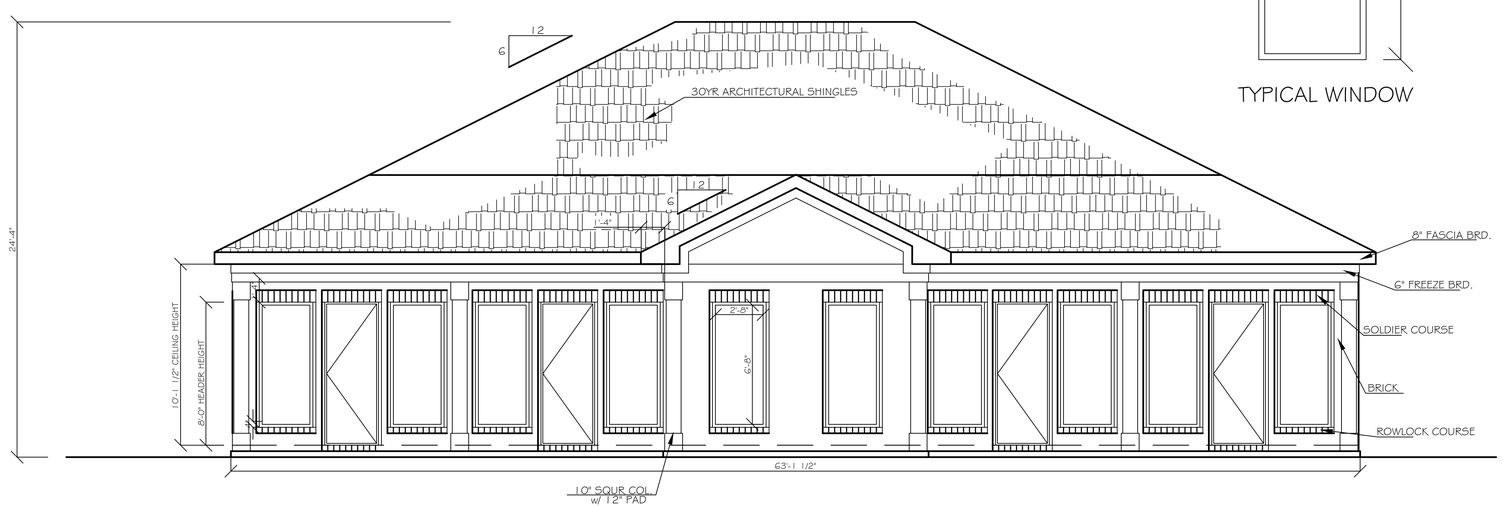
TYPICAL WINDOW

TYPICAL DOOR

MATERIAL LIST
BRICK: SAND WHITE
SHINGLES: GRAY
WINDOW GLAZE: NON-REFLECTIVE CLEAR GLASS

REAR ELEVATION
SURFACE AREA CALCULATIONS:

TOTAL WALL AREA: 9'-8" * 62'-11"= 608.19 sq.ft.	
TOTAL WALL AREA (@ 2ft & 10 ft GRADE)	503.33 SQ. FT.
REQUIRED:	
WINDOW & DOOR AREA: 503.33 SQ. FT. * 25% =	125.83 SQ. FT.
PROPOSED:	
WINDOW AREA:	210.00 SQ. FT.
DOOR AREA:	87.00 SQ. FT.
TOTAL WINDOW & DOOR AREA:	297.00 SQ. FT.
BRICK: 608.19 sq.ft. - 297 sq.ft. = 311.19 sq.ft.	
BRICK: 311.19 sq.ft./608.19 sq.ft. = 51.17%	



REAR ELEVATION

SE SERVICE RD.

SEVEN LAKES ENGINEERING SERVICES, INC.
2223 Seven Lakes South
Seven Lakes, NC 27376
Telephone: 910.673.0978
Email: 7lakesengrg@gmail.com

ARTIGA DESIGN EST. 2009
Enrique J. Artiga
(910)-637-0350

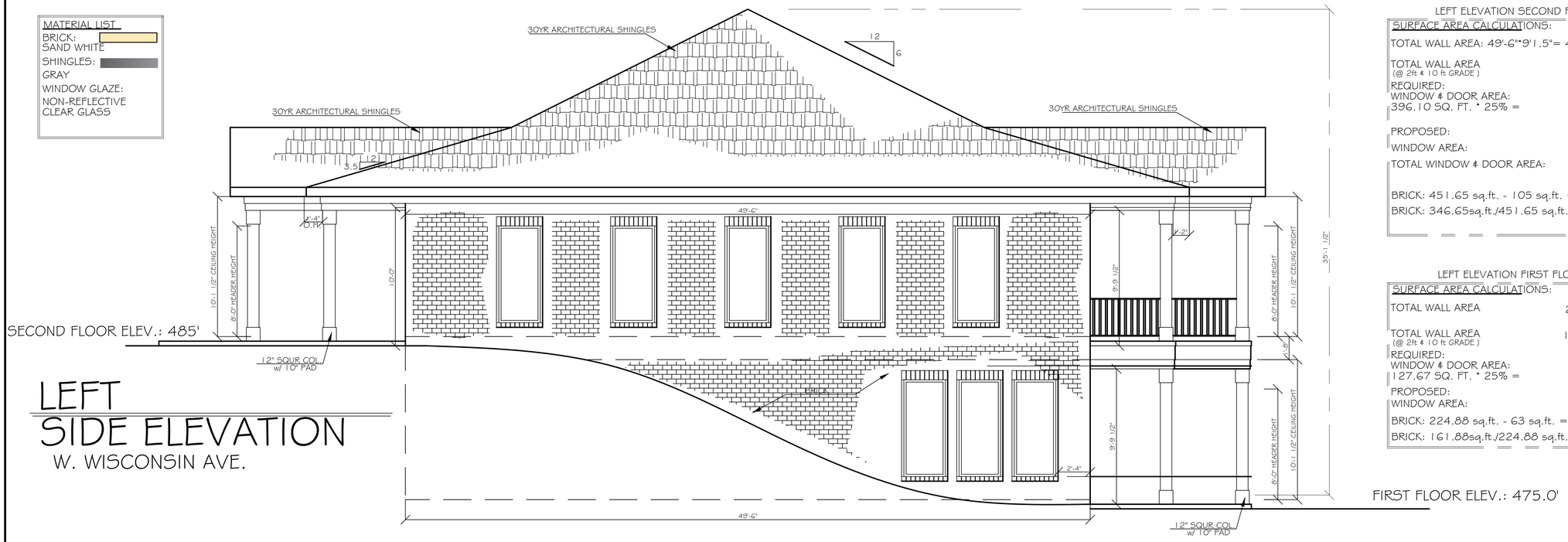
REVISIONS

By:	DATE/DESCRIPTION
EJA	05/30/2021

Client:
TIARA PROPERTIES
OFFICE BUILDING
W WISCONSIN AVE
& SE SERVICE RD
Southern Pines, NC 28387

PROJECT NO: 22-226-657
DATE: 09/15/2023
DRAWN BY:
SCALE: 1/4" = 1'0"
TITLE: ROOF PLAN
Sheet Number: 4 of 7

MATERIAL LIST
BRICK: SAND WHITE
SHINGLES: GRAY
WINDOW GLAZE: NON-REFLECTIVE CLEAR GLASS



LEFT SIDE ELEVATION
W. WISCONSIN AVE.

LEFT ELEVATION SECOND FLOOR

SURFACE AREA CALCULATIONS:

TOTAL WALL AREA: 49'-6"*9'1.5"= 451.65 sq.ft

TOTAL WALL AREA (@ 2ft & 10 ft GRADE) 396.10 SQ. FT.

REQUIRED:
WINDOW & DOOR AREA:
396.10 SQ. FT. * 25% = 99 SQ. FT.

PROPOSED:
WINDOW AREA: 105 SQ. FT.
TOTAL WINDOW & DOOR AREA: 105 SQ. FT.

BRICK: 451.65 sq.ft. - 105 sq.ft. = 346.65 sq.ft.
BRICK: 346.65sq.ft./451.65 sq.ft. = 76.75%

LEFT ELEVATION FIRST FLOOR

SURFACE AREA CALCULATIONS:

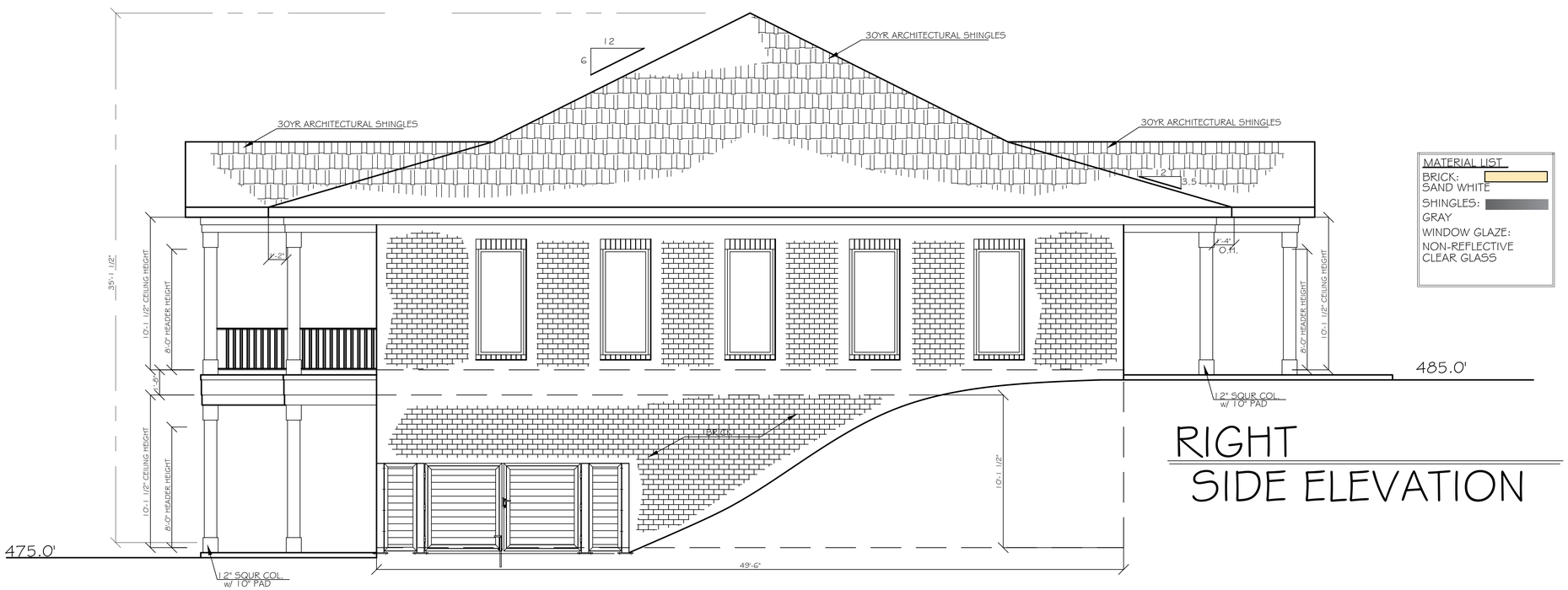
TOTAL WALL AREA 224.88 SQ. FT.

TOTAL WALL AREA (@ 2ft & 10 ft GRADE) 127.67 SQ. FT.

REQUIRED:
WINDOW & DOOR AREA:
127.67 SQ. FT. * 25% = 31.92 SQ. FT.

PROPOSED:
WINDOW AREA: 63 SQ. FT.

BRICK: 224.88 sq.ft. - 63 sq.ft. = 161.88 sq.ft.
BRICK: 161.88sq.ft./224.88 sq.ft. = 71.98%



MATERIAL LIST
BRICK: SAND WHITE
SHINGLES: GRAY
WINDOW GLAZE: NON-REFLECTIVE CLEAR GLASS

RIGHT SIDE ELEVATION

SEVEN LAKES ENGINEERING SERVICES, INC.
2223 Seven Lakes South
Seven Lakes, NC 27376
Telephone: 910.673.0978
Email: 7lakesengrg@gmail.com

NORTH CAROLINA PROFESSIONAL SEAL 032063 ENGINEER

ARTIGA DESIGN EST. 2005
Enrique J. Artiga
(910)-637-0350

REVISIONS

By:	DATE/DESCRIPTION
EJA	05/30/2021

Client:
TIARA PROPERTIES
OFFICE BUILDING
W WISCONSIN AVE
@ SE SERVICE RD
Southern Pines, NC 28387

PROJECT NO: 22-226-657
DATE: 09/15/2023
DRAWN BY:
SCALE: 1/4" = 1'0"
TITLE: ROOF PLAN
Sheet Number: 5 of 7

From: Seven Lakes Engineering Services Inc.
To: Alaina Mallette
Cc: Tricia Knight; BJ Grieve
Subject: Re: AR-07-23 Tiara Properties Business Park Completeness Review
Date: Friday, September 22, 2023 4:49:32 PM
Attachments: Tiara Properties.pdf

---

1. Can you confirm that 26.26’ is the maximum spacing between building entries?
    1. 26.26' will be the maximum spacing between building entries.
2. Is the dumpster masonry wall proposed to be cement blocks or brick?
    1. Dumpster masonry will be a cement block.
3. Can you confirm that the right elevation is facing W. Wisconsin Ave.?
    1. The left elevation will be facing W. Wisconsin Ave. The rear of the building is facing US-1 while the front of the building is facing Kensington Rd.
4. UDO §3.5.11(D)(3) requires a minimum roof pitch of 6:12 on residential-facing and street-facing elevations. The front, rear, and W. Wisconsin Ave-facing elevations would need to satisfy this requirements, and it appears that the W. Wisconsin Ave-facing elevation has a portion of the roofing that is 3.5:12, which is flatter than the required minimum of 6:12. Are you requesting a deviation from this requirement or do you plan to modify the design to comply?
    1. The section of the roof that shows a 3.5:12 slope is just a shed roof. The rest of the roof structure will remain 6/12. Yes, we would like to request a deviation from this requirement.
5. What material are the columns made of and will they be white as they are portrayed in the color renderings?
    1. The column will be aluminum frame columns wrapped in MiraTEC.
6. Are the soldier course accents above and below windows and doors brick or stone? And, what color is being proposed for those accents?
    1. The Soldier course accents will be brick. Sand White will be the color of the brick.
7. Planning staff are unable to determine compliance with the building materials requirements. Please submit updated calculations that address the following comments.
    a. Front elevation.
        i. The calculations for the 2nd floor are shown as the same numbers as the 1st floor, 2’-10’. To check compliance, Planning needs 2’-10’ calculations for window glazing and whole elevation calculations of building materials (minus the glazing and doors).

    b. Rear elevation.
        i. The rear elevation is not street-facing, so no glazing calculations are needed for 2’ to 10’. Planning needs whole elevation calculations of building materials (minus the glazing and doors).

    c. Left side elevation.
        1. All elevations have been updated to reflect the correct calculations. Please refer to the attached PDF for those updated calculations.
            i. It appears to he the same calculation table as the

front elevation. Can you confirm that the calculation is correct or update if it is not correct.

ii. Left side elevation (if facing W. Illinous Ave ROW), is not street-facing. Therefore, we do not need glazing calculations for 2'-10'. Planning needs whole elevation calculations of building materials (minus the glazing and doors).

1. All elevations have been updated to reflect the correct calculations. Please refer to the attached PDF for those updated calculations.

d. Right side elevation i. If this is the W. Wisconsin Ave-facing elevation, then we do need correct glazing calculations for 2'-10' AS WELL AS the whole elevation calculations of building materials (minus the glazing and doors).

1. All elevations have been updated to reflect the correct calculations. Please refer to the attached PDF for those updated calculations.

8. Can you confirm that you plan to submit a sign application separate from this application?
   1. A separate sign application will be submitted from this application.

Please provide above information by Friday, September 22, 2023, EOB.

This application is scheduled to go before the Town Council at their **agenda meeting** on **October 3, 2023**, at **6:00 p.m.** in the **Haney Room of the Police Department**. Please be present to address the Town Council at that meeting. The final decision on the application will be taken at their **October 10, 2023, regular meeting** at **6:00 p.m.** at the **E.S. Douglass Community Center**.

Thank you, in advance, for getting this information to us.

Best,

Shawn Rodriguez
910-638-0965
Project Manager
Seven Lakes Engineering Services Inc.
7lakeseng.com

On Mon, Sep 18, 2023 at 5:03 PM Alaina Mallette <amallette@southernpines.net> wrote:

> Good afternoon, Shawn,
>
> On June 23, 2023, the Planning Department received your application for an Architectural Compliance Permit for PARID 20160148 to develop of business/office park. On June 26, 2023, staff sent you an incompleteness review, and followed up on September 1, 2023. On September 15, 2023, staff received additional materials. Upon reviewing all the information submitted for architectural compliance review—and in accordance with the Town of Southern Pines UDO §2.6 Completeness Review, §2.26 Architectural Compliance Permit, and page A-23 of UDO Appendix A—the application AR-07-23 for Tiara Properties Business Park is deemed **complete** for review. Staff request that for future project submittals, you include a narrative document on letter-sized paper that speaks to each of the architectural code requirements as well as any deviations you are requesting for specific requirements.
>
> Please note that review for completeness of application forms is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing, and shall not constitute a decision as to whether application complies with the relevant provisions of the UDO. Additional information and/or clarification may be required following an in-depth review of the application materials.
>
> In fact, we need the following information from you in order to complete our compliance evaluation.
>
> 1. Can you confirm that 26.26' is the maximum spacing between building entries?
> 2. Is the dumpster masonry wall proposed to be cement blocks or brick?
> 3. Can you confirm that the right elevation is facing W. Wisconsin Ave.?
> 4. UDO §3.5.11(D)(3) requires a minimum roof pitch of 6:12 on residential-facing and street-facing elevations. The front, rear, and W. Wisconsin Ave-facing elevations would need to satisfy this requirements, and it appears that the W. Wisconsin Ave-facing elevation has a portion of the roofing that is 3.5:12, which is flatter than the required minimum of 6:12. Are you requesting a deviation from this requirement or do you plan to modify the design to comply?
> 5. What material are the columns made of and will they be white as they are portrayed in the color renderings?
> 6. Are the soldier course accents above and below windows and doors brick or stone? And, what color is being proposed for those accents?
> 7. Planning staff are unable to determine compliance with the building materials requirements. Please submit updated calculations that address the following comments.
> a. Front elevation.
> i. The calculations for the 2nd floor are shown as the same numbers as the 1st floor, 2'-10'. To check compliance, Planning needs 2'-10' calculations for window glazing and whole elevation calculations of building materials (minus the glazing and doors).

b. Rear elevation.

i. The rear elevation is not street-facing, so no glazing calculations are needed for 2’ to 10’. Planning needs whole elevation calculations of building materials (minus the glazing and doors).

c. Left side elevation.

i. It appears to he the same calculation table as the front elevation. Can you confirm that the calculation is correct or update if it is not correct.

ii. Left side elevation (if facing W. Illinous Ave ROW), is not street-facing. Therefore, we do not need glazing calculations for 2’-10’. Planning needs whole elevation calculations of building materials (minus the glazing and doors).

d. Right side elevation.

i. If this is the W. Wisconsin Ave-facing elevation, then we do need correct glazing calculations for 2’-10’ AS WELL AS the whole elevation calculations of building materials (minus the glazing and doors).

8. Can you confirm that you plan to submit a sign application separate from this application?

Please provide above information by Friday, September 22, 2023, EOB.

This application is scheduled to go before the Town Council at their **agenda meeting** on **October 3, 2023**, at **6:00 p.m.** in the **Haney Room of the Police Department**. Please be present to address the Town Council at that meeting. The final decision on the application will be taken at their **October 10, 2023, regular meeting** at **6:00 p.m.** at the **E.S. Douglass Community Center**.

Thank you, in advance, for getting this information to us.

Best,

Alaina Mallette, MSc

Senior Planner

Town of Southern Pines

801 SE Service Road

Southern Pines, NC 28387

Office: (910) 692-4003

http://www.southernpines.net/

From: Seven Lakes Engineering Services Inc. <7lakesengrg@gmail.com>
Sent: Friday, September 15, 2023 5:01 PM
To: Alaina Mallette <amallette@southernpines.net>; Tricia Knight <tiarapropertiesllc@gmail.com>
Subject: Re: AR-07-23 Tiara Properties Business Park

Shawn Rodriguez

910-638-0965

Project Manager

Seven Lakes Engineering Services Inc.

7lakeseng.com

Image removed by sender.

On Fri, Sep 15, 2023 at 4:59 PM Seven Lakes Engineering Services Inc. <7lakesengrg@gmail.com> wrote:

> Good evening,
>
> attached are the revised architectural plans for Tiara Properties as we discussed.
>
> Please let me know if everything is good to go.
>
> Thank you,
>
> The contact information below can be used for the Seven Lakes Engineering Services Point of Contact.
>
> **Shawn Rodriguez**
>
> **910-638-0965**
>
> **Project Manager**
>
> **Seven Lakes Engineering Services Inc.**
>
> **7lakeseng.com**
>
> Image removed by sender.
>
> On Fri, Sep 1, 2023 at 4:34 PM Seven Lakes Engineering Services Inc. <7lakesengrg@gmail.com> wrote:

Good afternoon,

We will have everything everything to you by September the 8th to be reviewed for completeness so that we can get on the calendar for the next council meeting.

Thank you

On Fri, Sep 1, 2023 at 4:23 PM Alaina Mallette <amallette@southernpines.net> wrote:

> Good afternoon, Mr. Knight and Seven Lakes Engineering,
>
> We're in the 2nd cycle of Town Council submittal since your architectural compliance permit application was deemed incomplete. If you would like to be on the Town Council agenda for October, then we will need to have a complete application by September 15th EOB. If you would like to send missing documents mentioned in my June 26th email below by September 8th EOB, then I can do another completeness review and in case anything else is missing you would have until September 15th to get that missing information to me. Regardless, September 15th will be the hard deadline to have a complete application to us in order to be on the October Town Council review cycle.
>
> Looking forward to hearing from you.
>
> Best,
>
> Alaina
>
> **Alaina Mallette, MSc**
>
> Senior Planner
>
> Town of Southern Pines
>
> 801 SE Service Road
>
> Southern Pines, NC 28387

Office: (910) 692-4003

http://www.southernpines.net/

From: Alaina Mallette
Sent: Monday, June 26, 2023 4:01 PM
To: '7lakesengrg@gmail.com' <7lakesengrg@gmail.com>
Cc: 'tiarapropertiesllc@gmail.com' <tiarapropertiesllc@gmail.com>; BJ Grieve <BJGrieve@southernpines.net>
Subject: AR-07-23 Tiara Properties Business Park

Mr. Knight and Seven Lakes Engineering,

On June 23, 2023, the Planning Department received your application for an Architectural Compliance Permit for PARID 20160148 to develop of business/office park. Upon reviewing the information submitted for architectural compliance review —and in accordance with the Town of Southern Pines UDO §2.6 Completeness Review, §2.26 Architectural Compliance Permit, and page A-23 of UDO Appendix A—the application AR-07-23 for Tiara Properties Business Park is deemed **incomplete** for review. Please note that review for completeness of application forms is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing, and shall not constitute a decision as to whether application complies with the relevant provisions of the UDO. Additional information and/or clarification may be required following an in-depth review of the application materials.

At your earliest convenience, please provide name, email, phone, and mailing address of the contact from Seven Lakes Engineering, as they will be our primary point of contact as we proceed with application review. Please note that we will also need a written narrative that addresses compliance with the Town's Architectural Code in UDO §4.10.4. For instance, Planning needs to see calculations for spacing between entries, building height and widths, surface area calculations for building materials on each elevation (excluding doors and windows), details about the glazing, roofing color, and fencing details for the HVAC units. Where you believe the proposed design does not comply with one of the Town's standards, please state a request for

deviation from the design standard. Thank you, in advance, for getting this information to us.

Until such time as our office has a complete application, we will take no further action on the Tiara Properties Business Park Architectural Compliance Permit application.

Sincerely,

Alaina

Alaina Mallette, MSc

Senior Planner

Town of Southern Pines

801 SE Service Road

Southern Pines, NC 28387

Office: (910) 692-4003

http://www.southernpines.net/

--

Shawn Rodriguez
910-638-0965
Project Manager
Seven Lakes Engineering Services Inc.
7lakeseng.com

Agenda Item

To: **Reagan Parsons, Town Manager**

From: **BJ Grieve, Planning Director**

Subject: **OA-04-23: Code Compliance and Other Miscellaneous Text Amendments to the Unified Development Ordinance (UDO)**

Date: **October 10, 2023**

I. SUMMARY OF AMENDMENT REQUEST:

The Town of Southern Pines Planning Department is proposing to amend the Unified Development Ordinance (UDO) with text amendments related to three topics. The planning staff are requesting Town Council review and approval of the proposed amendments per UDO §2.17. The proposed amendments are as follows, listed by topic, with reference to applicable section(s) of the UDO proposed for amendment and with brief explanations for each proposed amendment:

1. Delete the incomplete sentence (ending with "sud") at the end of UDO §3.5.13(C) because planning staff cannot figure out how the sentence is actually supposed to end. What was "sud" supposed to mean? Planning staff have reviewed the UDO as it existed on March 27, 2012 (prior to a significant revision) and the incomplete sentence does not exist in that document. Planning staff have also reviewed the current UDO as it existed when first adopted on October 8, 2013 and the incomplete sentence is present in that document. Planning staff have talked with consultants who worked on the revisions to the UDO in 2013 and also reviewed file #OA-04-13 and have not been able to identify the intended language.

2. Amend and reorganize various portions of UDO §8.18 (Violations) and §8.19 (Enforcement) to be clearer and more consistent with current state statute, case law and best practices for municipal zoning enforcement. The proposed amendments are the result of consulting work completed by Parker Poe Adams & Bernstein, LLP to review the town's zoning compliance and enforcement provisions and recommend improvements. The proposed amendments will clarify the violation notification process and reorganize and clarify the options available to the town for enforcement when voluntary compliance efforts are unsuccessful.

3. Amend UDO Appendix A, Major Subdivision Final Plat Application Checklist and Minor Subdivision Application Checklist, to remove the requirement that surveyor's and owner's certificates be notarized, clarify the requirement to depict floodplains (as applicable) on final plats, clarify when NCDOT certifications are, required and make the Certificate of Accuracy language consistent with state statute. The amendment to remove the notary requirement for surveyor's and owner's certificates comes at the

request of the Moore County Register of Deeds, Mr. William Britton. A letter from Mr. Britton is attached to this staff report. The remaining amendments come from the experience of planning staff when reviewing subdivision plats and are intended to improve the clarity of platting requirements.

The specific text of each proposed amendment may be found in the attachments to this staff report.

II. PLANNING BOARD RECOMMENDATION

The Planning Board held a public hearing on the proposed text amendments on September 21, 2023. Planning staff presented a brief summary, via PowerPoint, of the proposed text amendment. There was no public comment on the text amendment. Upon closing the public hearing, the Planning Board moved to recommend approval of OA-04-23 to the Town Council, and the motion carried unanimously by the four members who were present. A copy of the Planning Board's signed resolution is attached to this staff report.

III. APPLICATION REVIEW:

A. Review Process:

Applications for text amendment 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 amendment

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:

All of the proposed amendments to the UDO are depicted using ~~strikeout~~ for proposed deletions and <u>underline</u> for proposed additions on a copy of the UDO that is attached to this staff report. Planning staff is available during regular business hours prior to the Town Council public hearing on October 10, 2023 for questions and/or to discuss any of the proposed amendments. Each topic will be presented to the Town Council and public at the October 10, 2023 Town Council Regular meeting.

The proposed amendments are to improve the clarity and legal defensibility of the UDO and are not substantial Comprehensive Plan implementation initiatives related to physical development of the community. However, it is the professional opinion of planning staff that continuously improving the clarity and legal defensibility of local zoning regulations does achieve some of the broad objectives set forth in the recently-adopted 2040 Comprehensive Plan (Comprehensive Plan) that are related to efficiently providing town services. For example, regulations that are not consistent with frequently-changing state statutes and North Carolina case law leave the town at risk of costly litigation. Land use regulations that are unclear cause misunderstandings that result in costly mistakes and delays. Unclear and/or outdated regulations consume time and money of both public officials and the public, so clarity and accuracy in regulations reduces the cost of 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 September 11, 2023.

As of the completion of the staff report on September 27, 2023 responses have been received from RLUAC and the Southern Pines Utility Superintendent stating that they have no comment on the proposed amendments. Any responses received from other agencies following completion of this staff report but prior to the public hearings will be provided verbally at the hearings.

IV. ATTACHMENTS:

1. Planning Board Resolution to Adopt a Written Recommendation
2. Sections 3.5.13, 8.18, 8.19 and Appendix A of the current UDO with proposed amendments, using ~~strikeout~~ for proposed deletions and <u>underline</u> for proposed additions.
3. Letter from Moore County Register of Deeds William Britton, August 22, 2023

V. TOWN COUNCIL ACTION:

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

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

1. **The proposed text amendment is consistent with the Comprehensive Plan and is a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's recommendation, and therefore the Town Council adopts the Planning Board resolution that is included as an attachment to the staff report for OA-04-23**;

2. The proposed text amendment is consistent with the Comprehensive Plan and is a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's recommendation, and therefore the Town Council adopts the Planning Board resolution that is included as an attachment to the staff report for OA-04-23, but with the following edits or additions to Attachment 1…

3. The proposed text amendment is not consistent with the Comprehensive Plan and/or is unreasonable for the following reasons…

And, therefore, I move to:

1. **Approve OA-04-23 as attached to the staff report** *(if desired, the Town Council may state any additional reasons you support the proposed amendment, besides those already listed in Attachment 1)*;

2. Approve OA-04-23 as attached to the staff report, but with the following changes… (*if any changes were made to the proposed revisions, list the changes and reason(s) the text was changed*);

3. Deny OA-04-23 (*the Town Council shall state any reasons for denial of the proposed amendment*); OR

4. Other…

ATTACHMENT A

PLANNING BOARD
RESOLUTION TO ADOPT A WRITTEN RECOMMENDATION
FOR ORDINANCE AMENDMENT APPLICATION
OA-04-23

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 September 21, 2023 to listen to public comments, ask questions of the Town's Planning staff and to consider ordinance amendment application OA-04-23.

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 town staff are reasonable, in the public interest and are generally consistent with the Town of Southern Pines Comprehensive Plan (Comprehensive Plan).

The 2040 Comprehensive Plan 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 amendment to delete an incomplete sentence from UDO §3.5.14(C) provides more clarity for planning staff and members of the public when dealing with the FRR zoning district and this is certainly in the public interest to improve efficiency in public service delivery. The amendments to reorganize various portions of both UDO §8.18 (Violations) and §8.19 (Enforcement) to be clearer and more consistent with current state statute, case law, and best practices for municipal zoning enforcement are also in the public interest because greater clarity and legal defensibility in the process of enforcing local land use regulations results in more efficient and fair public service delivery. Finally, the amendments to clarify platting requirements and remove inefficient notary requirements will also reduce the cost of public service delivery by eliminating an unnecessary

gathering of signatures that are not needed and by making platting requirements clearer for those that use them.

Therefore, the proposed text amendments are reasonable and in the public interest and consistent with the CLRP.

ADOPTED this the 21st day of September, 2023.

Diane T. Westbrook

Diane T. Westbrook, Chair

ATTEST:

Cindy Williams

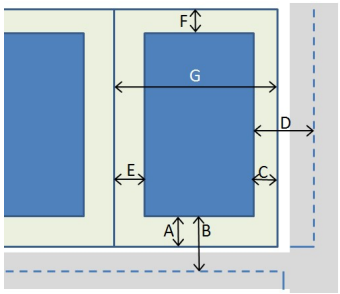
Cindy Williams
Secretary to the Planning Board

(2) Outdoor storage and display shall be screened in compliance with sections 5.12 and 5.13.

(D) **District Development Standards**

Dimensional and density standards are summarized in Exhibit 3-12. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

Exhibit 3-12: Summary of I Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	50’	4.2.1	 Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	40’	4.2.2	
Minimum Front Setback from centerline (dimension B)	70’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	10’	4.2.2	
Minimum Rear Setback (dimension F)	20’	4.2.2	
Minimum Lot Width (dimension G)	No minimum	4.2.3	
Minimum Lot Size	No minimum	4.2.3	

3.5.13. FRR – Facilities, Resource and Recreation District

(A) **Purpose**

The **FRR** is intended for open space, public facilities and privately owned and recreation areas. Publicly owned land uses include governmental, recreational, education, natural resource and utility facilities. Privately owned land uses include golf resorts and related facilities, land trusts established to preserve natural resources, schools and recreational facilities that typically include substantial open space. The objectives of the FRR district are to

(1) Provide land for publicly-owned governmental facilities and privately-owned natural and man-made resource and recreation areas; and

(2) Preclude major residential, retail office, institutional, and industrial uses that typically provide limited open space.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Existing uses within the **FRR** district that are not authorized by right may be allowed to continue as non-conforming uses or allowed to achieve conforming status subject to issuance of a Special Use Permit. ~~The establishment of a new golf resort, the expansion of an existing golf resort or the modification of existing golf course to add resort facilities sud~~

Commented [BG1]: Staff has researched the “old” UDO as it existed on March 27, 2012. The language here that is proposed to be removed does not appear to exist in the “old” UDO. Staff has also researched the “new” UDO as it was adopted on October 8, 2013 and this sentence ending nonsensically in “sud” has been in the “new” UDO since the original adoption. Staff has contacted the consultant that worked on the draft and he has no knowledge of how this sentence was intended to read. Staff has reviewed the UDO project file and can’t find any notes or drafts that may explain the original intent of this incomplete sentence. The current proposal is to simply remove this incomplete sentence unless someone during the public hearing process can present and argue in favor of language that should complete this sentence.

(I) Once a member is physically present at a meeting of the body, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been or has been allowed to withdraw from the meeting.

(J) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

(1) If the member has a direct financial interest in the outcome of the matter at issue; or

(2) If the matter at issue involves the member's own official conduct; or

(3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

(4) If a member has such close personal ties to the Applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(K) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(L) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(M) All members appointed to a body identified under this section shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160A-61.

(Ord. #1919)

PART III – COMPLIANCE AND ENFORCEMENT

8.18. VIOLATIONS

8.18.1. Inspection of Work in Progress

As the work pursuant to a permit progresses, the Planning Director or Town Engineer, as applicable, shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this UDO and the terms of the permit. In exercising this power, the Planning Director has a right, upon presentation of proper credentials, to enter on any Premises within the territorial jurisdiction at any reasonable hour for the purpose of inspection or other enforcement action; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(Ord. #1919)

8.18.2. Complaints Regarding Violations

Whenever the Planning Director receives a written, ~~Signed~~ signed complaint alleging a violation of this UDO, he or she shall request the Code Enforcement Officer to assist with the investigation of the complaint, take whatever action is warranted and inform the complainant in writing what actions have been or will be taken.

8.18.3. Persons Liable

The owner, tenant or occupant of any Building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

8.18.4. Procedures upon Discovery of Violations

(A) If the Planning Director finds that any provision of this chapter is being violated, he ~~of~~ or she shall send a written notice to the holder of the

Development Approval and owner of the property involved (if that person is not the holder of the Development Approval), indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Planning Director's discretion.
(Ord. #1919)

(B) The final written notice (and the initial written notice may be the final notice) shall state what action the Planning Director intends to take if the violation is not corrected and shall advise that the Planning Director's decision or order may be appealed to the Board of Adjustment. ~~in~~In accordance with ~~section~~ Section 2.23~~.~~,any persons liable under Section 8.18.3 who have received a final written notice pursuant to this section may appeal in writing to the Board of Adjustment and the clerk within thirty (30) days following issuance of the final order. In the absence of an appeal, the order of the Planning Director shall be final.
(Ord. #1919)

(C) Notwithstanding, the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety or welfare, the Planning Director may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this UDO, including but not limited to an action for an injunction or abatement as set out in Section 8.19.5.

8.18.5. Violations to Be Corrected

~~When the Planning Director finds violations of applicable state and local laws, it shall be his or her duty to notify the owner of the Building of the violation.~~ The ~~owner~~ persons liable shall each immediately remedy the violations of law in the property ~~he or she owns~~noticed.
(Ord. #1919)

8.19. ENFORCEMENT

8.19.1. Stop Orders

Whenever a Building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, the Planning Director may order the work to be immediately stopped if the violation poses an imminent threat to life, safety and/or the environment; or where no permits have been issued prior to work commencing. The stop order shall be in writing and directed to holder of the Development Approval and owner of the property involved (if ~~tht~~ the person is not the holder of the Development Approval). The stop order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
(Ord. #1919; Ord. #1959)

8.19.2. Revocation of Permits or Approvals

(A) A Development Approval may be revoked by the Permit Issuing Authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter or any additional requirements lawfully imposed by the Permit Issuing Authority.
(Ord. #1919)

(B) Before a Development Approval may be revoked, the Development review and approval process required for issuance of the Development Approval shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
(Ord. #1919)

(C) A motion to revoke a permit shall include, in so far as practicable, a statement of the specific reasons or findings of fact that support the motion. The burden of presenting evidence sufficient to authorize the Permit Issuing Authority to conclude that a permit should be revoked for any of the reasons set forth in this section shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(D) Before a Development Approval may be revoked, the Planning Director shall give the permit recipient ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his or her right to obtain an informal hearing on the allegations. If the permit is revoked, the Planning Director shall provide to the permitted a written statement of the decision and the reasons therefore.

(Ord. #1919)

(E) No person may continue to make use of land or Buildings in the manner authorized by any Development Approval after such approval has been revoked in accordance with this section.

(Ord. #1919)

8.19.3. ~~Actions in Event of Failure to Take Corrective Action~~Penalties

(A) Any person found to be violating this UDO or failure to comply with any of its requirements including violations of any conditions, safeguards or standards established in connection with grants of approval shall be subject to fines and other civil penalties as allowed by law.

(Ord. #1959)

(B) Violations of the provisions of this chapter, or failure to comply with any of its requirements including violations of any conditions and safeguards established in connection with grants of variances or Special Use Permits shall be subject to a civil penalty of fifty (50) dollars per day for each day that the violation continues to exist.

(Ord. # 1716; Ord. #1919; Ord. #1959)

(C) If the offender fails to pay this civil penalty within ten (10) days after being notified of a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with this UDO and did not take an appeal to the Board of Adjustment within the prescribed time.

(Ord. #1919; Ord. #1959)

(D) This chapter may also be enforced by any appropriate equitable action. In addition to the remedies allowed by law, the regulations and standards contained in this UDO may be enforced through the issuance of a civil citation by the Planning Director or his designee.

(E) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

~~If the owner of a Building or property shall fail to take prompt corrective action, the Planning Director shall give him or her written notice, by certified or registered mail, to the owner's last known address or by personal service:~~

~~(A) That the Building or property is in violation of this UDO.~~

~~(B) That a hearing will be held before the Planning Director at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,~~

~~(C) That following the hearing, the Planning Director may issue such order to alter, vacate, or demolish the Building or structure as appropriate.~~

~~*(Ord. #1919)*~~

8.19.4. ~~Order to Take Corrective Action~~Separate Offences May Be Charged

Each day that any violation continues after notification by the Planning Director that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.~~If, upon a hearing held pursuant to the notice prescribed above, the Planning Director shall find that the Building or Development is in violation of this UDO, he shall make an order in writing to the owner, requiring the owner to remedy the violations, within such period, not less than thirty (30) days, the Planning Director may prescribe; provided, that where the Planning Director finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.~~

~~*(Ord. # 1716)*~~

8.19.5. ~~Appeal~~Injunctions and Order of Abatement

(A) When any person violates a UDO regulation that makes unlawful a condition existing upon or use made of real property or any rule or order adopted or issued, or any term, condition or provision of an approved development approval or permit, the Planning Director may either before or after the institution of any other action or proceeding authorized by this Ordinance, authorize the Town Attorney to institute a civil action in the name of the City for a mandatory or prohibitory injunction and order of

abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property, or threatened violation. When a violation of the Ordinance occurs, the Town may apply to the Moore County Superior Court for a mandatory or prohibitory injunction and order of abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property.

(B) In addition to an injunction, the court may enter an order of abatement as a part of the judgment. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the Ordinance.

(C) If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Moore County Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(D) An action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation in specific articles of this Ordinance.

~~Any owner who has received an order to take corrective action may appeal in writing to the Board of Adjustment and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Planning Director shall be final. The Board of Adjustment shall hear appeals within a reasonable time and may affirm, modify and affirm, or revoke the order.~~

~~*(Ord. #1919)*~~

~~8.19.6. Penalties~~

~~(A) Any person found to be violating this UDO or failure to comply with any of its requirements including violations of any conditions, safeguards or standards established in connection with grants of approval shall be subject to fines and other civil penalties as allowed by law.~~

~~*(Ord. #1959)*~~

~~(B) Violations of the provisions of this chapter, or failure to comply with any of its requirements including violations of any conditions and safeguards established in connection with grants of variances or Special Use Permits shall be subject to a fine of fifty (50) dollars per day for each day that the violation continues to exist, or a maximum thirty (30) days imprisonment.~~

~~*(Ord. # 1716; Ord. #1919; Ord. #1959)*~~

~~(C) If the offender fails to pay this civil penalty within ten (10) days after being notified of a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with this UDO and did not take an appeal to the Board of Adjustment within the prescribed time.~~

~~*(Ord. #1919; Ord. #1959)*~~

~~(D) This chapter may also be enforced by any appropriate equitable action. In addition to the remedies allowed by law, the regulations and standards contained in this UDO may be enforced through the issuance of a civil citation by the Planning Director or his designee.~~

~~(E) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this chapter.~~

~~8.19.7. Separate Offences May Be Charged~~

~~Each day that any violation continues after notification by the Planning Director that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.~~

8.20. JUDICIAL REVIEW

(A) Every decision of the Town Council granting or denying a Special Use Permit and every final decision of the Planning Board shall be subject to review by the Superior Court of Moore County by proceedings in the nature of certiorari.

(B) The petition for the writ of certiorari must be filed with the Moore County Clerk of Court within thirty (30) days after the later of the following occurrences:

(1) A written copy of the decision has been filed in the office of the planning department; and

(2) A written copy of the decision has been delivered, by personal service or certified mail, return receipt requested to the Applicant or appellate and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

(3) A copy of the writ of certiorari shall be served upon the Town of Southern Pines.

MAJOR SUBDIVISION – FINAL PLAT APPLICATION CHECKLIST

Process Overview

Decision Making Body	Review	Recommend	Decision
Technical Review Committee	**X**		
Director		**X**	
X = ***indicates required action***			

Submittal Requirements*

Please include the following information on all applications for a Major Subdivision – Final Plat. If any of the information or required materials is missing or incomplete, the application will not be processed.

☐ **PROOF OF OWNERSHIP** – Filed deed, vendor's lien, act of donation or tax assessment with legal description.

☐ **FINAL PLAT** – Copies (1 full sized copy and 1 digital copy) drawn at a scale of 1" = 100' on sheets with maximum dimensions not exceeding 24 inches by 36 inches. If more than two sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one sheet and the component areas shown on the other sheets. The plat shall contain the following information:

a. Name of the subdivision;
b. The name of the owner or owners, or subdividers;
c. Date, scale and north arrow, on each page. Each sheet of the plat shall indicate its page number in relation to the total number of sheets;
d. The correct legal description of the property being subdivided shall be shown on the Plat;
e. Accurate references to known or permanent monuments, giving the bearing and distance from said monuments and State Plane coordinates of at least two subdivision corners;
f. The location of all survey monuments and their descriptions;
g. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and other areas for public or private use. Linear dimensions are to be given to the nearest 1/100th of a foot. The radii, arcs or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners;
h. The names, lines and right-of-way widths of all proposed streets with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;
i. The location of the subdivision based on an accurate traverse giving angular and linear dimensions which shall mathematically close. Bearings and distances of all exterior boundary lines and along the center lines of streets shall be furnished;
j. Accurate location of all existing and recorded roads intersecting the boundaries of the tract;
k. The gross area, net area and lot area of the land being subdivided;
l. The boundary lines of all adjoining lands for a distance of 150 feet and showing (with dotted lines) the right-of-way lines, adjacent streets and alleys with their widths and names, and adjacent zoning districts;

m. Easements and easements for rights-of-way provided for public use, services or utilities, with figures showing their dimensions and listing uses that are being provided and any limitations on such easement;

n. Clearly numbered lots in sequence and blocks clearly lettered in sequence;

~~n.~~o. The location of floodplain boundaries, as applicable;

~~o.~~p. A statement dedicating all easements, streets alleys and other public areas not previously dedicated, including an accurate outline of any portions of the property intended to be dedicated or granted for public use;

~~p.~~q. Appropriate certificates as determined by the Town Attorney. These certificates shall include, but not be limited to:

(1) Certification signed and dated by a ~~registered~~ licensed North Carolina Land Surveyor ~~that the subdivision is or is not in a floodplain~~;

(2) Certificate of Approval (see template below)

(3) Certification of platting signed and dated by the owner, appearing on or attached to the plat and on all separate sheets comprising the plat, acknowledging the dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required;

(4) Certificate of Survey and Accuracy (see template below);

(5) NCDOT Certification (~~if applicable~~for streets proposed as public that are outside of municipal corporate limits, see template below); and

(6) Review Officer Certification (see template below).

Certificate of Approval

I hereby certify that all streets shown on this plat are within the Town of Southern Pines' planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within twelve months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with the Southern Pines Town Unified Development Ordinance, and therefore this plat has been approved by the Southern Pines ~~planning~~ Planning ~~director~~Director, subject to its being recorded in the Moore ~~county~~ County Registry within sixty days of the date below.

_____

Date Planning Director

Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Southern Pines, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space and easements, except those specifically indicated as private and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Southern Pines Town Council in the public interest.

_____

Date Owner

~~(Notarized)~~

Certificate of Survey and Accuracy:

I,_____, certify that this plat was drawn under my supervision from an actual survey made under my supervision. (Deed description recorded in Book_____ , Page _____, etc. (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____ ~~.~~; ~~That~~ that the ratio ~~or~~ of precision or positional accuracy as ~~calculation~~ calculated is ~~1:~~ _____; that this plat was prepared in accordance with G.S. § 47-30. Witness my original signature, ~~registration~~ license number and seal this _____day of_____, A.D. 20____.

Seal or Stamp

_____

Land Surveyor

_____

~~Registration~~ License Number

~~This certificate of the Notary shall read as follows:~~

~~State of North Carolina,_____County I, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this day of _____, 20 _____.~~

~~Seal or Stamp Notary Public My Commission Expires: _____~~

Division of Highways District Engineer Certificate

I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards in accordance with at least the minimum specifications and standards of the State Department of Transportation for acceptance of subdivision streets on the state highway system for maintenance.

_____

Date District Engineer

Certificate of Review Officer

Certificate of Review Officer

I, _____, Review officer of _____ County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____

_____Review Officer

Date: _____

☐ **DEVELOPMENT AGREEMENT** *(if applicable)* – approved as to form by the Town Attorney.

☐ **SUBDIVISION IMPROVEMENT AGREEMENT**, (if applicable) – Copy of Agreement as prepared by applicant and approved to form by Town Attorney as well as acceptable security, per section 2.20.7.

☐ **STREET NAME APPROVAL,** (if applicable) – Formal written approval from Moore County Public Safety and Moore County GIS of street names within subdivisions.

☐ **APPROVED ENGINEERING PLANS**, or as-built plans, conforming with the requirements of the UDO, for all streets, grading, sanitary sewerage system, storm drainage facilities, water distribution system, and other pertinent site improvements.

☐ **COVENANTS AND RESTRICTIONS** *(if applicable)* – two copies of all covenants and restrictions and, if applicable, articles of incorporation and bylaws of a homeowner's association for the proposed subdivision;

☐ **HOMEOWNERS ASSOCIATION DOCUMENTATION** *(if applicable)* – homeowners' association articles of incorporation and/or bylaws shall contain the following information:

a. The legal description of the common land;
b. A description of common facilities;
c. The restrictions placed upon the use and enjoyment of the lands or facilities;
d. Persons or entities entitled to enforce the restrictions;
e. A mechanism to assess and enforce the common expenses for the land or facilities (e.g., utility systems, private roads and other public or quasi-public improvements) including upkeep and maintenance expenses, real estate taxes and insurance premiums;
f. A mechanism for resolving disputes among the owners or association members;
g. The conditions and timing of the transfer of ownership and control of land facilities to the association;
h. Any other matter the developer deems appropriate.

☐ **APPLICATION FEE** – as specified in Appendix H.

☐ **SIGNED APPLICATION** – by the applicant or authorized agent. A property owner authorized agent requires an affidavit giving permission to sign the application.

☐ **PUBLIC UTILITY EASEMENTS (if applicable)** – copies of utility easements granting the Town of Southern Pines access for future operations and maintenance of utilities.

☐ **ADDITIONAL DOCUMENTATION** – Additional text and/or maps provided to demonstrate consistency with the approval criteria in section 2.19 of this UDO.

**Additional information may be required. Fees are subject to change.*

MINOR SUBDIVISION APPLICATION CHECKLIST

Process Overview

Decision Making Body	Review	Recommend	Decision
Technical Review Committee		**X**	
Director			**X**
X = ***indicates required action*** ● = ***indicates actions that may be applicable based on development impact.***			

Submittal Requirements*

Please include the following information on all applications for a Minor Subdivision. If any of the information or required materials is missing or incomplete, the application will not be processed.

☐ **PROOF OF OWNERSHIP** – Filed deed, vendor's lien, act of donation or tax assessment with legal description.

☐ **FINAL PLAT** – Copies drawn at a scale of 1" = 100' on sheets with maximum dimensions not exceeding 24 inches by 36 inches. If more than two sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one sheet and the component areas shown on the other sheets. The plat shall contain the following information:

a. Name of the subdivision;
b. The name of the owner or owners, or subdividers;
c. Date, scale and north arrow, on each page. Each sheet of the plat shall indicate its page number in relation to the total number of sheets;
d. The correct legal description of the property being subdivided shall be shown on the Plat;
e. Accurate references to known or permanent monuments, giving the bearing and distance from said monuments and State Plane coordinates of at least two subdivision corners;
f. The location of all survey monuments and their descriptions;
g. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and other areas for public or private use. Linear dimensions are to be given to the nearest 1/100th of a foot. The radii, arcs or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners;
h. The names, lines and right-of-way widths of all proposed streets with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;
i. The location of the subdivision based on an accurate traverse giving angular and linear dimensions which shall mathematically close. Bearings and distances of all exterior boundary lines and along the center lines of streets shall be furnished;
j. Accurate location of all existing and recorded roads intersecting the boundaries of the tract;
k. The gross area, net area and lot area of the land being subdivided;
l. The boundary lines of all adjoining lands for a distance of 150 feet and showing (with dotted lines) the right-of-way lines, adjacent streets and alleys with their widths and names, and adjacent zoning districts;
m. Easements and easements for rights-of-way provided for public use, services or utilities, with figures showing their dimensions and listing uses that are being provided and any limitations on such easement;
n. Clearly numbered lots in sequence and blocks clearly lettered in sequence;
~~n.~~o. The location of floodplain boundaries, as applicable;
~~o.~~p. A statement dedicating all easements, streets alleys and other public areas not previously dedicated, including an accurate outline of any portions of the property intended to be dedicated or granted for public use;
~~p.~~q. Appropriate certificates as determined by the Town Attorney. These certificates shall include, but not be limited to:
   (1) Certification signed and dated by a ~~registered~~ licensed North Carolina Land Surveyor ~~that the subdivision is or is not in a floodplain~~;

(2) Certificate of Approval (see template below;
(3) Certification of platting signed and dated by the owner, appearing on or attached to the plat and on all separate sheets comprising the plat, acknowledging the dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required; and
(4) Certificate of Survey and Accuracy (see template below);
(5) NCDOT Certification (~~if applicable~~for streets proposed as public that are outside of municipal corporate limits, see template below; and
(6) Review officer certification (see template below).

Certificate of Approval

I hereby certify that all streets shown on this plat are within the Town of Southern Pines' planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within twelve months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with the Southern Pines UDO, and therefore this plat has been approved by the Southern Pines Planning Director, subject to its being recorded in the Moore ~~county~~ County Registry within sixty days of the date below.

_____

Date Planning Director

Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Southern Pines, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space and easements, except those specifically indicated as private and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Southern Pines Town Council in the public interest.

_____

Date Owner

~~_____~~

~~(Notarized)~~

Certificate of Survey and Accuracy:

I,_____, certify that this plat was drawn under my supervision from an actual survey made under my supervision. (Deed description recorded in Book_____ , Page _____, etc. (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____~~.~~; ~~That~~ that the ratio ~~or~~ of precision or positional accuracy as ~~calculation~~calculated is ~~1:~~ _____; that this plat was prepared in accordance with G.S. § 47-30. Witness my original signature, ~~registration~~ license number and seal this _____day of_____, A.D. 20____.

Seal or Stamp

_____

Land Surveyor

_____

~~Registration~~ License Number

~~This certificate of the Notary shall read as follows:~~

~~State of North Carolina,_____County I, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal,~~

~~this day of _____, 20 _____.~~

~~Seal or Stamp _____~~
~~Notary Public~~
~~My Commission Expires: _____~~

Division of Highways District Engineer Certificate

I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards in accordance with at least the minimum specifications and standards of the State Department of Transportation for acceptance of subdivision streets on the state highway system for maintenance.

_____

Date District Engineer

Certificate of Review Officer

Certificate of Review Officer

I, _____, Review officer of _____ County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____

_____Review Officer

Date: _____

☐ **SUBDIVISION IMPROVEMENT AGREEMENT,** (if applicable) – Copy of Agreement as prepared by applicant and approved to form by Town Attorney as well as acceptable security, per section 2.20.7.

☐ **APPROVED ENGINEERING PLANS** (if applicable), or as-built plans, conforming with the requirements of the UDO, for all streets, grading, sanitary sewerage system, storm drainage facilities, water distribution system, and other pertinent site improvements.

☐ **APPLICATION FEE** – as specified in Appendix H.

☐ **SIGNED APPLICATION** – by the applicant or authorized agent. A property owner authorized agent requires an affidavit giving permission to sign the application.

☐ **ADDITIONAL DOCUMENTATION** – Additional text and/or maps provided to demonstrate consistency with the approval criteria in section __ of this UDO.

**Additional information may be required. Fees are subject to change.*

Office of William Britton
Moore County Register of Deeds
26 Courthouse Square
P.O. Box 1210
Carthage, North Carolina

August 22, 2023

Dear Southern Pines Council and Planning,

The requirement in G.S. 47-30 for Surveyors to have their certificate notarized from 1983 to 1997. (a notary certificate was included in the surveyor's certificate required in GS47-30(d))
In 1997 it was removed from the statute.

Requiring owner signatures to be notarized is unnecessary and considerably rarer than simply requiring their sign-off. It also complicates the process significantly, especially when multiple owners are involved. In the hard copy map realm, surveyors may have owners come in and sign in-person and be notarized that way, but owners out-of-town (or state) may have to be sent the map for signature and notary. For an eRecorded map, electronic notaries are required for eSignatures and must be submitted electronic with no wet signature. As requiring owner's names to be notarized can cause significant additional burden to the process and additional costs for something which is legally unnecessary. I ask that Southern Pines consider removing the requirement requiring plat owner notarization from the UDO appendix to allow for future growth and ease for the citizens of Moore County and for the transition to electronic recording of plats.

On the requirement of an owner signature and possible notarization: Nothing in the statute requires the owner to sign the map. Many jurisdictions do not require it as part of their own ordinances, some may require an owner signature for subdivisions.

As a map does not convey title, and requiring the owner's signature to be notarized is an unnecessary hurdle, although not something which is prohibited. The Registers of Deeds Association and Secretary of State highly encourage the reduction of the number of various departmental signoffs and certificates on the map, which in some jurisdictions can be excessive and take up a lot of room on the map, leaving limited room for the actual map information itself, and often necessitating maps being multiple pages just to accommodate those certificates. Statutorily, maps must be certified by the surveyor, who by signing off is confirming that the signature obtained is an owner and that it was developed to all the standards necessary.

Sincerely,

William Britton
Moore County Register of Deeds

Agenda Item

To: **Reagan Parsons, Town Manager**

From: **Alaina Mallette, Senior Planner**

Subject: **SU-01-23: Special Use Permit to expand authorized land uses in Mill Creek Mixed-Use Development master plan; Petitioner: Mill Creek Partners, LLC by Koontz Jones Design, Agent**

Date: **October 10, 2023**

I. SUMMARY OF APPLICATION REQUEST

Mr. Bob Koontz of Koontz Jones Design, on behalf of Mill Creek Partners, LLC, has submitted a Special Use Permit major amendment application pursuant to §2.21.12(A) of the Town of Southern Pines Unified Development Ordinance (UDO) to expand the authorized land uses in the General Business conditional zoning district (GB-CD) portion of the development. This amendment proposes adding land uses in categories such as automobile services; heavy, durable, and other consumer goods sales or services; health and personal care and services; rentals and leasing of vehicles, recreational goods, and commercial equipment; transportation, communication, and utilities; educational services; health and human services, including clinics and overnight facilities; and construction-related businesses to the list of authorized uses in the GB-CD portion of the development. The amendment also proposed modifications to the Master Plan map to change "Shopping" and "Office/Condominium" sites within the GB-CD to "General Business."

II. PLANNING BOARD REVIEW

On September 21, 2023, four members of the Planning Board held a Preliminary Forum regarding SU-01-23 to accept public comments and compose a list of issues to forward to the Town Council for their consideration. Following a presentation by town staff regarding the project, the property owner and applicant, Mr. Bob Klug, addressed the Planning Board and introduced Mr. Paul Saathoff of KoontzJones Design, representative for the applicant's authorized agent. Mr. Saathoff made a presentation to the Planning Board, providing additional details and justification for the proposed project. No other members of the public spoke.

After the board had finished asking questions of the applicant, town staff, and the property owner, the Planning Board closed the Preliminary Forum and held board discussion. The following list of issues presented at the forum relate to the application of the SUP criteria to amend development approval CU-02-98 and were adopted by unanimous vote to forward to Town Council for consideration during their review of the proposal:

1. Commercial property-related mini- or self-storage included as a proposed authorized use is not a by-right use in the conventional General Business district,

per text amendment file OA-03-23 and Ordinance #2096, approved on August 8, 2023; therefore, should not be included in the Applicant's Appendix A.

2. The applicant has not responded to the Town Engineer's TIA comments and should address the Town Engineer's concerns adequately and timely to allow for the Town Engineer's response prior to the Town Council's evidentiary hearing.

In addition, the following concern was raised during the forum, but the Planning Board believed that it does not apply in determining whether the SUP criteria are satisfied:

1. The applicant should reformat Exhibit A to address potential land use interpretation issues addressed in the staff report

III. PROJECT INFORMATION

A. Property Owner & Applicant Information

Property Owner/Applicant	**Authorized Agent**
Mill Creek Partners, LLC &	Koontz Jones Design
Mill Creek Partners II, LLC	C/O Robert Koontz
P.O. Box 1511	150 S. Page Street
Pinehurst, NC 28374	Southern Pines, NC 28387

B. Project History and Site Information

i. Location

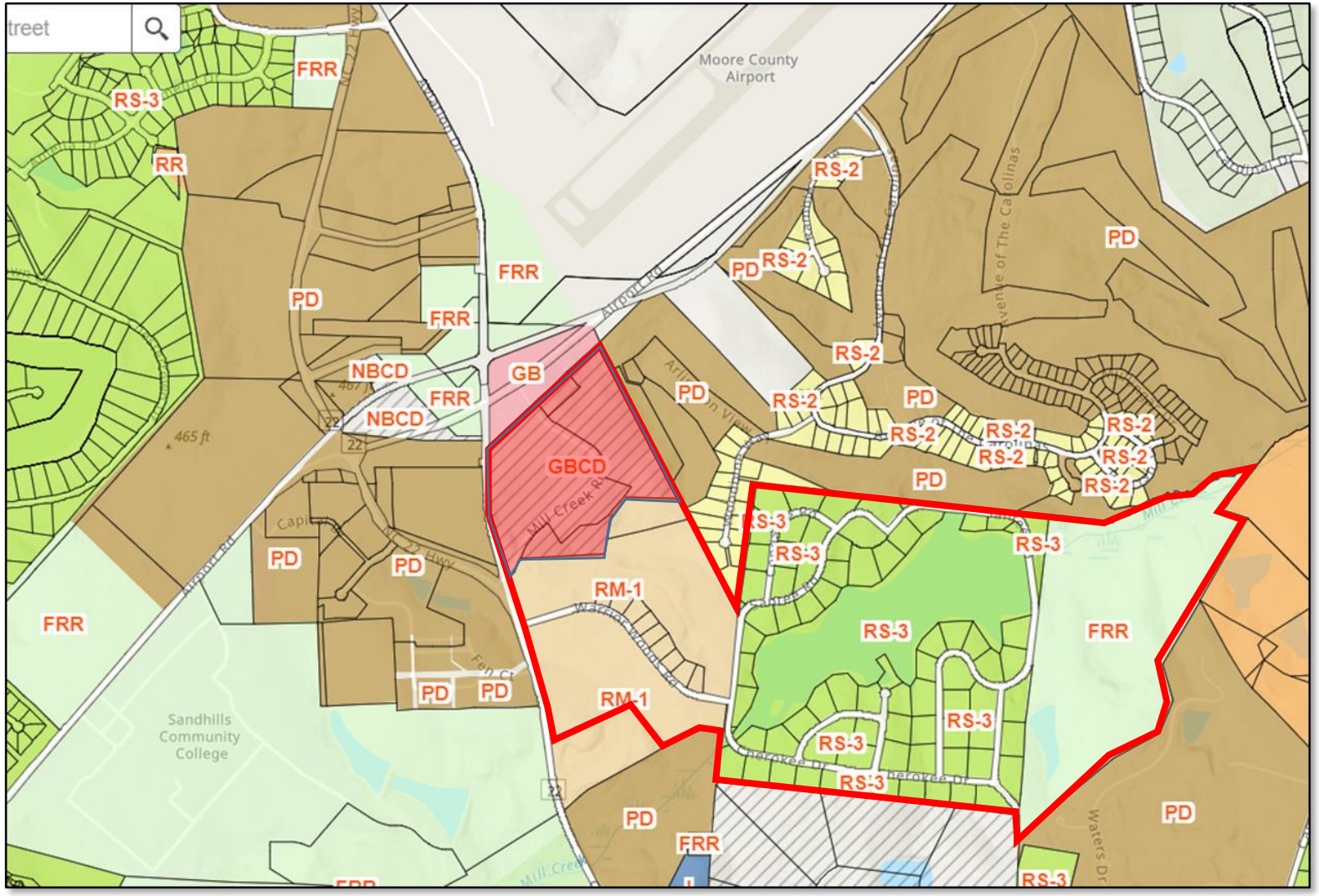
The subject properties are located on Mill Creek Road, which is south of Airport Road about a quarter of a mile east of the traffic circle and is currently zoned GB-CD (General Business Conditional Zoning District). The site also has access off Central Drive/NC-22 between Warrior Woods Road and the roundabout. The properties in question are identified as PARIDs 20070989 and 20070990 and are owned by Mill Creek Partners, LLC, and Mill Creek Partners II, LLC. (See Figures 1 and 2). The surrounding properties include planned developments—such as Tyler's Ridge, Ace Hardware, and Caropines—residential zones, Sandhills Community College, and Moore County Airport.

ii. Zoning/Future Land Use Map Designation:

The zoning of the parcels for the portion of the development being amended is GB-CD under permit CU 02-98 (see Figure 2). The subject parcel is designated as Commercial on the Future Land Use Map. Through UDO §2.8.5 Permit Choice, the applicant has elected to follow the 2016 Comprehensive Long-Range Plan rather than the recently adopted 2040 Comprehensive Plan.

Figure 1: Immediate Vicinity Map. Approximate amendment area boundary indicated by red line.

Figure 2: Zoning and Location Map. The whole Mill Creek Land Use Master Plan encompasses the area outlined in red. The major amendment to the Special Use Permit is for the area highlighted in red under current General Business Conditional Zoning District zoning.



IV. STAFF REVIEW:

A. Application Review Dates:

- Special Use Permit SU-01-23 Application Submitted: **August 14, 2023**
- Application Deemed Complete: **August 21, 2023**
- TRC Staff Review: **August 22, 2023**
- Notice of Planning Board Preliminary Forum:
  - Posted On-site: **September 14, 2023**
  - Mailed: **September 7, 2023**
  - Internet: **August 24, 2023**
  - Published: N/A for SUP
- Planning Board Preliminary Forum: **September 21, 2023**
- Notice of Town Council Public Hearing:
  - Posted On-site: **September 14, 2023**
  - Mailed: **September 7, 2023**
  - Internet: **September 22, 2023**
  - Published: Sent September 22, 2023 for publishing on **September 27** and **October 4, 2023**
- Town Council Public Hearing: **October 10, 2023**

B. Process of Review:

The Mill Creek Master Plan was approved in 1998 under Conditional Use Permit CU-02-98 and an amendment to such permit is required to follow the current Special Use Permit major amendment process. The procedures for review and approval of a Special Use Permit major 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.

C. Standards for Review:

UDO standards for Special Use Permit Criteria, UDO §2.21.6 (A-F) apply to the review of this special use permit amendment.

D. Criteria for Review and Compliance with the UDO

i. Compliance with Special Use Permit Criteria – UDO §2.21.6 (A-F)

A Special Use is permitted only if the applicant demonstrates that:

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

   The applicant's Justification document (Attachment 2) states that the intent of the major amendment is to clarify permissible uses within the General Business portion of the development. The applicant uses a similar format to UDO Exhibit 3-15 Table of Authorized Land Uses to create a list of permissible uses (i.e., "Exhibit A" in the Mill Creek Master Plan, Attachment 4). A

comparison of land uses permitted in both the proposed major amendment and the UDO are shown in Table 1 of this staff report. In this analysis, Planning staff identified that commercial property-related mini- or self-storage (Land Based Classification Standards, LBCS, 2321) is included in the Applicant's Exhibit A as a permissible use, but this use is not permitted within the conventional General Business district (see text amendment file OA-03-23 and Ordinance #2096, approved on August 8, 2023).

Proposed expanded land uses that have supplemental land use regulations include assisted-living board and care, adult care group homes, hotel and the like, scientific research and development services, mobile food services, government-owned establishments (such as defense agencies and National Guard), inpatient nursing and rehabilitative services, and child daycare. An approval of this major amendment request would constitute entitlement for each of these land uses, essentially making them by-right uses within the GB-CD. As such, future development for any of these land uses (and all others in the Applicant's Exhibit A) would proceed to site plan review and architectural compliance review to check for compliance with any applicable supplemental use regulations rather than proceed through another quasi-judicial process before the Planning Board and Town Council.

Table 1. Comparison of Authorized Uses in UDO and Applicant's Exhibit A

General Business Authorized Uses in Both UDO and Applicant's Exhibit A	***General Business Authorized Uses in UDO, but Not Applicant's Exhibit A***	***General Business Authorized Uses in Applicant's Exhibit A, but in UDO***
Assisted-living board care and adult care group homes	Accessory Dwelling	Commercial property-related mini- or self-storage
Nursing or convalescent home	Bed and Breakfast Home or Inn	
Hotel, motel, tourist home, or tourist court	Car Dealer	
Bicycle sales and repair	bus, truck, mobile homes, or large vehicles sales or services	
Parts, accessories, or tires	motorcycle, atv sales or services	
Gasoline service	boat or marine craft dealer	
Automotive repair and maintenance	lumber yard and building materials	
Furniture or home furnishings	heating and plumbing equipment	
Hardware, home center	tobacco or tobacconist establishment	
Lawn and garden supplies	Markets for farm produce or crafts	
Department store, warehouse club, or superstore	Pawn shop	

General Business Authorized Uses in Both UDO and Applicant's Exhibit A	***General Business Authorized Uses in UDO, but Not Applicant's Exhibit A***	***General Business Authorized Uses in Applicant's Exhibit A, but in UDO***
Electronics and appliances	Veterinary services	
Computer and software	Administrative support services	
Camera and photographic supplies	Landscaping Services to Buildings and Dwellings	
Clothing, jewelry, luggage, shoes, clocks, sewing	Carpet and upholstery cleaning Services to Buildings and Dwellings	
Sporting goods, toy and hobby, and musical instruments	Packing, crating, and convention and trade show Services to Buildings and Dwellings	
Books, magazines, music, videos, cds, stationery, greeting cards, seasonal decorations, school and office supplies, etc.	Food service contractor	
Florist	Vending machine operator	
Art dealer, supplies, sales and service	coin-operated laundromat	
Mail order or direct selling establishment	Parking lot and parking garage	
Antique shop, flea market, thrift stores	tattoo parlor	
Grocery store, supermarket, or bakery	adult establishment	
Convenience store	adult cabaret	
Specialty food store	Animal boarding	
Fruit and vegetable store	Pet cemetery	
Beer, wine, and liquor store	Printing and related support activities for wood, paper, and printing products	
Pharmacy or drug store	Jewelry and silverware manufacturing	
Cosmetic and beauty supplies and personal grooming products	Dolls, toys, games, and musical instruments manufacturing	
Optical and contact lenses	Office supplies, inks, etc. manufacturing	
Bank, credit union, or savings institution	Signs manufacturing	
Credit and finance establishment	Wholesale trade establishment	
Investment banking, securities, and brokerages	Office and warehousing	

General Business Authorized Uses in Both UDO and Applicant's Exhibit A	***General Business Authorized Uses in UDO, but Not Applicant's Exhibit A***	***General Business Authorized Uses in Applicant's Exhibit A, but in UDO***
Insurance-related establishment	local transit systems—bus, special needs, and other motor vehicles	
Fund, trust, or other financial establishment	non-local and charter bus transportation	
Real estate services	Sightseeing transportation	
Rental housing-related property management services	Taxi and limo service transportation	
All rental and leasing land uses (LBCS 2330 series)	towing and other road and ground services	
All professional services land uses (LBCS 2410 series) EXCEPT veterinary services	Postal services	
All administrative services land uses (LBCS 2420 series) EXCEPT facilities support services	national post office	
Full-service restaurant	All land uses in the motion pictures and sound recording category (LBCS 4220 series)	
Cafeteria or limited service restaurant	towers and antennas taller than 50'	
Drive-through restaurants	Natural gas utility service	
Snack or nonalcoholic bar	Water utility service	
Bar or drinking place	Solid waste collection utility service	
Mobile food services	Wastewater utility service	
Caterer	Historical or archeological institution	
All personal care land uses (LBCS 2610 series)	Amusement or theme park establishment	
Dry cleaning and laundry	Natural and other Recreational Parks	
Linen and uniform supply	All types of grade schools (LBCS 6120 series) EXCEPT special needs education services schools	
Photofinishing	All technical, trade, or other specialty schools (LBCS 6140 series)	
Massage therapist	Judicial functions	
Pet or pet supply store	Blood or organ bank	
Animal services	Hospital	

General Business Authorized Uses in Both UDO and Applicant's Exhibit A	***General Business Authorized Uses in UDO, but Not Applicant's Exhibit A***	***General Business Authorized Uses in Applicant's Exhibit A, but in UDO***
Courier and messenger services	Community food services	
Newspapers, books, periodicals, etc. Publishing	Emergency and relief services	
Software publisher	Other family services (LBCS 6565)	
All tele-communications and broadcasting land uses (LBCS 4230 series) EXCEPT towers and antennas taller than 50'	Homeless shelters	
All information services and data processing industries (LBCS 4240 series)	Religious institutions (small or others)	
Electric service distribution lines and substations	Funeral home and services	
Theater, dance, or music establishment	All cemetery or cremation services (LBCS 6720 series)	
Agent for management services	Carpentry, floor, and tile contractor	
Independent artist, writer, or performer	Electrical contractor	
Museum	Glass and glazing contractor	
Games arcade establishment	Masonry and drywall contractor	
Miniature golf establishment	Painting and wall covering contractor	
Public or private fitness, recreational sports, gym, athletic club, multipurpose facility	Plumbing, heating, and air conditioning contractor	
Bowling, billiards, pool	Roofing, siding, or sheet metal contractor	
Skating rink, roller skating	Outdoor crop production	
Nursery or preschool	All greenhouse crop production (LBCS 9140 series)	
Special needs education services school	Home occupations	
Legislative and executive public administration uses		
Other government functions (LBCS 6300)		
All public safety land uses (LBCS 6400 series)		

General Business Authorized Uses in Both UDO and Applicant's Exhibit A	***General Business Authorized Uses in UDO, but Not Applicant's Exhibit A***	***General Business Authorized Uses in Applicant's Exhibit A, but in UDO***
All ambulatory or outpatient care services (LBCS 6510 series) EXCEPT blood or organ banking		
Inpatient nursing and rehabilitative services (LBCS 6520)		
Health care facility (LBCS 6540)		
Child and youth services (LBCS 6561)		
Child daycare (LBCS 6562)		
Services for elderly and disabled		
Veterans affairs		
Vocational rehabilitation		
Any associations, non-profit organizations, clubs (LBCS 6800 series)		
Building, developing, and general contracting for construction-related businesses		
Temporary uses		
Major and minor subdivision		
Combination uses		

2. *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 they will adhere to the UDO General Business standards and other applicable zoning standards. Additionally, Figure 2 shows the Zoning and Location Map, which shows the subject properties surrounding by Planned Development districts. Two of these Planned Development Districts include Tyler's Ridge and Ace Hardware (see Figure 3), which include commercial land uses and buildings. Therefore, Planning staff believe that the proposed amendment conforms to the commercial neighborhood where it is located **except** for the commercial property-related mini- or self-storage land use proposed as a permissible land use within the GB-CD and the lack of any

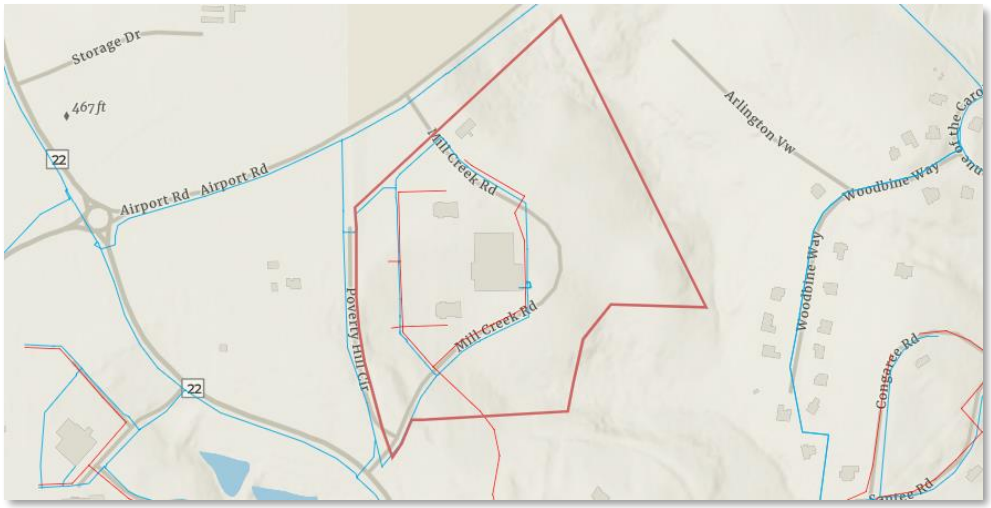
connections and/or improvements that could be made to pedestrian and other multimodal networks in the surrounding neighborhood (see Figure 5).

Figure 3. Neighborhood Character. Tyler's Ridge (Top; Google Streetview) and Ace Hardware (Bottom; Rendering from File AR-16-22)

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

The applicant states that water and sewer are readily available to the site, infrastructure has been installed in previous phases of development, and any further expansion will be borne at the cost of the developer. The Town's geographic information systems spatial data layers show both sewer gravity main and water main lines intersecting the properties (see Figure 4). Furthermore, Mill Creek Road is a paved town road while Airport Road and Central Drive are both minor arterial roads owned and maintained by North Carolina Department of Transportation. Considering this information, Planning staff consider the properties to have adequate public facilities.

Figure 4: Existing Sewer Gravity and Water Main Lines. Approximate amendment area boundary indicated by thick red line. Sewer gravity mains are shown in red while water mains are shown in blue.



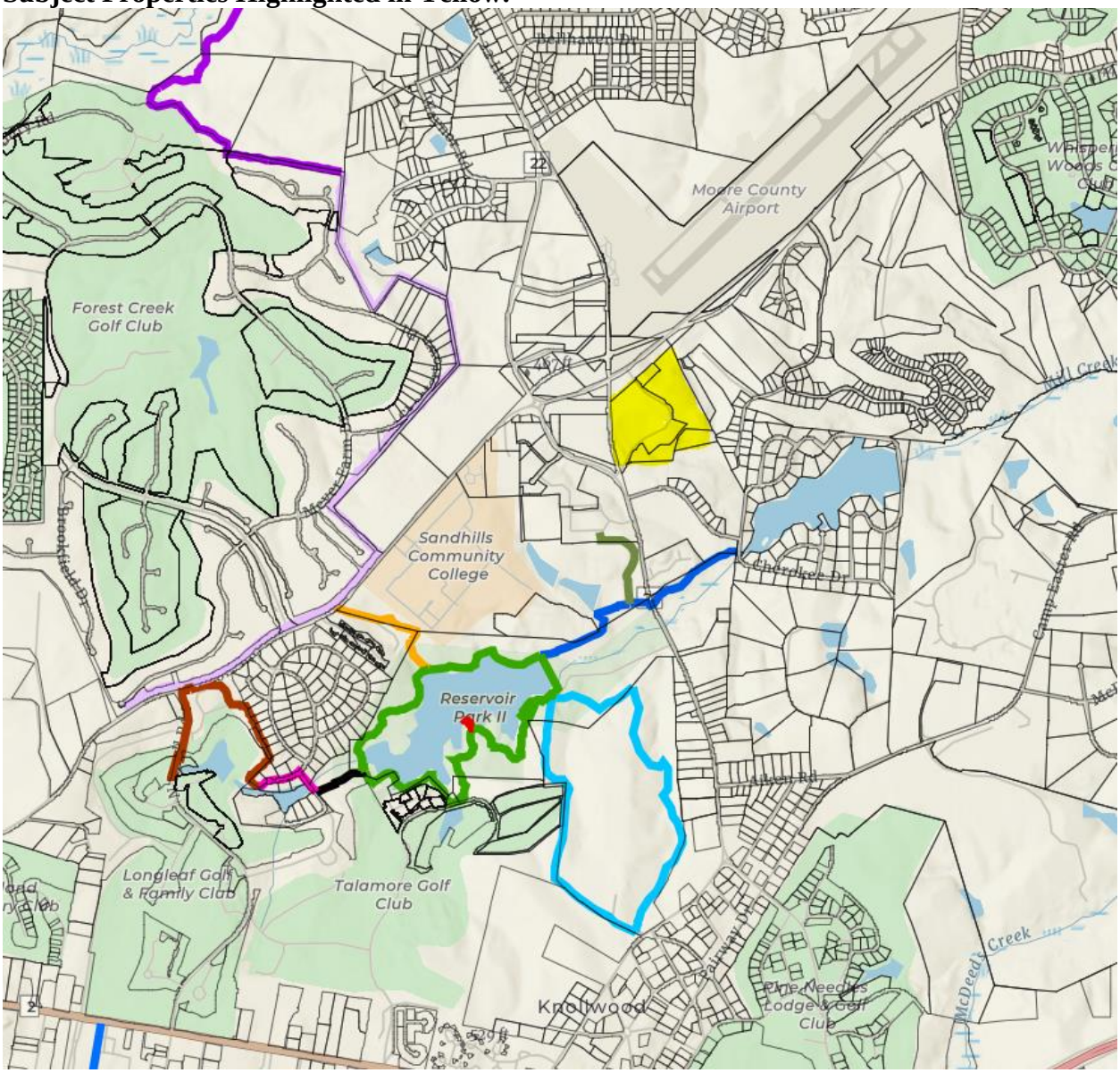
4. *The proposed use shall not impede the orderly Development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values within the neighborhood;*

   The application narrative states that the modifications are "in conformance with the surrounding development and zoning classifications." No analysis has been submitted on the potential impact of the expanded permitted uses on property values within the neighborhood. No analysis on other potential positive or negative impacts to orderly development (such as trip generation, sewer and water demand, noise generation, parking, etc.) have been provided by the applicant.

   The Master Plan states in Section III. Planning Goals, that the development intends to "Provide for orderly and efficient circulation and access… as to allow for the efficient circulation and access of pedestrian and vehicular movement." Figure 5 of this report shows the town's existing greenway and trail network which shows pedestrian and bicycle connectivity adjacent to the Mill Creek development (e.g., Tyler's Ridge Access Trail and Mill Creek Access Trail). Although a slope analysis was completed for the 1998 Conditional Use Permit, there were no analyses conducted on pedestrian or bicycle access to the GB-CD and how the expansion of uses my impact pedestrian, bicycle, and other multi-modal movement around and through the zone. Planning staff believe that

the development program and/or the Zoning section of the Mill Creek Master Plan should address multimodal movement and connectivity that contribute to orderly Development and improvement of surrounding property for uses permitted within the zoning district.

Figure 5: Existing Town Greenway and Trail Network (Multicolor Lines on the Map) with Subject Properties Highlighted in Yellow.



5. *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 Justification states that "future phases will conform to all development standards… and requirements of the Town. As a

result, the use will not be detrimental…" A Traffic Impact Analysis (TIA) was submitted on September 1, 2023, to Planning staff and the Town Engineer. The Town Engineer, James Michel, sent five comments on the TIA on September 12, 2023, to Travis Fluitt of the consulting firm Kimley-Horn & Associates, Inc. (see Attachments 4 and 5) and copied to Paul Saathoff of the applicant's firm KoontzJones Design. As of the writing of this staff report, Mr. Fluitt and the Town Engineer continue to discuss an appropriate way for the TIA to address non-shopping-center-related uses being proposed. Therefore, at this time, Planning staff cannot determine compliance with this criterion.

Planning staff are particularly concerned about the Town Engineer's 5th comment regarding the need for additional projections for pedestrian and multimodal trips, including consideration of the surrounding greenway/trail and sidewalk networks in the Tyler's Ridge, Caropines, and Warrior Woods developments. Any connections and/or improvements that could be made would improve public health, safety, comfort, and general welfare, considering several failing intersections and the positive impacts multimodal transportation options would have on traffic reduction.

6. *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 applicant claims that the proposed uses and changes are consistent with the 2016 Comprehensive Long-Range Plan and the character of the surrounding neighborhood. According to Table 1 in this report, Staff believe that the Applicant's Exhibit A should include a note that states that specific uses exclusively in the white fill rows (i.e., non-grey rows identifying general land use categories) are permitted, and that the inclusion of land use categories (e.g., automobile sales or service establishment) in the table does not permit all land uses nested within that category under the LBCS (e.g., a car dealer). However, there are some instances where a category of land uses such as LBSC 2510, 2630, 5380, 5390, 6110, 7100, etc. do not include sub-categories and should be changed from grey fill to white fill for clarity that it is the most specific type of land use for its category. This distinction will be important to avoid misunderstandings during future interpretations of the master plan. The applicant was amenable to this formatting change during the Planning Board preliminary forum, but no revised table has been submitted as of the completion of this staff report.

Considering the volume of proposed uses, Planning staff cannot determine whether the public interest and welfare, if constructed,

outweigh individual interests that are adversely affected by the establishment of the proposed use. Additional information would be needed to identify what uses comply with this criterion and which do not.

ii. Development Design and Other Standards from UDO Chapter 4

Any future development proposals that are on the Applicant's list of authorized GB-CD uses in "Exhibit A" of their application (see Attachment 4) will require Site Plan Review and approval by the Technical Review Committee as well as Architectural Compliance Review and approval by the Town Council, unless state statutes limit local design standards for structures built to residential building code.

E. General Staff Comments

- Approval of the request will result in the expansion of authorized land uses to a total of 120 land uses (excluding commercial property-related mini- or self-storage, which would bring the total to 121 land uses) rather than the current 14 land uses, which do include several categories that are generalized and could include more sub-categories of land uses, such as "shopping centers" and "entertainment facilities."
- Commercial property-related mini- or self-storage included as a proposed authorized use is not a by-right use in the conventional General Business district, per text amendment file OA-03-23 and Ordinance #2096, approved on August 8, 2023; therefore, should not be included in the Applicant's Appendix A. The authorized agent stated in the preliminary forum that they were amenable to removing this authorized land use from their Exhibit A.
- Planning staff believe that pedestrian and multimodal trip information requested by the Town Engineer after reviewing the TIA should be included with the TIA and additional language should be included in Zoning section of the Mill Creek Master Plan (Attachment 3).
- No analysis has been completed on the potential impact of the significantly expanded permitted uses on property values within the neighborhood. No analysis on other potential positive or negative impacts to orderly development (such as trip generation, sewer and water demand, noise generation, parking, etc.) has been provided by the applicant.
- A Traffic Impact Analysis was submitted on September 1, 2023, to Planning staff and the Town Engineer. The Town Engineer, James Michel, sent five comments on the Traffic Impact Analysis on September 12, 2023, to Travis Fluitt of the consulting firm Kimley-Horn & Associates, Inc. (see Attachment 5) and copied to Paul Saathoff of the applicant's firm KoontzJones Design. Of particular concern is the insufficient projections for pedestrian and multimodal trips. The TIA should consider the surrounding greenway and sidewalk networks in the Tyler's Ridge, Caropines, and Warrior Woods areas and analyze if connections can be made.
- The Applicant should make formatting changes or add text to their "Exhibit A" for clarity on what land uses specific categories encompass. Otherwise,

misunderstandings about intent of a land use category and what sub-categories were meant to be included could occur.

- Pursuant to UDO §2.27.7, in approving any special use permit, the Town Council may impose such reasonable standards, conditions, or requirements as it may deem necessary to protect the public health, safety and welfare. As a preliminary forum to the evidentiary hearing, the Planning Board is solely allowed to provide a list of issues to the Town Council.

F. Outside Agency and Neighborhood Meeting Comments

Staff has provided information on the project to outside agencies and has received the following responses:

- A response from the Town's Utilities Superintendent Ron Istre was received on August 25, 2023 stating that he had no comments.
- A response from the Town's Town Engineer James Michel was received September 12, 2023, and is Attachment 5 of this staff report. Particularly, insufficient projections for pedestrian and multimodal trips. The TIA should consider the surrounding greenway and sidewalk networks in the Tyler's Ridge, Caropines, and Warrior Woods areas and analyze if connections can be made.
- The Technical Review Committee reviewed a Pre-Application submittal for the project at their August 22, 2023 meeting, with no major issues identified. Site plan review and approval will be required prior to issuance of any building permits for development, if approved.

Additionally, staff is unaware if the applicant conducted a voluntary neighborhood meeting to present the proposed amendments to the neighboring community and receive feedback.

G. Staff Recommendation

Planning staff recommend a continuance until (1) the TIA has been satisfactorily updated to address the Town Engineer's concerns so that Planning staff can reevaluate compliance with UDO §2.21.6 Special Use Permit Criteria B, D, and E and (2) the Applicant's "Exhibit A" has been satisfactorily reformatted to minimize future misinterpretations of what was intended to be included and excluded from the table.

V. ATTACHMENTS

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

1. Special Use Permit Application
2. Applicant's Special Use Permit Narrative and Justification
3. Mill Creek Master Plan with Track Changes and Additional Exhibit A
4. Mill Creek Traffic Impact Analysis Executive dated September 1, 2023
5. Town Engineer Communication with Traffic Impact Analysis Preparer

Note that the following additional materials are available on the Town's Pending Applications website:

- Agent Authorization Form
- Deeds
- List of Adjoining Properties Provided by Applicant
- Mill Creek Traffic Impact Analysis dated September 1, 2023 (263 pages)

VI. TOWN COUNCIL ACTION

To either approve or deny a Special Use Permit application to amend an existing conditional use permit, the Town Council shall make findings of fact and conclusions to the applicable standards. The Town Council shall first vote on whether the application is complete and whether the facts presented are relevant to the case. The Town Council shall then vote on whether the application complies with the criteria as set forth in §2.21.6(A-F) Criteria for a Special Use Permit. The Town Council may choose among the following motions or any alternative at their discretion.

Continuance	Motion to Approve, Approve with Conditions, or Deny
I move to **continue Special Use Permit SU-01-23 until (1) the TIA has been satisfactorily updated to address the Town Engineer's concerns so that Planning staff can reevaluate compliance with UDO §2.21.6 Special Use Permit Criteria D and E and (2) the Applicant's "Exhibit A" has been satisfactorily reformatted to minimize future misinterpretations of what was intended to be included and excluded from the table.**	**I move to[1]:** Adopt **Attachment A** of the staff report as Findings of Fact regarding the proposed Special Use Permit SU-01-23. **-OR-** Adopt **Attachment A** of the staff report as Findings of Fact regarding the proposed Special Use Permit SU-01-23, with the following changes…
	I move to[2]: Approve Special Use Permit SU-01-23. **-OR-** Deny Special Use Permit SU-01-23. **-OR-** Approve Special Use Permit SU-01-23 with the following conditions (as recommended by Planning Staff)…

[1] Staff has provided draft findings, included with this report as Attachment A. Town Council may adopt the Findings as drafted, or modify at their discretion.

[2] Next, the Town Council may vote on whether to approve, deny, or approve with conditions the proposed Special Use Permit. The Town Council may choose one of the following motions, or any alternative at their discretion. Pursuant to UDO §2.27.7, in approving any special use permit, the Town Council may impose such reasonable standards, conditions, or requirements as it may deem necessary to protect the public health, safety and welfare.

	1. LBCS 2321 be removed as a permitted land use from Exhibit A. 2. The Traffic Impact Analysis shall include projections for pedestrian and multimodal trips, including consideration of the surrounding greenway/trail and sidewalk networks in the Tyler's Ridge, Caropines, and Warrier Woods developments. 3. The Mill Creek Master Plan shall include opportunities for pedestrian and multimodal connectivity with Tyler's Ridge Access Trail and Mill Creek Access Trail per CU-02-98 and UDO §2.21.6 Criteria B, D, and E. 4. The Applicant's Table of Permissible GB-CD Uses shall be satisfactorily reformatted to minimize future misinterpretations of what was intended to be included and excluded from the table.

ATTACHMENT "A"
Draft Town Council Findings of Fact
Special Use Permit Application SU-01-23

Finding of Fact #1

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

Finding of Fact #2

The Town Council finds that the application complies with UDO §2.21.6 Criteria for a Special Use Permit, Criteria A-F, in that:

1. **The proposed special use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations;**
   The applicant's Justification document (Attachment 2) states that the intent of the major amendment is to clarify permissible uses within the General Business portion of the development. The applicant uses a similar format to UDO Exhibit 3-15 Table of Authorized Land Uses to create a list of permissible uses. The applicant had agreed to remove commercial property-related mini- or self-storage (Land Based Classification Standards, LBCS, 2321) from "Exhibit A" of their application.

2. **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 they will adhere to the UDO General Business standards and other applicable zoning standards. Additionally, the area surrounding the subject properties include Planned Development districts—such as Tyler's Ridge and Ace Hardware— which include commercial land uses and buildings. Therefore, Town Council believe that the proposed amendment conforms to the commercial neighborhood where it is located except for the commercial property-related mini- or self-storage land use proposed as a permissible land use within the GB-CD, which the applicant agrees to remove from their Table of Permissible GB Uses. The applicant has also agreed to a condition of approval that requires the inclusion of pedestrian connectivity with Tyler's Ridge Access Trail and Mill Creek Access Trail[3].

3. **Adequate public facilities shall be provided as set forth herein;**
   The applicant states that water and sewer are readily available to the site, infrastructure has been installed in previous phases of development, and any further expansion will be borne at the cost of the developer. The Town's geographic information systems spatial data layers show both sewer gravity main and water main lines intersecting the properties (see Figure 4). Furthermore, Mill Creek Road is a paved town road while Airport Road and Central Drive are both minor arterial roads owned and maintained by North Carolina Department

[3] The applicant has not agreed to this condition as of the writing of this staff report and draft findings of fact.

of Transportation. Considering this information, Planning staff consider the properties to have adequate public facilities.

4. **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 application narrative states that the modifications are "in conformance with the surrounding development and zoning classifications." No analysis has been submitted on the potential impact of the expanded permitted uses on property values within the neighborhood nor on other potential positive or negative impacts to orderly development (such as trip generation, sewer and water demand, noise generation, parking, etc.) by the applicant. The Town Council finds that sufficient qualified evidence was presented to show that the proposed uses will not impede orderly development and the improvement of the surrounding properties nor impair property values in the neighborhood, especially if pedestrian and multimodal connectivity is improved.

5. **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 Justification states that "future phases will conform to all development standards… and requirements of the Town. As a result, the use will not be detrimental…" Town Council finds that, there being no qualified evidence entered into the record of potential negative impacts resulting from the expansion of proposed permissible uses, there is no expected detrimental impact to the public health, safety, comfort or general welfare. Furthermore, the traffic impact analysis entered into the record for SU-01-23 found no cause to support a finding that the proposed development will create a roadway safety issue aside from the need to expand the analysis to include projections for pedestrian and multimodal trips, including consideration of the surrounding greenway/trail and sidewalk networks in the Tyler's Ridge, Caropines, and Warrier Woods developments. The applicant agreed to include these projections as a condition of approval[4].

6. **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 proposed expansion of permissible uses within the General Business Conditional Zoning District portion of the Mill Creek Master Plan is consistent with the future land use designation of Commercial as denoted in the 2016 Comprehensive Long-Range Plan's (CLRP) Future Land Use Map. Despite the large number of proposed uses, Town Council has determined that sufficient evidence was presented that the public interest and welfare, if any of the proposed individual uses were to be constructed, outweigh individual interests that are adversely affected by the establishment of the proposed use.

[4] The applicant has not agreed to this condition as of the writing of this staff report and draft findings of fact.

Town of Southern Pines
Chartered 1887
North Carolina

Special Use Permit Application

Fee: $_____ Date Paid: _____ Case No.: SU-_____-_____

Project Information:

Street Address: MILL CREEK RD.

PIN: 858300176636; 858300274839 Parcel ID: 20070989; 20070990

Site Size: ±40.44 AC Zoning: GB-CD

Applicant:

Name(s): MILL CREEK PARTNERS, LLC

Email: letitgo@pinehurst.net Phone: 910-295-5011

Mailing Address: PO BOX 1511 PINEHURST, NC 28374

Authorized Agent, if different from Applicant:

Name(s): BOB KOONTZ - KOONTZ JONES DESIGN

Email: bkoontz@koontzjones.com Phone: 910-684-8487

Mailing Address: 150 S Page St Southern Pines, NC 28387

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

Name(s): MILL CREEK PARTNERS, LLC & MILL CREEK PARTNERS II, LLC

Email: letitgo@pinehurst.net Phone: 910-295-5011

Mailing Address: PO BOX 1511 PINEHURST, NC 28374

8-27-21

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 AIRPORT RD (St./Ave.), between POVERTY HILL (St./Ave.) and MILL CREEK (St./Ave.). The property has a frontage of ±1290 feet and a depth of ±1510 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:

GENERAL BUSINESS

MILL CREEK PARTNERS LLC

Date: 8/10/23

Applicant

PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES
plan@southernpines.net (910) 692-4003 www.southernpines.net

8-27-21

MILL CREEK
SPECIAL USE PERMIT NARRATIVE

The property described as the Mill Creek Mixed-Use Development in the submitted documents and exhibits was approved in 1998. It is located on the south side of Airport Road and East of NC Highway 22. Original property approvals comprised areas zoned GB-CD, RM-1, and RS-3 and included the Warrior Woods subdivision and Mill Creek shopping center.

Since the original approval, much of the originally approved Mill Creek Shopping Center has been developed. A grocery store, personal services businesses, medical offices, and restaurants have been developed in the shopping center through the original approvals of the development.

Since the original development was approved, there have been several versions of the Unified Development Ordinance (UDO). The Table of Authorized Land Uses within the UDO has been modified and is now much more specific than the ordinance in place when the Mill Creek project was approved. This special use permit (SUP) is submitted to clarify what permitted uses are authorized within the established GB-CD district and to update the permitted uses using the current UDO standards and LBCS codes. Furthermore, this special use permit also aims to clarify where these uses are permitted within the GB-CD zoned area.

This SUP proposes to clarify two (2) parts of the original 1998 zoning documents as described below:

Part I:

General Business Uses:

Under the 'Zoning' section (pages 9 & 10) of the approved 1998 zoning documents, were listed general land uses allowable within the GB-CD area. The Table of Permissible Uses in place at the time of approval was vague and included broad land-use categories (i.e., 'Shopping Centers' and 'Entertainment Facilities'). At the time, the UDO did not include LBCS codes which are much more specific and are part of the current UDO. To provide greater clarity for the applicant and Town staff related to the land uses permitted in the Mill Creek Shopping Center, Exhibit 'A' has been included with this application. Exhibit 'A' utilizes the current UDO's Table of Authorized Uses to describe the uses permitted in the Mill Creek Shopping Center area and permitted within the GB-CD district. The proposed uses are consistent with the current uses and character of the existing Mill Creek shopping center and the vision of the previously approved zoning documents.

Part II:

Illustrative Map Update:

The 'Regulatory Map' included in the approved 1998 zoning documents indicates that the Mill Creek shopping center area, in its entirety, is a GB-CD zoning district. It would be assumed that the uses

identified under the 'General Business' section of the zoning document would be permitted in the entirety of this area. However, the 'Illustrative Plan,' included with the 1998 zoning documents, labels a bubble within this area as an 'Office Condominium Site,' leading to confusion about what is permitted within this area. Under the current UDO, many office uses are permitted within the GB zoning district. An update to the 'Illustrative Plan' is included with this application and removes the 'Office Condominium Site' label to clarify that the GB uses, as provided in the original zoning documents and further identified with Exhibit 'A' of this application, are permitted within the entire shopping center area.

This SUP proposes the above amendments to clarify the uses permitted within the Mill Creek GB-CD district to correspond to the current UDO's more distinct land use categories. No modifications or changes are proposed to the RM-1 or RS-2 districts within the Mill Creek development. Future development of the Mill Creek Shopping Center will follow the development standards as established in the approved Mill Creek Mixed-Use Development zoning documents and these updated documents.

Mill Creek
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 clarify what permitted uses are allowed in the established GB-CD district and update them using the current UDO and LBCS codes. All future development will comply with all regulations of the GB-CD zoning district and any applicable supplemental use regulations. All future development will meet the standards specified in the Mill Creek 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. Future phases of 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 as it 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

Future phases will continue the existing development pattern and conform to all development standards of the GB-CD zoning 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 in conformance with the underlying conditional zoning district. 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 Commercial, which is consistent with the overall plan.

tracked changes

LAND USE MASTER PLAN

FOR

MILL CREEK

MIXED – USE DEVELOPMENT

SOUTHERN PINES, NORTH CAROLINA

prepared for

Pinehurst Area Realty

By

The Hayter Firm

March 23, 1998

Edited By Koontz Jones Design

August 14, 2023

I. INTRODUCTION

The purpose of this master plan is to provide a framework for the development of a mixed-use development on the 392 acre "Warrior woods – Mill Creek – Camp Easter" site. The site is located on the west side of NC 22 and is bordered by Airport Road to the north, The Carolina Golf Course to the east, and Hunter's Glen to the south. The plan includes recommendations for developing comprehensive multi-use commercial, residential and recreational uses on this site. Recommendations on land use, facilities, circulation systems, and environmental management are provided in the plan. Illustrations, graphic images, and this text are intended to assist in understanding the intent of the plan.

The final site use plan culminates refinements to the program, input from the Pinehurst Area Realty in cooperation with the planning experience of The Hayter Firm. This plan is not a compendium on how to design, construct, and develop each component, facility, or area. It is however a plan to guide the development and realization of a significant community center to occur in northeast Southern Pines.

II. THE PLANNING PROCESS

Land Use Concepts

The consultants met with Pinehurst Area Realty during several programming sessions to determine the applicability and marketability of the land-use elements and generate a development program that would guide the upcoming planning process. Based on the refinement of the development program and an application of the site inventory and analysis, the consultants developed a land use diagram. Four categories of land use were identified: Single family Residential, Multi-Family Residential, Commercial, and Recreational. The land use relationships shown on that plan allowed the Pinehurst Area Realty (P.A.R.) to evaluate the benefits, advantages, and general effects of each proposed land use and its relationship to others uses on the site. Each of the four land use types used in this report were schematically tested to ensure that the locations shown were viable. However, detailed studies of each individual development sites should be undertaken in order to address issues specific to those land uses. Along with land use concepts were presented to P.A.R. and the concepts shown were reviewed with the consultants. Based on the review sessions, several program and site use priorities were revised and incorporated in the final plan.

Programming

Meetings, interviews, and written communication provided the needs, desires, and expectations of the plan. These elements were evaluated to determine their importance, requirements, and possible effects on the entire site. This process resulted in quantifying and qualifying the design elements, site uses and interrelationships. The refinement of this data and its application was presented to P.A.R. in draft form to elicit comment. The plan was revised based on the resulting comment and is presented in the following graphic documents. The following table contains the programming elements that will occur in the proposed development plan.

Development Program

ZONING CODE	LAND USE	GROSS FLOOR AREA	PARKING SPACES	PARKING RATIO	ACREAGE PROVIDED	COMMENTS
General Business – Commercial – Total Site Area : 37.16 ac						
	GB uses (Per Exhibit A)	210,556 sf		Per UDO Standards		
~~2.112~~	~~Grocery Market~~	~~35,000 sf~~	~~175~~	~~1 per 200 sf~~	~~6.49 ac~~	
~~2.112~~	~~Minor Shops (5 @ 2,500 sf)~~	~~12,500 sf~~	~~63~~	~~1 per 200 sf~~	~~2.25 ac~~	
~~3.230~~	~~Bank (outparcel)~~	~~3,000 sf (.96 ac lot)~~	~~15~~	~~1 per 200 sf~~	~~1.45 ac~~	
~~8.120~~	~~Restaurant (outparcel)~~	~~3,000 sf (1.45 ac lot)~~	~~30~~	~~1 per 100 sf~~	~~1.45 ac~~	
	~~Outparcels (2)~~				~~4.50 ac~~	
~~3.110~~ ~~3.130~~	~~Professional Office Condos (4 units per structure@ 800-1,800 per unit) 8 structures~~	~~157,056 sf total~~	~~128~~	~~1 per 300 sf~~	~~4.8 ac~~	~~11 d.u./acre~~
Residential Site #1 – Total Site Area: 71.56 ac **Total dwelling units permitted @ 2 du/ac = 143.12**						
1.330	Multi-Family- Site #1 60 units (8 du / structure)	107,300 sf total	16	2/d.u.	6.94 ac	10 d.u. / acre
1.320	Multi-Family- Site #2 as per elder housing specs		?		4.19 ac	6 d.u. / acre
1.110	Single Family Detached 35 lots. 6 built	.76 ac average			20,000 sf min. – 2 d.u. / ac max	1.3 d.u. / acre
Residential Site #2 (Warrior Woods) Total Site Area: 144.95 ac **Total dwelling units permitted @ 2 du/ac = 289.90**						
	Single Family Detached 92 lots. 15 built/owned (56 existing, 77 proposed)	.85 ac average				Net gain 21 lots
Residential Site #3 (Camp Easter) Total Site Area: 72.05 Ac **Total dwelling units permitted @ 2 du/ac = 144.10**						
	Single Family Detached 23 lots	.73 ac average				
	Multi-Family #4 – 77du				12.86 ac	6 du / acre
	Multi-Family #5 – 25du				4.29 ac	6 du / acre
	Multi-Family #6 – 17du				2.91	6 du / acre
Totals	**354 du total** **577.12 d.u. permitted** **223.12 d.u. balance**					

Site Inventory Analysis

The consultants used their existing knowledge of the site and additional investigations as part of the site analysis. The land use plan will show schematic locations. However, these facilities

would require a greater level of study to determine their applicability and actual design. Investigations of the site's natural features such as topography, vegetation, soils, and climate were included in the analysis. Equally important to this plan was the study of man-made features. Those features were also analyzed, including utilities, roads, previous land uses, and visual features. The relationship of site uses, structures, and circulation were key in evaluating land uses for the site. The information provided guidance for development alternatives and the suitability of the site for the desired development goals.

Concept Development

Following the refinement of the development program and the site analysis contained in this report. The Hayter Firm developed alternative site use scenarios (concepts plans) for the site. These alternatives illustrated the program elements on the site and their relationship to one another. Site use compatibility, circulation, access and control, and visual image issues were depicted on three concept plans. Those three concepts were revised, reworked, and combined until a single plan was developed.

Site Accommodation Studies

The land use plan was verified by testing the physical requirements of each site use within the land use pattern (concept plan). The evaluation of the four programmed land use categories yielded nine focus sites. The study of the nine focus sites were based on each site's connection to surrounding areas and its contents effect on the site characteristics. By testing each site and its interrelationship with other adjacent land uses, the site use is visualized as an interlocking part of a large scheme. Equally important to this process is a better understanding of the design issues that will be necessary to develop more detailed plans for the sites. The study sketches are provided more to help the reader better visualize the site use and features. They are not explicit of the actual elements possible final design.

Final Plan

The final plan was formulated to illustrate and communicate the goals for the site as a comprehensive multi-use development that compliments and coexists with the existing Warrior Woods residential subdivision. The purpose of the land use plan is to depict the proposed uses of the entire site. The plan identifies uses or activities that are appropriate for the various site conditions defined during this study. These uses have been defined with regard to existing site assets and structures. In a general yet comprehensive nature this land use plan serves as a "road map" for future planning, programming, and budgeting. It is not a plan of implementation for any given area. Its greatest value is to assist in defining the future for the site's land uses.

III. THE PLANNING GOALS

- **Accommodate all requirements for site uses and facilities.**
  A key challenge was to provide sufficient space for the designated program elements and the proper relationships between these activities. Along with the immediate needs the site should be able to satisfy future expansion requirements. The development program includes open space, roads, recreation facilities, high density residential and commercial development that all require independent attention and planning within the framework of a unified plan. This involves proper buffering between uses, access

control and a strong overall image consistent with the goals of Southern Pines planning department.

- **Provide for orderly and efficient circulation and access**.
  The plan should locate all facilities and activities in such a way as to allow for the efficient circulation and access of pedestrian and vehicular movement. To meet the requirements for land use and facilities on the site while protecting the existing resources and the investment of the residents of Warrior Woods, the plan must provide for optimum and efficient use of the site.

- **Protect and enhance environmental conditions.**
  The site is surrounded by a significant amount of residential, commercial, and institutional development. The protection of the natural features on the site including the watershed, vegetation and animal life must be a high priority for developing the site. The plan should attempt to site facilities and activities to best utilize the land with respect for the natural environment.

- **Develop a plan that is practical and able to be implemented.**
  To be successful, the plan must include recommendations that are realistic and practical. Funding methods, as well as current budget concerns, must be considered in developing a plan that will be implemented. In addition, the plan should be flexible enough to allow for modifications when requirements, funding, or other factors change.

IV. EXISTING CONDITIONS

This section includes a summary of existing conditions including the existing Warrior Woods subdivision and Camp Easter tract. Information about the existing conditions is illustrated on the following maps.

Existing Natural Conditions

Project Area

The project area is located on the north side of Southern Pines, in southern Moore County, and is characterized by golf courses and residential developments sit in longleaf pines (Pinus palustris) forested uplands. Most uplands are either developed or subdivided and awaiting development. The lowlands in the area have either been impounded as lakes or are forested with a mixture of hardwoods and pines.

The project site has two perennial streams that traverse the site. Mill Creek, the largest, and a smaller tributary that feeds into it. Mill Creek has been impounded to form warrior Lake, which is located in the center of the Warrior Woods subdivision. The Mill Creek (Warrior Lake) corridor and the corridors of its tributaries should be taken into consideration for permanent open space and recreational uses.

A significant population of red-cockaded woodpeckers (RCW) occurs in this area. RCWs in Southern Pines and Pinehurst are a critical part of the Sandhills RCW population and are needed for the recovery of that population. Although no cavity trees

are mapped on this site, the site is considered to be within the foraging habitat of nearby RCW populations.

Soils and Hydrology

The topography of the property is typical of much of the Sandhills Region and consists of broad sandy ridgetops that slope into a small drainage system. The elevation generally ranges from 312 – 445 feet above sea level.

The soils on the uplands are Candor sand, Vaucluse sandy loam, and Ailey loamy sand. Candor sand is found on the ridgetops and is characterized as deep, excessively drained sand. Ailey loamy sand and Vaucluse sandy loam are found on the upper and middle slopes and are characterized as a well drained extremely acidic to strongly acidic soil, with low water capacity. The soil in and adjacent to the drainage system consists of Gilead loamy sand and Bibb fine sandy loam. Gilead sandy loam is characterized as moderately well drained with low permeability and moderate water capacity. Bibb soils are characterized as poorly drained, stratified loamy and sandy alluvial sediments. The productivity of these soils are lowest on the uplands and increase progressively downslope to the branches and stream bottoms.

For the purpose of this analysis site soils have been categorized by their series. The soil type generally responds to the topography. The upland flat areas are Ailey and Candor soils, the slopes have areas of Vaucluse and Gilead soils and lowlands are generally comprised of Bibb soils. These soils are dominantly well drained on the higher plains and side slopes and somewhat poorly drained in the valleys. They have a sandy surface layer and are dominantly loamy to clay subsoil.

The development goals for the site are not limited by the soils with respect to any structural requirements, or vehicular systems. The protection of water quality in shallow water tables and the existing creek will also require good soil, horticultural impervious surface management practices.

Slope Analysis

Slopes have been divided into five categories: flat (0-2%), slight slope (2-5%), moderate slope (5-12%), steep slope (12-25%) and excessive slope (25% +). The slope analysis for the Mill Creek section of the site is shown on the following map.

Using slope can help attain the program goals by matching appropriate uses with suitable activities. Flat areas provide the maximum flexibility for the location of activities including buildings and parking facilities. In most cases flat areas are the most cost effective sites to build on. However steeper slopes add interest to the site and are ideal for delineating preservations areas.

Vehicular and pedestrian movement are the activities most affected by steep slopes. Vehicular movement is most suitable at grades less than 12%, and pedestrians can use slopes as high as 20%. But handicapped users require slopes that don't exceed 8%.

The site has an overall change in elevation in excess of 130 feet. There are points on site that exceed 445 feet elevation and areas where valley bottoms are below 315 feet in

elevation. The dramatic changes in elevation provide many opportunities for views and vistas across the site. The topography is very important to the fulfillment of the program goals. The land's character can provide a variety of site uses and experiences for the development and its users.

Vegetation

Existing vegetation falls into categories related to site uses and cultivation practices: pine woodlands, mixed pine/hardwood stands and wetland vegetation. Many of the existing vegetation characteristics are related to the site slopes, soils, and previous site uses and the natural course of events. Plants on the slopes leading to the creek are typical of Sandhill associations with pines on the upper slopes and hardwoods occurring closer to the water course.

A quality Longleaf Pine ecosystem is present on the site. Such an ecosystem can be an important part of the wildlife habitat and public recreation. Areas of the site with Longleaf Pine stands would require management of the existing ground cover and understory plants to maintain the ecosystem within the proposed development.

The existing vegetation is important to the site for buffering outside development and will also assist in fulfilling the buffering requirements of the development program and local code requirements.

Existing Regulatory Conditions

Roads

Two issues associated with the existing roadway configuration of this project were identified during the planning process: The realignment of NC 22 and the layout and quality of existing Warrior Woods roadways. The realignment of NC 22 required that the final plan anticipate the location of the proposed highway and its effect on the proposed entrances to the development. Ongoing coordination with county airport officials, engineering consultants, and Southern Pines Planning officials will be required in order to assure that access points recommended in this plan remain viable.

The second issue is the existing roadway system that serves the Warrior Woods subdivision. The existing roadway system on this site is comprised of asphalt pavement of varying quality. The existing roads of Warrior Woods and Camp Easter were not intended to provide a link between the individual sites. However, the improvements recommended in this plan will require a unified transition between the three existing tracts. The major roads including Warrior Woods Road, Santee Road, and Cherokee Road will require renovation that will improve both the quality and alignment of those roads.

Easements

Three easements affect this site and are associated with the Moore County Airport. Dixie Pipeline and roadway access to Fairway Drive. The Airport Hazard Overlay District and Airport Navigation Easement both limit the height and density and vegetative cover of a 200' wide area adjacent to airport land on the northern property line of the site. The requirements of which can be found in section 175 of the Southern Pines Unified Development Ordinance.

The Dixie Pipeline easement is used to maintain the existing natural gas line that runs from the northern property line of Warrior Woods to its southern boundary. The legal and dimensional requirements associated with the pipeline easement were not included in this level of the planning process, therefore, the layout of those lots transversed by the easement are subject to change based on more detailed information.

The access easement provided by the adjacent property owner to the southeast, maintains access from Cherokee Road to Fairway Drive. It should be noted that the existing width of this easement is in conflict with the required dimensions for public access.

Environmental Regulation

Three perennial streams traverse the site. Mill Creek and two small tributaries cross the site and feed Warrior Lake. These streams are a part of the Little River drainage basin which draws from the northern and eastern portion of Southern Pines. Mill Creek enters the site south of Hunter's Glen and flows northeast through the Warrior Woods and Camp Easter tracts. The two tributaries flow in a southeastern direction on the Mill Creek tract toward Warrior Lake. Visual inspection of the creek and its surroundings reveal a completely undisturbed channel surrounded with heavy vegetation. The stream channels appear to be free of any excessive siltation or major erosion problems. All drainage patterns and storm drainage systems for the development of the site will have a direct effect on the creek and require buffer areas to each side of the stream.

The entire site is located within a WS-III protected watershed. This delineation limits the density of residential development to 2 dwelling units per acre and commercial development to 70% built upon (not to exceed 5% of Southern Pines: jurisdiction within the watershed). The exact requirements of the watershed overlay district can be found on page 103.10 of the Southern Pines UDO.

Zoning

The site falls within four zoning districts and the Highway Corridor Overlay District along NC 22. The Mill Creek tract is currently zoned for General Business, GB and medium density residential, RM – 1. The Warrior Woods tract is zoned low-density residential. RS-3 and the Camp Easter tract falls within a Public/Private Conservation District, PPC. Highway 22 has been designated as a Urban Transition Highway Corridor which activates a series of buffers and setbacks that affect the prorate adjacent to the highway.

In each case the individual zoning district requirements differ in density, lot dimension, and setback distances and permissible uses. It is therefore recommended that the site be developed in accordance with Article 12, Section 188 of the Southern Pines UDO. This would allow for the greatest variety of residential housing opportunities. Permissible uses for S.I.S. (Structurally Integrated Subdivision) and GB districts that could occur on this site are outlined in the following list:

GB – GENERAL BUSINESS

Refer to Exhibit A for permissible GB uses.
~~Hotels, Motels~~

~~Care facilities~~
~~Home occupations~~
~~Convenience Stores~~
~~Shopping Centers~~
~~Professional offices~~
~~Light Industry (w/conditional use permit)~~
~~Banks~~
~~Religious Facilities~~
~~Entertainment Facilities~~
~~Restaurants~~
~~Private Recreation Facilities~~
~~Major/Minor Subdivisions (w/conditional use permit)~~
~~Apartments accessory to commercial use (25 units or less)~~

RM-1 – MULTI-FAMILY RESIDENTIAL (10-12 du/acre)

Religious Facilities
Planned residential developments
Outdoor Recreation Facilities
Tourist Homes
B & B
All residential types
Major/minor subdivisions

The specific requirements for each district can be found in the Southern Pines UDO on pages 104-108.

EXHIBIT A

MILL CREEK - TABLE OF PERMISSABLE GB-CD USES

	LBCS CODE	DESCRIPTION
RESIDENCE OR ACCOMMODATION FUNCTIONS	1000	Homes, apartments, housing for the elderly, and hotels
Housing Services	1200	Housing and custodial services for those who cannot care for themselves
Assisted-living board care and adult care group homes	1230	Adult care, group homes, board and care (excludes rehab uses in cond #6520)
Nursing or convalescent home	1250	Nursing homes and convalescent hospitals
Hotels, Motels, or Other Accommodation Services	1300	Lodging and short-term accommodation for travelers
Hotel, motel, tourist home or torist court	1330	Hotels that do not have gambling services; includes extended-stay hotels
GENERAL SALES OR SERVICES	2000	Comprises the vast majority of establishments associated with commercial land use
Retail Sales or Service and Repair	2100	Establishments with displays of merchandise sold to the general public and other businesses, or after-sales services such as repair
Automobile sales or service establishment	2110	Motor vehicle and parts dealers including repair and maintenance
bicycle sales and repair	2113b	New or used bicycles sales or repair
parts, accessories, or tires	2115	Automotive parts and supply stores, automotive stereo stores, tire and tube shops
gasoline service	2116	Gas stations with or without convenience stores or food marts, includes truck stops
automotive repair and maintenance	2117	Repair garages, body and paint shops, oil change, car wash
Heavy consumer goods sales or service	2120	Heavy or durable goods sales or services
furniture or home furnishings	2121	Furniture, flooring, bedding stores, window treatment
hardware, home center	2122	Home building and repair supplies, lighting supply
lawn and garden supplies	2123	Nursery and garden products predominantly grown elsewhere, outdoor power equipment sales or services
department store, warehouse club, or superstore	2124	Large variety of goods
electronics and appliances	2125	Household-type appliances, tv's, stereos, including repair shops and cell phone stores
Durable consumer goods sales and service	2130	Wide range of product lines such as apparel, appliances, hardware, jewelry, etc.
computer and software	2131	Computers and prepackaged software without other electronic equipment, including repair, support, and training
camera and photographic supplies	2132	Primarily retail cameras and photographic supplies or retail with repair and film developing
clothing, jewelry, luggage, shoes, clocks, sewing	2133	Including shoe repair and tailoring
sporting goods, toy and hobby, and musical instruments	2134	

books, magazines, music, videos, CDs, stationery, greeting cards, seasonal decorations, school and office supplies, etc,	2135	
Consumer goods, other	2140	Establishments that retail merchandise (except groceries or health items) not included in preceding codes
florist	2141	
art dealer, supplies, sales and service	2142	Including frame shops
mail order or direct selling establishment	2144	Retailing other than in stores
antique shop, flea market, thrift stores	2145	
Grocery, food, beverage, dairy	2150	Retail food and beverage merchandise from fixed point-of-sale locations
grocery store, supermarket, or bakery	2151	Included are meat and seafood markets and delicatessens
convenience store	2152	Excludes those with fuel pumps
specialty food store	2153	Retail specialty food items such as coffee and gourmet foods
fruit and vegetable store	2154	
beer, wine, and liquor store	2155	
Health and personal care	2160	Retail health and personal care merchandise from fixed point-of-sale locations
pharmacy or drug store	2161	Primarily retail prescription or nonprescription drugs
cosmetic and beauty supplies and personal grooming products	2162	Primarily retail cosmetics, perfumes, toiletries,
optical and contact lenses	2163	Retail prescription or nonprescription eyeglasses
Finance and Insurance	2200	Use this category when difficult to differentiate an establishment into a subcategory
Bank, credit union, or savings institution	2210	Central banking functions
Credit and finance establishment	2220	Credit card, sales financing, unsecured consumer lending, real estate credit, international trade financing
Investment banking, securities, and brokerages	2230	Securities underwriting, brokering, exchange services, managing portfolios
Insurance-related establishment	2240	Insurance underwriting, selling insurance
Fund, trust, or other financial establishment	2250	Pool assets on behalf of shareholders or beneficiaries
Real Estate, and Rental and Leasing	2300	Rent or lease assets
Real estate services	2310	Lease real estate (except buildings) such as manufactured home sites and vacant lots; includes real estate appraisers
Property management services	2320	Manage real property for others
commercial property-related, mini- or self-storage	2321	Lease buildings not used as residences; includes mini-warehouses and self-storage dwelling units
rental housing-related	2322	Lease buildings used as residences
Rental and leasing	2330	Rent tangible goods such as consumer goods and mechanical equipment to customers; excludes establishment primarily renting equipment with operators
cars	2331	Lease passenger cars without drivers
leasing trucks, trailers, RVs, buses, aircraft, tugboats, etc	2332	Drivers not provided

recreational goods rental	2333	Rent skis, canoes, bicycles, sailboats, motorcycles
leasing commercial, industrial machinery and equipment	2334	Rent or lease office machinery and equipment, heavy equipment used for construction, well drilling, telecommunications, manufacturing, institutional furniture
consumer goods rental	2335	Rent personal and household-type goods and a range of consumer, commercial, and industrial equipment geared toward consumers
intellectual property rental	2336	Establishments that assign patents, trademarks, brand names, and franchise agreements
Business, Professional, Scientific, and Technical	2400	Perform professional, scientific, and technical services
Professional services	2410	Services provided depend on worker skills and knowledge rather than equipment
legal services	2411	Title abstract, lawyers, notaries
accounting, tax, bookkeeping, payroll services	2412	
architectural, engineering, surveying and related services	2413	Architectural, engineering, building inspection, surveying and mapping, and laboratory testing (except medical, veterinary, or auto emission)
graphic, industrial, interior design services	2414	Interior, industrial, and graphic design
consulting services (management, environmental technical)	2415	Advise and assist businesses on management, scientific, and technological issues
scientific research and Development services	2416	Conduct research or analyze in the physical, engineering, cognitive, or life sciences
advertising, media, and photography services	2417	Advertising, public relations, media buying agencies, direct mail advertisers, market research, translation providers
Administrative services	2420	Typical office establishments in any business area. Use as a default category for most office buildings (nursing staffing)
office administrative services	2421	Office administration such as billing, record keeping, personnel, organizational planning
employment agency	2423	Provide employee placement, temporary help
copy center, private mail center, other business support services	2424	Provide document preparation, telephone answering, telemarketing, court reporting, steno typing, FAX, etc.
collection agency	2425	collect payements,compile credit information, repossesses tangible assests
Travel arrangement and reservation services	2430	Promote or sell travel, includes convention and visitors' bureaus
Investigation and security services	2440	Provide detective, guard and patrol services, picking up and delivery of money, selling of security systems, remote monitoring of security systems
Food Services	2500	Prepare meals, snacks, and beverages
Full-service restaurant	2510	Provide services to patrons who order and are served while seated or in combination with takeout
Cafeteria or limited service restaurant	2520	Provide services to patrons who order or select items and pay before eating; may be consumed on premises, taken out, or delivered
drive-through restaurants	2521	Provides drive-in, drive-through or drive-up service to patrons; includes most fast-food restaurants

Snack or nonalcoholic bar	2530	Prepare and serve specialty snacks, such as ice cream, frozen yogurt, cookies, coffee, juices for consumption on or near the premises, snowball stand
Bar or drinking place	2540	Bars, taverns, nightclubs, primarily serving alcoholic beverages; may provide limited food and entertainment
Mobile food services	2550	Prepare and serve meals and snacks for immediate consumption from motorized vehicles
Caterer	2560	Provide single event-based food services, including banquet halls with catering for wedding receptions, etc.
Personal Services	2600	Catch-all category for personal service establishments not classified elsewhere such as bail bonding, wedding planning, psychic services, etc.
Personal care	2610	Hair, nail, and skin care and related personal care
hair, nail, and cosmetic skin care	2611	Barber or beauty shop
dieting and weight reducing	2612	
tanning salon	2614	
electrolysis, ear piercing, and other personal care services	2616	
Dry cleaning and laundry	2620	
dry cleaning and laundry	2622	
linen and uniform supply	2623	
Photofinishing	2630	Primarily engaged in developing film or making slides, etc
Special Services	2650	
massage therapist	2651	
Pet and Animal Sales or Service (except Veterinary)	2700	Retails pets and other animals (except for farming purposes) and pet supplies, grooming, training, and care taking
Pet or pet supply store	2710	Retail pets, pet foods, pet supplies
Animal and pet services and kennels	2720	Boarding, grooming, sitting, and training (except veterinary and horse boarding)
animal services	2721	grooming and training
TRANSPORTATION, COMMUNICATION, INFORMATION, AND UTILITIES	**4000**	
Courier and messenger services	4160	Provide air, surface, or combined courier delivery services of Parcels and messages
Communications and Information	4200	Produce or distribute information
Publishing	4210	Issue copies of works for which they usually posses copyright
newspapers, books, periodicals, etc.	4211	Publish newspapers, magazines, books, databases, greeting cards, calendars, maps, and similar works
software publisher	4212	Publish and reproduce computer software
Tele-communications and broadcasting	4230	Provide point-to-point communications; if multiple services are shared between the same facilities, use this general category; if separate facilities are maintained for each type of service, then use a specific classification
radio and television broadcasting	4231	Operate broadcasting studios and facilities for over the air or satellite delivery of radio and television programs
cable networks and distribution	4232	Operate studios and facilities or cable systems, direct-to-home satellite systems

wireless telecommunications	4233	Operate, maintain or provide access to facilities for the transmission of voice, data, text, sound, or full motion picture video, cell towers
towers and antennas 50ft tall or less	4233a	
telephone and other wired tele-communications	4234	operate telephone networks
Information services and data processing industries	4240	News syndicates and information data processing services
online information services	4241	Internet access and service providers
library or archive	4242	Provide library or archive services
news syndicate	4243	Supply information such as news reports, articles, pictures and features to the news media
Utilities and Utility Services	4300	Provide utility services such as electric power, gas, water and sewage removal
Electric power	4310	Provide electric power generation, transmission, control, and distribution
service distribution lines	4315	
electric substations	4316	
ARTS, ENTERTAINMENT, AND RECREATION	**5000**	
Performing Arts or Supporting Establishments	5100	Produce or organize and promote live presentations, excludes nightclubs
Theater, dance or music establishment	5110	Companies, groups, or theaters that produce theatrical presentations, dance, dinner theaters, and live musical entertainment
Agent for management services	5150	Agents representing artists, athletes, entertainers, etc.
Independent artist, writer, or performer	5160	Independent individuals engaged in art, productions
Museums and other special purpose recreational institutions	5200	Public and private museums, historical sites, zoos, and similar establishments
Museum	5210	
Amusement, Sports, or Recreation Establishment	5300	Operate facilities offering activities and provide services
Games arcade establishment	5320	Operate arcades and parlors, except gambling, billiard, or pool
Miniature golf establishment	5340	
Fitness, recreational sports, gym, athletic club, multipurpose facility	5370	Includes archery and shooting ranges, horseback riding, ball parks and courts, fitness clubs, and more
public facilities	5371	
private facilities	5372	
Bowling, billiards, pool	5380	
Skating rink, roller skating	5390	
EDUCATION, PUBLIC ADMINISTRATION, HEALTH CARE, AND OTHER INSTITUTIONS	6000	
Educational Services	6100	Offer teaching and learning
Nursery or preschool	6110	
Grade school	6120	Comprises all public, private, and specialty schools between the preschool and university level
special needs education services	6125	offer specialized services such as for the physically or mentally disabled
Public Administration	6200	All government functions, includes federal, state and local government agencies
Legislative and executive functions	6210	Government and public administrative offices

Other Government Functions	6300	Use this category for government owned establishments not classified elsewhere such as defense and national guard establishments
Public Safety	6400	Government-owned establishments providing fire and rescue, police, and emergency response services
Fire and rescue	6410	
Police	6420	Includes combined police and fire departments
Emergency response	6430	Provide ground or air transportation for medical relief purposes
Health and Human Services	6500	Provide health care, social assistance, and associated services
Ambulatory or outpatient care services	6510	Offer health care services directly to patients without providing inpatient services
clinics and health spas (Ord. # 1601)	6511	Include physician offices, dentists, chiropractors, optometrists, licensed massage therapists, and other licensed or certified health care providers
family planning or outpatient care clinic	6512	Provide outpatient family planning services and outpatient care
medical or diagnostic laboratory	6513	Provide analytic or diagnostic services including medical imaging
Nursing, supervision and other rehabilitative services, except	6520	Provide inpatient nursing and rehabilitative services and can accommodate patients for extended care, includes convalescent homes, nursing homes, inpatient care hospices, alcoholism or drug addiction rehabilitation, mental health Halfway Houses, group homes, and psychiatric convalescent homes
Health care facility	6540	Maximum of 25 beds for overnight care
Social assistance, welfare, and charitable services	6560	Provide social assistance directly to individuals, does not offer residential or accommodation services except for Homeless Shelters
child and youth services	6561	Offer services such as adoption, foster care, drug prevention services
child daycare	6562	Provide care for infants and preschool children, offer pre-kindergarten education programs
services for elderly and disabled	6566	Does not include housing for the elderly
veterans affairs	6567	
vocational rehabilitiation	6568	Provide job counseling, job training, and other vocational services
Associations, Non-Profit Organizations, Clubs	6800	Includes grant making, civic, professional, and similar organizations
Labor or political organization	6810	Labor unions, political groups, and political fund-raising groups
Business association or professional membership	6820	Promote the business interests of their members organization or of their profession
Civic, social, or fraternal organization	6830	
CONSTRUCTION-RELATED BUSINESSES	7000	Build or demolish buildings, leveling, earthmoving, excavating, land drainage; should reflect the location of the establishment and not where it is performing its services
Building, developing, and general contracting	7100	Custom builders, general contractors, developers, land Applicants, and construction management firms
Unclassifiable or No Fuction	9900	

Temporary Uses (Ord. # 1601)	9920	Temporary uses specifically authorized in applicable zoning districts by section 5.25 or 5.26
Subdivisions	9930	
major	9931	
minor	9932	
Combination Uses	9940	

VII. FINAL LAND USE PLAN

Final Plan

The Land Use Master Plan for the Mill Creek Development is based on the planning goals stated in section III and described thereafter in this document. The development plan as described in this section consists of syntheses and recommendations for implementing the transformation of the land uses and facilities.

The Land Uses

The purpose of the Land Use Master Plan is to depict the proposed uses of the sites. The plan identifies uses or activities that are appropriate for the various conditions and the desired development of that land. The land uses shown on the final plan include all of the planning goals and development objectives, and the existing land forms (i.e. topography, soils, drainage, and vegetation patterns).

The proposed land uses of this site fall into four distinct yet inter-related categories that comprise the development goals and objectives. The Final Plan illustrates these major land uses.

Commercial Development Area

Approximately 37.16 acres of the site is to be used for commercial development. This area will include a variety of land uses that are outlined in the program table (page 3). The image and pattern of the development in this area should strive to create a more "traditional" community center than standard strip-commercial developments. This should be achieved by working with developers to create circulation patterns and building locations that reinforce more traditional community development patterns.

Multi-Family Residential Area

Approximately 35 ac of the site is to be used for multi-family residential development of varying density. This land use type occurs on six specific sites ranging from 2.56 ac to 12.86 ac. The program table includes the quantity of the proposed dwelling units that will occur on each of the six sites. The type of structures built on these sites will vary in order to achieve the desired density. Sites 1-3 should be considered higher density (10-12 du/ac), whereas sites 4-6 should be developed at a lower density (6-8 du/ac).

Single Family Residential Areas

Approximately 108.68 ac of the site will be used for single family residential development. The three areas where this development is to occur have 21 existing lots that are owned and/or built upon by individuals other that P.A.R. The Mill Creek tract has 33 lots with an average size of .76 ac each. The Warrior Woods tract should be re-platted to reduce the size of the individual lot. The proposed number of lots would

increase from the 56 existing lots to 88 new lots with an average size of .85 ac each. The Camp Easter tract will have 24 lots with an average size of .73 ac.

Conservation & Recreation Area

Approximately 95 acres of the site has been used for open space. This allows for the protection of existing plant and animal communities on the site as well as satisfying the density requirements of the watershed. The majority of this open space is Warrior Lake with smaller areas designated on both the Mill Creek tract and Camp Easter tract.

A planned greenway trail will connect the three tracts together and continue to the Southern Pines greenway system that currently terminates at Reservoir Park to the southwest and connects to the adjacent greenway located on The Carolina property. The trail will connect the Camp Easter tract to the Mill Creek tract by using the existing right-of-way lot easements in the Warrior Woods subdivision. Thereafter, the trails will be located within the larger designated open space areas. Other recreational amenities such as tennis courts and swimming pools should be planned on a site-by-site basis and could occur in both the Mill Creek and Camp Easter designated recreation areas.

VIII. PHASING AND BUDGET

Phasing

The full implementation of this plan will require a significant investment of time and money to fulfill the program goals and objectives. The scope of this plan is too large to complete at one time, so a phasing timeline is required. Phasing the project will allow the existing infrastructure to be used while the remaining property continues to be developed.

The entire site was divided into four phases in order to extend the total project cost over a number of years. The phases are as follows and are shown on the following plan.

Phase I.	Warrior Woods – NW area
Phase II.	Mill Creek Residential tract
Phase III.	Remaining Warrior Woods tract
Phase IV.	Camp Easter tract

The Mill Creek Commercial tract to be developed not in conjunction with residential areas and will be dependent on negotiations with a third-party developer.

Budget

The following budget numbers are based on a level of detail and information customarily used for master plan projects. This plan also incorporates numbers generated from recent similar developments in the area. As detailed and specific as these numbers are they should be considered preliminary. Specific plans for each element would determine more accurate cost projections. It is recommended that the design for any given element or phase be completed prior to the budget period in which it will be included. This approach will yield better cost estimates and easier implementation.

The following estimates are all based on linear foot measurements and are turn-key (i.e. they include grading, storm drainage, erosion control, fire hydrants, valves and service taps as well as standard road section materials). A preliminary sanitary sewer routing plan is needed to attach any unit cost to the improvements of that system and is therefore not included in these estimates.

Streets (24' w/2" 1-2 asphalt + 8" abc base)	$ 73.00/lf
Asphalt wedge curb (both sides included)	$ 6.00/lf
18" Concrete curb & gutter (both sides included)	$ 24.00/lf
Resurfacing (1" 1-2 asphalt)*	$ 34.00/lf
*includes $ for regrading where needed)	
Water services (6" pvc + fire hydrants/lf + service connections)	$ 33.50/lf

Phasing Budget

Phase 1 – Mill Creek Residential tract

1. Roads – 4,500 lf @ $97/lf	$437,000.
2. Water Service – 3,400 lf @ $33.50/lf	$303,000.
3. Entrance Boulevard – 2,500 lf @ $121/lf	$114,000.
	$854,000

Phase 2 – Warrior Woods tract

1. Roads (resurfaced) – 11.146 lf @ $19/lf	$212,000.
2. Roads (new) – 1,085 lf @ $79/lf	$ 86,000.
3. Water Service – pending ex. System inspection	N/A
	$298,000

Phase 3 – Mill Creek Commercial tract

1. Roads – 2,055 lf @ $97/lf	$200,000.
2. Water Service – 3,400 lf@ $33.50/lf	$ 69,000.
	$269,000

Phase 4 – Camp Easter tract

1. Roads – 5,055 lf @ $97/lf	$491,000.
2. Water Service – 5,055 lf @ $33.50/lf	$170,000.
	$661,000

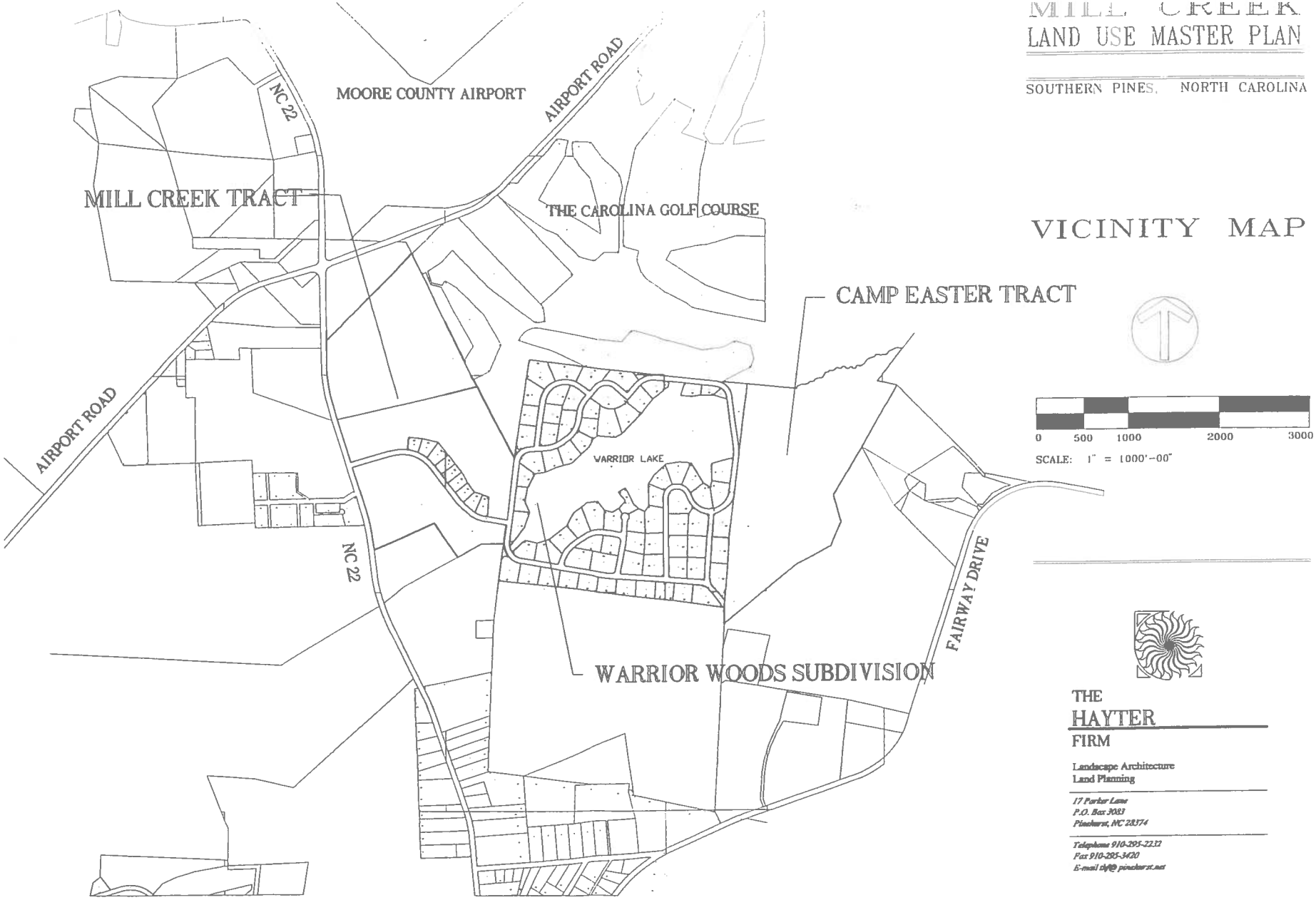
ESTIMATED TOTAL

Roads	**$1,540,000.**
Water	**$ 542,000.**
	$2,082,000

- All estimates include design and construction fees.

MILL CREEK
LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA



VICINITY MAP

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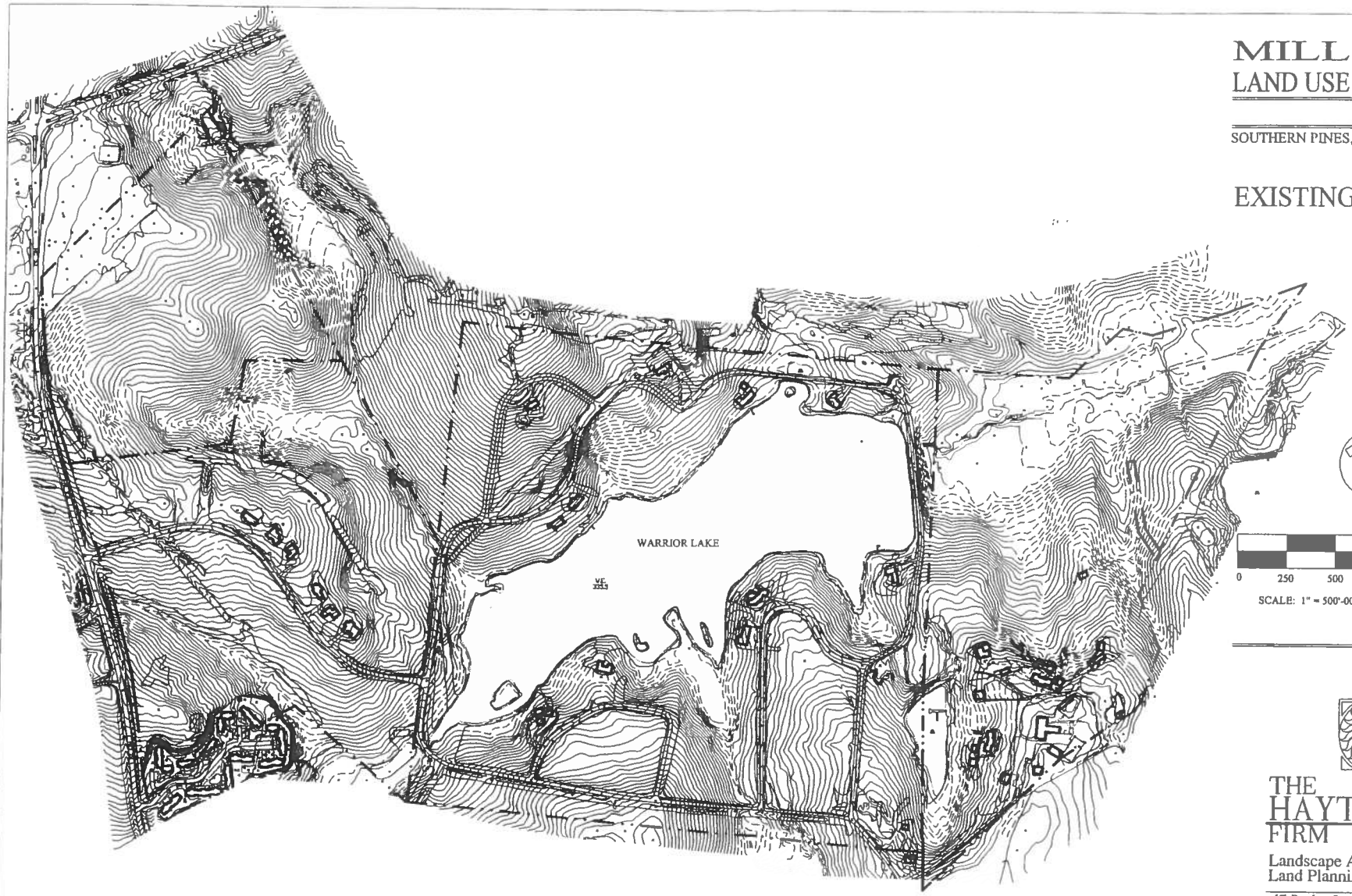
MILL CREEK
LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

EXISTING CONDITIONS



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SCALE: 1" = 500'-00"

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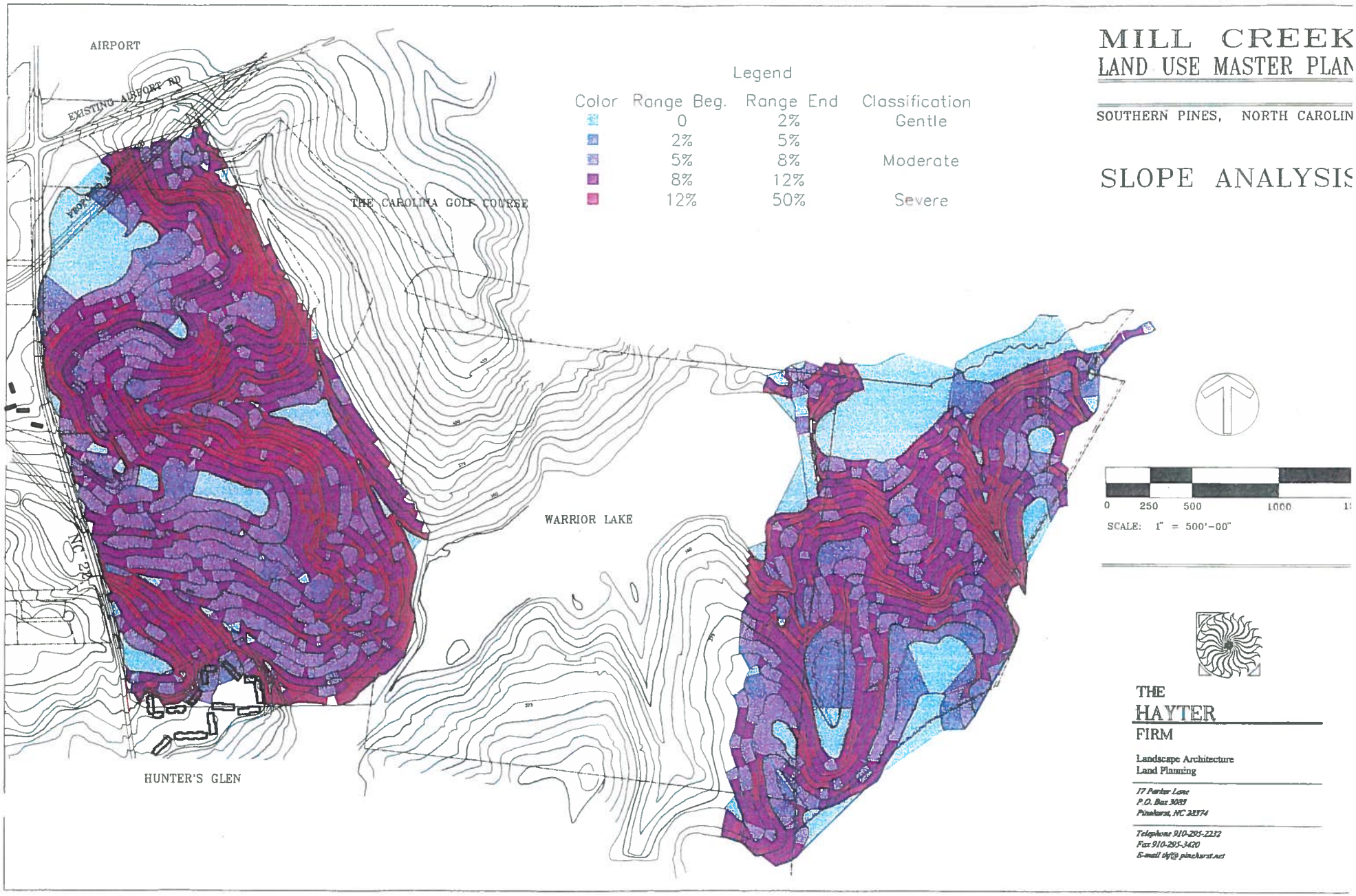
MILL CREEK
LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLIN

SLOPE ANALYSIS



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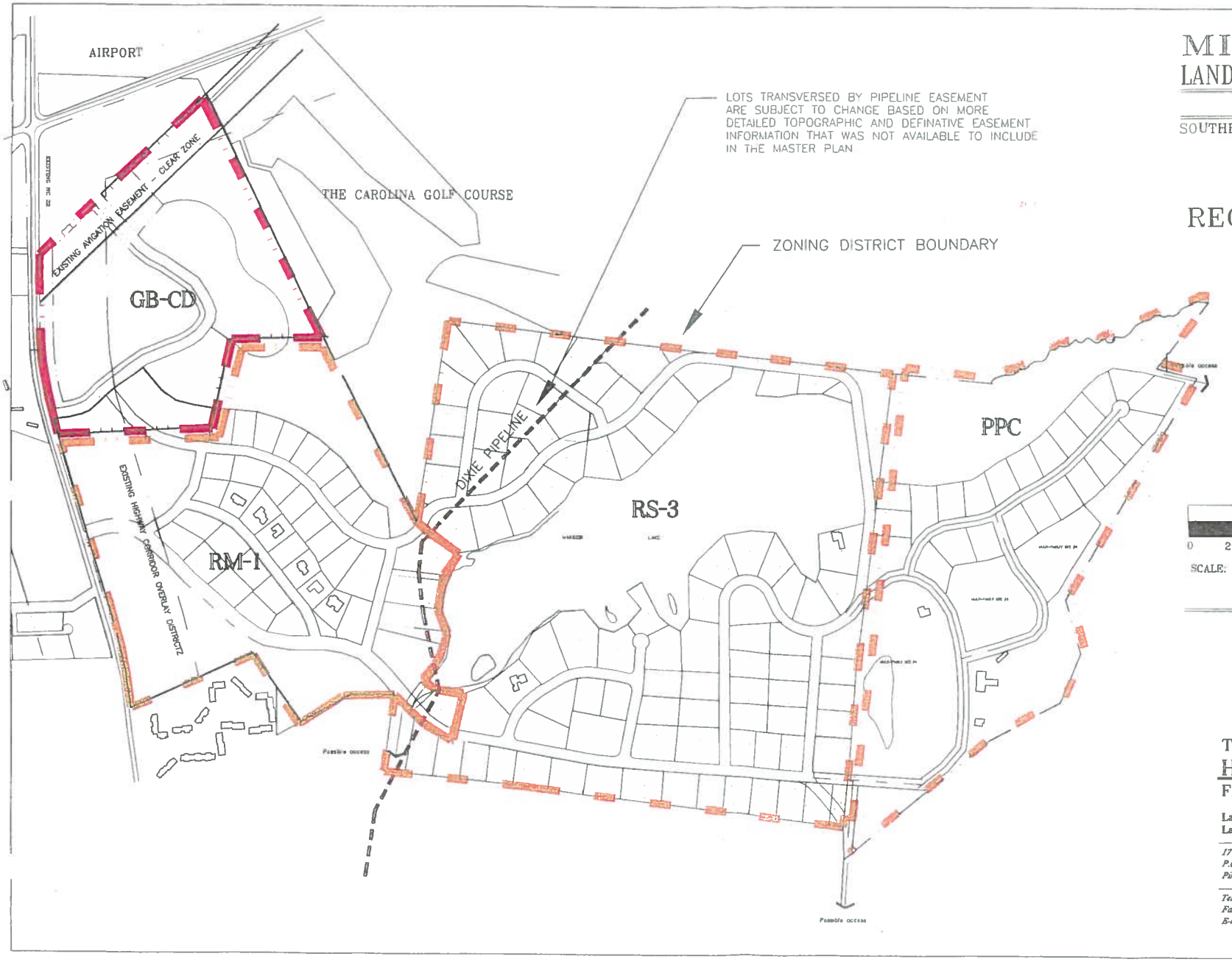
MILL CREEK
LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

REGULATORY MAP



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MILL CREEK
LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

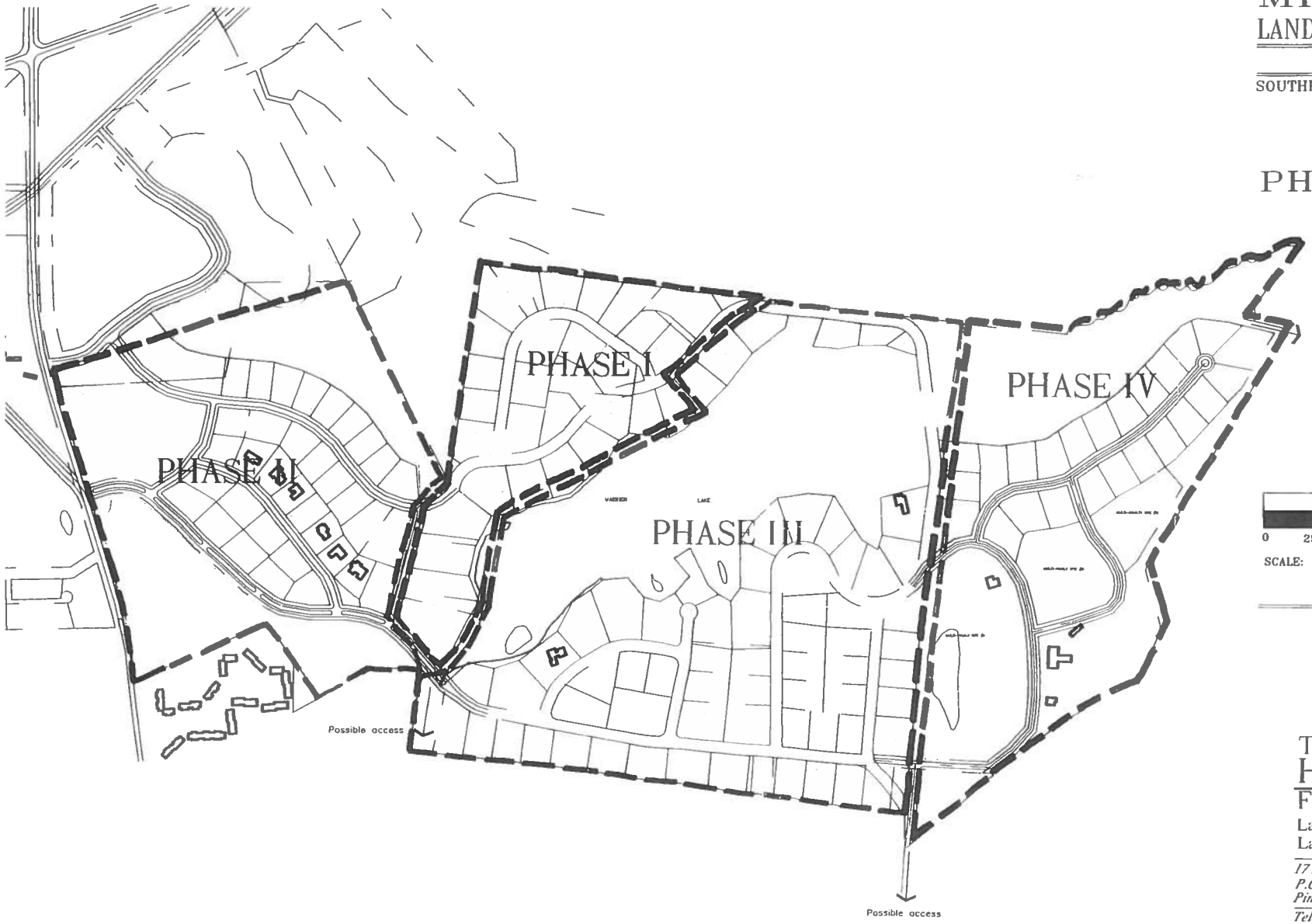
ILLUSTRATIVE PLAN

SCALE: 1" = 500'-00"
ISSUE DATE: APRIL 28, 1998

MILL CREEK
LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

PHASING PLAN



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SCALE: 1" = 500'-00"

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Traffic Impact Analysis

Mill Creek

Southern Pines, NC

Prepared for:

Mill Creek Partners, LLC

Kimley»Horn

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Traffic Impact Analysis for

Mill Creek

Southern Pines, North Carolina

Prepared for:

Mill Creek Partners, LLC

Pinehurst, NC

Prepared by:

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September 2023

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NORTH CAROLINA PROFESSIONAL SEAL 034394 ENGINEER TRAVIS FLUIT

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9/1/2023

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Executive Summary

Kimley-Horn and Associates, Inc. has performed a Traffic Impact Analysis (TIA) for the proposed expansion of the existing Mill Creek Village shopping center located along Mill Creek Road in Southern Pines, NC. The site currently includes a Harris Teeter grocery store and two retail buildings on the west side of Mill Creek Road and a Harris Teeter fueling center on the east side of Mill Creek Road. As currently envisioned, the development is proposed to add up to 70,417 square feet (SF) of commercial space on the west side of Mill Creek Road and up to 73,139 SF of commercial space on the east side of Mill Creek Road for a total of up to 210,556 SF for the entire development. No additional driveways are proposed on the west side of Mill Creek Road, and while the plans for the development east of Mill Creek Road are only conceptual at this time, access was assumed to be proved by two driveways on Mill Creek Road aligning with driveways to the existing shopping center. Build-out of the development is anticipated within the next 10 years.

This report presents trip generation, distribution, traffic analyses, and recommendations for transportation improvements required to meet anticipated traffic demands in conjunction with the proposed development. The Town of Southern Pines' Unified Development Ordinance (UDO) requires the study of the build-out traffic conditions for both the site build-out and 10-year projections. However, as there is no definitive timeline for the build-out of the development, only the 10-year horizon was analyzed. Therefore, the traffic conditions studied include the existing (2023) and projected (2033) background and build-out traffic conditions for the AM and PM peak hours.

Trip Generation

As shown in Table ES-1, trips for the development west of Mill Creek Road were generated based the difference between the existing square footage and proposed total square footage. The proposed additional development on the west side has the potential to generate approximately 3,718 net new daily trips, 248 net new external trips during the AM peak hour, and 370 net new external trips during the PM peak hour.

Table ES-1
ITE Traffic Generation (Vehicles) – West Side

Land Use Code	Land Use	Intensity		Daily Total	AM Peak Hour		PM Peak Hour	
					In	Out	In	Out
821	Shopping Plaza w/ Supermarket – *Existing*	67,000	s.f.	6,570	147	90	304	329
821	Shopping Plaza w/ Supermarket – *Existing + Proposed*	137,417	s.f.	11,988	301	184	563	610
Difference (Increase due to Proposed)				5,418	154	94	259	281
Pass-By Reduction				*1,700*	*0*	*0*	*85*	*85*
Total Net New External Trips				**3,718**	**154**	**94**	**174**	**196**

As shown in Table ES-2, the proposed development on the east side of Mill Creek Road has the potential to generate approximately 3,238 net new daily trips, 127 net new external trips during the AM peak hour, and 210 net new external trips during the PM peak hour.

Table ES-2
ITE Traffic Generation (Vehicles) – East Side

Land Use Code	Land Use	Intensity		Daily Total	AM Peak Hour		PM Peak Hour	
					In	Out	In	Out
821	Shopping Plaza w/o Supermarket	73,139	s.f.	4,938	79	48	186	194
Pass-By Reduction				*1,700*	*0*	*0*	*85*	*85*
Total Net New External Trips				**3,238**	**79**	**48**	**101**	**109**

Capacity Analysis

Intersection capacity analyses were performed using Synchro/SimTraffic Version 11 software. Table ES-3 summarizes the operation of the overall study intersections for the AM and PM peak hours.

Table ES-3 - Level of Service Summary									
Intersection and Approach/Movement	Traffic Control	Existing (2023) Traffic		Background (2033) Traffic		Build-out (2033) Traffic		Build-out (2033) Traffic - Improved	
		AM	PM	AM	PM	AM	PM	AM	PM
Airport Road at NC 22	Roundabout	B (12.2) v/c - 0.661	C (20.5) v/c - 0.845	D (33.0) v/c - 1.001	F (84.7) v/c - 1.495	E (46.7) v/c - 1.096	F (109.4) v/c - 1.611	E (41.7) v/c - 1.096	F (56.8) v/c - 1.186
Eastbound		B (12.2)	C (20.5)	B (13.4)	E (49.0)	C (15.3)	F (97.4)	C (15.3)	F (97.4)
Westbound		C (17.1)	C (17.4)	F (51.0)	C (16.1)	F (58.7)	C (16.6)	F (57.8)	D (28.8)
Northbound		B (10.0)	D (26.3)	C (23.3)	F (253.2)	E (38.1)	F (304.0)	B (14.5)	F (63.8)
Southbound		B (10.4)	A (7.7)	D (34.4)	B (13.0)	F (59.4)	C (21.2)	F (59.4)	C (24.7)
Airport Road at Mill Creek Road	Unsignalized/ Signalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	B (10.4)	B (11.4)
Eastbound		N/A		N/A		N/A		A (4.8)	A (8.8)
Westbound*		A (7.8)	A (8.6)	A (8.1)	A (9.7)	A (8.7)	B (11.2)	B (12.5)	B (13.3)
Northbound		B (13.9)	C (16.2)	C (23.5)	E (39.3)	F (51.3)	F (389.7)	B (15.7)	B (13.3)
NC 22 at Mill Creek Road	Unsignalized/ Signalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	A (6.4)	B (12.2)
Westbound		C (19.4)	D (26.0)	D (31.2)	F (57.0)	E (49.8)	F (375.2)	B (19.0)	B (18.8)
Northbound		N/A		N/A		N/A		A (5.6)	A (8.3)
Southbound*		A (8.5)	A (9.0)	A (9.0)	A (9.9)	A (9.2)	B (10.7)	A (5.1)	B (13.9)
NC 22 at Olivetree Lane	Unsignalized/ Signalized	- (-)	- (-)	A (9.0)	A (9.9)	A (9.0)	A (10.0)	A (7.6)	A (7.3)
Eastbound		C (22.0)	D (29.8)	B (13.1)	B (11.9)	B (13.1)	B (12.2)	B (16.6)	B (15.6)
Northbound*		A (9.0)	A (9.1)	A (7.5)	B (10.3)	A (7.5)	B (10.5)	A (5.1)	A (4.9)
Southbound		N/A		A (9.4)	A (8.8)	A (9.4)	A (8.6)	A (7.7)	A (7.2)
NC 22 at Warrior Woods Road	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Westbound		C (16.9)	C (18.5)	D (25.3)	D (27.9)	D (29.3)	D (34.1)	D (29.3)	D (34.1)
Southbound Left		A (8.4)	A (8.8)	A (8.9)	A (9.6)	A (9.1)	A (10.0)	A (9.1)	A (10.0)
Mill Creek Road at West Site Driveway 1/North Fuel Center Driveway	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (10.0)	B (13.5)	A (10.0)	B (13.5)	B (12.7)	F (54.0)	B (12.7)	F (54.0)
Westbound		A (9.2)	A (10.0)	A (9.2)	A (10.0)	A (10.0)	B (12.5)	A (10.0)	B (12.5)
Northbound Left		A (7.4)	A (7.6)	A (7.4)	A (7.6)	A (7.7)	A (8.3)	A (7.7)	A (8.3)
Southbound Left		A (7.4)	A (7.6)	A (7.4)	A (7.6)	A (7.5)	A (8.1)	A (7.5)	A (8.1)
Mill Creek Road at South Fuel Center Driveway	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Westbound		A (8.6)	A (9.1)	A (8.6)	A (9.1)	A (8.9)	B (10.2)	A (8.9)	B (10.2)
Mill Creek Road at West Site Driveway 2/East Site Driveway 1	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.9)	A (9.6)	A (8.9)	A (9.6)	B (10.3)	C (16.2)	B (10.3)	C (16.2)
Westbound		N/A		N/A		A (9.2)	B (11.0)	A (9.2)	B (11.0)
Northbound Left		A (7.3)	A (7.5)	A (7.3)	A (7.5)	A (7.5)	A (7.7)	A (7.5)	A (7.7)
Southbound Left		N/A		N/A		A (7.3)	A (7.6)	A (7.3)	A (7.6)
Mill Creek Road at West Site Driveway 3/East Site Driveway 2	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.9)	A (8.7)	A (8.9)	A (8.7)	A (9.6)	B (10.8)	A (9.6)	B (10.8)
Westbound		N/A		N/A		A (9.0)	B (10.3)	A (9.0)	B (10.3)
Northbound Left		A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)
Southbound Left		N/A		N/A		A (7.3)	A (7.5)	A (7.3)	A (7.5)
Mill Creek Road at West Site Driveway 4	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.6)	A (8.7)	A (8.6)	A (8.7)	A (8.7)	A (9.5)	A (8.7)	A (9.5)
Northbound Left		A (7.3)	A (7.4)	A (7.3)	A (7.4)	A (7.4)	A (7.7)	A (7.4)	A (7.7)
Mill Creek at West Site Driveway 5	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.7)	A (8.9)	A (8.7)	A (8.9)	A (9.0)	B (10.5)	A (9.0)	B (10.5)
Northbound Left		A (7.3)	A (7.4)	A (7.3)	A (7.4)	A (7.4)	A (7.8)	A (7.4)	A (7.8)

*Major street left-turn movements analyzed in unsignalized scenarios.

Background Improvements

The following improvements are committed to be performed by other developments in the study area and were included in the background and build-out conditions:

NC 22 at Airport Road:

- Provide a right-turn slip lane with 150 feet of storage on westbound Airport Road *(by Caropines)*
- Provide a right-turn slip lane with 150 feet of storage on eastbound Airport Road *(by Southern Pines Retail)*

NC 22 at Olivetree Lane:

- Monitor intersection for traffic signal warrants and install a traffic signal if warranted

A northbound right-turn slip lane on NC 22 at Airport Road is also required with the Caropines development but not until a future phase that is not currently planned. Therefore, it was not assumed to be in place for this analysis.

Recommended Improvements

The following improvements are recommended to be performed as part of the proposed Mill Creek development:

NC 22 at Airport Road:

- Provide a right-turn slip lane with 150 feet of storage on northbound NC 22 if not already provided by others

Airport Road at Mill Creek Road:

- Monitor intersection for traffic signal warrants and install a traffic signal if warranted

NC 22 at Mill Creek Road:

- Monitor intersection for traffic signal warrants and install a traffic signal if warranted

Mill Creek Road at Site Driveways:

- Provide high visibility crosswalks on all driveways on Mill Creek Road
- Provide high visibility crosswalks across Mill Creek Road at the East Site Driveways subject to adequate sight distance requirements being met

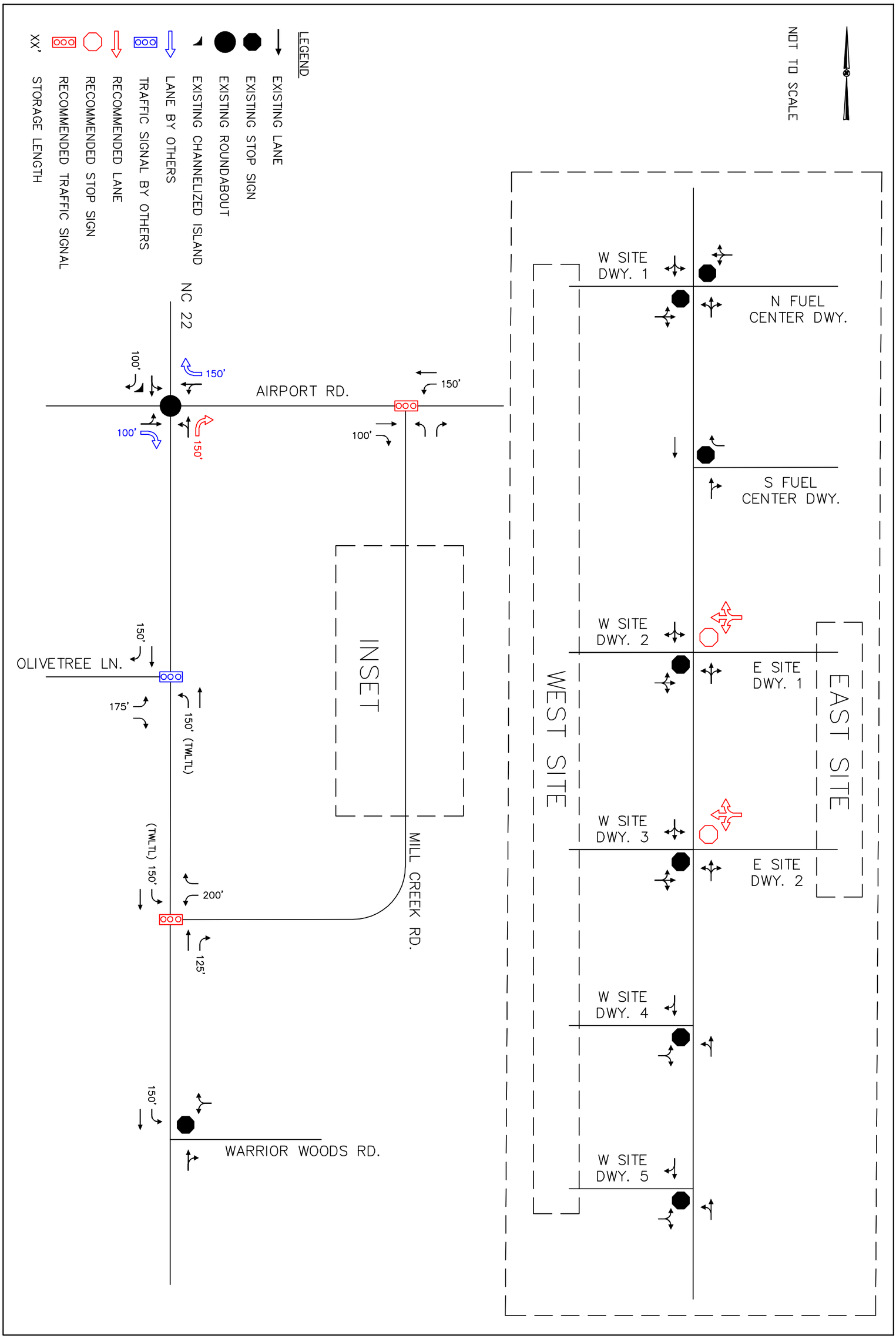
With the committed and recommended improvements in place, all of the study intersections are expected to operate acceptably at project build-out except for NC 22 at Airport Road. The NC 22 at Airport Road roundabout is expected to operate at LOS F in the PM peak hour in the background traffic condition without the proposed Mill Creek development. The intersection is expected to operate at LOS E in the AM peak hour and LOS F in the PM peak hour upon build-out of the Mill Creek Development. With the recommended northbound right-turn slip lane, the intersection is still expected to operate at the same LOS, but with significantly lower delays and volume-to-capacity

ratio than in the background PM peak hour traffic condition. No other reasonably constructible improvements were identified to bring the intersection back to an acceptable level of service.

Based on the existing traffic counts there does not appear to be a significant amount of traffic using Mill Creek Road to avoid the roundabout. However, if the roundabout does become as congested as expected by the year 2033, it is anticipated that vehicles currently making the westbound left-turn movement from Airport Road to NC 22 and the northbound right-turn movement from NC 22 to Airport Road may use Mill Creek Road to "cut the corner" and avoid the roundabout, especially if either end of Mill Creek Road is signalized. Analysis indicates that if just 1/3 of the vehicles make the westbound left and northbound right at the roundabout divert to Mill Creek Road, then the intersection is expected to operate the same or better than the background traffic condition.

While Synchro reports long delays on West Site Driveway 1 at Mill Creek Road in the PM peak hour at full build-out, SimTraffic simulations show short delays and no queuing issues at any of the site driveways. Therefore, no improvements are recommended at this intersection.

The committed and recommended roadway laneage is shown on **Figure ES-1**.



Kimley»Horn	MILL CREEK SOUTHERN PINES, NC TRAFFIC IMPACT ANALYSIS	COMMITTED AND RECOMMENDED ROADWAY LANEAGE	FIGURE ES–1

THIS DOCUMENT, TOGETHER WITH THE CONCEPTS AND DESIGNS PRESENTED HEREIN, AS AN INSTRUMENT OF SERVICE, IS INTENDED ONLY FOR THE PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY KIMLEY–HORN AND ASSOCIATES, INC. SHALL BE WITHOUT LIABILITY TO KIMLEY–HORN AND ASSOCIATES, INC.

From: Fluitt, Travis
To: James Michel
Cc: Paul Saathoff; Alaina Mallette; Gunnels, Roberta
Subject: RE: Mill Creek - TIA
Date: Wednesday, September 20, 2023 1:14:19 PM
Attachments: image002.png

James,

Is something like this what you had in mind?

LUC	Land Use	Trips/1,000 SF		
		Daily	AM Peak	PM Peak
821	Shopping Plaza w/ Grocery Store	94.49	3.53	9.03
821	Shopping Plaza w/o Grocery Store	67.52	1.73	5.19
850	Supermarket	93.84	2.86	8.95

Travis

From: James Michel <JMichel@southernpines.net>
Sent: Tuesday, September 19, 2023 4:49 PM
To: Fluitt, Travis <Travis.Fluitt@kimley-horn.com>
Cc: Paul Saathoff <psaathoff@koontzjones.com>; Alaina Mallette <amallette@southernpines.net>; Gunnels, Roberta <Roberta.Gunnels@kimley-horn.com>
Subject: RE: Mill Creek - TIA

Travis,

This is the first I have seen of this list. Note that the intent is not to revisit the TIA trip generation rates or redo the analysis, but to have the information available for council as they review the uses.

Thanks

James Michel, PE, MBA
Town Engineer/Asst. Public Works Director
801 SE Service Road
Southern Pines, NC 28387
(910)692-1983
Southern Pines NORTH CAROLINA

From: Fluitt, Travis <Travis.Fluitt@kimley-horn.com>
Sent: Tuesday, September 19, 2023 4:25 PM
To: James Michel <JMichel@southernpines.net>
Cc: Paul Saathoff <psaathoff@koontzjones.com>; Alaina Mallette <amallette@southernpines.net>; Gunnels, Roberta <Roberta.Gunnels@kimley-horn.com>

Subject: RE: Mill Creek - TIA

James,

We looked at this when we started and what we had discussed previously was that the shopping plaza trip rates should be robust enough to cover most or all of these land uses depending on the final mix. I would recommend that a trip table be provided with each site plan submittal to confirm that the trip generation will still be below the TIA trip bank. If the trips are exceeded at any point, then an update to the TIA would be required.

Does that work?

Regards,
Travis

From: James Michel <JMichel@southernpines.net>
Sent: Tuesday, September 19, 2023 4:11 PM
To: Fluitt, Travis <Travis.Fluitt@kimley-horn.com>
Cc: Paul Saathoff <psaathoff@koontzjones.com>; Alaina Mallette <amallette@southernpines.net>
Subject: RE: Mill Creek - TIA

Travis,

I was provided the attached list of potential uses for this project. The TIA was based on assuming the shopping plaza trip generation rates. Some of this uses don't fit with a shopping plaza and could well be more intense use than the baseline assumption. I don't have the book to be able to make a comparison. Please provide a table of the applicable generation rates for the potential uses listed. This will provide valuable input for councils consideration as they decide whether to allow the use.

Thanks

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

From: James Michel
Sent: Tuesday, September 12, 2023 10:51 AM
To: Fluitt, Travis <Travis.Fluitt@kimley-horn.com>
Cc: 'Paul Saathoff' <psaathoff@koontzjones.com>; Alaina Mallette <amallette@southernpines.net>
Subject: FW: Mill Creek - TIA

Travis,

I have the following comments on the TIA as submitted.

1. Has this TIA been provided to NCDOT for comment?
2. Mill Creek is not posted legally. Council has not approved a reduced speed limit on this road so the actual speed limit is 35 MPH. I believe the 20 MPH is a holdover from when it was private.
3. I can't follow the trip projections for the west side. The existing buildings doesn't need to show in the table as this traffic is accounted for in the traffic counts and I think is the source of my confusion. Please revised to show projections with just the proposed square footage.
4. Is 150 ft of storage at the roundabout northbound slip lane adequate to address queuing issues? The detailed reports indicate a little over 300 feet of queuing.
5. Provide additional projections for pedestrian and multimodal trips. The TIA needs to look at the surrounding greenway/sidewalk networks in the Tyler's Ridge, Caropines, and Warrior Woods areas and analyze if connections can be made. Given the several failing intersections, a reduction in traffic due to additional multi-modal options is a viable option to improve service levels.

Let me know if you have any questions or want to jump on a call.

Thanks

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

From: Paul Saathoff <psaathoff@koontzjones.com>
Sent: Friday, September 1, 2023 2:25 PM
To: Alaina Mallette <amallette@southernpines.net>
Cc: James Michel <JMichel@southernpines.net>
Subject: Mill Creek - TIA

Hey Alaina -—We just received the TIA form Kimley Horn. A PDF is attached. If you need anything else, please let me know.

Thanks,

Paul Saathoff
KOONTZJONESDesign
LAND PLANNING I LANDSCAPE ARCHITECTURE

Agenda Item

To: **Reagan Parsons, Town Manager**

From: **James Michel, PE, Town Engineer**

Subject: **Relief from §50.035 of the Town Code of Ordinances**

Date: **September 25, 2023**

I. SUMMARY:

Mr. Ryan Paschal is proposing to build a house at 1330 and one at 1350 North Ridge Street which currently is within the Town's ETJ. Mr. Paschal is requesting relief from §50.035 of the Town Code of Ordinances requiring any new house, lot, or subdivision to connect to the Town's water system if it is within 300 feet (plus 100 feet multiplied by the number of additional dwellings) of an existing [water] distribution pipe. Pursuant to the same section "Only the Town Council may waive this requirement." Therefore, the applicant must request of Town Council a waiver from §50.035 of the Town Code of Ordinances. The property is within approximately 145 feet of an existing water main and without receiving relief from this provision of the Code of Ordinances, would be required to connect to the Town's water system (see below Map).

To provide an acceptable connection to the Town's water system, a main extension to the point of the tap would also be required. The minimum waterline size for this extension would be a 2" line which would provide no additional fire protection, system looping, or other significant benefits to the distribution system. Any significant development or subdivision of the nearby larger lots would require an extension of a minimum 6" waterline which would then replace the 2" that would be installed for this property.

II. TOWN COUNCIL ACTION:

Town Council is being asked to grant a waiver from §50.035 of the Town Code of Ordinances for this property.

Council finds that that the requirement to extend the Town's water system to serve the property would result and an inefficient extension of and provide no significant benefit to the distribution system and does herby waive the requirements from §50.035 of the Town Code of Ordinances.

Council finds the that requirement to extend the Town's water system to serve the property would result in an efficient extension of utilities due to expected growth and development in the area and that the requirements from §50.035 of the Town Code of Ordinances shall be followed.

Braden Rd
N Ridge St
N May St
N May St
N Ridge St
Shields Rd
Shields Rd
1395
1375
1360
1345
1350
1330
1355
165
175
1335
1325
1225
180

PINELAND
HOMES & REMODELING, LLC

Hi James,

I writing today to request that you help me get a variance from the town council at 2 building sites that I am working on. The addresses of the adjoining lots are 1330 and 1350 N Ridge St. The UDO says that I have to extend public water to these sites. However, there is already a well on the site from a house that I razed on the property. The well is only about 10 years old, so I would prefer to use it, rather than go through the expense of extending the water line.

Any assistance you can give would be appreciated.

Sincerely,

Ryan Paschal

MINUTES

Tuesday, August 1, 2023: 6:00 PM
Town Council Agenda Meeting
C. Michael Haney Community Room: Southern Pines Police Department
450 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; Paul Murphy; Bill Pate; and Ann Petersen.
Absent: Taylor Clement

2. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

3. REVIEW PROPOSED CONSENT AGENDA FOR AUGUST 8TH AGENDA

Town Manager Reagan Parsons reviewed the items on the proposed consent agenda. Town Engineer James Michel corrected that the Water Shortage Response Plan is every 5 years.

a. Approve FY 23-24 Budget Amendments

Staff has identified some necessary budget amendments.

b. Approve Water Shortage Response Plan

Approve Water Shortage Response Plan in accordance with NCGS 143-355 (1).

c. Approve Resolution #1065 Requesting NCDOT Changes to Traffic Pattern on SW Broad Street

A resolution requesting NCDOT to make changes to the traffic patterns along SW Broad Street to create additional on-street parking.

d. Request NCDOT to Lower Speed Limit on SW Broad Street

Request NCDOT to lower Speed Limit on SW Broad St. from W Massachusetts Ave. to W. Indiana Ave.

e. Approve Resolution #1067 Setting Date of Public Hearing for Annexation Application AX-04-23: 1Cliff Court Ext.

Mary Schwab is petitioning the Town of Southern Pines for annexation of a +/-1.18 acre parcel of land located near Southern Pines Country Club. The hearing is to be set for September 12, 2023

f. Approve Meeting Minutes for July 2023

Staff has prepared the following meeting minutes for approval:

- July 5, 2023 Agenda Meeting
- July 11, 2023 Business Meeting
- July 25, 2023 Work Session

g. Resolution Approving Conveyance of Property to a Nonprofit Organization Pursuant to G.S. 160A-279

This Resolution begins the process towards conveyance of a 7.73+/- acre tract located at the corner of Henley and Morganton Rd. to the YMCA of the Sandhills.

4. REVIEW AUGUST 8TH PUBLIC HEARINGS

a. Public Hearing for Garbage & Recycling Services

The Town is considering options for solid waste collection services after its current contract ends on December 31, 2024. Potential changes are largely centered on recycling collection, with options including weekly service, bi-weekly service, or eliminating curbside recycling collection.

Town Manger reviewed the item and advertisements for the public hearing.
Discussion ensued.

b. AX-03-23: Annexation of 403.62 acres between Camp Easter Road and US Highway 1.

Kelly Miller, on behalf of Knollwood Partners LLC and Haresh Tharani, on behalf of Kaveri Investment Management Company LLC, are requesting voluntary annexation of 403.62 acres that are currently outside of the corporate limits of the Town of Southern Pines.

Town Manager Parsons reviewed the item.

c. OA-02-23: Canopy Lighting for Service Stations

Mr. Tom Anastasi on behalf of Sheetz, Inc. is proposing to amend the Unified Development Ordinance (UDO) with one text amendment related to canopy lights for service stations. The proposed amendment is to UDO §4.8.5(I) to change the permitted maximum average lighting level under the service station canopy from 3 to 12 lumens per square foot.

Planning Director BJ Grieve presented the proposal and staff report.
Discussion ensued.

d. OA-03-23: Remove Self-Storage as a By Right Use in GB Zones

The Town of Southern Pines Planning Department, on behalf of a request by Town Council, is proposing to amend Unified Development Ordinance (UDO) Exhibit 3-15 by removing the "Z" from the GB district column for commercial mini- or self-storage, effectively removing it as a by right land use in that district.

Planning Director BJ Grieve presented the proposal and staff report.

5. REVIEW PROPOSED ACTION ITEMS FOR AUGUST 8TH AGENDA

After discussion the Council requests that the following changes be made to the agenda:

- WP-02-23 to be renumbered 5a
- YMCA agreement (currently item 3g) renumbered to 5b
- PD-02-23 renumbered item 5c

a. PD-02-23: Conceptual Development Plan for +/-.786 acres on the West Side of S. Bennett St. between New York Ave. and Pennsylvania Ave. (continued)

Mr. Colin Webster, on behalf of Grovsner Land, LLC, has submitted an application for a mixed-use development with condominiums, single-family townhouses, office, retail, and restaurant. The public hearing for this agenda item was closed at the July 11, 2023 Regular Meeting.

applicant submitted additional information on UDO 4.10.8

b. WP-02-23: Exemption Allocation Request for .12 acres in Little River Intake No. 2 Watershed

Justin Harris has submitted an application for a Watershed Protection Permit requesting .12 of an acre of 5/70 exemption allocation to develop a single-family residence and detached garage, which will result in 48.1% total impervious surface on the subject property which is located within the High Quality portion of the Little River Intake No. 2 Watershed within the Cape Fear River Basin.

Planning Director BJ Grieve presented the request and staff report.

6. ADJOURNMENT

Upon motion by Councilmember Petersen, seconded by Mayor Pro Tem Murphy and carried unanimously, Council adjourned at 6:24 pm.

Respectfully submitted:

_____

Elizabeth Robertson, Town Clerk

DRAFT

MINUTES

Tuesday, August 8, 2023: 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.

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

4. PUBLIC COMMENTS

Richard Robins of 35 Steeplechase Court, feels the intersection of Midland and Airport Rd. is dangerous. The line of sight is very limited, cars frequently speed through the area, and if the turning lane is eliminated, the danger will only increase.

Nancy Minor of 90 Paddock Lane stated that 30 years ago the Town required a 3-lane road to be put in by the developer of Longleaf before the growth in population and she feels it would be dangerous to remove the turn lane.

Hugh Minor of 90 Paddock Lane distributed prepared remarks to the Council and spoke regarding sight line issues when entering or exiting side streets. Mr. Minor proposed that removing the turn lane is not in accordance with the existing Greenway design and also spoke in favor of connecting the Greenway with sidewalks.

Michelle Liveris of 120 Belmont Court described the traffic at the Airport Rd. entrance and shared that she does not want the turn lane eliminated.

Cheryl Mensch of 20 Hunter Court feels creating a walkway will eliminate the flow of traffic through Longleaf and feels many don't want the additional traffic through the neighborhood.

Hugh Mensch of 20 Hunter Court doesn't feel the proposed path will get a lot of use and questions the suitability of the bike path.

Patty Camp of 114 Belmont Court objects to the path project and has 4 recommendations:

- complete the existing sidewalk the length of Koll Rd.
- change the crosswalk signs to stop traffic for pedestrians with push button activation
- drop the speed limit on Knoll Rd. to 35 mph
- direct the walking trail from Walkerstation to Dr. Neil Rd.

Lee Moro of 65 Steeplechase Court shared that he supports the others' comments regarding safety concerns with the proposed changes on Knoll Rd. Mr. Moro asks that Council members drive the

community to experience what the residents are talking about.

Jack Bulko of 187 N. Knoll Road feels there are safety and line of sight issues on Knoll Rd/ and the creation of a bike lane and walking lane serves no purpose when not connecting to an existing bike lane on the main streets.

Jim Simeon of 49 Paddock Lane shared his concerns regarding the proposed bike/walking lanes and the safety issues the creation of them will cause and invited the council members to visit Longleaf for a tour.

Chuck Olick of 100 Steeplechase Way asked the Council to consider the aesthetics of Longleaf when considering the project.

Ellen Heller of 112 Steeplechase Way agrees with the other commenters that the changes will cause safety issues on Knoll Road.

Rob Wagner of 165 Star Lane, president of Longleaf Club, would like to invite the Council to meet with the community when the time comes to plan the project of the bike/walking lanes.

5. PUBLIC HEARINGS

a. Public Hearing for Garbage & Recycling Services

The Town is considering options for solid waste collection services after its current contract ends on December 31, 2024. Potential changes are largely centered on recycling collection, with options including weekly service, bi-weekly service, or eliminating curbside recycling collection.

Councilmember Pate moved to open the hearing for Garbage & Recycling Services, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

Asst. Town Manager/Fire Chief Cameron, accompanied by consultant Dave Havel, presented the options available to the Council.
- Councilmember Clement asked for a breakdown of the cost we are paying now for service, minus the yard waste cost. Dave Havel advised that it would be approximately $22.
- Dave Havel is of the opinion that option #1 is the best option.
- Councilmember Clement commented that option #4 is the worst option and won't consider it.
Discussion ensued.

Gale Colby of 269 Knoll Rd. shared that she has seen the trucks dumping the green recycling bins into the regular trash truck.

- Councilmember Petersen stated that the company is supposed to be fined if that happens and asked Ms. Colby to share the video with them.
- Councilmember Pate asked Mr. Havel to explain the preventative measures taken in the new contract to prevent this from happening. Mr. Havel shared the tools in place to eliminate this issue.

Karen Tuessing of 210 Grove Rd. asked the Council to eliminate option #1 for the betterment of our kids' future and stated that she does not mind having to pay more for the option of recycling.
Michel Loveris of 120 Belmont Court asked the Council to please refrain from abolishing recycling from the service options and noted the lack of any option for composting.
Rick Fontana of 275 Highland Rd. agreed with previous citizen comments and is against the removal of recycling from the service and asked the Town to consider incentivizing the process and creating

drop-off locations throughout the community.
Logan King of 355 E Connecticut spoke regarding option #4 and suggested making recycling easier as an incentive and is in support of option #2.
Debbie Fontana of 275 Highland Rd. suggested the Town incentivize and requested rolling carts for small and/or older people.
Arthur Marsden of 795 S. Grove St. asked for the present cost ($29-30) and asked about those who need back door service and was advised that the Town could not get any bids for back door service.
- Chief Cameron shared that there is a waiver that could be requested for those residents who need door service due to a medical issue.
Marsh Smith of 568 Santee Rd. feels this is an economic argument on a moral issue and shared several alternative options.
Debra Gray of 1100 W Connecticut Ave. asked if it was possible for option 2 & 3 to be combined? What about only giving the new bins to people who choose to recycle?
- the different options are split between 2 different companies and therefore cannot be combined.

Councilmember Petersen moved to close the hearing for Garbage & Recycling Services, seconded by Councilmember Clement; the vote was unanimous.
Motion passed.

Councilmember Petersen moved to adopt Option #2 as presented by staff, seconded by Councilmember Clement; the vote was unanimous.
Motion passed.

b. AX-03-23: Annexation of 403.62 acres between Camp Easter Road and US Highway 1.

Kelly Miller, on behalf of Knollwood Partners LLC and Haresh Tharani, on behalf of Kaveri Investment Management Company LLC, are requesting voluntary annexation of 403.62 acres that are currently outside of the corporate limits of the Town of Southern Pines.

Councilmember Clement moved to open the hearing for AX-03-23: Knollwood, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.
Councilmember Pate has recused himself from this hearing.

Planning Director Grieve presented the application and staff report to the Council.
Neil Gosh, on behalf of Morningstar Law Group, was present with Bob Koontz of KoontzJones Design to answer any questions from the Council.
Marsh Smith of 568 Santee Rd. asked if any portion of the property was subject to differed taxation to which Mr. Gosh answered that they were unaware of any.

Mayor Pro Tem Murphy moved to close the hearing for AX-03-23: Knollwood, seconded by Councilmember Clement; the vote was unanimous.

Mayor Pro Tem Murphy moved to adopt Ordinance #2094 approving voluntary annexation request AX-03-23 for the areas shown on the site map, and to have the Ordinance effective immediately, seconded by Councilmember Clement; the vote was as follows:
Mayor Haney - aye
Mayor Pro Tem Murphy - aye
Councilmember Pate - recused
Councilmember Clement - aye
Councilmember Petersen - aye

Motion passed.

c. OA-02-23: Canopy Lighting for Service Stations

Mr. Tom Anastasi on behalf of Sheetz, Inc. is proposing to amend the Unified Development Ordinance (UDO) with one text amendment related to canopy lights for service stations. The proposed amendment is to UDO §4.8.5(I) to change the permitted maximum average lighting level under the service station canopy from 3 to 12 lumens per square foot.

Councilmember Clement moved to open the hearing for OA-02-23: Canopy Lighting for Service Stations seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

Planning Director Grieve presented the request and staff report to the Council.
Discussion ensued.
Madeline Trilling of Scarborough and Scarborough, on behalf of the applicant, gave a brief presentation to the Council.

John McInerny of 460 Crest Road, asked if Council was going to settle at 15 - they agreed.

Councilmember Pate moved to close the hearing for OA-02-23; Canopy Lighting for Service Stations, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

Councilmember Clement moved that after considering the criteria for the text amendment found in UDO §2.17.10, the first of which is consistency with the Comprehensive Long-Rang Plan, the Town Council finds that the proposed text amendment is consistent with the Comprehensive Long-Range Plan and is a reasonable way to implement the Comprehensive Long-Range Plan for the reasons set forth in the Planning Board's recommendation, and therefore the Town Council adopts the Planning Board resolution that is included as an attachment to the staff report for OA-02-23, but with the following edits or additions to Attachment 1:

a) Remove "The Illuminating Engineering Society provides a recommendation - as presented by Mr. Jayme "Red" Leonard of Red Leonard Associates, Inc., a lighting expert-of an average of 20 lumens per square foot under gas station canopies. Considering Red Leonard's public comments regarding lighting standards as well as the Planning Department's local lighting examples, the proposed text amendment as modified below balances the G-1 Goal for safe and secure commercial spaces that do not create garish light pollution in the surrounding area." and add " The Illuminating Engineering Society recommends a maximum average of at least 15 foot-candles for "medium-activity' fuel dispensing islands (i.e., fuel canopies) in small-to-moderately-sized populations centers. Considering this IES recommended lighting standard, the Planning department's research, light meter readings taken by staff for comparison, and the desirable nighttime character of commercial activities in Southern Pines, the proposed text amendment as modified below balances the G-1 Goal for safe and secure commercial spaces that do not create garish light pollution in the surrounding area."

b) Remove "twenty-five (25)" maintained lumens per square foot in the proposed text amendment quote and replace with "fifteen (15)" maintained lumens per square foot.

Seconded by Councilmember Pate, the vote was unanimous.
Motion passed.

Councilmember Clement moved to approve OA-02-23; Canopy Lighting for Service Stations as

attached to the staff report but with the following change:

- the average lighting level for new and existing service stations shall be no greater than 15 maintained lumens per square foot under the canopy.

Seconded by Councilmember Pate, the vote was unanimous.
Motion passed.

d. OA-03-23: Remove Self-Storage as a By Right Use in GB Zones

The Town of Southern Pines Planning Department, on behalf of a request by Town Council, is proposing to amend Unified Development Ordinance (UDO) Exhibit 3-15 by removing the "Z" from the GB district column for commercial mini- or self-storage, effectively removing it as a by right land use in that district.

Councilmember Pate moved to open the hearing for OA-03-23; Remove Self-Storage as a By Right Use in GB Zone, seconded by Councilmember Petersen; the vote was unanimous.
Motion passed.

Planning Director Grieve presented the UDO amendment details to the Council.
Discussion ensued.
No public comments were voiced.

Councilmember Pate moved to close the hearing for OA-03-23; Remove Self-Storage as a By Right Use in GB Zone, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

Councilmember Pate moved that after considering the criteria for text amendment found in UDO §2.17.10, the first of which is consistency with the Comprehensive Long-Range Plan, the Town Council finds that the proposed text amendment is consistent with the Comprehensive Long-Range Plan and is a reasonable way to implement the Comprehensive Long-Range Plan for the reasons set forth in the Planning Board's recommendation, and therefore the Town Council adopts the Planning Board resolution that is included as an attachment to the staff report for OA-03-23. Seconded by Mayor Pro Tem Murphy, the vote was unanimous.
Motion passed.

Councilmember Pate moved to approve OA-03-23; Remove Self-Storage as a By Right Use in GB Zone, as attached to the staff report, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

6. ACTION ITEMS

a. WP-02-23: Exemption Allocation Request for .12 acres in Little River Intake No. 2 Watershed

Justin Harris has submitted an application for a Watershed Protection Permit requesting .12 of an acre of 5/70 exemption allocation to develop a single-family residence and detached garage, which will result in 48.1% total impervious surface on the subject property which is located within the High Quality portion of the Little River Intake No. 2 Watershed within the Cape Fear River Basin.

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

Councilmember Pate verified that the intention is for a single family residence.
Justin Harris, the applicant, was present to answer questions from the Council. Mr. Harris shared that the home proposed is 25% impervious surface with adding the driveway with a single-car garage.
Bailey Rush of 120 McKenzie Mill Rd., for the applicant, was also present to answer any questions from the Council.

Councilmember Clement doesn't feel the request fits the parameters of what the 570 exemption is meant for.
Discussion ensued.

Councilmember Pate moved to approve the request for WP-02-23; Exemption Allocation Request for .12 acres in Little River Intake No. 2 Watershed, seconded by Mayor Pro Tem Murphy; the vote was as follows:
Mayor Haney - aye
Mayor Pro Tem Murphy - aye
Councilmember Pate - aye
Councilmember Clement - nay
Councilmember Petersen - nay
Motion passed.

b. Resolution Approving Conveyance of Property to a Nonprofit Organization Pursuant to G.S. 160A-279

This Resolution begins the process towards conveyance of a 7.73+/- acre tract located at the corner of Henley and Morganton Rd. to the YMCA of the Sandhills.

Town Manager Parsons presented the item and background to the Council.

Discussion ensued.
Councilmember Petersen wants a public hearing on the item at the September 12 Business Meeting.

Councilmember Petersen moved to approve Resolution #1068; Approving Conveyance of Property to a Nonprofit Organization pursuant to G.S. 160A-279, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

c. PD-02-23: Conceptual Development Plan for +/-.786 acres on the West Side of S. Bennett St. between New York Ave. and Pennsylvania Ave. (continued)

Mr. Colin Webster, on behalf of Grovsner Land, LLC, has submitted an application for a mixed-use development with condominiums, single-family townhouses, office, retail, and restaurant. The public hearing for this agenda item was closed at the July 11, 2023 Regular Meeting.

Mayor Haney introduced the item and reminded everyone that the hearing is closed.
Colin Webster, representing the applicant, shared with the Council changes made to the application as a result of the July hearing.

Councilmember Petersen moved to hold a new public hearing for the item due to the changes made to the application since the hearing started.
Discussion ensued.
Councilmember Clement shared that her opinion is that the project continues to develop and change as a response to the public hearing and that delaying the decision is counterproductive.
No second was voiced.
Motion closed.

Discussion ensued.

Councilmember Petersen feels that the new proposed CLRP should be taken into consideration, particularly page 143 and page 156, before making any decisions on this matter.

Councilmember Clement moved to continue the decision to the September 12 Business Meeting, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

7. CONSENT AGENDA

Councilmember Pate raised the subject of the NCDOT project.
Councilmember Petersen suggests meeting with the Longleaf Club representatives to discuss plan options and would like to drop the speed limit to 25 mph.
Discussion ensued.
Town Engineer James Michel was present to discuss the project with the Council and confirmed that moving the money now via the budget amendments doesn't impact the project schedule.
Discussion ensued.

Councilmember Pate moved to approve the Consent Agenda, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed

a. Approve FY 23-24 Budget Amendments

Staff has identified some necessary budget amendments.

b. Approve Water Shortage Response Plan

Approve Water Shortage Response Plan in accordance with NCGS 143-355 (1).

c. Approve Resolution #1065 Requesting NCDOT Changes to Traffic Pattern on SW Broad Street

A resolution requesting NCDOT to make changes to the traffic patterns along SW Broad Street to create additional on-street parking.

d. Approve Resolution #1067 Setting Date of Public Hearing for Annexation Application AX-04-23: 1Cliff Court Ext.

Mary Schwab is petitioning the Town of Southern Pines for annexation of a +/-1.18 acre parcel of land located near Southern Pines Country Club. The hearing is to be set for September 12, 2023

e. Approve Meeting Minutes for July 2023

Staff has prepared the following meeting minutes for approval:

- July 5, 2023 Agenda Meeting
- July 11, 2023 Business Meeting
- July 25, 2023 Work Session

8. ADJOURNMENT

Upon motion by Councilmember , seconded by Councilmember Petersen and carried unanimously, Council adjourned at 9:58 pm.

Respectfully submitted:

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Elizabeth Robertson, Town Clerk

DRAFT

MINUTES

Tuesday, August 22, 2023: 3:00 PM
Town Council Work Session
C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave

1. CALL TO ORDER

Mayor 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.

2. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

3. UPDATES AND DISCUSSION

a. TeamWorkz - Cliff Brown

Cliff Brown is the founder and director of Team Workz, located at 152 S. Stephens St. Team Workz provides resources to serve local homeless people. Mr. Brown will provide a brief overview of his organization's work and share some facts related to Southern Pines.

Cliff Brown of TeamWorkz presented to the Council a history of the organization, an explanation of their mission and purpose and an overview of the people they are working to help.
Discussion ensued.
John From Daymark in Sanford commented to the Council on the need for these types of services.

b. Resolutions Updating the Town of Southern Pines Public Forum Policies

Staff has updated the Southern Pines Public Forum Policy and the Southern Pines Library Use Policy in regards to 1st Amendment issues.

Town Attorney Mac McCarley presented the proposed resolutions to the Council.
Discussion ensued.

c. MPO Memorandum of Understanding (MOU) and Meeting Update

Update regarding the MPO meeting that took place on 08/17/2023.

Town Manager Parsons presented the update to the Council.
2 items of controversy:
- implementation of a weighted voting formula
- personnel board created from the 3 largest municipality managers or rotation of members?

name now SAMPO or SAPO
Discussion ensued.
Once MOU is agreed upon, then it will go to Mac for review.

4. ACTION ITEMS

a. Ordinance #3001 - Amending the FY 2023/2024 Budget to purchase 60 ft Lift for Buildings and Grounds

Ordinance #3001 - Amending the FY 2023/2024 Budget to purchase 60 ft Lift for Buildings and Grounds

Town Manager Parson's gave an overview of the request.

Discussion ensued.

Councilmember Pate moved to approve Ordinance #3001 - Amending the FY 2023/2024 Budget to purchase 60 ft Lift for Buildings and Grounds, seconded by Mayor Pro Tem Murphy; the vote was unanimous.

5. COUNCIL ROUNDTABLE DISCUSSION

-Councilmember Clement reminded the Council that they were to provide food for the Freedge this week. After discussion, they agreed to meet at the Freedge at 8:00 am on Monday.

-Councilmember Clement asked about staffing in the planning department and was told that the Planning Director is working on the job description for a Planner II position and they hope to advertise the open position soon. Councilmember Clement asked that the job posting be forwarded to her when ready so that she can inquire about advertising it at local veterans organizations.

-Councilmember Petersen questioned whether staff would have time to enforce and regulate the ordinance regarding outside lighting levels. The staff feels that they are capable and this is something the code enforcement officer can do, though the town does not usually proactively look for violations and just responds to complaints.

-Councilmember Pate suggested sending notification letters regarding the ordinance change to give businesses a chance to comply.

-Mayor Pro Tem Murphy asked if there is a chance of harm from reducing the lights and was told that the current ordinance is in accordance to the recommended safety standards.

-Councilmember Petersen stated that she wants to ensure that the Town planning department staff are involved in the re-writing of CLRP.

-Requests new proposed language for the FRR zoning. Planning Director Grieve is working on the amendment to strike the unfinished sentence

- Asks to remove multifamily from OS - Planning Director Grieve suggested for every 1 unit, then 100 feet of business required. Councilmember Petersen would like the word *encourage* removed and replaced with a mandated sh*all*.

- removal of multifamily from os has already been done for projects of 10 or more units.

- Councilmember Petersen advised that she met with citizens at Longleaf and was told that former Planning Director Chris Kennedy was setting up a meeting before he left regarding the multi-modal path and nothing had ever been rescheduled.

- Councilmember Pate advised that plans have not been finalized and once they are drawn up then neighborhood meetings will be held.

-Councilmember Pate requested an update on the proposed conversion to 1 way traffic on Broad St.

6. ADJOURNMENT

Upon motion by Mayor Pro Tem Murphy, seconded by Councilmember Petersen and carried unanimously, Council adjourned at 4:54 pm.

Respectfully submitted:

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Elizabeth Robertson, Town Clerk

DRAFT

MINUTES

Tuesday, September 5, 2023: 6:00 PM
Town Council Agenda Meeting
C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave

1. CALL TO ORDER

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

2. TOWN MANAGER'S COMMENTS

Asst. Town Manager Jessica Roth reviewed the agenda.

3. ARCHITECTURAL REVIEWS

a. AR-08-23 Southern Pines Golf Club Cottages

Mr. Bob Koontz of KoontzJones Design, PLLP is applying on behalf of property owner Kelly Miller of Mid Pines Development Group, LLC for an Architectural Compliance Permit for seven (7) 4-bedroom cottages and three (3) 8-bedroom cottages totaling 52 bedrooms in total at Southern Pines Golf Club off Country Club Circle. The development of ten (10) cottage buildings with up to 52 bedrooms as guest accommodations at an existing golf club resort was approved on February 14, 2023 per Special Use Permit #SU-07-22. This application is for review and approval of the architecture of the ten (10) buildings.

Planning Director BJ Grieve presented the application and staff report.

Councilmember Pate is recused from this item.

The applicants were present to answer questions. Bob Koontz of KoontzJones Design addressed the Council with some additional detail on the project.

Discussion ensued.

4. REVIEW PROPOSED PRESENTATIONS FOR SEPTEMBER 12TH AGENDA

a. Sprucing Up Southern Pines

Members of the Appearance Commission will attend to present the 2023 Sprucing Up Southern Pines awards.

Asst. Town Manager Roth gave a brief overview of the item.

5. REVIEW PUBLIC HEARINGS FOR SEPTEMBER 12TH AGENDA

a. Convey Property to the YMCA of the Sandhills on the North Side of Morganton Rd at Henley St.

The Town owns a 49-acre tract at the corner of Henley St. and Morganton Rd. The Town has subdivided this parcel, creating a 7.73+/- acre sub-tract . It is the Town's intent to convey this property to the YMCA of the Sandhills, pursuant to G.S. 160A-279.

Asst. Town Manager Roth gave a brief overview of the item.

b. AX-04-23: Annexation of 1.01 acres west of Clif Court, off of Cliff Court Extension

Mary Schwab is requesting voluntary annexation of 1.01 acres, identified as PIN 858005192800 (PARID 00047929).

Asst. Town Manager Roth gave a brief overview of the application.

c. PD-03-23: Preliminary Development Plan (PDP) for Morganton Park South Phase 3

Mr. Robert Koontz has applied on behalf of Midland Atlantic Properties for a Planned Development Preliminary Development Plan in association with the Morganton Park South Development. The application includes a 101,840-square foot wholesale retail building, a fuel service station without convenience store, and a 2,050-square foot drive-through restaurant on +/- 13.89 acres. The Town Council will be holding an evidentiary hearing prior to making a quasi-judicial decision on this matter.

Planning Director Grieve gave a brief overview of the item.

d. LRP-01-23: Southern Pines 2040 Comprehensive Plan

A public hearing for the Town Council to listen to public comment on the new 2040 Comprehensive Plan. The process for developing the new plan started over a year ago and has involved dozens of public meetings and community events, a community survey, feedback from a Community Advisory Committee and frequent newspaper articles describing the process and ways to participate. The Planning Board has unanimously recommended approval of the plan with 13 modifications to the text.

Asst. Town Manager Roth gave a brief overview of the item.

Discussion ensued.

6. REVIEW PROPOSED ACTION ITEMS FOR SEPTEMBER 12TH AGENDA

a. PD-02-23: Conceptual Development Plan for +/-.786 acres on the West Side of S. Bennett St. between New York Ave. and Pennsylvania Ave. (continued)

Mr. Colin Webster, on behalf of Grovsner Land, LLC, has submitted an application for a mixed-use development with condominiums, single-family townhouses, office, retail, and restaurant. The public hearing for this agenda item was closed on July 11, 2023.

Asst. Town Manager Roth gave a brief overview of the item.

b. Consider Ordinance #3002 Amending the Town's Code of Ordinances

This is a series of administrative revisions to the Code of Ordinances, as part of the administrative review and overhaul staff is undertaking. These amendments address enforcement actions related to unsafe buildings and fines/fees assessed by the fire and finance departments. Staff is finalizing the preparation of Attachment B (Chapter 153 - Unsafe Buildings) and will provide for the September 12 packet.

Asst. Town Manager Roth gave a brief overview of the item.

c. MPO Memorandum of Understanding (MOU)

The MPO may forward a MOU for adoption. If not, this item will be postponed to a future date.

Councilmember Clement gave an overview of the item.

7. REVIEW PROPOSED CONSENT AGENDA FOR SEPTEMBER 12TH AGENDA

a. Approve Resolutions #1070 to Designate Public, Limited, and Non-Public Forum Areas in Town Facilities and #1071 to Amend the Southern Pines Public Library Use Policy

DRAFT

#1070 creates a policy to designate areas in Town-owned facilities with regard to public, limited, and non-public forums in order to comply with precedents interpreting the 1st Amendment.
#1071 amends the Town of Southern Pines Public Library Use Policy.

Asst. Town Manager Roth gave a brief overview of the item.

b. Consider Resolution #1072 Confirming Non-Inclusion of a Portion of Long Street in the Southern Pines Street Plan

This request is from Tom Mincher, Jr. pursuant to NCGS 136-96 (e) which requires the filing of a resolution and declaration of withdrawal with the Register of Deeds. Staff reviewed the Town's records and found that this portion of Long Street was not included in any street plan adopted under GS 136-66.2.

Asst. Town Manager Roth gave a brief overview of the item.

c. Approve Resolution #1073 Requesting that NCDOT Reduce the Speed Limit on a Portion of Broad Street

This resolution is a request for NCDOT to reduce the speed limit on SW Broad Street from W. Massachusetts to W. Illinois Ave to 20MPH. This would be consistent with the other sections of Broad that currently are one-way.

Asst. Town Manager Roth gave a brief overview of the item. Town Engineer James Michel noted a typo in the draft resolution - 25mph should be 20mph and would be corrected before the business meeting.

d. Approve Resolution #1074 Accepting CWSRF/ASADRA Funds for the Warrior Woods Lift Station Relocation

The Town has been approved for low interest loan funding for the Warrior Woods Lift Station project. The funding is provided by the Division of Water Infrastructure as part of the Additional Supplemental Appropriation for Disaster Relief Act (ASADRA). The attached resolution is for the formal acceptance of the funds by the Town.

Asst. Town Manager Roth and Town Engineer Michel gave a brief overview of the item.
Councilmember Clement asked that the loan terms be included in the business packet.
Discussion ensued.

e. Approve Ordinance #3003 Amending the Town's Fee Schedule

This ordinance updates the Town's fee schedule, effective September 12, related to charges for fire and rescue services and utility billing.

Asst. Town Manager Roth gave a brief overview of the item.

8. ADJOURNMENT

Upon motion by Councilmember Clement, seconded by Councilmember Pate and carried unanimously, Council adjourned at 7:09 pm.

Respectfully submitted:

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Elizabeth Robertson, Town Clerk

DRAFT

MINUTES

Tuesday, September 12, 2023: 6:00 PM
Town Council Business Meeting
Douglass Community Center: 1185 W. Pennsylvania Ave

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Asst. Town Manager Jessica Roth reviewed the agenda.

Councilmember Clement and Councilmember Petersen requested that items 6a and 6b be removed from the Consent Agenda and moved to the next Work Session meeting agenda.

4. PRESENTATION

a. Sprucing Up Southern Pines

Members of the Appearance Commission will attend to present the 2023 Sprucing Up Southern Pines awards.

Terry Lennahan, Chair of the Southern Pines Appearance Commission, presented the winners of the Sprucing up Southern Pines Competition:

- 280 W. Connecticut
- 150 N. Leak Street
- Rec Room Bar & Arcade
- Anh-Sen Noodle Bar
- McLeod's Funeral Home
- Pinehurst Medical Clinic
- Pinehurst Surgical Clinic
- Pine Knoll at St. Joseph of the Pines
- Bellemeade at St. Joseph of the Pines

5. PUBLIC COMMENTS

Pete Gulley of Gulley's Garden Center shared his concerns about the traffic on Broad Street, the railroad crossing pitch and the parking changes being proposed.
- Councilmember Pate advised that no changes are planned for that side of street. Town Engineer Michel asked DOT to review the crossing of Illinois and the grade is now improved.
- Mr. Gulley does agree with the proposed speed limit reduction.

Suzanne Coleman of 225 N. May St. advised that she had encouraged Mr. Gulley to attend tonight's meeting to speak his mind. Ms. Coleman also shared that she approves of the proposed speed limit reduction and feels the parking on SE Broad Street from Massachusetts to Illinois should remain parallel parking.
Ms. Coleman asked the Town Attorney if he could further explain item 6c on the Agenda.

Cliff Brown of Teamworkz Homeless Organization, 236 Countryside Drive, Aberdeen detailed the groups request to the Council, the amount of money needed to assist the homeless in the area and requested the Town establish a homeless task force to work with them to address the homeless needs in the area.

Scott Weaver of 776 S Ridge Street advised the Council that he attempted and was unable to confirm if the applicant for SU-07-22 ever fulfilled condition 7 of their permit requirement, which was for the applicant to work with DOT to address traffic on Morganton Road. Mr Weaver was advised that the applicant has not yet reached that stage yet in their project to approach DOT.

John Griessel of 135 Elk Road shared his concerns in regards to Item 6c on the agenda and advised the Council that constitutional auditors are increasing in popularity on YouTube and work to embarrass the towns they target. Mr. Griessel feels that Item 6c is only a defensive step and does not adequately address employee training. Mr. Griesel presented a letter to the Council (attached in minutes).

Marsh Smith of 568 Santee Road, distributed a handout to the council in regards to PD-02-23 and shared his concerns that the developer has been working with planning staff and feels the proposal has been altered enough to warrant re-opening the hearing.
Discussion ensued.

6. CONSENT AGENDA

Town Manager Parsons requested that the Council removal of Items 6a and 6b from the Consent Agenda per comments made during opening rewards and moved to the September 26 work session agenda.

Councilmember Pate moved to remove items 6a and 6b from the Consent Agenda and approval of the remaining items, seconded by Councilmember Clement; the vote was unanimous.
Motion passed.

a. Approve Ordinance #3002 Amending the Town's Code of Ordinances REMOVED

This is a series of administrative revisions to the Code of Ordinances. These amendments address enforcement actions related to unsafe buildings and fines/fees assessed by the fire and finance departments.

b. Approve Ordinance #3003 Amending the Town's Fee Schedule REMOVED

This ordinance updates the Town's fee schedule, effective September 12, related to charges for fire and rescue services and utility billing.

c. Approve Resolutions #1070 to Designate Public, Limited, and Non-Public Forum Areas in Town Facilities and #1071 to Amend the Southern Pines Public Library Use Policy

#1070 creates a policy to designate areas in Town-owned facilities with regard to public, limited, and non-public forums in order to comply with precedents interpreting the 1st Amendment.
#1071 amends the Town of Southern Pines Public Library Use Policy.

d. Consider Resolution #1072 Confirming Non-Inclusion of a Portion of Long Street in the Southern Pines Street Plan

This request is from Tom Mincher, Jr. pursuant to NCGS 136-96 (e) which requires the filing of a resolution and declaration of withdrawal with the Register of Deeds. Staff reviewed the Town's records and found that this portion of Long Street was not included in any street plan adopted under GS 136-66.2.

e. Approve Resolution #1073 Requesting that NCDOT Reduce the Speed Limit on a Portion of Broad Street

This resolution is a request for NCDOT to reduce the speed limit on SW Broad Street from W. Massachusetts to W. Illinois Ave to 20MPH. This would be consistent with the other sections of Broad that currently are one-way.

f. Approve Resolution #1074 and Ordinances #3005 and #3006 Accepting CWSRF/ASADRA Funds for the Warrior Woods Lift Station Relocation and Amending the Town's Budget to Receive and Allocate the Funds

The Town has been approved for low interest loan funding for the Warrior Woods Lift Station project. The funding is provided by the Division of Water Infrastructure as part of the Additional Supplemental Appropriation for Disaster Relief Act (ASADRA).

g. Authorize the Town Manager to Execute the 2023 Statewide Mutual Aid Agreement

The Town is currently part of the statewide mutual aid agreement, which is a tool to share resources across jurisdictional boundaries during an emergency event. Through this agreement, participating local governments work together to coordinate activities relating to emergency and disaster mitigation, preparedness, response, and recovery. The Town Manager will be authorized to execute the 2023 agreement.

7. ACTION ITEMS

a. AR-08-23 Southern Pines Golf Club Cottages

Mid Pines Development Group, LLC has applied for an Architectural Compliance Permit for seven 4-bedroom cottages and three 8-bedroom cottages totaling 52 bedrooms for the Southern Pines Golf Club off Country Club Circle. The overall project was approved by Town Council on February 14, 2023 through Special Use Permit #SU-07-22.

Senior Planner Alaina Mallette reviewed the application and staff report.
Councilmember Petersen expressed concern regarding the buildings not being diverse enough for the area.
Bob Koontz of KoontzJones Design, representing the applicant, reviewed the design details for the Council and addressed the architectural diversity.
Discussion ensued.

No quorum present and no action taken. Item will carry over to the September 26 Work Session for action.

b. PD-02-23: Conceptual Development Plan for +/-.786 acres on the West Side of S. Bennett St. between New York Ave. and Pennsylvania Ave. (continued)

Mr. Colin Webster, on behalf of Grovsner Land, LLC, has submitted an application for a mixed-use development with condominiums, single-family townhouses, office, retail, and restaurant. The public hearing for this agenda item was closed on July 11, 2023.

Planning Director Grieve gave an overview of the application and staff report.
Councilmember Clement thanked the staff for their continued work on this project.
Councilmember Petersen voiced concern regarding the continuing changes to the proposed project.
Colin Webster, the applicant, was present to address any questions from the Council.
Discussion ensued.

Councilmember Pate moved that after reviewing the proposed Conceptual Development Plan and the criteria for consideration of a Conceptual Development Plan, and after considering the comments received at the Town Council's public hearing and the Planning Board's written recommendation, the requested Conceptual Development Plan is consistent with the Comprehensive Long Range Plan for the reasons set forth by the applicant in page 5 and 6 of their proposed CDP and the rezoning of this to PD is reasonable because the new zoning is a plan

development that will result in the specific mixed use development project that has been reviewed by the Town, revised by the applicant to reflect many of the community's concerns. Seconded by Councilmember Clement; the vote was as follows:
Mayor Pro Tem Murphy - aye
Councilmember Pate - aye
Councilmember Clement - aye
Councilmember Petersen - nay
Motion approved.

Councilmember Pate moved to approve PD-02-23 as presented by the applicant to the Town Council at tonight's meeting. This includes the current version of the Conceptual Development Plan, the exhibits 1-3, the appendices (a-i), and all the documents that appear in the packets for the September and prior regular meetings. Seconded by Councilmember Clement; the vote was as follows:
Mayor Pro Tem Murphy - aye
Councilmember Pate - aye
Councilmember Clement - aye
Councilmember Petersen - nay
Motion approved.

c. Consider Weighted Vote for MPO Items

The newly formed MPO is establishing operational procedures and policies. The participating jurisdictions have been asked to recommend whether a weighted vote should be used in certain circumstances.

Councilmember Clement reviewed the item for the Council.
Discussion ensued.

Councilmember Petersen moved to advocate for a weighted vote; seconded by Councilmember Pate; the vote was unanimous.
Motion passed.

8. PUBLIC HEARINGS

a. AX-04-23: Annexation of 1.01 acres west of Cliff Court, off of Cliff Court Extension

Mary Schwab is requesting voluntary annexation of 1.01 acres, identified as PIN 858005192800 (PARID 00047929).

Councilmember Petersen moved to open the hearing for AX-04-23; Annexation of 1.01 acres west of Cliff Court, seconded by Councilmember Clement; the vote was unanimous.
Motion passed

Planning Director Grieve reviewed the application and staff report for the Council.
No public comments were voiced.

Councilmember Petersen moved to close the hearing for AX-04-23; Annexation of 1.01 acres west of Cliff Court, seconded by Councilmember Clement; the vote was unanimous.
Motion passed

Councilmember Pate moved to approve the application for AX-04-23; Annexation of 1.01 acres west of Cliff Court, seconded by Councilmember Clement; the vote was unanimous.
Motion passed.

b. Convey Property to the YMCA of the Sandhills on the North Side of Morganton Rd at Henley St.

The Town owns a 49-acre tract at the corner of Henley St. and Morganton Rd. The Town has subdivided this parcel, creating a 7.73+/- acre sub-tract . It is the Town's intent to convey this property to the YMCA of the Sandhills, pursuant to G.S. 160A-279.

Town Manager Parson reviewed the item for the Council.

Councilmember Pate moved to open the hearing to convey property to the YMCA of the Sandhills on the north side of Morganton Road at Henley St., seconded by Councilmember Clement; the vote was unanimous.

Motion passed.

Karen Tussing of 210 Grove Rd asked if an indoor pool is included in the plans to which Town Manager Parsons answered yes.

Councilmember Clement moved to close the hearing to convey property to the YMCA of the Sandhills on the north side of Morganton Road at Henley St., seconded by Councilmember Pate; the vote was unanimous.

Motion passed.

Councilmember Pate moved to approve the conveyance of property to the YMCA of the Sandhills on the north side of Morganton Road at Henley St., seconded by Councilmember Clement; the vote was unanimous.

Motion passed.

c. LRP-01-23: Southern Pines 2040 Comprehensive Plan

Town Council will hold a public hearing to receive comments on the draft 2040 Comprehensive Plan. The Planning Board has unanimously recommended approval of the plan with 13 modifications to the text.

Councilmember Clement moved to open the hearing for LRP-01-23; Southern Pines 2040 Comprehensive Plan, seconded by Councilmember Pate; the vote was unanimous.

Motion passed.

Planning Director Grieve introduced the project and gave a brief overview of the process taken to this point.

Planning & Community Development Specialist Rachel Mann gave a brief presentation and introduced the consultant the Town used to help develop the proposed comprehensive plan. Matt Noonkester of City Explained, gave an in depth presentation of the proposed plan and the steps taken to draft it.

Discussion ensued.

- Cory Longstreet of 1630 Valley View Road commented on several areas of the proposed plan and questioned the change of his property from GBCD to residential and the reasons behind it. Councilmember Clement advised Mr. Longstreet that the Town will look into the matter further with the planning department because it is not the intention to put them out of business.
- Lynn Thompson of 957 San Davis asked the Council to consider carefully the public comments raised during the Planning Board Meeting.
- Marsh Smith of 568 Santee Road strongly urged the Town to explore and revamp the 5/70 high density rule.
- Bob Koontz of KoontzJones Design on behalf of the Southern Pines Golf Club asks for consideration in adding an unused piece of Southern Pines Golf Club property to the land use map as a designated neighborhood activity center to allow the owner, at a future date, to request a rezoning of the parcel without having to modify the plan.
- Felicia Winfield of 315 Austin Ridge Circle, spoke at the Planning Board hearing regarding

gentrification and displacement of legacy homeowners and urged the Council to take note of the issue.

Councilmember Clement moved to close the hearing for LRP-01-23; Southern Pines 2040 Comprehensive Plan, seconded by Councilmember Petersen; the vote was unanimous.
Motion passed.

Discussion ensued.

Councilmember Clement moved to approve LRP-01-23; Southern Pines 2040 Comprehensive Plan with the following modifications:

- Planning Board recommendations #1, 2, 3, 4, 6, 8 and 13 approved as written
- updating #7 to remove the word "mass"
- remove #9 in its entirety
- # 5, 10, 11 and 12 to be removed and discussed further at work session.

Seconded by Councilmember Pate the vote was unanimous.
Motion passed.

d. PD-03-23: Preliminary Development Plan (PDP) for Morganton Park South Phase 3

Midland Atlantic Properties has applied for a Preliminary Development Plan for Morganton Park South. The application includes a 101,840-square foot wholesale retail building, a fuel service station, and a 2,050-square foot drive-through restaurant on +/- 13.89 acres. The Town Council will hold an evidentiary hearing prior to making a quasi-judicial decision on this matter.

Mayor Pro Tem Murphy opened the hearing and swore in pending witnesses for the hearing. Town Attorney McCarley 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.

- Senior Planner Mallette presented the application, staff report (Exhibit A) staff PowerPoint (Exhibit b) and draft motion (Exhibit c).
- Planning Director Grieve asked that Exhibit c to be stricken from the record.
- Bob Koontz of KoontzJones Design presented a powerpoint presentation (Exhibit C) on behalf of the applicant.
- John Silverman, applicant, and Travis Fluit, traffic engineer for the applicant, briefly addressed the Council, adding more details to the presentation.

Karen Tussing feels there is a safety issue at the crosswalk depicted near the traffic circle.
Leslie Yarborough questioned if a population study was completed for this sized project. - The applicant stated that the retailer did conduct population studies.

Ann Petersen moved to continue the public hearing to the scheduled work session on September 26, seconded by Councilmember Clement; the vote was unanimous.
Motion passed.

9. ADJOURNMENT

Upon motion by Councilmember Petersen, seconded by Councilmember Clement and carried unanimously, Council adjourned at 10:49 pm.

Respectfully submitted:

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Elizabeth Robertson, Town Clerk

DRAFT

MINUTES

Tuesday, September 26, 2023: 3:00 PM
Town Council Work Session
C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave

1. CALL TO ORDER

Mayor 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.

2. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

3. ACTION ITEMS

a. Approve Resolution #1075 Supporting the National Register of Historic Places Nomination for 1250 W New York Avenue

The Town of Southern Pines is a Certified Local Government (CLG) and is thereby required to review all new nominations of sites, structures and districts within the Town's boundaries.

Mayor Haney introduced the item.

Councilmember Clement moved to approve Resolution #1075 Supporting the National Register of Historic Places Nomination for 1250 W. New York Avenue, seconded by Councilmember Petersen; the vote was unanimous.
Motion passed.

b. AR-08-23 Southern Pines Golf Club Cottages

Mid Pines Development Group, LLC has applied for an Architectural Compliance Permit for seven 4-bedroom cottages and three 8-bedroom cottages totaling 52 bedrooms for the Southern Pines Golf Club off Country Club Circle. The overall project was approved by Town Council on February 14, 2023 through Special Use Permit #SU-07-22. A motion to approve at the regular meeting failed to get a majority vote of the full board. So, the item was continued to the work session for a final decision.

Mayor Haney introduced the item.

Mayor Pro Tem Murphy moved to approve AR-08-23; Southern Pines Golf Club Cottages, seconded by Councilmember Clement; the vote was as follows:
Mayor Haney: aye
Mayor Pro Tem Murphy: aye
Councilmember Pate: recused
Councilmember Clement: aye
Councilmember Petersen: nay
Motion passed.

c. Approve Ordinance #3002 Amending the Town's Code of Ordinances and Fee Schedule

This is a series of administrative revisions to the Code of Ordinances. These amendments address enforcement actions related to unsafe buildings and fines/fees assessed by the fire department.

Mayor Haney introduced the item.

Councilmember Clement moved to approve Ordinance #3002; Amending the Town's Code of Ordinances and Fee Schedule, seconded by Mayor Pro Tem Murphy; the vote was unanimous. Motion passed.

d. Approve Ordinance #3003 Amending the Town's Code of Ordinances and Fee Schedule

This is a series of administrative revisions to the Code of Ordinances. These amendments address fees assessed by the utility billing department.

Mayor Haney introduced the item.

Councilmember Clement moved to approve Ordinance #3003; Amending the Town's Code of Ordinances and Fee Schedule, seconded by Mayor Pro Tem Murphy; the vote was unanimous. Motion passed.

4. PUBLIC HEARING

a. PD-03-23: Preliminary Development Plan (PDP) for Morganton Park South Phase 3

Midland Atlantic Properties has applied for a Preliminary Development Plan for Morganton Park South. The application includes a 101,840-square foot wholesale retail building, a fuel service station, and a 2,500-square foot drive-through restaurant on +/- 13.89 acres. The Town Council will continue and close its evidentiary hearing from the September 12, 2023, regular meeting prior to making a quasi-judicial decision on this matter.

Mayor Haney reconvened the hearing.
Senior Planner Alaina Mallette presented an updated staff report (Exhibit I) and staff presentation (Exhibit E) .Planning Director BJ Grieve added to the presentations.
Discussion ensued.
Councilmember Clement questioned the number of parking spaces presented.
Discussion ensued.
Councilmember Pate questioned the removal of trees acting as a buffer near a retaining wall.
Discussion ensued.
Councilmember Petersen questioned Senior Planner Mallette regarding her personal opinion on the buffer and discussion ensued.

Bill Bryan of Morning Star Law Group, representing the applicant, addressed the Council and asked that all materials and testimony from September 12th be included on the record with witnesses established as expert witnesses. Mr. Bryan continued with a short opening statement and then turned the mic over to Mr. Bob Koontz of KoontzJones Design, who reviewed parking lot issues and modifications made to the plans. The presentation is entered as (Exhibit F). Mr. Koontz used a slide to show the pedestrian connections (Exhibit G) and a table showing the Morganton Road overlay deviations for parking (Exhibit H).
Discussion ensued regarding parking requirements, landscape buffers and proposed conditions.
Mr. Bryan asked Mr. Koontz to clarify whether the parking lot is considered one shared lot or two separate parking lots and the possibility of future subdivision. Mr. Koontz introduced Mr. Bill Mees of Midland Atlantic Properties to address the questions. Mr. Mees verified that they consider this to be one parking lot which consists of various parking areas. Subdivision is possible to allow tenants to pay individual tax bills but that is unclear at this time. Mr. Bryan asked for clarification on the subdivision and Mr. Mees verified that the intention is not to sell subdivided lots but to lease the

properties.
Councilmember Clement questioned the landscape planting along the retaining wall. Mr. Koontz stated that the required 20 ft. buffer would be planted along the north side retaining wall and the south side retaining wall would be depressed and have the required plantings so it would not be as visible from the road.

-Mr. Pate reiterated that he just wanted verification of the requirements so that there would be no misunderstandings later in the project.

- Councilmember Clement and Councilmember Petersen asked if there were existing trees located within the buffer that would be removed for the buffers and north side retaining wall. Mr. Koontz confirmed that, yes, the existing trees would be removed and also pointed out a conservation easement located on the north side of the property that contains a large area of undisturbed trees.

-Town Manager Parsons questioned if it was their intent not to transfer the Starbucks parcel and Mr. Mees clarified that they could not guarantee the property would never be sold. Mr. Parsons then asked if the property were ever sold would there be any effort to deed restrict the property to ensure shared parking? Mr. Mees stated that they often have to include a Reciprocal Easement Agreement or declaration that would speak to many items such as drives, utilities, stormwater being maintained and or shared.

- Councilmember Pate asked if that should be a condition of the permit? Councilmember Petersen asked that it be included so that it wouldn't be an issue in the future. Mr. Bryan, after conferring with his colleagues, agreed to the REA being included.

- Councilmember Petersen asked that continued land maintenance also be included as a condition so that responsibility is transferred to the new property owner. Mr. Bryan stated that it would be a covenant that goes with the title transfer. Town Manager Parsons added that this type of requirement is not usually included as a condition of the zoning agreement because that is not something that the Town would be involved with enforcing. Mr. Mees indicated that this would typically be a landowner's responsibility. Town Manager Parsons stated that the Town sets codes where should the issue become a problem the Town could step in, but not as a deed restriction or HOA agreement. Mr. Bryan added that he did not believe the Town has the authority to create such a condition.

- Councilmember Clement asked if the applicant was agreeable to the 10 conditions contained in Exhibit D. Mr. Bryan answered yes. Councilmember Clement believes this issue is covered within condition #8.

Councilmember Petersen asked if the diagram in the presentation is what the end project would look like. Mr. Koontz answered that it would not be exact. Councilmember Petersen asked when she could expect to enforce that condition of landscaping and was told it would be included as part of the site plan review.
Tim Carpenter of LKC Engineering addressed the Council regarding UDO 2.185H requirements and stated that he had worked with the Town Engineer and did not feel the approval of the PDP would not cause the need for inefficient extensions or expansions of Town services.
Councilmember Clement asked Mr. Bryan to agree to add "that the planting requirements shall be met regardless of the retaining wall: - Planning Director Grieve stated that staff would prefer that a statement be added to the conditions "the buffer planting requirements shall be met regardless of retaining wall location" so that administrative deviations are not asked for later time.
- Mr. Bryan agreed to the added statement.
Councilmember Petersen asked for wording needed to include the REA. Planning Director Grieve indicated that the staff is agreeable to how the condition is already written due to UDO mechanisms in place to address maintenance of all the requirements of Chapter 4
Mr. Bryan concluded the applicants' presentation.
Councilmember Clement questioned if the addition of the planting requirements needed to be

added to the Finding of Facts as well? Planning Director Grieve feels that as drafted the Findings of Fact have enough rational nexus in them to validate that condition of approval. Planning Director Grieve asked for the applicant's concurrence to meet any requirements by statute. Mr. Bryan concurred.

Mayor Pro Tem Murphy moved to close the hearing for PD-03-23; Preliminary Development Plan for Morganton Park South Phase 3, seconded by Councilmember Pate; the vote was unanimous.
Motion passed.

Councilmember Clement moved to adopt the following Findings of Fact regarding the proposed Preliminary Development Plan PD-03-23, numbers 1-4 as shown in Exhibit D and to approve the Preliminary Development Plan PD-03-23 with the following additional conditions numbers 1-10 as shown in Exhibit D, seconded by Councilmember Pate; the vote was unanimous.
Motion passed.

Councilmember Clement moved to approve the Preliminary Development Plan PD-03-23 with the following additional condition that the applicant shall meet all planting requirements of our UDO regardless of retaining wall location or technical restraints, seconded by Mayor Pro Tem Murphy; the vote was unanimous.
Motion passed.

5. COUNCIL UPDATES

a. Contract with Meridian Waste

Staff has been working with Meridian Waste to negotiate a contract for garbage and recycling collection to be forwarded to Council for consideration at the October 10th meeting. Staff will provide an update during the work session.

Asst. Town Manager/Fire Chief Michael Cameron spoke to the Council regarding the current status of the contract (July 1st start date) and answered questions along with Town Manager Parsons.
Discussion ensued.
Council concurred with the July 1st start date.

6. COUNCIL ROUNDTABLE DISCUSSION

Councilmember Petersen asked for an update on the Longleaf community's concerns. Councilmember Pate, Planning Director Grieve and Asst. Town Manager Roth met with the Longleaf community regarding their concerns and documents are being created to disseminate information via the Town website.

Asst. Town Manager Roth advised the Council that she made a successful offer for the newly created communication officer position that the Council approved for this budget year. This person has some exciting ideas for communication with the public and the new pedestrian trail will be one of the projects this person works on.

- the Longleaf community during the meeting asked for a reduction of the speed limit on Knoll Road. Asst. Town Manager Roth along with Town Engineer James Michel and Chief Nick Polidori have created a public education piece on how an appropriate speed limit is determined for a road and the steps taken to determine if the speed limit needs to be reduced which can be used for Knoll Road and for any further speed limit reduction requests.

Councilmember Clement advised all that Moore County is holding a photo I.D. event at the Douglas Community Center this Thursday, September 28th, from 2:00 - 6:00 pm and reminded everyone that a photo I.D. will be needed to vote in the upcoming elections.

Councilmember Clement shared that a tree planting was scheduled by the Southern Pines Housing and Trust for Wednesday, September 27th, from 2:00 - 3:00 pm in memory of Alicia Watts.

Councilmember Clement shared that the road paving on Broad Street has started and thanked NCDOT for doing their work at night.

Councilmember Pate attended a Tri-City meeting today regarding Moore County who are updating their 10yr land use plan so please share ideas with him so that they can be forwarded to Moore County for consideration.

Town Manager Parsons advised the Council that the newly formed MPO group met last week regarding approval of the use of a weighted vote provision. The next meeting is scheduled for Friday, September 29th at 10:00 am for a final vote. Most towns are on board with the current proposed MOU containing weighted vote provision. Councilmember Clement added that the MOU will be viewed by the whole council for agreement before final approval.
- Official name: Sandhills Metropolitan Planning Organization (SMPO)

7. ADJOURNMENT

Upon motion by Councilmember Pate, seconded by Councilmember Clement and carried unanimously, Council adjourned at 4:20 pm.

Respectfully submitted:

_____

Elizabeth Robertson, Town Clerk

DRAFT