



AGENDA

Tuesday, October 10, 2023: 6:00 PM

Town Council Business Meeting

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

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

4. PRESENTATION

a. Recognize 2040 Comprehensive Plan Citizen Advisory Committee

The Citizen Advisory Committee was created to act as a sounding board with whom the consultants and staff could collaborate while working on the town's new comprehensive plan. Southern Pines would like to recognize these individuals for their time and advocacy of the 2040 Comprehensive Plan process and final document.

5. PUBLIC COMMENTS

6. PUBLIC HEARINGS

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.

7. ACTION ITEMS

a. AR-07-23: Tiara Office Park

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. The packet for this item has been updated since the October 3, 2023, agenda meeting.

8. CONSENT 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. Authorize the Town Manager to Execute a Solid Waste Contract with Meridian Waste

This is a five-year contract for garbage and recycling collection and disposal.

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

d. Approve a Memorandum of Understanding (MOU) for Participation in the Sandhills Metropolitan Planning Organization (SMPO)

The Town has been asked to approve a document outlining the formation and operational structure of a Metropolitan Planning Organization consisting of Southern Pines, Village of Pinehurst, Town of Aberdeen, Village of Whispering Pines, Town of Pinebluff, Village of Foxfire, Town of Taylortown, portions of unincorporated Moore County and the North Carolina Department of Transportation in cooperation with the United States Department of Transportation.

9. 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 the channel for viewing either during the meetings or after they have concluded. Please note, the video is provided only for the purposes of viewing the meetings; public comments or questions are not accepted via the live stream. To receive notifications when new content is published, please "subscribe" to the Town's channel at <https://bit.ly/3hXx2Qk>

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 underline 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 underline 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.

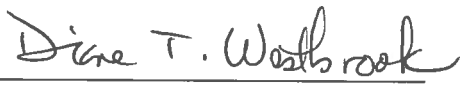
NOW, THEREFORE BE IT RESOLVED that the Planning Board finds and recommends to the Town Council that the revisions to the Unified Development Ordinance (UDO) that have been prepared by town staff are reasonable, in the public interest and are generally consistent with the Town of Southern Pines Comprehensive 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.

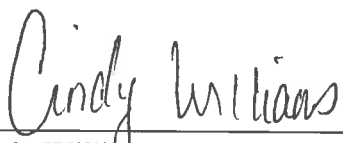
Therefore, the proposed text amendments are reasonable and in the public interest and consistent with the CLRP.

ADOPTED this the 21st day of September, 2023.



Diane T. Westbrook, Chair

ATTEST:



Cindy Williams
Secretary to the Planning Board

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

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.

(D) District Development Standards

Exhibit 3-12: Summary of 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.

Amended

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- (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)

Amended

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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 ~~or~~ ~~she~~ shall send a written notice to the holder of the

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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 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~~ notified.

(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

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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 ~~the~~ 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.
- (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.

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(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.~~

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~~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~~

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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

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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	
<i>X = indicates required action</i>			

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 NumberThis 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 EngineerCertificate 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
<i>X = indicates required action</i> <i>● = indicates actions that may be applicable based on development impact.</i>			

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

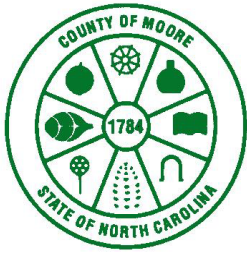
I, _____, Review officer of _____ County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

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

Date: October 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. Note that the proposed design does not include a cupola and initially submitted.

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.

Note: This report replaces the report submitted for the October 3, 2023, Town Council agenda meeting.

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.

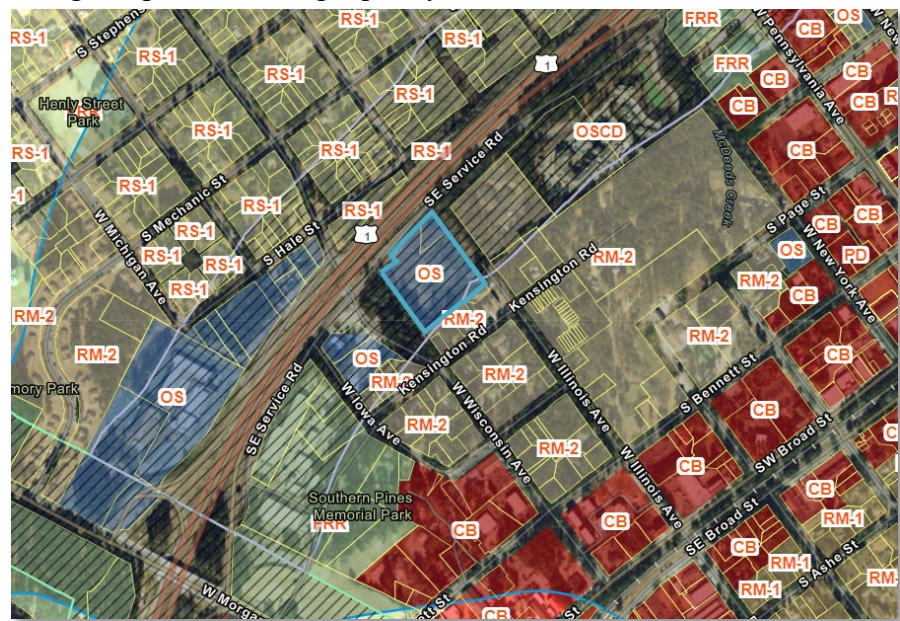


Figure 2. Comprehensive Plan with Subject Properties Highlighted in Orange. On the Conservation and Development Map, subject properties are designated as “Neighborhood” while the Character Districts Maps designation is “Downtown Adjacent Neighborhood.”



Figure 3. Drone Image of Site as of October 5, 2023



Figure 4. Drone Image of Site with Adjacent Land Uses as of October 5, 2023



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**

Receipt of Version 5 Submittal: **October 5, 2023**

Town Council Regular Meeting: **October 10, 2023**

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

(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 Left Side Elevation = Actual Right Side Elevation
- Applicant’s Right Side Elevation = Actual Left Side Elevation
- Note that only the southern-most building’s right elevation will be the only elevation facing W Wisconsin Ave while all front elevations will face SE Service Rd.

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, 6 apply to this review. The applicant's proposed design complies with 5 of the 6 standards and a **deviation for 1 standard is required.** 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

- **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.*

- **Applicant requires a deviation** 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.*

Note: 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 website¹.

- ✖ The Planning Department completed the applicant's building material calculations, since they were calculated incorrectly including the windows and doors. Staff calculations for building materials excluding the windows, doors, and columns show that the applicant requires deviations for three of the four elevations: front, rear, and right elevations. See percentage brick below for reference:
 - Front elevation (SE Service Road-facing Elevation): 72% brick, 23% MiraTEC, and 5% fiber cement (i.e., HardiePlank);
 - Rear elevation (facing homes on Kensington Rd): 73% brick, 24% MiraTEC, and 3% fiber cement (i.e., HardiePlank); and
 - Right elevation (facing W Wisconsin Ave): 77% brick and 23% MiraTEC.

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 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.*
 - The applicant's calculations for Version 5 did not include these calculations, so Planning staff had to refer to calculations for the applicant's Version 4 to determine compliance. This is not typical nor ideal procedure when reviewing applicant's submittals.
 - For the front elevation facing SE Service Road, the applicant's Version 4 calculations claim 59% glazing between 2' and 10'.

¹ <https://miratecextira.com/the-tec-process/>

- For the right elevation facing W Wisconsin Ave, the applicant's Version 4 calculations claim 27% brick between 2' and 10'.
- **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. Planning Staff Comments Recommendation

Staff had to complete the applicant's percentage calculations for building materials and glazing, and staff never received a materials board for the proposed building materials. Per phone calls on October 5, 2023, the applicant clarified that there would not be a cupola on the buildings as shown in the color renderings and they stated that the updated renderings and missing materials board will be presented at the October 10, 2023 Town Council regular meeting. As of the writing of this staff report, Planning staff have not received or reviewed these materials.

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.
- Deviation 2. Regarding UDO §.10.4(C) Building materials, the Planning Department recommends granting a deviation for the front, rear, and right elevations as MiraTEC and fiber cement siding have equal durability to brick siding.
- Condition 1. The dumpster enclosure either (a) be cement block painted to match the appearance of the principal buildings or (b) made with the same color brick used in the principal buildings.

- Condition 2. That the color renderings without the cupola submitted to Town Council at the October 10, 2023, regular meeting replace those shown in Attachment 3.
- Condition 3. That the building materials board submitted to the Town Council at the October 10, 2023, regular meeting be included in the final approval documents for this application.

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 resubmittal of color renderings and/or materials board.
4. Deny AR-07-23.

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: TIARA PROPERTIES, 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

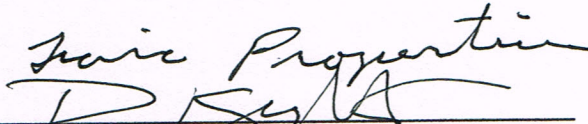
APPOINTMENT OF AGENT

The undersigned owner(s), TIARA PROPERTIES, hereby appoint(s) SEVEN LAKES ENGINEERING 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:

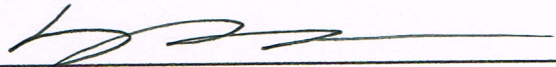
1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Town Council for the issuance of an **Architectural Compliance 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.

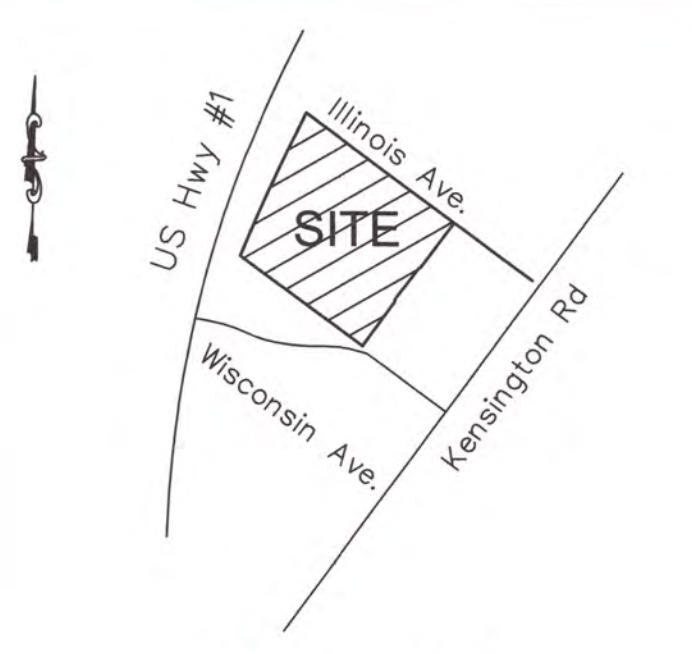
This Appointment of Agent shall remain in effect until final resolution of the attached application.

Signed this 4TH day of MAY, 2023.

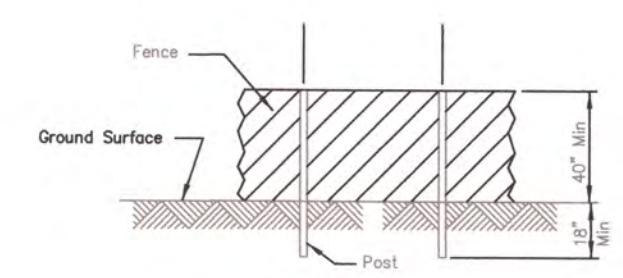
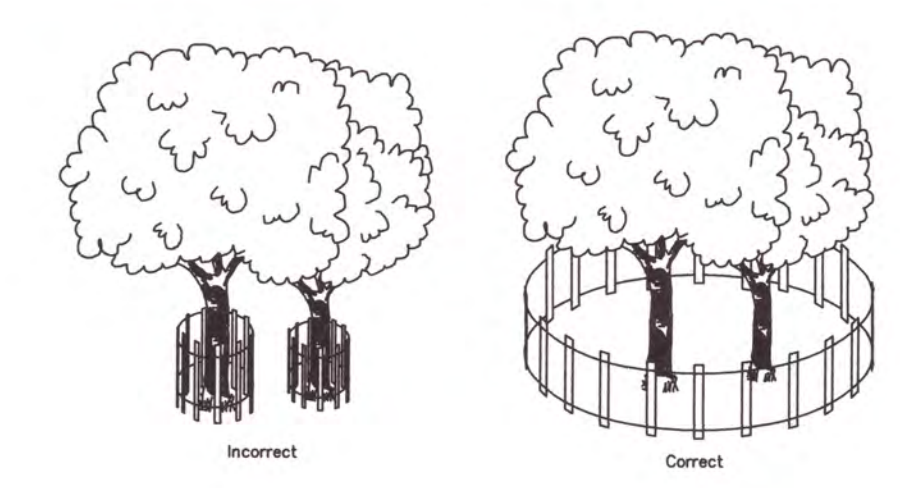

Property Owner

Property Owner


Agent

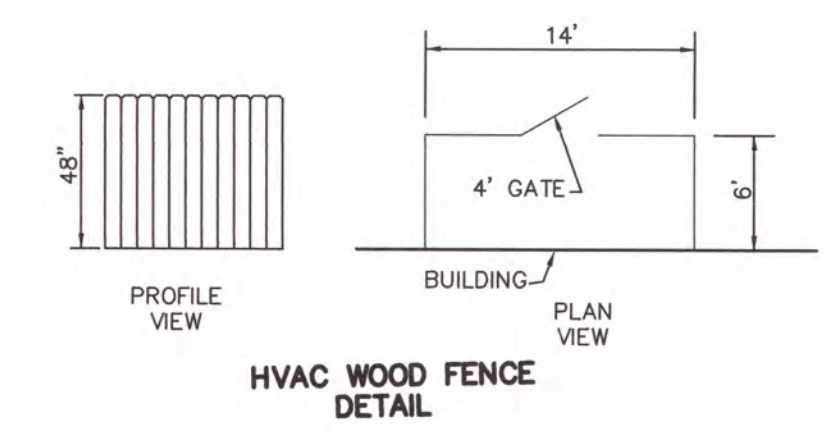


VICINITY SKETCH
SCALE 1" = 500'

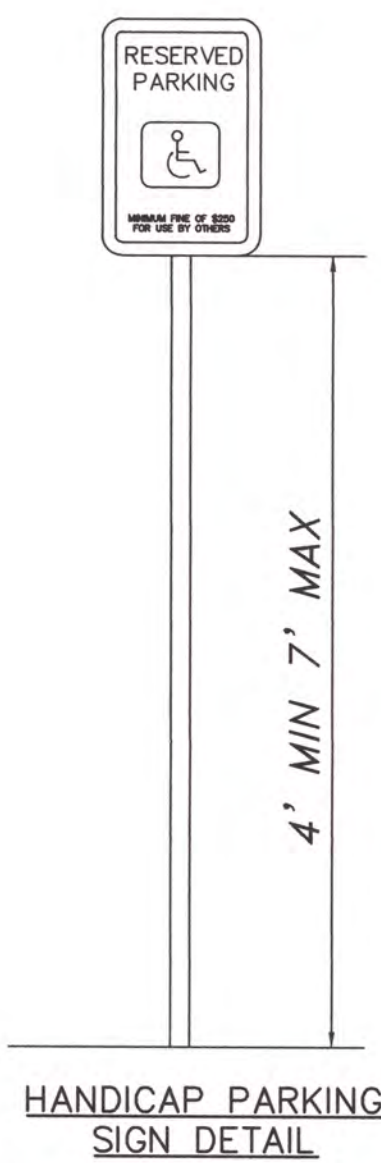


Tree Protection Detail
Scale: 1" = 10'

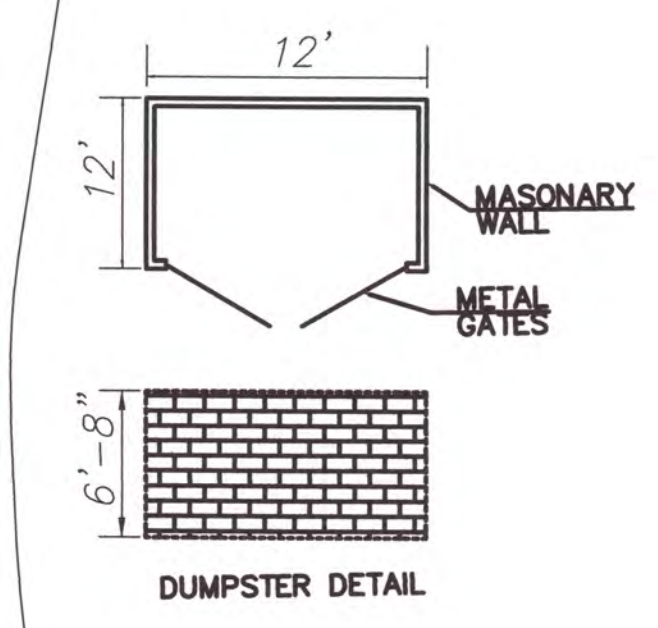
NOTES:
In spite of precautions, some damage to protected trees may occur. In such cases repair any damage to the crown, trunk or root system immediately.
- Repair roots by cutting off the damaged areas and painting them with tree paint. Spread peat moss or mulch topsoil over exposed roots.
- Repair damage 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 color of the trunk-branch union. Use three separate cuts to avoid peeling bark from healthy part of the tree.
- Barrier should be installed at the drip line of tree branches.



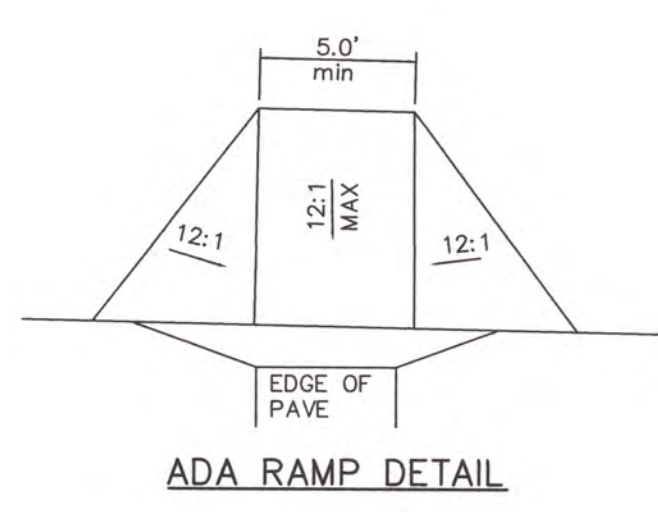
HVAC WOOD FENCE
DETAIL



HANDICAP PARKING
SIGN DETAIL



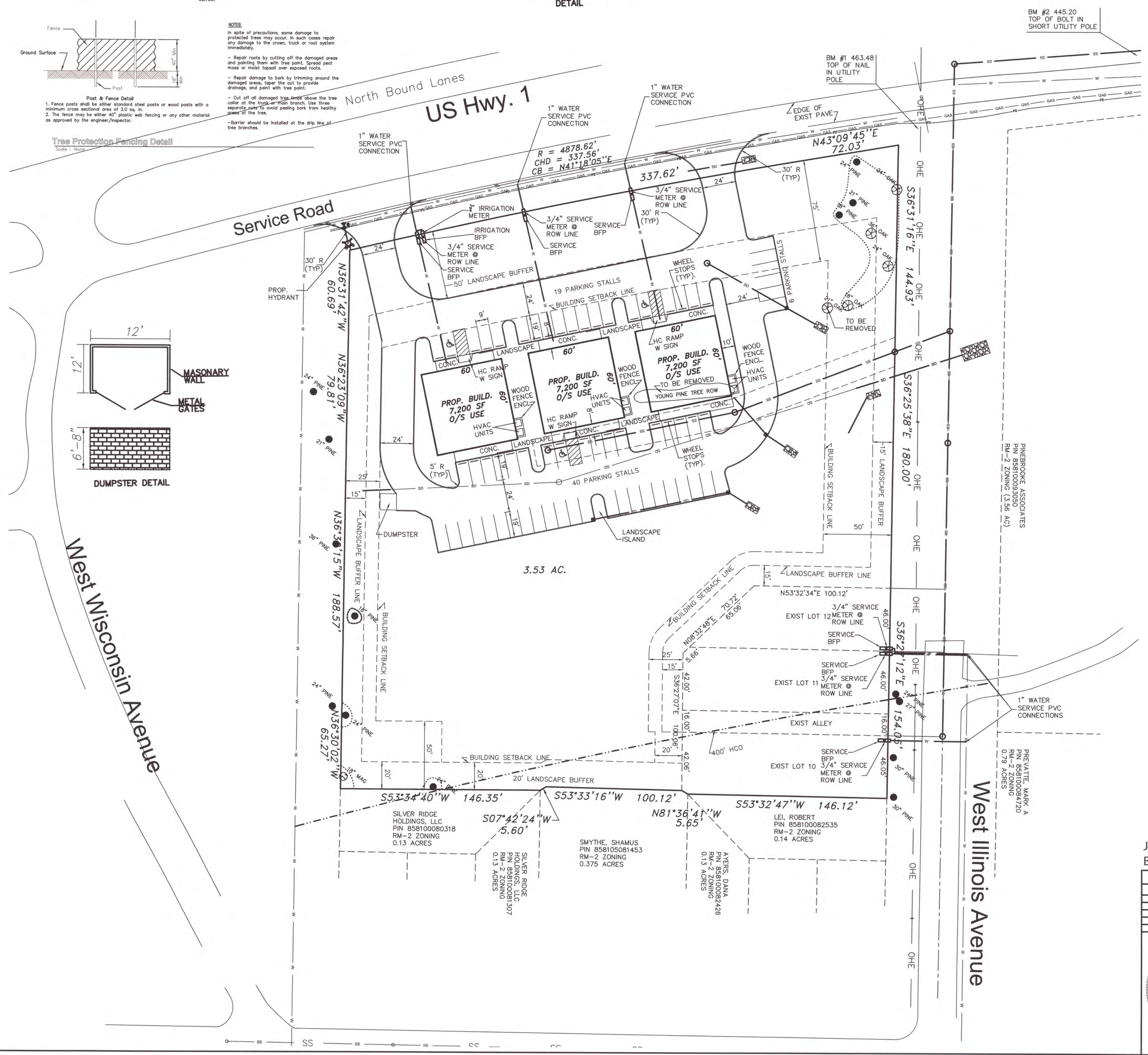
DUMPSTER DETAIL



ADA RAMP DETAIL

BENCH MARK DISCRPTIONS
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 9800377/858100080569
00037470 / 857100989868
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 HOW CAPE FEAR BASIN
LITTLE RIVER (INTAKE #2)
TYPE WS-IIP
MAXIMUM PARKING PER TABLE 3-13 SOUTHERN 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 DISTRICT AND ANY UN-ZONED PORTIONS OF THE PROPERTY.

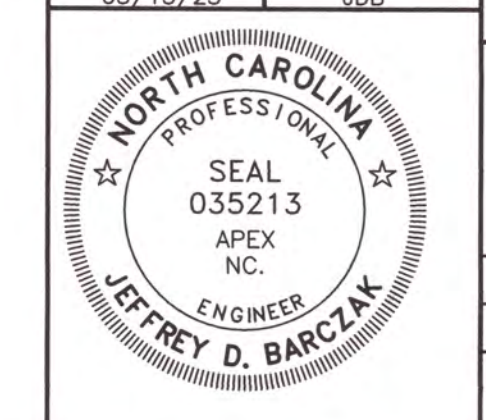
PREPARED FOR:
TIARA PROPERTIES LLC
2236 KIVETT DR.
GREENSBORO, NC. 27406

Jeffrey D. Barczak
Digitally signed by Jeffrey D. Barczak
Date: 2023.05.15 11:45:08 -0400

FIRM NO. P-1808

DRAWING NO. C22214R0

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



BARCZAK ENGINEERING SERVICES PLLC.
139 Grantham House Way, Apex, NC. 27539
444-428-4865 barczakengineering@gmail.com

TOWN OF SOUTHERN PINES, NC

PROPOSED SITE PLAN
TIARA OFFICE PARK

SCALE: HORIZ. 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



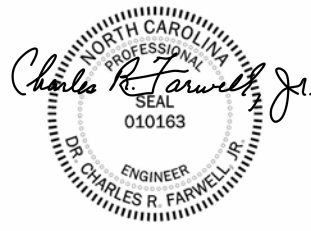
FRONT



REAR

SEVEN
LAKES
ENGINEERING
SERVICES,
INC.

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



REVISIONS

CIENT: 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

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Email: 7lakesengrg@gmail.com



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& SE SERVICE RD
Southern Pines, NC 28387

PROJECT NO:
22-226-657

DATE:
1/10/2023

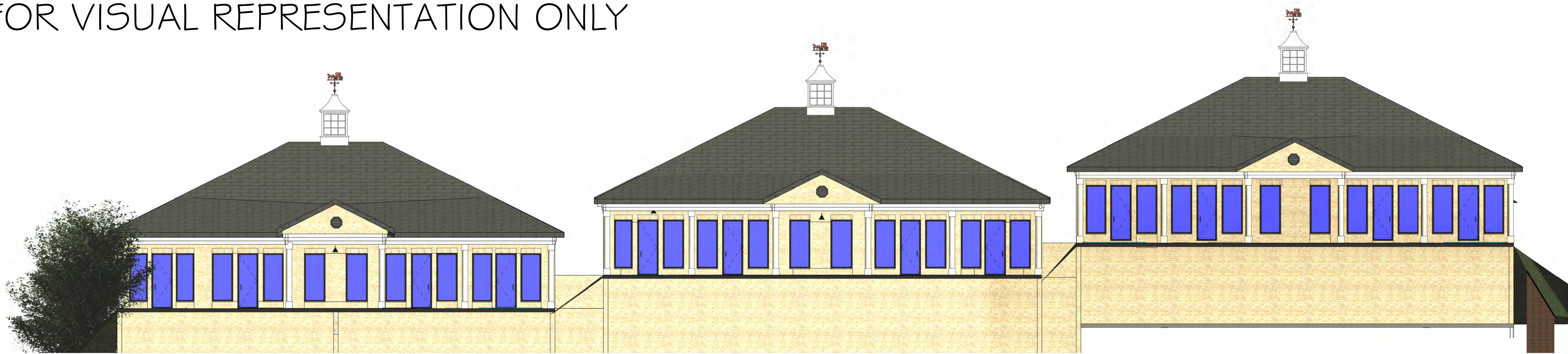
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TITLE:
3D VIEW

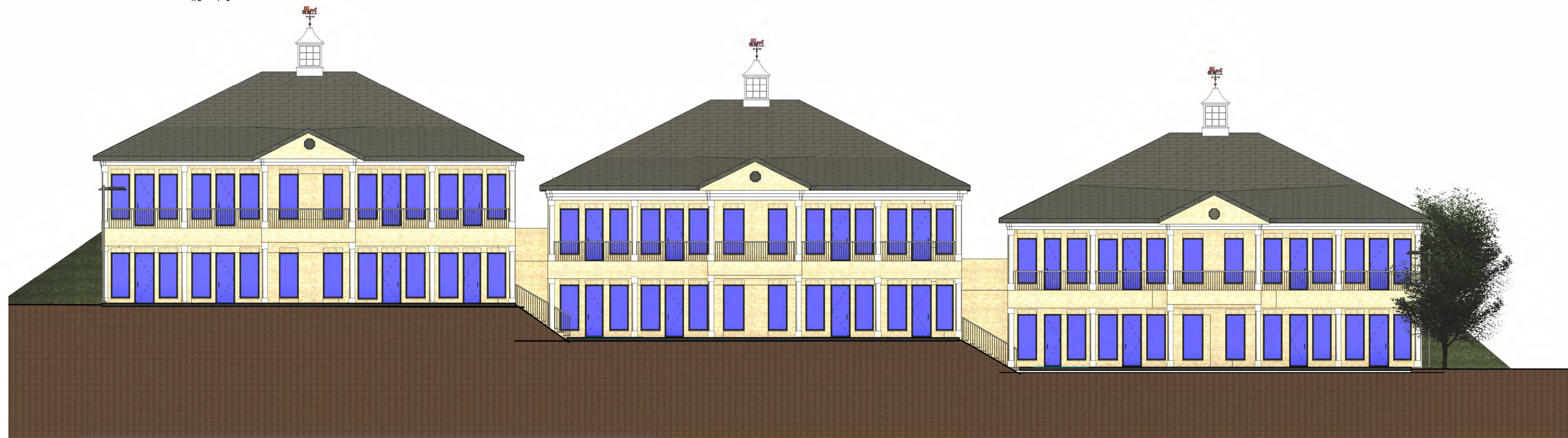
Sheet Number:

2 of 3

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③ FRONT
1/8" = 1'-0"



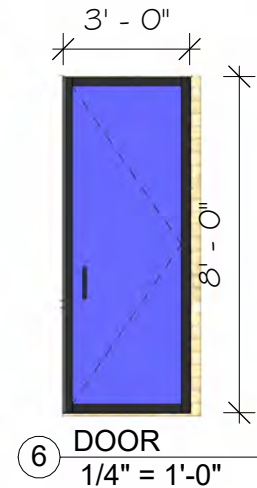
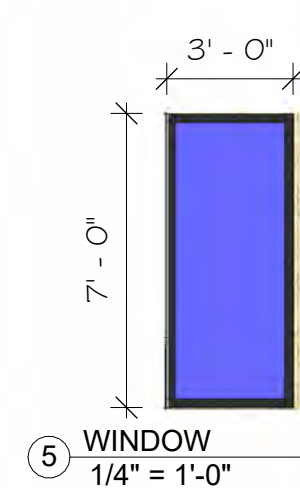
② REAR
1/8" = 1'-0"



④ LEFT
1/8" = 1'-0"



① RIGHT
1/8" = 1'-0"



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REVISIONS

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W WISCONSIN AVE
& SE SERVICE RD
Southern Pines, NC 28387

PROJECT NO:
22-226-657

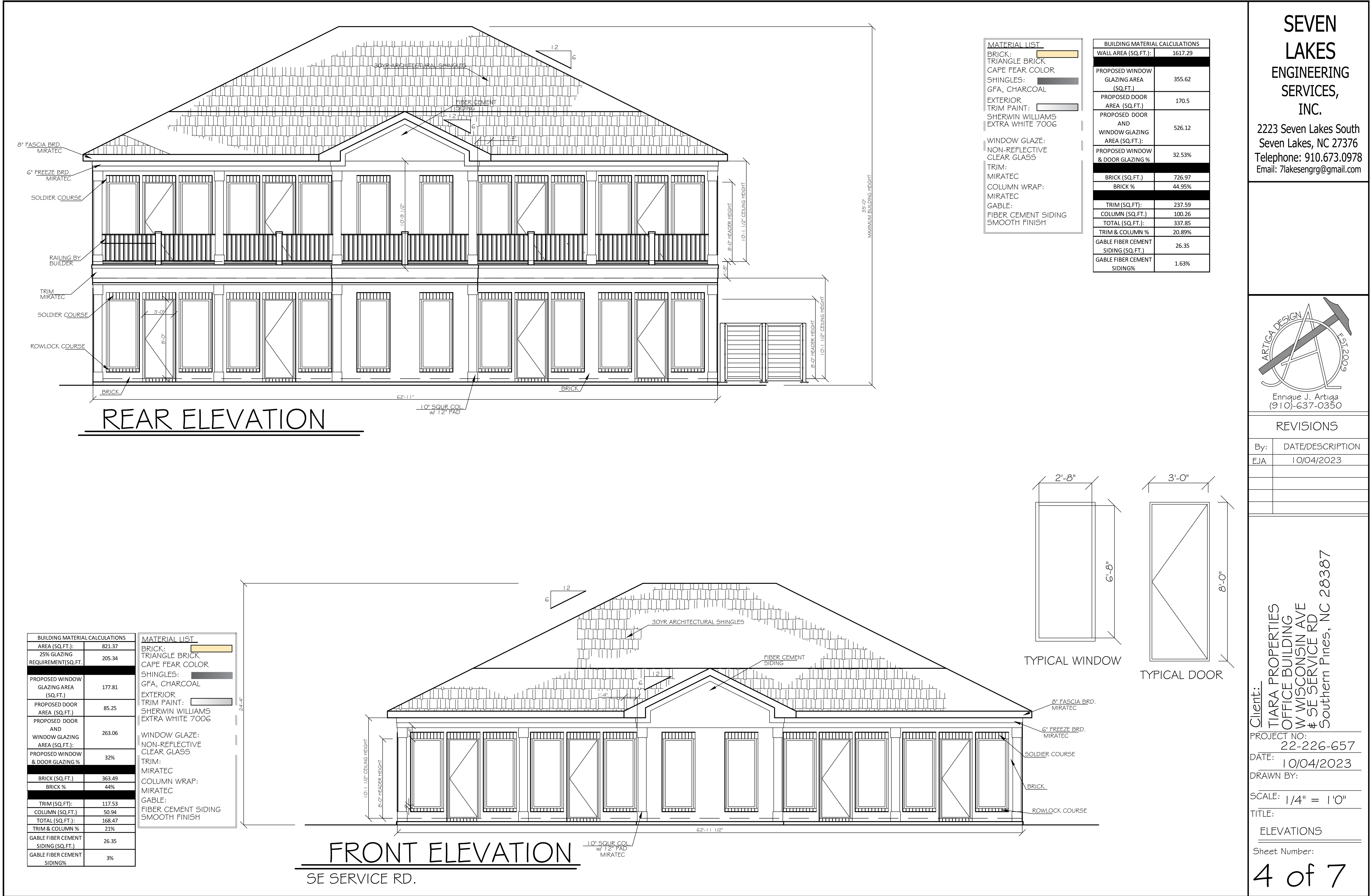
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1/10/2023

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TITLE:
ELEVATIONS

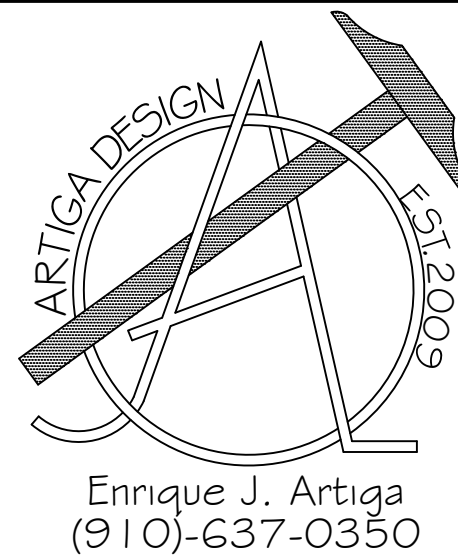
Sheet Number

3 of 3



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SERVICES,
INC.

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



REVISIONS

By:	DATE/DESCRIPTION
EJA	10/04/2023

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

PROJECT NO: 22-226-657

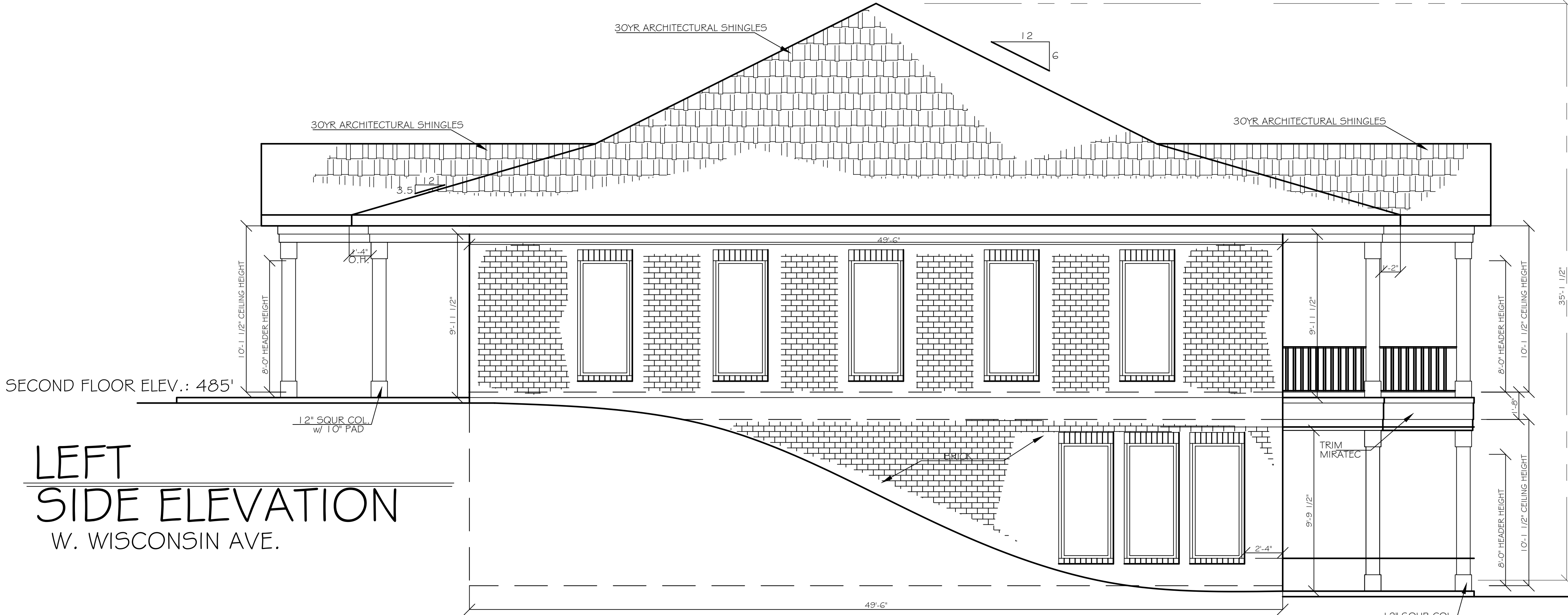
DATE: 10/04/2023

DRAWN BY:

SCALE: 1/4" = 1'0"

TITLE:
ELEVATIONS

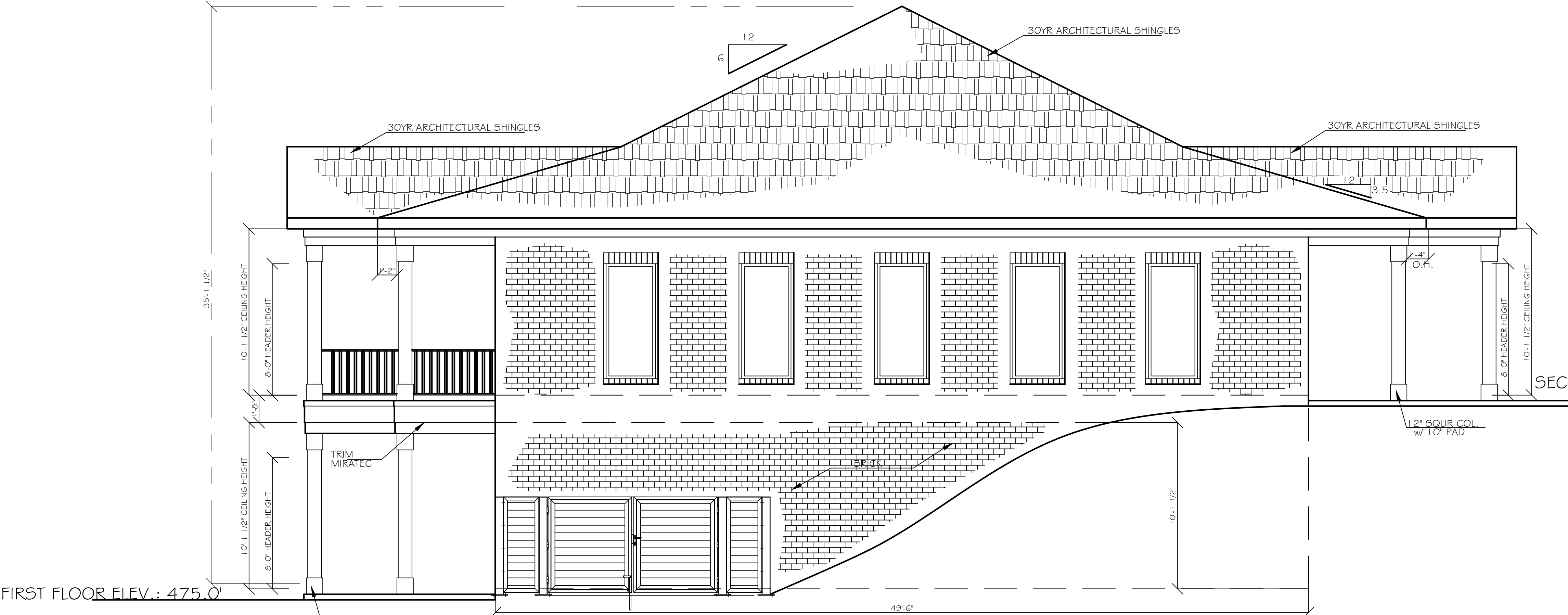
Sheet Number:
4 of 7



LEFT
SIDE ELEVATION
W. WISCONSIN AVE.

MATERIAL LIST	
BRICK:	TRIANGLE BRICK
	CAPE FEAR COLOR
SHINGLES:	GFA, CHARCOAL
EXTERIOR TRIM PAINT:	SHERWIN WILLIAMS
	EXTRA WHITE 700G
WINDOW GLAZE:	NON-REFLECTIVE
	CLEAR GLASS
TRIM:	MIRATEC
COLUMN WRAP:	MIRATEC
GABLE:	FIBER CEMENT SIDING
	SMOOTH FINISH

BUILDING MATERIAL CALCULATIONS	
WALL AREA (SQ.FT.):	717.82
25% GLAZING REQUIREMENT(SQ.FT.):	179.45
PROPOSED WINDOW GLAZING AREA (SQ.FT.):	142.25
PROPOSED DOOR AREA (SQ.FT.):	0
PROPOSED DOOR AND WINDOW GLAZING AREA (SQ.FT.):	142.25
PROPOSED WINDOW & DOOR GLAZING %	20%
BRICK (SQ.FT.):	404.60
BRICK %	56%
TRIM (SQ.FT.):	121.11
COLUMN (SQ.FT.):	49.86
TOTAL (SQ.FT.):	170.97
TRIM & COLUMN %	24%



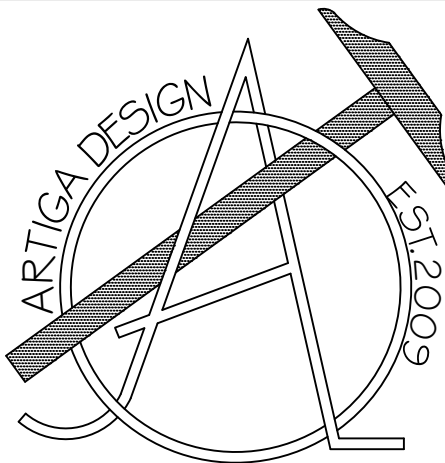
RIGHT
SIDE ELEVATION

MATERIAL LIST	
BRICK:	TRIANGLE BRICK
	CAPE FEAR COLOR
SHINGLES:	GFA, CHARCOAL
EXTERIOR TRIM PAINT:	SHERWIN WILLIAMS
	EXTRA WHITE 700G
WINDOW GLAZE:	NON-REFLECTIVE
	CLEAR GLASS
TRIM:	MIRATEC
COLUMN WRAP:	MIRATEC
GABLE:	FIBER CEMENT SIDING
	SMOOTH FINISH

BUILDING MATERIAL CALCULATIONS	
WALL AREA (SQ.FT.):	888.79
PROPOSED WINDOW GLAZING AREA (SQ.FT.):	88.90
PROPOSED DOOR AREA (SQ.FT.):	0
PROPOSED DOOR AND WINDOW GLAZING AREA (SQ.FT.):	88.90
PROPOSED WINDOW & DOOR GLAZING %	10%
BRICK (SQ.FT.):	628.91
BRICK %	71%
TRIM (SQ.FT.):	121.11
COLUMN (SQ.FT.):	49.86
TOTAL (SQ.FT.):	170.97
TRIM & COLUMN %	19%

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



Enrique J. Artiga
(910)-637-0350

REVISIONS

By:	DATE/DESCRIPTION
EJA	10/04/2023

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

PROJECT NO:
22-226-657

DATE:
10/04/2023

DRAWN BY:

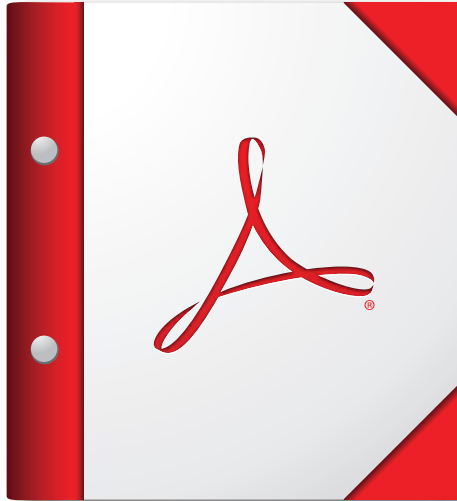
SCALE: 1/4" = 1'0"

TITLE:

ELEVATIONS

Sheet Number:

5 of 7



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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 hereby 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.





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 Manager 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 Grovsnor 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 McNerny 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 Grovsnor 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:

Elizabeth Robertson, Town Clerk



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 *shall*.

- 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:

Elizabeth Robertson, Town Clerk



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 Cliff 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 Grovsnor 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

#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:

Elizabeth Robertson, Town Clerk



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:

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

MEMORANDUM OF UNDERSTANDING FOR COOPERATIVE, COMPREHENSIVE, AND CONTINUING
TRANSPORTATION PLANNING

AMONG

THE VILLAGE OF PINEHURST, TOWN OF SOUTHERN PINES, TOWN OF ABERDEEN, VILLAGE OF
WHISPERING PINES, TOWN OF PINEBLUFF, VILLAGE OF FOXFIRE, TOWN OF TAYLORTOWN,
MOORE COUNTY AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION IN
COOPERATION WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION

WITNESSETH:

THAT WHEREAS, the Village of Pinehurst, Town of Southern Pines, Town of Aberdeen, Village of
Whispering Pines, Town of Pinebluff, Village of Foxfire, Town of Taylortown, Moore County and
the North Carolina Department of Transportation (NCDOT) desire to enter into a Memorandum
of Understanding for Cooperative, Comprehensive, and Continuing Transportation Planning,
regarding the Sandhills Metropolitan Planning Organization (SMPO);

WHEREAS, each Metropolitan Planning Organization (MPO) is required to develop a
Metropolitan Transportation Plan in cooperation with NCDOT and in accordance with 23 U.S.C.
§ 134, any amendments thereto, and any implementing regulations; and a Comprehensive
Transportation Plan in accordance with North Carolina General Statute §136-66.2; and

WHEREAS, the Metropolitan Transportation Plan serves as the basis for future transportation
improvements within the Metropolitan Planning Area (MPA);

NOW THEREFORE, in consideration of the mutual benefits afforded to each party, the parties
agree as follows:

Section 1. Naming and Boundary of the Metropolitan Planning Area

The “Sandhills Metropolitan Planning Organization” (“SMPO”) shall be the formal name for the
organization governing transportation planning for the Pinehurst-Southern Pines Urban Area as
initially defined by the United States Department of Commerce, Bureau of the Census, plus the
additional existing urbanized area beyond the existing urbanized area boundary that is
expected to become urbanized within a twenty-year planning period and as adopted by the
jurisdictions included in the MPA.

The Sandhills MPA consists of the Pinehurst-Southern Pines Urban Area as defined by the
United States Department of Commerce, Bureau of the Census, plus that area beyond the
existing urbanized area boundary that is expected to become urbanized within a twenty-year

planning period. This area is hereinafter referred to as the MPA and is delineated in Exhibit A.

Section 2. Planning Responsibility within the Metropolitan Planning Area

Cooperative, continuing, and comprehensive transportation planning shall be undertaken in the MPA by the SMPO in accordance with all applicable federal and state statutes. The SMPO shall coordinate any transportation planning it undertakes which may have a regional impact with the Triangle Area Rural Planning Organization, and other municipalities in the region.

Section 3. SMPO Governing Board

The SMPO shall be governed by a Governing Board which shall be the policy making board for the MPO. The voting membership of the Governing Board shall include one elected official from each member local government plus an NCDOT Board Member appointed by the Secretary, as well as non-voting members from the following agencies:

- a. Federal Highway Administration (FHWA) North Carolina Division, DA;
- b. Moore County Airport Authority.

Section 4. Conduct of Business by the SMPO Governing Board

The SMPO Governing Board will meet as often as it deems appropriate and advisable, but at least quarterly. The Governing Board shall adopt by-laws and conduct its business in accordance with its adopted by-laws. The Governing Board will select a Chair and Vice-Chair annually at the first scheduled meeting of each calendar year. All meetings of the Governing Board will be subject to the Open Meetings Law.

Section 5. Role and Responsibilities of the SMPO

The SMPO Governing Board will be responsible for carrying out the provisions of 23 U.S.C. § 134 (Federal Highway Administration); and 49 U.S.C. §§ 5303, 5304, 5305, 5306 and 5307 (Federal Transit Administration); including the following duties and responsibilities:

- 5.1. Review and approval of the annual transportation Unified Planning Work Program and any subsequent amendments;
- 5.2. Review and approval of the annual budget;
- 5.3. Review and approval of the Transportation Improvement Program for multimodal capital and operating expenditures to insure coordination between local and State capital and operating improvement programs and any subsequent amendments;

5.4. Review and approval of the Metropolitan Transportation Plan, and subsequent changes thereto, and the Comprehensive Transportation Plan as required by the N.C.G.S. § 136-66.2(d). Revisions in the transportation plans must be jointly approved by the Governing Board and the North Carolina Department of Transportation;

5.5. Endorsement, review and approval of changes to the Federal Highway Administration Functional Classification System, the Adjusted Urbanized Area Boundary and the MPA Boundary;

5.6. Endorsement, review and approval of a Prospectus for Transportation Planning which defines work tasks and responsibilities for the various agencies participating in the transportation planning process;

5.7. Establishment of goals and objectives for the transportation planning process reflective of and responsive to such comprehensive plans for growth and development in the MPA as are adopted by Boards of General-Purpose Local Government;

5.8. Approval and distribution of federal funds designated for the MPA under the provisions of MAP-21 and any other subsequent transportation funding authorizations;

5.9. Formation of ad-hoc and standing subcommittees.

Section 6. SMPO Voting Procedures

Any member may call for a vote on any issue provided that it is seconded and within the purposes set forth in this "Memorandum of Understanding." Each voting member of the Governing Body shall have one vote unless a weighted vote is called for as described below. A majority vote of those present and voting shall constitute approval of any motion, provided a quorum exists and provided that a super-majority vote is not required for approval of the item under applicable law, or a weighted vote is called for. Abstentions are not included in the tally of the votes.

In order for a vote, or a weighted vote, to be counted, each local government member of SMPO must be current with respect to payment of local match dues; if an entity is not current in payment of dues, then its input will be merely advisory in a non-voting capacity. Currency with respect to dues payment is defined as having paid, in total, an annual or other SMPO dues payment for which said payment's due date has elapsed. Members who are in a non-voting status because of unpaid dues will be classified as non-voting board members and will not count toward calculations of a quorum in any way. Voting privileges will be restored upon full payment of required dues.

After any non-unanimous vote, any member may make a motion for a weighted vote on the matter. If that motion is seconded, a weighted vote will take place. If a weighted vote is taken, all local governments will have at least one vote. Those local governments with populations over 10% of the total MPA population will have one additional vote. Then, any local government with over 20% of the total MPA population will have another additional vote. Population figures shall be determined based on the most recent Federal Decennial Census. Only the non-municipal population of those portions of the county located within the MPA shall be counted for the county. As of the date of this MOU, the weighted voting structure is as follows:

<u>VOTING MEMBER</u>	<u>NUMBER OF WEIGHTED VOTES</u>
Village of Pinehurst	3
Town of Southern Pines	3
Town of Aberdeen	2
Village of Whispering Pines	1
Town of Pinebluff	1
Village of Foxfire	1
Town of Taylortown	1
Moore County	2
Other voting members	1

Section 7. Establishment of the Transportation Coordinating Committee (the TCC)

7.1. The parties acknowledge that transportation planning is a specialized field. In order to give the duly constituted Governing Board access to the technical expertise necessary to meet the requirements of federal and state law, a Transportation Coordinating Committee (the TCC) shall be established with the responsibility for advising the Governing Board of the technical aspects of the transportation planning process, performing such technical analysis as necessary to support transportation planning and making recommendations to the Governing Board, and local and State governmental agencies for any necessary actions relating to the continuing transportation planning process.

7.2. Membership of the TCC shall include technical representation from all local and State governmental agencies directly related to and concerned with the transportation planning process for the MPA and the voting members shall consist of the following:

- a. Village Manager or designee, Pinehurst;
- b. Town Manager or designee, Southern Pines;
- c. Town Manager or designee, Aberdeen;
- d. Village Manager or designee, Whispering Pines;

- e. Town Administrator or designee, Pinebluff;
- f. Village Clerk, Manager or designee, Foxfire;
- g. Town Clerk, Manager or designee, Taylortown;
- h. County Manger or designee, Moore County;
- i. Moore County Transportation Services Director or designee;
- j. Division 8 Engineer or designee, North Carolina Department of Transportation;
- k. NCDOT Transportation Planning Division Representative

In order for a vote to be counted, each local government member of SMPO must be current with respect to payment of local match dues; if an entity is not current in payment of dues, then its input will be merely advisory in a non-voting capacity. Currency with respect to dues payment is defined as having paid, in total, an annual or other SMPO dues payment for which said payment's due date has elapsed. Members who are in a non-voting status because of unpaid dues will be classified as non-voting board members and will not count toward calculations of a quorum in any way. Voting privileges will be restored upon full payment of required dues.

Representatives from each of the following bodies will serve as non-voting members of the Technical Coordinating Committee.

- a. Public Transportation Division, North Carolina Department of Transportation;
- b. Federal Highway Administration (FHWA) North Carolina Division, Planning and Program Development Planner;
- c. Other local, State or Federal agencies impacting transportation in the planning area invited by or staff to a member jurisdiction or at the invitation of the TCC.

Section 8. Conduct of Business by the TCC

The TCC will meet as often as it deems appropriate and advisable, but at least quarterly. The TCC will adopt by-laws and conduct its business in accordance with its adopted bylaws. The TCC will select a chair and vice-chair annually at its first meeting of each calendar year. All meetings of the TCC shall be subject to the Open Meetings Law.

Section 9. Role and Responsibilities of the TCC

The TCC shall be responsible for development, review, and recommendation for approval of the Prospectus, Transportation Improvement Program, Federal-Aid Urban System and Boundary, revisions to the Transportation Plan, planning citizen participation, and documentation reports on the transportation study.

Section 10. TCC Personnel Subcommittee

The TCC shall appoint and maintain a subcommittee made up of three managers for the hiring, counselling, discipline, termination, performance evaluation, etc. of the SMPO Director. The Pinehurst Village Manager will always be a member of Personnel Subcommittee, while its other members may rotate as desired by the TCC.

Section 11. Designation of the Lead Planning Agency (the LPA)

The Village of Pinehurst shall serve as the Lead Planning Agency (LPA). As LPA, the Village of Pinehurst will provide the necessary facilities and administrative support to SMPO to fulfill its responsibilities. An LPA Agreement will be entered into between the Village of Pinehurst as LPA and SMPO which will further clarify the roles and responsibilities the Village will provide on behalf of SMPO. SMPO will be the sole and exclusive common law employer of all SMPO staff; however, SMPO staff shall be considered employees of Pinehurst for the purpose of NC Local Governmental Employees' Retirement System, health and welfare and other benefits, and general payroll administration.

Section 12. The Director and Staff

Administrative coordination for the SMPO Governing Board and the TCC will be performed by a Director. The Director shall be selected by a subcommittee defined in section 10. The Director will be assigned to the Village of Pinehurst Planning and Inspections Department and report to the Village's Director of Planning and Inspections for administrative purposes. As necessary, the Director shall select, with the concurrence of the Personnel Subcommittee, such other staff as may be budgeted and within the annual staffing plan. All staff selected by the Director shall be assigned to the Village of Pinehurst Planning and Inspections Department and subject to the provisions of the Village's personnel rules and policies as further defined in the LPA Agreement.

Section 13. Role and Responsibilities of the Director

The Director shall be responsible to arrange the meetings and agendas in coordination with the Village of Pinehurst Village Clerk, or as otherwise supported by the LPA. In addition, the Director shall prepare the Prospectus, the Unified Planning Work Program the (UPWP), a Transportation Improvement Program in accordance with federal and state regulations and requirements; develop a Metropolitan Transportation Plan (MTP) in accordance with federal and state regulations; maintain the MTP; execute the transportation planning process in accordance with federal and state laws and regulations; prepare invoices and progress reports in accordance with federal, state, and local requirements; structure the public involvement process needed to ensure that the UPWP, Transportation Plan, Transportation Improvement

Program, and any transportation conformity determinations meet federal requirements; and consult with the SMPO Governing Board and the TCC regarding the best approaches to performing the duties listed above.

Section 14. Additional Responsibilities of Member Governments

14.1. The representative from each General-Purpose Local Government on the SMPO Governing Board shall be responsible for instructing the clerk of his/her local government to provide to the Director copies of the minutes of any action taken by his/her local government which involves any MPO plan.

14.2. Each member signatory local government shall seek to maintain harmony between long-range plans, zoning, subdivision approval and SMPO transportation plans.

14.3. All member signatory local governments will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus for Transportation Planning.

Section 15. Funding and Fiscal Matters

15.1. All transportation and related federal aid planning funds available to promote the cooperative transportation planning process will be expended in accordance with the Unified Planning Work Program adopted by the Governing Board. Administration of funding in support of the Transportation Planning Process on behalf of the Governing Board will be conducted by the Village of Pinehurst as the host planning agency. The Village of Pinehurst will execute appropriate agreements with funding agencies as provided by the Planning Work Program.

15.2. The local match for the Federal Aid planning funds will be determined based on the current federal matching requirements. The signatory General Purpose Local Governments will contribute to the local match requirement proportionate to their percentage of the population within the MPA at the most recent decennial census. As of the 2020 census, those percentages are:

<u>LOCAL GOVERNMENT</u>	<u>PERCENT OF POPULATION</u>
Village of Pinehurst	29%
Town of Southern Pines	26%
Town of Aberdeen	14%
Village of Whispering Pines	8%
Town of Pinebluff	2%
Village of Foxfire	2%

Town of Taylortown	1%
Moore County	18%

Only the non-municipal population of those portions of the county located within the MPA shall be counted for the county. Member governments may also be asked to contribute additional local funding for projects wholly within their jurisdictional limits.

15.3. This funding share shall be invoiced by August 15th of each year for actual expenses from the previous fiscal year by the Village of Pinehurst, acting as Lead Planning Agency, and as recipient of the Federal Planning funds distributed by the North Carolina Department of Transportation. All payments will be due to the Village of Pinehurst by October 1st. Annual fees are non-refundable.

Section 16. Methodology for Changes to SMPO MOU

Any changes to the MPA boundaries, Governing board membership or voting structure, or formulation of dues must be approved by the same process as for the creation of the MPO, which is as follows: the units of local government that together represent at least 75% of the affected population in the Pinehurst-Southern Pines Urban Area (including the largest incorporated city, based on population) must vote at a properly called public meeting at each local government's jurisdiction to approve such changes to reach the 75% or more approval standard.

Section 17. Duration of the Agreement

Any party may terminate its participation in the MPO and remove itself from this Agreement by giving sixty days' advance notice in a writing signed by the Chief Elected Official, if a local government, or by the chief executive officer of the agency, if not a local government. This notice shall be delivered to the Chairman of the SMPO Governing Board and to the Director.

SANDHILLS METROPOLITAN PLANNING ORGANIZATION

