



AGENDA

Tuesday, March 12, 2024: 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

a. Consider Approval of Agenda

4. PUBLIC COMMENTS

5. CONSENT AGENDA

a. Approve Appointments: Board of Adjustment

The Board of Adjustments has some expired terms, as well as an application from a resident interested in being appointed. The Planning Department recommends the following appointments:

- Robert Thompson (in Town): term to expire 3/31/26
- Mike Martin (ETJ): term to expire 3/31/26
- Steve Kastner (in Town): term to expire 3/31/27
- John McInerney (in Town): term to expire 3/31/27
- Nicholas Zeedyk (in Town alternate): term to expire 3/31/27

b. Approve Amendments to the FY 2023/2024 Budget

Staff requests approval for the following four ordinances:

- Ordinance #3027 in the amount of \$50,175 to accommodate merchant and processing fees associated with utility customer payments.
- Ordinance #3028 to fulfill GASB 96 requirements regarding subscription-based technology arrangements.
- Ordinances #3029 and #3030 allocating \$100,000 for the Bennett Street sidewalk project.

c. Appoint Ashley Tramontin to the Appearance Commission

Resident Ashley Tramontin has applied for an open seat on the Appearance Commission. The members have reviewed her application and request appointment, with a term to expire on March 31, 2027.

d. Approve Town Council Meeting Minutes for February 2024

- February 14, 2024, Town Council Business Meeting
- February 27, 2024, Town Council Work Session

e. Approve Ordinance #3032 - Updates to Chapter 154 Soil Erosion and Sedimentation Ordinance

Staff has prepared Ordinance #3032 for approval to update Chapter 154 of the Town Code of Ordinances.

6. ACTION ITEMS

a. Consider Partnership & Property Use Agreement with the AC Sandhills

The Town partners with the AC Sandhills soccer organization by providing fields and supporting facilities at the Morganton Rd. Sports Complex for the organization's recreation soccer program. This agreement details the payment terms and responsibilities of both parties over the next three years.

b. Consider 2024 Council Appointments

Individual councilmembers are appointed by the body each year to serve in various capacities and manage certain responsibilities. At the December 5th meeting, Council appointed Bill Pate as Mayor Pro-Tem and Ann Petersen as Treasurer. The included staff memo outlines more information on these appointments and their responsibilities.

7. PUBLIC HEARINGS

a. SU-01-23: Expansion of Authorized Land Uses in 1998 Mill Creek Mixed-Use Development Master Plan

EVIDENTIARY HEARING: Mr. Bob Koontz has applied for a Special Use Permit amendment application to expand the authorized land uses in the General Business conditional zoning district (GB-CD) portion of the Mill Creek development. The public hearing was continued at the February 13, 2024 Regular Meeting.

b. OA-01-24: Amending UDO to increase the use of Conditional Zoning Districts

The Town of Southern Pines Planning Department is proposing to amend the Unified Development Ordinance (UDO) with text amendments related to the use of Conditional Zoning Districts as well as reducing the number of development approvals requiring quasi-judicial decisions throughout the Southern Pines planning jurisdiction. The proposed amendments are an implementation of Policies 3.3 and 3.4 in the town's new Comprehensive Plan.

8. 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>

Consent Agenda Item

To: Reagan Parsons, Town Manager
From: BJ Grieve, Planning Director
Subject: Board of Adjustment Appointments
Date: February 13, 2024

I. LEGAL REVIEW:

Pursuant to UDO §8.14.1 Appointment and Terms of Board of Adjustment,

- *There shall be a Board of Adjustment consisting of five regular members and three alternates. Three regular members and two alternates, appointed by the Council, shall reside within the Town. Two regular members and one alternate, appointed by the county board of commissioners, shall reside within the Town's Extraterritorial Planning Area.*
- *Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed.*

There is no limit to the number of terms Board of Adjustment members may serve.

II. BACKGROUND:

- John McInerney has confirmed his willingness to serve another three-year term as an in-Town regular member.
- Steve Kastner has confirmed his willingness to serve another three-year term as an in-Town regular member.
- Mike Martin has confirmed his willingness to serve another three-year term as an ETJ regular member.
- Robert Thompson has confirmed his willingness to serve another three-year term as an in-Town regular member.
- Nicholas Zeedyk, a Town resident, has expressed an interest in serving and has applied for appointment to the Board of Adjustment.

III. RECOMMENDATIONS:

1. The Planning Director recommends that John McInerney be reappointed as an in-Town regular member for a three-year term to expire March 31, 2027.
2. The Planning Director recommends that Steve Kastner be reappointed as an in-Town regular member for a three-year term to expire March 31, 2027.
3. The Planning Director recommends that Mike Martin be reappointed as an ETJ regular member for a three-year term to expire March 31, 2026.
4. The Planning Director recommends that Robert Thompson be reappointed as an in-Town member for a three-year term to expire March 31, 2026.
5. The Planning Director recommends that Nicholas Zeedyk be appointed as an in-Town alternate member for a three-year term to expire March 31, 2027.

IV. ATTACHMENTS:

1. Proposed Board of Adjustment Roster
2. Nicholas Zeedyk Data Sheet



Proposed Board of Adjustment Roster

February 13, 2024

Steve Kastner (in Town)	03/31/27
Robert Thompson (in Town)	03/31/26
John McInerney (in Town)	03/31/27
Nicholas Zeedyk (in Town alternate)	03/31/27
Vacant (in Town alternate)	
Mike Martin (ETJ)	03/31/26
Vacant (ETJ)	
Vacant (ETJ alternate)	

The Board of Adjustment consists of five regular members and three alternate members.

Three regular members and two alternates shall reside in Town and be appointed by the Town Council.

Two regular members and one alternate shall reside in the Town's ETJ and be appointed by the County Board of Commissioners.

There is no limit to the number of terms a member may serve.

2/13/24

DATA SHEET FOR APPOINTMENT TO COMMITTEES, COMMISSIONS AND BOARDS

COMMITTEE, COMMISSION, OR BOARD IN WHICH INTERESTED: BOARDS OF ZONING ADJUSTMENT

NAME: NICHOLAS D. ZEEDEY TELEPHONE: 937.212.8485

ADDRESS: 7541 NC 22 EMAIL: NZEEDEY@BGSU.EDU

EDUCATIONAL BACKGROUND

BACHELORS

EMPLOYMENT

JOB TITLE: CLINIC MANAGER

EMPLOYER: PINEHURST SURGICAL CLINIC

CIVIC AND PROFESSIONAL ACTIVITIES: WOMANES INTERNATIONAL

PAST MEMBERSHIP IN ORGANIZATIONS AND OFFICES HELD: VFW DEPARTMENT OF OHIO FINANCE
COMMITTEE

ANY ADDITIONAL INFORMATION AND COMMENTS: I'M LOOKING TO BECOME MORE INVOLVED,
GIVING BACK AND HELPING BUILD A BETTER COMMUNITY.

DATE: 03 JAN 2024 SIGNATURE: [Signature]

PLEASE RETURN TO: Administration
125 SE Broad Street
Southern Pines, NC 28387

admin@southernpines.net

Your application will remain on file 12 months from the date of completion

Nicholas Zeedyk

7541 NC HWY 22
Carthage, NC 28327

e-mail: nzeedyk@bgsu.edu
phone: 937-216-8485

EDUCATION & TRAINING

- 2013 Precision Machining, Miami Valley Career Technology Center, Englewood, Ohio
- 2013 Tippecanoe High School, Tipp City, Ohio
- 2014 Combat Medicine Army Medical Department (AMEDD), Joint Base Fort Sam-Houston, San Antonio, Texas
- 2021 Bachelors of Science (BS), Bowling Green State University, Bowling Green, Ohio
- Current Master of Business Administration (MBA), University of North Carolina Pembroke, Pembroke, North Carolina

RESEARCH EXPERIENCE

- 2019-2021 Environmental Bacteria Inhibit Multi-Drug Resistant Cystic Fibrosis Derived Pathogens
- 2020-2021 Identification of Coliform Bacteria within Aquaponic Systems
- 2020-2021 Identification and Characterization of Enzymatic Activity of *Bacillus* species

TEACHING EXPERIENCE

- 2016-2017 Army Combat Life Saver, Fort Riley, Kansas
- 2019-2021 Biology 2050 Concepts in Biology II, Bowling Green State University

PEER REVIEWED PUBLICATIONS

1. Basalla J, Harris R, Burgess E, Zeedyk N, and Wildschutte H Expanding Tiny Earth to genomics: a bioinformatics approach for an undergraduate class to characterize antagonistic strains. *FEMS Microbial Ecology Letters*, January 23, 2020.
2. Neves K, Nieschwitz N, Wildschutte H, Zeedyk N, and Kershaw J The effect of aquaponics on tomato (*Solanum lycopersicum*) sensory, quality, and safety outcomes. *The Journal of Food Science*, Accepted March 29, 2023.

AWARDS AND ACCOMPLISHMENTS

- 2014 Department of Defense National Defense Medal
- 2015 Global War on Terrorism Defense Medal
- 2015 Global War on Terrorism Expeditionary Forces Medal
- 2016 Military Outstanding Volunteer Service Medal
- 2016 Army Achievement Medal
- 2017 Army Commendation Medal
- 2017 Army Meritorious Service Medal
- 2018-2021 Dean's List
- 2019 McNair Research Scholar
- 2019 Michaline Slomka Sinkula Research Award

- 2021 Suzanne Miller Undergraduate Research Assistantship
- 2021 Magna Cum Laude
- 2021 Department of Biology Department Honors

RESEARCH PRESENTATIONS

- Baylor University McNair Scholars Research Conference, Poster; Waco, TX, 2019
Nicholas Zeedyk and Dr. Hans Wildschutte
Environmental bacteria inhibit multi-drug resistant cystic fibrosis derived pathogens
- University of California Los Angeles National McNair Conference, Oral; 2020
Nicholas Zeedyk and Dr. Hans Wildschutte
Environmental bacteria inhibit multi-drug resistant cystic fibrosis derived pathogens
- Michigan State University Midwest Microbial Pathogenesis Conference, Poster; Lansing, MI, 2021
Nicholas Zeedyk, Dr. Kevin Neves, and Dr. Hans Wildschutte
Identification and Characterization of Coliform Bacteria in an Aquaponic System

SKILLS

- | | |
|------------------------------------|---------------------------------------|
| • Critical Thinking | • HIPAA Compliance |
| • Data Analytics | • Supply Ordering |
| • Personnel Management | • Inventory Management |
| • Medical Clinic Operations | • Problem Solving |
| • Basic Medical Procedures | • Teaching and Curriculum Development |
| • Interpersonal Relations | • Accounting |
| • Customer Service Relations | • Budgeting |
| • Microsoft Suites Software | • Public Speaking |
| • Athena Patient Tracking Software | |
| • Touch Works Patient Charting | |

COMMUNITY ENGAGEMENT

- 2018-2020 Quartermaster/Treasurer; Veterans of Foreign Wars Post 1148
 - Manage employees and all funds of local VFW
 - Negotiated new contracts with all vendors and developed new budgets that resulted in a \$50,000 dollar profit increase
- 2019-2022 Chairman of Charities; Veterans of Foreign Wars OH Charities Post 1148
 - Created local charities account that allowed the Organization to distribute donations within the local community
 - Work with and report all charitable activities to Ohio Attorney General
- 2020-2021 Commander/President; Veterans of Foreign Wars Post 1148
- 2020-2022 Veterans and Family Support Services Chairman; Northwest OH Veterans of Foreign Wars
 - Work with active duty and reserve service members to provide financial aid when needed
- 2021-2022 Investment Committee Member; State of Ohio Veterans of Foreign Wars
 - Write and approve budgets
 - Review and maintain investments for funds in excess of \$3,400,000
- 2023-Current Kiwanis International of the Sandhills

WORK EXPERIENCE

- 2014-2018 US Army, Medic
 - Provide and record medical care in field environments
 - Work with physicians to provide medical care to service members
 - Provide training and education on procedures and policies for subordinate medics working in clinics and field environments
- 2019-2021 Bowling Green State University, Teaching/Research Assistant
 - Develop lesson plans for biology students
 - Provided instruction to more than 700 students over a two-year period
 - Develop and carry out research experiments based on research goals
 - Analyze data and report findings of experiments to Primary Investigator
- 2021-Current Pinehurst Surgical Clinic, ENT and Audiology Department Manager II
 - Full Profit and Loss responsibility, including revenue, expenses, and budgeting
 - Manage revenue cycle, including charge capture, reconciliation, collections, coding, and denial monitoring eliminating a \$141k deficit
 - Developed and implemented efficient and tactical work plans resulting in 24% growth
 - Analyze patient flow problems and institute corrective measures
 - Oversee recruitment, interviewing, and selection of staff and providers
 - Coach staff, implement disciplinary actions and performance improvement plans when necessary
 - Identify strategy for growth and execute plans to achieve growth goals
 - Plan, develop, and coordinate building of a 17k square foot office location
 - Plan and execute marketing events and ambassador visits to promote growth
 - DEA Principal Coordinator for all controlled substances within the Clinic
- 2023-Current Pinehurst Surgical Clinic, Plastics and Facial Plastics Department Manager II
 - Full Profit and Loss responsibility, including revenue, expenses, and budgeting
 - Manage revenue cycle, including charge capture, reconciliation, and collections
 - Oversee recruitment and selection of staff
 - Coach staff and implement disciplinary actions when necessary
 - Identify strategy for growth and execute plans to achieve growth goals
 - Plan and execute marketing events through the use of social and print media to promote awareness and growth of services.
 - Coordinate, research, and implement new service lines with providers.



MEMO

To: Mayor & Council
From: Tess Brubaker-Spies, Finance Director
Date: February 19, 2024
Re: Budget Amendment Ordinances

Ordinance #3027 = A budget amendment is requested for payment of the CP Pay option our utility customers are using. There is a \$1 per transaction fee in contractual services and a 3% merchant fee in the card processing fee accounted for within the ordinance.

Ordinance #3028 = A budget amendment is requested to fulfill a GASB 96 requirement regarding subscription-based technology arrangements (SBITA). This ordinance covers FLOCK (public safety platform), Rubicon (yard debris trucks) and Open Gov (work order replacement system).



ORDINANCE #3027
AMENDING THE 2023/2024 FISCAL YEAR BUDGET
Utility Billing Card Fees

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 12th day of March, 2024 that the Operating Budget for the Fiscal Year 2023/2024 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
Billing & Collections	Contractual Services	60-750-4500	\$ 16,175	
Billing & Collections	Card Processing Fee	60-750-4700	\$ 34,000	
Utility Fund	Fund Balance Appropriations	60-397-6000	\$ 50,175	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of March 12, 2024 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



ORDINANCE #3028
AMENDING THE 2023/2024 FISCAL YEAR BUDGET
SBITA's

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 12th day of March, 2024 that the Operating Budget for the Fiscal Year 2023/2024 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
PW Admin	Contractual Services	10-565-4500		18,600.00
IT	Capital Equipment – Other	10-430-7403	20,795.00	
Police	Office Supplies	10-511-3300		12,000.00
Police	Capital Equipment – Other	10-511-7403	48,060.00	
General Fund	SBITA Financing	10-692-1050	18,623.00	
General Fund	Other Fin Source–Leases/SBITA	10-397-0100	197,802.00	
General Fund	Lease Financing	10-692-1000	19,000.00	
IT	Capital – Software – Comp Equip	10-430-7401	142,285.00	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of March 12, 2024 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



**ORDINANCE #3029
AMENDING THE 2023/2024 FISCAL YEAR BUDGET**

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 12th day of March, 2024 that the Operating Budget for the Fiscal Year 2023/2024 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
General Fund	Transfer to – CP Sidewalks Phase II	10-670-5700	\$ 70,000	
General Fund	Fund Balance Appropriations	10-397-1000	\$ 70,000	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of March 12, 2024 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



ORDINANCE #3030
AMENDING THE SIDEWALKS PHASE II PROJECT FUND BUDGET

BE IT ORDAINED, by the Town of Southern Pines Town Council, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project budget is hereby amended:

Section 1: The project authorized is for the purpose of constructing, repairing and modifying existing sidewalks in the Town.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following additional amounts are appropriated for the project:

Construction	<u>\$ 100,000.00</u>
Total Additional Project Appropriation	<u>\$ 100,000.00</u>

Section 4: The following additional revenues are anticipated to be available for this project:

Transfer In – General Fund	\$ 70,000.00
Interest	<u>30,000.00</u>
Total Additional Project Revenues	<u>\$ 100,000.00</u>

Section 5: Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Finance Officer for direction in carrying out this project.

Section 6: This amended ordinance becomes effective March 12, 2024.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of March 12, 2024 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk



**DATA SHEET FOR APPOINTMENT TO
COMMITTEES, COMMISSIONS
AND BOARDS**

COMMITTEE, COMMISSION, OR BOARD IN WHICH INTERESTED: _____

NAME: _____ TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

EDUCATIONAL BACKGROUND

EMPLOYMENT

JOB TITLE: _____

EMPLOYER: _____

CIVIC AND PROFESSIONAL ACTIVITIES: _____

PAST MEMBERSHIP IN ORGANIZATIONS AND OFFICES HELD: _____

ANY ADDITIONAL INFORMATION AND COMMENTS: _____

DATE: _____ SIGNATURE: _____

PLEASE RETURN TO: Administration
125 SE Broad Street
Southern Pines, NC 28387

admin@southernpines.net

Your application will remain on file 12 months from the date of completion



MINUTES

Tuesday, February 13, 2024: 6:00 PM

Town Council Business Meeting

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

1. CALL TO ORDER

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

Mayor Clement recognized Black History Month and shared some related Town history facts.

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

Congratulations to Assistant Town Manager Jessica Roth, who was recognized this month by the International City/County Management Association with the Credentialed Manager designation.

Mayor Pro Tem Pate moved to remove Item 6a - AC Sandhills Property Use Agreement, from the Consent Agenda and move it to the March Work Session. Councilmember Petersen seconded, and the vote was unanimous.
Motion Passed.

Mayor Pro Tem Pate made a motion to adopt the agenda as presented with the change to Item 6a, seconded by Councilmember Petersen; the vote was unanimous.
Motion passed.

4. ORGANIZATIONAL MATTERS

a. Oath of Office: Brandon Goodman

Mayor Clement will execute the oath of office for Brandon Goodman, who was appointed by the Council on January 26th.

Mayor Clement swore in new Councilmember Brandon Goodman, who was accompanied by his sons. Councilmember Brandon Goodman then joined Council at the main table.

5. PUBLIC COMMENTS

Mayor Clement announced that there was not a sign-up sheet for those wishing to make a public comment and instructed those who wished to speak to simply raise their hand, and she would call them up one at a time.

Melissa Coleman of 782 Sundew Court, spoke about her concerns regarding the AC Sandhills Agreement that was removed from the Agenda prior to adoption. Ms. Coleman petitioned for the Carolina Velocity Club to somehow arrange or reserve time for the soccer fields prior to the Town signing the agreement and expressed her views on the fairness of the Town having a contract with just one entity.

Clayton Corle of 440 E Massachusetts spoke in support of Carolina Velocity Club getting a chance at field space.

- Mayor Pro Tem Pate advised Club Velocity to contact Asst. Town Manager Roth and Parks and Recreation Director King to further discussions.

Tony Marco of 16 Glen Devon Dr. advised the Town Council that the Board of Directors of Talamore Westside HOA recently conducted a survey of their property owners regarding the Knoll Road Project and shared the results.

Chuck Olec of 100 Steeplechase Drive shared a handout with the Council and spoke regarding traffic on Knollwood Road.

Ken Howell a native of Southern Pines and former member of the Bicycle and Pedestrian Committee shared his support of the Knollwood Multi-Modal pathway project.

Peggy Ducharme declared her support for the Knollwood project as a way for everyone to be healthy and active.

Kathy Miner of 90 Paddock Lane shared a article from The Pilot newspaper regarding the continuing growth in Moore County and feels the proposed Knollwood project would be dangerous to residents and would negatively affect the property value. Ms Miner also requested that the sidewalks in the Longleaf neighborhood be completed.

Mayor Clement advised that the Town is curenly working on an engineering plan to explore the options for the Knollwood Multi-Modal Pathway project and that no plans are being voted on.

Jose Cangas of 120 St Joseph Rd. expressed his frustration with work being conducted near his property at 704 Morganton Road and claims the contractors have altered his property and continue to encroach upon it despite numerous attempts to correct them. Mr. Cangas requests any help the Town Council can provide him to help him correct these actions.

Lee Moore of 65 Steeplechase Court expressed his views against the Knollwood Multi-Modal

project citing safety concerns.

Dave Williams of 192 Hunter Trail shared his experience on road improvement projects and his opinion that the Knollwood Project would negatively impact the Longleaf community.

Cara Webb of 234 SW Broad Street spoke against the AC Sandhills contract and questioned how the contract was written, why it has not been put out to bid and why no public input was asked for prior. Ms. Webb feels that the residents should have a say in how their fields are used.

Dennis Crook of 313 Magnolia Circle shared that he is against the Knollwood Multi-Modal Path project and asked town manager to get a history of accidents occurring on Knollwood Road from the police department and asked if the town's engineering department could predict how many accidents will occur should the center land be taken out.

Mike Martin of 114 Heather Lane spoke as a former president of the AC Sandhills Club and current member of the North County Youth Soccer Board of Directors and proposed a meeting with the Town staff, AC Sandhills, Club Velocity and any other groups to resolve the issues surrounding field use.

Carrie Gulivich, representing AC Sandhills soccer club, shared that the Club enjoys their partnership with the Town to provide a recreational soccer program and hopes to continue that partnership in the future.

6. CONSENT AGENDA

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

a. Authorize Mayor to Execute a Property Use Agreement with the AC Sandhills

In 2022, the Town executed a two-year property use agreement with the AC Sandhills soccer organization for the fields and supporting facilities at the Morganton Rd. Sports Complex. This agreement proved beneficial to both the Town and ACS. Staff recommends that the agreement be renewed for a three-year term.

b. Approve Tentative Award of Warrior Woods Pump Station Project to Carolina Civil Works

Bids were received for this project and the design engineer recommended awarding to the low bidder, Carolina Civil Works. This project is funded by a low interest loan through the NC Division of Water Infrastructure (DWI) Additional Supplemental Appropriation for Disaster Relief Act (ASADRA) program and must be approved by DWI and LGC before a final award can be made.

c. Approve Town Council Meeting Minutes for January 2024.

Staff has prepared the following meeting minutes for approval.

- January 23, 2024
- January 26, 2024

7. PUBLIC HEARINGS

a. SU-01-23: Expansion of Authorized Land Uses in 1998 Mill Creek Mixed-Use Development Master Plan

EVIDENTIARY HEARING: Mr. Bob Koontz has applied for a Special Use Permit amendment application to expand the authorized land uses in the General Business conditional zoning district (GB-CD) portion of the Mill Creek development. The public hearing was continued at the January 23, 2024 Work Session.

Mayor Clement re-convened the public hearing for SU-01-23: Expansion of Authorized Land Uses in 1998 Mill Creek Mixed-Use Development Master Plan.

Mayor Pro Tem Pate is recused.

Senior Planner Alaina Mallette presented the updated staff report (Exhibit E).

Senior Planner Mallette entered the response letter to the traffic impact analysis (TIA) in the record as Exhibit F.

Town Engineer/Asst. Public Works Director James Michel addressed the Council regarding the response letter (Exhibit F) from the Department of Transportation.

Councilmember Petersen questioned jurisdiction and Town Engineer Michel advised that DOT would have the final say.

Councilmember Gray asked if the Town would be advised if DOT makes any updates to the TIA recommendations and was informed that yes the Town is the point of contact.

Councilmember Goodman questioned the triggers for road improvements and was advised that the triggers follow the property.

Councilmember Petersen questioned staff view of KimleyHorn's recommendations that additional improvements to bicycle and pedestrian infrastructure are either recommended or required by the Town of Southern Pines as part of the proposed Mill Creek Development and asking if these should be made requirements instead of recommendations? Senior Planner Mallette advised that staff recommends approval of the plan considering that the applicant addressed the criteria mentioned related to infrastructure and orderly development in their updated narrative. Councilmember Petersen reiterated that she prefers the conditions require rather than recommend improvements.

Councilmember Petersen questioned who was responsible for calculating the trip number that triggers the improvements and if Town staff was qualified. Town Engineer Michel advised trip generated numbers are done with a standardized formula and would not be an issue.

Mayor Clement asked Town Engineer Michel to confirm that while the applicant has their TIA the end decision would always fall to DOT to confirm the data and Town Engineer Michel agreed in regards to roadway improvements.

Councilmember Petersen wished to remove the trigger for the multi-modal path and just make the path a requirement.

Mayor Clement asked Town Engineer Michel to share the thought behind including the multi-modal path in the plan. Town Engineer Michel advised that the Town's Uniform Development Code (UDO) defines an acceptable level of service for an intersection and should that level not be maintained the UDO provides a list of things that can be done to improve it and a multi-modal path is one of those. Given the restrictions by DOT on what is or is not allowed the multi-modal path was the next option to mitigate the issue.

Councilmember Goodman questioned the length of the proposed multi-modal path and was told 1500 ft - 1/4 mile approximately. Bob

Mayor Clement questioned the 1998 application zoning and was told by Senior Planner Mallette that there was a section of the plan that was labeled Offices & Condominiums and that the applicant wishes to clarify what else can go into that area by including the table of proposed uses.

Councilmember Petersen asked and Senior Planner Mallette confirmed that none of the improvements would include Warrior Woods.

Councilmember Petersen questioned if night clubs were allowed within the uses and was told they were included on the applicant's table.

Discussion ensued

Councilmember Petersen questioned if anything had been deleted from the original 4 page list of allowed uses previously presented. Senior Planner Mallette advised that there was confusion as to who was responsible for creating the list, the applicant or the Town.

Councilmember Petersen feels the responsibility lies with the applicant.

Discussion ensued.

Bob Klug, representing the applicant, gave a history on allowed uses table and claims that the Town created the allowed use list and that they, the applicant, had actually reduced the number of allowed uses with the table they proposed.

Paul Saathoff addressed spoke regarding the use table.

Discussion ensued.

Travis Fluitt of KimleyHorn addressed the Council regarding his traffic analysis report and answered questions.

Councilmember Petersen questioned the calculation methods.

Mayor Clement questioned the scores for the intersections.

Discussion ensued.

A greenway requirement from the 1998 application was discussed and questioned.

No public comments were voiced.

Mayor Clement closed public hearing

Mayor Clement requested comments or thoughts from the Council.
Council Petersen wishes to remove nightclubs from the list of allowed uses and feels it the responsibility of the applicant to shorten the list not Council.
Mayor Clement agrees that the applicant should be the one to prepare a final list and Councilmember Goodman concurs.
Discussion ensued.
The applicant is asked to refine the list to reflect the zoning General Business Conditional District and the Council feedback.

Councilmember Petersen moved to continue the Public Hearing SU-01-23 to the March 12, 2024, at 6:00 pm, seconded by Councilmember Gray; the vote was unanimous.
Motion passed.

b. OA-05-23: Amendments to traffic study content and review requirements in UDO.

LEGISLATIVE HEARING: The Town Engineer has proposed amendments to UDO §4.12, regarding the applicability of, and requirements for, the preparation and review of a Traffic Impact Analysis or Traffic Design Analysis during the development review process.
Mayor Clement opened the Public Hearing for OA-05-23: Amendment to traffic study content and review requirements in the UDO.

Planning Director Grieve presented the request and staff report.
Town Engineer/Asst. Public Works Director Michel presented the request in more detail and answered Council questions.
Travis Fluitt, traffic engineer, was consulted by the Council and staff for his input on the more technical questions.
Discussion ensued.
After discussion, the Council asked that the wording in 4.12.2(a2b be changed from 'concentrate' to 'result in'.

No public comments were voiced.

Mayor Clement closed the public hearing.

Mayor Pro Tem 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 Plan, the Town Council finds that 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 resolution regarding consistency with the Comprehensive Plan, with the exception that third-party review of Traffic Impact Analyses and charging applicants for this review has been removed from the amendments. With that change, the Town Council adopts the Planning Board resolution that is included as an attachment to the staff report for OA-05-23. The motion was seconded by Councilmember Gray and the vote was unanimous.
Motion passed.

Mayor Pro Tem Pate moved to approve OA-05-23, Modified Town Council Hearing Version as attached to the staff report with the following changes to §4.12.2(A)(2)(b) by replacing the word 'concentrated' with 'resulting in', seconded by Councilmember Gray; the vote was unanimous.

Motion passed.

8. ACTION ITEMS

a. Consider PD-05-23: Written Decision for Morganton Park North Phase 10 (Pinehurst Surgical Site 4N) PDP

Staff has prepared a draft Written Decision for application PD-05-23, Morganton Park North Phase 10 (Pinehurst Surgical Site 4N) PDP, for the Town Council's review and approval.

The written decision for PD-05-23 reflects the actions taken by the Council at the last meeting.

Mayor Pro Tem Pate moved to approve the written decision for PD-05-23: Morganton Park North Phase 10 PDP, seconded by Councilmember Petersen; the vote was unanimous.

Motion passed.

b. Consider SU-02-23: Written Decision for 730 S. Bennett Townhomes

Staff has prepared a draft Written Decision for application SU-02-23, 730 S. Bennett Townhomes, for the Town Council's review and approval.

The written decision for SU-02-23 reflects the actions taken by the Council at the last meeting.

Mayor Pro Tem Pate moved to approve the written decision for SU-02-23: 730 S. Bennett Townhomes, seconded by Councilmember Petersen; the vote was unanimous.

Motion passed.

c. Consider Ordinance #3025: Registration & Regulation of Pedal Powered Passenger Vehicles

This is a proposed update to the Code of Ordinances to regulate pedal-powered vehicles, also known as "pedal pubs." These businesses will be required to register with the police department and will be limited to certain areas in which to operate.

Town Manager Parson gave a brief overview of the request.

Discussion ensued.

The Council questioned the map and staff will confirm the routes with Chief Polidori and update the map if needed.

Mayor Pro Tem Pate moved to approve Ordinance #3025: Registration & Regulation of Pedal Powered Passenger Vehicles as presented in the meeting packet, reserving the right to update the attached map routes for potential crossovers or turnarounds upon the Chief of Police's approval. The motion was seconded by Councilmember Gray; the vote was

unanimous.

Motion passed.

9. ADJOURNMENT

Upon motion by Councilmember Petersen, seconded by Councilmember Gray and carried unanimously, Council adjourned at 9:47pm.

Respectfully submitted:

[Name and Title Goes Here]



MINUTES

Tuesday, February 27, 2024: 3:00 PM

Town Council Work Session

**C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave**

1. CALL TO ORDER

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

Absent: Debra Gray

2. TOWN MANAGER'S COMMENTS

Town Manager Reagan Parsons reviewed the agenda.

3. ACTION ITEMS

a. Property Use Agreement for the Town's Partnership with the AC Sandhills

In 2022, the Town executed a property use agreement with the AC Sandhills soccer organization for the fields and supporting facilities at the Morganton Rd. Sports Complex. In exchange, the AC Sandhills provide recreation soccer for the community. Renewal of this agreement was on the February 13th agenda and Council voted to postpone it until February 27th, asking staff to explore whether the Town has the ability to enter into agreements with other sports clubs. Staff requests that Council postpone consideration of this agreement until March 12th as these conversations are still ongoing. A memo is included with updates on this evaluation.

Asst. Town Manager Roth updated the Council and advised them that staff had met with the groups involved and are close to coming to an agreement. The staff feels that the agreements should be finalized by the March meeting, but as of the meeting date, all the groups involved have been given field time.

Councilmember Petersen questioned the issue of restroom access mentioned by the smaller groups and was told that upon investigation there was no ill intent involved, just a series of unfortunate circumstances involving two new staff members. New staff training has been added to ensure the issue will not arise again.

Discussion ensued.

4. COUNCIL UPDATES AND DISCUSSION

a. Renovations to Finance & Administration Buildings

At the January 23rd meeting, CPL architects Taylor Bishal and Brad Norvell presented concept plans and a high-level pre-design cost estimate for building renovations. Staff seeks Council direction on next steps, as outlined in the memo.

Asst. Town Manager Roth presented to the Council a number of options in regard to the Finance Building and Administration Building to address maintenance needs and staff spacing needs. Information and cost estimates were shared for needed upkeep/maintenance of the buildings, proposed renovation options as well as broad numbers for a new building to accommodate future town's needs. Staff requests Council direction on which option it would like staff to pursue.

After discussion, the Council asked staff to gather more information on creating and/or building a town hall.

b. Update on Resources for Homelessness

TeamWORKZ has requested that the Town provide support to its work with the homeless community, including the possibility of creating a task force. At the January 23rd meeting, Mayor Clement requested a discussion of this topic. Staff has included a memo that outlines an understanding of the status quo and some recommendations for next steps.

Asst. Town Manager Roth presented updated information regarding homelessness issues and services available within the Town of Southern Pines and within Moore County. Staff met with the civil affairs leaders from Fort Liberty, and they will host the Operation Sluss-Tiller program over the last weekend in March and the first weekend in April to study the homeless situation, confirm existing resources, identify gaps in services, and offer recommendations. Council, staff and leaders from local non-profit groups will be invited to these weekend events. A report will be provided after the weekends with all the data included and recommendations for the future.

Discussion ensued.

c. Amending Chapter 154 Soil Erosion and Sedimentation Ordinance

The Town has delegated authority from the State of North Carolina to administer a Local Erosion Control Program. The Sedimentation and Control Commission, through the Department of Environmental Quality, maintains a model ordinance for Local Programs to use as the basis for local ordinances. Many of the proposed changes are based on changes to the Model ordinance. There are also some proposed changes that are staff initiated with the intent of simplifying local permitting processes. A copy of the proposed changes are included in the attached word document showing track changes, a copy of the Model Ordinance, and a clean copy of the ordinance.

Town Engineer/Asst. Town Manager James Michel introduced Engineering Technician David Byrd to the Council, and they then presented recommended amendments to the Code of Ordinances Chapter 154: Soil Erosion Control and Sedimentation that are being recommended by the State of North Carolina.

Discussion ensued.

d. Bennett Street Sidewalk Project

Staff received bids on the next phase of this project, which exceed the current budget. Different scenarios will be discussed with Council on how to proceed.

Town Engineer/Asst. Town Manager James Michel updated the Council on the Bennett Street Sidewalk Project.

Discussion ensued with the Council agreeing to move ahead with the project. Staff will prepare the budget amendment for the March business meeting.

e. Review of Water Treatment Plant Operations Bid

Staff will present the results of the December 2023 Request for Proposals for the Operation of the Water Treatment Plant.

Town Engineer/Asst. Public Works Director Michel presented the item to Council reviewing the pros and cons of contracting out the staffing of the water treatment plant versus staffing it ourselves.

Discussion ensued and Council agreed to move forward it the bid process.

f. Planning Department Update

Staff will update Council on applications advancing from the Planning Board to Council and implementation efforts related to the 2040 Comprehensive Plan.

Planning Director Grieve presented an update of the work the Planning Department is working on.

Discussion ensued.

5. COUNCIL ROUNDTABLE

Councilmember Goodman shared that he enjoyed attending the Essentials of Government classes and gave congratulations to the DOT for moving the large plantings along Morganton Road.

Councilmember Petersen requested an appointment with Town Manager Parsons.

Mayor Pro Tem Pate raised the issue of appointments to smaller boards that have been waiting for a complete Council and commented that he too enjoyed the Essentials of Government training.

Mayor Clement concurred that the Essentials training was time well spent and mentioned the attendance by Council and staff at the B.Hawk ribbon cutting ceremony.

Mayor Clement reminded everyone that the date for the March Business meeting is March 12th with the Work Session the following week on the 19th.

6. ADJOURNMENT

Upon motion by Mayor Pro Tem Pate, seconded by Councilmember Goodman and carried unanimously, Council adjourned at 5L49 pm.

Respectfully submitted:

Elizabeth Robertson, Town Clerk



ORDINANCE #3032
AMENDING THE TOWN'S CODE OF ORDINANCES
CHAPTER 154, SOIL EROSION CONTROL AND SEDIMENTATION

THAT WHEREAS the Town has delegated authority from the State of North Carolina to administer a Local Erosion Control Program. The Sedimentation and Control Commission, through the Department of Environmental Quality, maintains a model ordinance for Local Programs to use as the basis for local ordinances.

WHEREAS, after the completion of said public hearing, and upon consideration of any comments, objections or presentations at the hearing, the Town Council of the Town of Southern Pines deems it advisable and in the best interest of the Town of Southern Pines that the Unified Development Ordinance of the Town of Southern Pines be amended as herein set forth below.

NOW, THEREFORM BE IT ORDAINED by the Town Council of the Town of Southern Pines, North Carolina at its Regular Business Meeting assembled on the 12th day of March, 2024, that:

Section 1. Chapter 154, Soil Erosion Control and Sedimentation of the Code of Ordinances is hereby amended and replaced by Attachment A to this Ordinance.

Section 2. That this Ordinance shall be and shall remain in full force and effect from the date of its adoption.

Adopted this the 12th day of March, 2024.

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on March 12, 2024 as shown in the Minutes of the Town Council meeting for that date.

Elizabeth Robertson, Town Clerk

ATTACHMENT A

TABLE OF CONTENTS

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§ 154.01 TITLE.

This chapter may be cited as the “Town of Southern Pines Soil Erosion and Sedimentation Control Ordinance”.

(1989 Code, § 154.01) (Ord. 1185, passed 6-14-2005)

§ 154.02 PURPOSE.

This chapter is adopted for the purposes of:

- (A) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (B) Establishing procedures through which these purposes can be fulfilled.

(1989 Code, § 154.02) (Ord. 1185, passed 6-14-2005)

§ 154.03 DEFINITIONS.

As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

ACCELERATED EROSION - Any increase over the rate of natural erosion as a result of land-disturbing activity.

ACT - The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE - One which controls the soil material within the land area under responsible control of the Person conducting the land-disturbing activity.

AFFILIATE - A Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another Person.

APPROVING AUTHORITY – The Division or other State or a local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provisions of the Act.

BEING CONDUCTED - a land-disturbing activity has been initiated and not deemed complete by the Approving Authority.

BORROW - Fill material that is required for on-site construction that is obtained from other locations.

BUFFER ZONE - The strip of land adjacent to a lake or natural watercourse.

CHANNEL - A natural or man-made depression, drainageway or low area with a path or course where a stream of water is collected and runs, is conveyed or is directed through, during rainfall events.

COASTAL COUNTIES – means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.

COMMISSION - The North Carolina Sedimentation Control Commission.

COMPLETION OF CONSTRUCTION OR DEVELOPMENT - No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

DEPARTMENT - The North Carolina Department of Environmental Quality.

DIRECTOR - The Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.

DISCHARGE POINT OR POINT OF DISCHARGE - That point where runoff leaves a tract of land where a land-disturbing activity has occurred or enters a lake or natural watercourse.

ENERGY DISSIPATOR - A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

EROSION - The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

GRADING PERMIT - The approval document allowing land-disturbing activity to be initiated.

GROUND COVER - Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

HIGH QUALITY WATERS - Those classified as in 15A NCAC 2B.0224, which is herein incorporated by reference including subsequent amendments and additions.

HIGH QUALITY WATERS (HQW) ZONES - For the Coastal Counties, areas within 575 feet of high-quality waters; and for the remainder of the state, areas within 1 mile and draining to HQW's.

LAKE OR NATURAL WATERCOURSE - Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond.

LAND-DISTURBING ACTIVITY - Any use of the land by any Person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

LOCAL GOVERNMENT - Any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.

NATURAL EROSION - The wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by man.

PARENT - An affiliate that directly, or indirectly through 1 or more intermediaries, controls another Person.

PERMIT - The certificate allowing land-disturbing activities to be initiated.

PERSON - Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

PERSON CONDUCTING LAND-DISTURBING ACTIVITY - Any Person who may be held responsible for a violation unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

PERSON WHO VIOLATES OR VIOLATOR – as used in G.S. 113A-64, means: any landowner or other Person who has financial or operational control over the land-disturbing activity; or who has directly or indirectly allowed the activity, and who has failed to comply with any provision of the Act, the rules of this Chapter or any order or local ordinance adopted pursuant to the Act as it imposes duty upon that Person.

PLAN - An erosion and sedimentation control plan.

SEDIMENT - Solid particulate matter, both mineral and organic, that has been or is being transported

by water, air, gravity, or ice from its site of origin.

SEDIMENTATION - The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

SILTATION - Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

STORM DRAINAGE FACILITIES - The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

STORM DRAINAGE PLAN - A plan for storm drainage facilities as required by the Town's Unified Development Ordinance.

STORMWATER RUNOFF - The runoff of water resulting from precipitation in any form.

SUBSIDIARY - An affiliate that is directly, or indirectly through one or more intermediaries, controlled by another Person.

TEN-YEAR STORM – A rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in ten years and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

TOWN - The Town of Southern Pines, a municipal corporation in the State of North Carolina.

TRACT - All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

TWENTY-FIVE YEAR STORM – A rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

UNCOVERED - The removal of ground cover from, on, or above the soil surface.

UNDERTAKEN - The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

VELOCITY – The speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.

WASTE - Surplus material resulting from on-site land-disturbing activities.

(1989 Code, § 154.03) (Ord. 1185, passed 6-14-2005)

§ 154.04 SCOPE AND EXCLUSIONS.

- (A) *Geographical scope of regulated land-disturbing activity.* This shall apply to land-disturbing activity within the territorial jurisdiction of the Town and to the extraterritorial jurisdiction of the Town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.
- (B) *Exclusions from regulated land-disturbing activity.* Notwithstanding the general applicability of this chapter to all land-disturbing activity, this chapter shall not apply to the following types of land-disturbing activity:
 - (1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants

and animals useful to man, including, but not limited to:

- (a) Forage and sod crops, grain and feed crops, tobacco, cotton and peanuts;
 - (b) Dairy animals and dairy products;
 - (c) Poultry and poultry products;
 - (d) Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules and goats;
 - (e) Bees and apiary products; and
 - (f) Fur producing animals.
 - (g) Mulch, ornamental plants, and other horticultural products. For purposes of this section, “mulch” means substances composed primarily of plant remains or mixtures of such substances.
- (2) An activity undertaken on forest land for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forest land for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this chapter shall apply to such activity and any related land-disturbing activity on the tract.
- (3) An activity for which a permit is required under the Mining Act of 1971, G.S. Chapter 74, Article 7.
- (4) A land disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. § 113A-56(a).
- (5) An activity which is essential to protect human life during an emergency.
- (6) Activities undertaken to restore the wetland functions of converted wetlands to provided compensatory mitigation to offset impacts permitted under Section 404 of the Clean water Act.
- (7) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2
- (C) *Plan approval requirement for land-disturbing activity.* No Person shall undertake any land disturbing activity subject to this chapter without first obtaining a Plan approval from the Town.
- (D) Protection of property. Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by the activity.
- (E) More restrictive rules shall apply. Whenever conflicts exist between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.
- (F) Plan Approval Exceptions. Notwithstanding the general requirement to obtain a Plan approval prior to undertaking land-disturbing activity, a Plan approval shall not be required for land-disturbing activity that does not exceed one (1) acre in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(1989 Code, § 154.04) (Ord. 1185, passed 6-14-2005)

§ 154.05 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY.

No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following mandatory standards:

(A) Buffer Zone

- (1) Standard Buffer. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless

a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity.

- (a) *Projects on, over or under water.* This subdivision shall not apply to land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural water course.
 - (b) *Buffer measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.
- (B) *Graded slopes and fills.* The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.
- (C) *Fill material.* Materials being used as fill shall be consistent with those described in 15A NCAC 13B .0562 unless the site is permitted by the Department's Division of Waste Management to operate as a landfill. Not all materials described in Section .0562 may be suitable to meet geotechnical considerations of the fill activity and should be evaluated accordingly.
- (D) *Ground cover.* Whenever land-disturbing activity is undertaken on a tract, the Person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in § 154.05(B) above and § 154.09(B)(5), provisions for a ground cover sufficient to restrain erosion must be accomplished within 90 calendar days following completion of construction or development.
- (E) *Prior plan approval required.* No Person shall initiate any land-disturbing activity on a tract if more than one acre is to be uncovered unless, 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved by the Town.

The Town of Southern Pines shall forward to the Director of the Division of Water Resources a copy of each plan for land disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

- (F) *Minimum requirements for tracts less than one (1) acre.* For residential and commercial construction projects on sites or tracts that disturb less than 1 acre in surface area, the Town requires that the minimum erosion control measures, as outlined in this section unless otherwise approved.
- (1) The minimum required erosion control practices and measures to be placed on an individual residential or commercial construction site that is less than one (1) acre in surface area are:
 - (a) Shall follow the mandatory standards § 154.05 A through D;
 - (b) Silt fencing shall be installed on all lower elevation perimeters;
 - (c) A construction entrance shall be installed; and
 - (d) Seeding and/or ground stabilization.
 - (2) The site must comply with the Town's Soil Erosion and Sedimentation Control Chapter by installing and maintaining all required controls measures. The only land disturbing activity to take place before the erosion control measures are completed is the removal of trees necessary to install the erosion control measures.
 - (3) If it is determined that a significant risk of accelerated erosion or off-site sedimentation may occur as a result of the land-disturbing activity, the Town may require the preparation and approval of a plan and that a grading permit be secured for land-disturbing activity of areas less than one (1) acre.

- (4) *Inspection procedure.* The Building Inspector shall notify the Erosion Control Inspector of the scheduled footing inspection at the site. If the erosion control measures are not installed by the scheduled footing inspection, the deadline for placement of these minimum erosion control measures shall be the date at which the Building Inspector returns for the foundation inspection. If, at the time of the foundation inspection or any subsequent inspection, the Erosion Control Inspector observes any erosion control problems on the site including failure to install erosion control measures, a written notice of violation will be issued in accordance with § [154.17](#)(C). The foundation inspection or any subsequent inspection approval will not be rendered until all control measures are in place and functioning.
- (5) *Final inspections.* When all construction on the project is complete, the Erosion Control Inspector will evaluate the site and all permanent erosion control features and off- site impacts to other properties. If found to be in compliance, the Building Inspector will be advised, giving approval for the certificate of occupancy.

(1989 Code, § 154.07) (Ord. 1185, passed 6-14-2005)

§ 154.06 EROSION AND SEDIMENTATION CONTROL PLANS.

- (A) *Plan submission.* A plan shall be prepared for all land disturbing activities subject to this chapter whenever the proposed activity will disturb more than one acre on a tract. Three copies of the plan shall be filed with the Town at least 30 days prior to commencement of the proposed activity.
- (B) *Financial responsibility and ownership.* Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and documentation of property ownership. This statement shall be signed by the Person financially responsible for the land disturbing activity or his or her attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the Person financially responsible, (2) the owner of the land, and (3) any registered agents. If the Person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non- compliance with the plan, the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter. Except as provided in subsections (C) or (J) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.
- (C) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.
- (D) *Plan review processing fee.* A non-refundable plan review processing fee, based on the number of acres or any part thereof, of land to be disturbed, including off-site borrow and waste areas, and set in accordance with the Town's fee schedule, is required to be paid at the same time as a soil erosion and sedimentation control plan is initially submitted for review and approval. Each plan shall be deemed incomplete until the plan review processing fee is paid.
- (E) *Environmental policy act document.* Any plan submitted for a land disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town shall promptly notify the Person submitting the plan that the 30-day time limit for review of the plan pursuant to this chapter shall not begin until a complete environmental document is available for review.
- (F) *Content.* The plan required by this section shall contain, architectural and engineering drawings, maps, assumptions, calculations and narrative statements, as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this chapter. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Town, on

request.

(G) *Timeline for decisions on plans.*

- (1) The Town will review each complete Plan submitted to the Town and within 30 days of receipt thereof will notify the Person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a complete Plan within 30 days of receipt shall be deemed approval.
- (2) The Town will review each revised plan submitted to them and within 15 days of receipt thereof will notify the Person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within 15 days of receipt shall be deemed approval.

(H) *Approval.* The Town shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Town shall condition approval of plans upon the applicant's compliance with the federal and state water quality laws, regulations and rules. The Town may establish an expiration date, not to exceed three (3) years for plan approved under this chapter whereby no land-disturbing activity has been undertaken.

(I) *Disapproval for content.* The Town may disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

(J) *Other disapprovals.*

- (1) The Town shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of the rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Town may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (K) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- (a) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;
- (b) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;
- (c) Has been convicted of a misdemeanor pursuant to G.S. § 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or
- (d) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

- (2) In the event that an erosion and sedimentation control plan or transfer of a plan is disapproved by the Town pursuant to subsection (J) of this section, the Town shall so notify the Director of the Division of Energy Mineral, and Land Resources within 10 days of the disapproval. The Town shall advise the applicant or proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 16(a), the applicant may appeal the local government's disapproval of the plan directly to the Commission.

- (3) For purposes of this subsection (J), an applicant's record may be considered for only the 2 years prior to the application date.

(K) *Transfer of Plans.* The Town administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner as provided in this subsection.

- (1) The Town may transfer a plan if all of the following conditions are met:

- (a) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of the financial responsibility and documentation of property ownership.
- (b) The Town finds all of the following:
 - The plan holder is one of the following:
 - i. A natural Person who is deceased
 - ii. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - iii. A Person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - iv. A Person who has sold the property on which the permitted activity is occurring or will occur.
 - The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 - The successor-owner is the sole claimant of the right to engage in the permitted activity.
 - There will be no substantial change in the permitted activity.
- (2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
- (3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
- (4) Notwithstanding changes to law made after the original issuance of the plan, the Town may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Town from requiring a revised plan pursuant to G.S. 113A-54.1(b)
- (L) *Notice of activity initiation.* No Person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.
- (M) *Pre-construction conference.* A pre-construction conference shall be held prior to commencement of work.
- (N) *Display of Plan Approval* A Plan approval issued under this Chapter shall be prominently displayed at the primary entrance to the site of the land disturbing activity and remain until all construction is complete, all temporary sedimentation and erosion control measures have been removed, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.
- (O) *Grading Permit.* Before any land disturbance begins, with the exception of removal of the trees necessary to install the perimeter erosion control measures, A grading permit must be issued by the Town's Erosion Inspector.
 - (a) A permit will not be issued until the Erosion Inspector has inspected the perimeter erosion control measures and is satisfied that they are installed in accordance with Town details and this chapter.
 - (b) The grading permit approval letter must be prominently displayed at the primary entrance to the site of the land disturbing activity and remain until all construction is complete, all temporary sedimentation and erosion control measures have been removed, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized.
- (P) *Required Revisions.* After approving a plan, if the Town, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land disturbing activity pursuant to an approved plan, the Town determines that the plan is inadequate to meet the requirements of this chapter, the Town may require any revision of the plan that is necessary to comply with this chapter. No fee shall be charged for review of a revised plan unless the revised plan contains an increase in the number of acres to be disturbed.

- (Q) *Amendment to a Plan.* Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as the amendment is approved by the Town, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved. No fee shall be charged for an amendment to a plan unless the amended plan contains an increase in the number of acres to be disturbed.
- (R) *Failure to file a plan.* Any Person engaged in land-disturbing activity who fails to file a plan in accordance with this chapter, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this chapter.
- (S) *Expiration and renewal of grading permit.* A grading permit shall be valid for a period of 2 calendar years after issuance, unless it is revoked by the Town or the grading project is completed and a letter of completion is issued by the Town within the 2-year period. The grading permit may be renewed for an additional 2-year period, if adequately justified, by making written request to the Town. No permit fee will be charged for re-issuance of a grading permit, unless the permit has been revoked.
- (T) *Self-Inspections.* The landowner, the financially responsible party, the landowner's, or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). In addition, weekly and rain-event self-inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit NO. NCG 0100000. The Person who performs the inspection shall maintain and make available a record of the inspection at the site of the land disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct deviation, and document the completion of those measurements. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to the inspections required by G.S. 113A-61.1

Where inspections are required by Section 154.06(T) of this chapter or G.S. 113A-54.1(e), the following apply:

- (1) The inspection shall be performed during or after each of the following phases of the plan;
 - (i) initial installation of erosion and sediment control measures;
 - (ii) clearing and grubbing of existing ground cover;
 - (iii) completion of any grading that requires ground cover;
 - (iv) completion of all land-disturbing activity, construction, or development, including permanent ground cover establishment and removal of all temporary measures; and
 - (v) transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or Person in control shall conduct and document inspections until the project is permanently stabilized as set forth in Sub-Item (iii) of this Item.
- (2) Documentation of self-inspections performed under Item (1) of this Rule shall include:
 - (i) Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved plan;
 - (ii) Verification by measurement of settling basins, temporary construction entrances, energy dissipators, and traps.
 - (iii) The name, address, organization affiliation, telephone number, and signature of the Person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on

a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.

- (iv) A record of any significant deviation from any erosion or sedimentation control measure from that on the approved plan. For the purpose of this Rule, a "significant deviation" means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

Except as may be required under federal law, rule or regulation, no periodic self- inspections or rain gauge installation is required on individual residential lots where less than one acre is being disturbed on each lot.

(1989 Code, § 154.06) (Ord. 1185, passed 6-14-2005)

§ 154.07 BASIC CONTROL OBJECTIVES.

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

- (A) *Identify critical areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- (B) *Limit time of exposure.* All land-disturbing activity are to be planned and conducted to limit exposure to the shortest time specified in G.S. 113A.-57, the rules of this chapter, or as directed by the Approving Authority.
- (C) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (D) *Control surface water.* Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (E) *Control sedimentation.* All land-disturbing activity is to be planned and conducted to prevent off-site sedimentation damage.
- (F) *Manage storm water runoff.* Plans shall be designed so that any increase in velocity of stormwater runoff resulting from land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

(1989 Code, § 154.08) (Ord. 1185, passed 6-14-2005)

§ 154.08 DESIGN AND PERFORMANCE STANDARDS.

- (A) Except as provided for in § 154.08(B)(2) , erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the 10-year storm. Runoff rates shall be calculated using the procedures in the latest edition of the United States Department of Agriculture (USDA), Natural Resources Conservation Service's "National Engineering Field Handbook", or other acceptable calculation procedures.
- (B) In High-Quality Water (HQW) zones the following design standards shall apply:
 - (1) *Limit on uncovered areas.* Uncovered areas in HQW zones shall be limited at any time to a maximum total area of 20 acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas

may be uncovered within the boundaries of the tract, with the written approval of the Town Engineer upon providing engineering justification with a construction sequence that considered phasing, limiting exposure, weekly submitted self- inspection reports, and a more conservative design than the Twenty-five Year Storm.

- (2) *Maximum peak rate of runoff protection.* Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed and constructed to provide protection from the runoff of the twenty-five year storm which produces the maximum peak rate of runoff as calculated according to procedures in the latest edition of the United States Department of Agriculture Natural Resources Conservation of Service's "National Engineering Field Handbook" or according to procedures adopted by any other agency of this State or the United States or any generally recognized organization or association.
- (3) *Sediment Basin Design.* Sediment basins within HQW zones shall be designed and constructed according to the following criteria:
 - (i) use a surface withdrawal mechanism, except when the basin drainage area is less than 1.0 acre.
 - (ii) have a minimum of 1800 cubic feet of storage area per acre of disturbed area;
 - (iii) have a minimum surface area of 325 square feet per cfs of the Twenty-five Year Storm (Q25) peak flow;
 - (iv) have a minimum dewatering time of 48 hours;
 - (v) incorporate 3 baffles, unless the basin is less than 20 feet in length, in which case 2 baffles shall be sufficient.

Upon a written request of the applicant, the Director may allow alternative design and control measures in lieu of meeting the conditions required in subparagraphs (3)(ii) through (3)(v) of this sub-section if the applicant demonstrates that meeting all of those conditions will result in design or operational hardships and that the alternative measures will provide an equal or more effective level of erosion and sediment control on the site. Alternative measures may include quicker application of ground cover, use of sediment flocculants, and use of enhanced ground cover practices

- (4) *Grade.* Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other forms of ditch liners proven as being effective in restraining accelerated erosion. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(1989 Code, § 154.09) (Ord. 1185, passed 6-14-2005)

§ 154.09 STORM WATER OUTLET PROTECTION.

- (A) *Intent.* Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.
- (B) *Performance standard.* Persons shall conduct land-disturbing activity so that the post-construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
 - (1) The velocity established by the table in division (E) below, of this section; or
 - (2) The velocity of the 10-year storm runoff in the receiving watercourse prior to development.
 - (a) If conditions (B)(1) or (2) above of this section cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10%.

(E) *Table.* The following is a table for maximum permissible velocity for storm water discharges in feet per second (FPS) and meters per second (MPS).

<i>Maximum Permissible Velocities</i>		
<i>Material</i>	<i>F.P.S.</i>	<i>M.P.S.</i>
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.9
Ordinary firm loan	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobble and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

- (C) *Acceptable management measures.* Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:
- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
 - (2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;
 - (3) Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge.
 - (4) Protect watercourses subject to accelerated erosion by improving cross-sections and/or providing erosion-resistant lining; and
 - (5) Upgrade or replace the receiving device, structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.
- (D) *Exceptions.* This rule shall not apply where it can be demonstrated to the Town that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

(1989 Code, § 154.10) (Ord. 1185, passed 6-14-2005)

§ 154.10 BORROW AND WASTE AREAS.

If the same Person conducts the land-disturbing activity and any related borrow or waste activity,

the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same Person, they shall be considered by the Approving Authority as separate land-disturbing activities.

(1989 Code, § 154.11) (Ord. 1185, passed 6-14-2005)

§ 154.11 ACCESS AND HAUL ROADS.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of the activity.

(1989 Code, § 154.12) (Ord. 1185, passed 6-14-2005)

§ 154.12 OPERATIONS IN LAKES OR NATURAL WATERCOURSES.

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristics.

(1989 Code, § 154.13) (Ord. 1185, passed 6-14-2005)

§ 154.13 RESPONSIBILITY FOR MAINTENANCE.

- (A) During the development of a site, the Person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provisions of this chapter, the Act, or any order adopted pursuant to this chapter or the Act. After site development, the land owner or Person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(1989 Code, § 154.14) (Ord. 1185, passed 6-14-2005)

§ 154.14 ADDITIONAL MEASURES.

Whenever the Town, determines that accelerated erosion and sedimentation continues despite the installation of protective practices, they shall direct the Person conducting the land-disturbing activity to take additional protective action necessary to achieve compliance with the conditions specified in the Act or its rules.

(1989 Code, § 154.15) (Ord. 1185, passed 6-14-2005)

§ 154.15 PLAN APPEALS.

- (A) Except as provided in § 154.15(B) below, the appeal of a disapproval or approval with modifications of a plan shall be governed by the appeals process described in the Town of Southern Pines Unified Development Ordinance §2.23 Appeals:
- (1) The disapproval or approval with modification of any proposed plan by the Town shall entitle the Person submitting the plan to a public hearing if the Person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.
 - (2) If the Board of Adjustment upholds the disapproval or approval with modifications of a proposed plan following the hearing, the Person submitting the plan shall then be entitled

to appeal the Town's decision to the North Carolina Sedimentation Control Commission as provided in G.S. § 113A-61(c) and Title 15 NCAC 4B.0118 (d).

- (B) In the event that a plan is disapproved pursuant to § [154.06](#)(J) of this chapter, the applicant may appeal the Town disapproval of the plan directly to the Commission.

(1989 Code, § 154.16) (Ord. 1185, passed 6-14-2005)

§ 154.16 INSPECTIONS AND INVESTIGATIONS.

- (A) *Inspections.* Agents, officials or other qualified Persons authorized by the Town will periodically inspect the sites of land-disturbing activity to determine compliance with the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter, and to determine whether the activity is being conducted in accordance with an approved plan and whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.
- (B) *Willful resistance, delay or obstruction.* No Person shall willfully resist, delay, or obstruct entry or access to any authorized representative, employee, or agent of the Town who requests entry for purposes of inspection, and who presents appropriate credentials, or while that Person is in the process of carrying out his or her official duties under this section.
- (C) *Notice of violation.*
- (1) If the Town determines that a Person engaged in land-disturbing activity has failed to comply with the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter, a notice of violation shall be served upon that Person. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4. The notice shall specify a date, by which the Person must comply with the Act, or this chapter, or rules, or orders adopted pursuant to this chapter, and inform the Person of the actions that need to be taken to comply with the Act, this chapter, or rules, or orders adopted pursuant to this chapter. Any Person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. § 113A-64 and this chapter.
 - (2) If damage to areas outside of the specified limits of disturbance is severe, and/or if the Person has not complied with notice by the date specified. Then a Stop Work Order will also be issued. Stopping all ground disturbing activities, inspections, and construction activities until the conditions for repair/restoration stated in notice have been resolved.
 - (3) If the Person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Town shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program on behalf of the Approving Authority, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. The notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.
- (D) *Investigation.* The Town shall have the power to conduct the investigation as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and who presents appropriate credentials for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land disturbing activity.
- (E) *Statements and reports.* The Town shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land disturbing activity.

(1989 Code, § 154.17) (Ord. 1185, passed 6-14-2005)

§ 154.17 INJUNCTIVE RELIEF.

- (A) *Violation of local program.* Whenever the Town Manager has reasonable cause to believe that any Person is violating or threatening to violate this chapter or any rule or order adopted or issued by the Town, or any term, condition, or provision of an approved plan, he or she may,

either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the Town, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Moore County.

- (B) *Abatement of violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any orders or judgments that are necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this chapter.

(1989 Code, § 154.18) (Ord. 1185, passed 6-14-2005)

§ 154.18 BUILDING PERMITS.

- (A) No building permit shall be issued for any site unless a plan required by this chapter has been approved by the Town for the site of the activity or a tract of land including the site of the activity, pursuant to North Carolina General Statutes.

(1989 Code, § 154.19) (Ord. 1185, passed 6-14-2005)

§ 154.19 RESTORATION AFTER NON-COMPLIANCE.

- (A) The Town may require a Person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. § 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this chapter.
- (B) In the event that sediment, soil, mud, stone, or other debris from a site is deposited on a public roadway, whether from erosion, sedimentation, tracking, or other means, the Person conducting the land-disturbing activity shall immediately take appropriate action to remove the debris and clean the roadway.
- (1) If the debris is not immediately removed and the roadway cleaned, the Town will issue a notice of violation specifying the date by which the debris must be removed and the roadway cleaned.
- (2) If the Person fails to comply within the time specified, the Town will take action to remove the debris and clean roadway and invoice the financially responsible Person for the entire cost at established rates.

(1989 Code, § 154.20) (Ord. 1185, passed 6-14-2005)

§ 154.99 PENALTY.

Civil penalties. Any Person who violates any of the provisions of this chapter, or rules or orders adopted or issued pursuant to this chapter, or who initiates or continues a land disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty.

- (A) *Civil penalties for a violation.* The maximum civil penalty amount that the Town may assess per violation is five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the Person has not been assessed any civil penalty under this subsection for any previous violation, and that Person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).
- (B) *Civil penalty assessment factors.* The governing body of the Town shall determine the amount of the civil penalty based upon the following factors:

- (1) The degree and extent of harm caused by the violation;
 - (2) The cost of rectifying the damage;
 - (3) The amount of money the violator saved by noncompliance;
 - (4) Whether the violation was committed willfully; and
 - (5) The prior record of the violator in complying or failing to comply with this chapter.
- (C) *Notice of civil penalty assessment.* The Town shall provide notice of the civil penalty amount and basis for assessment to the Person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the Town shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the Town Board of Adjustment as described in the Town of Southern Pines Unified Development Ordinance §2.23 Appeals: or file a request with the Town for remission of the assessment within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.
- (F) *Appeal of final decision.* Appeal of the final decision of the Board of Adjustment of the Town shall be to the Superior Court of Moore County by proceedings in the nature of certiorari. The petition for the writ of certiorari must be filed with the Moore County Clerk of Court within 30 days after a written copy of the decision has been mailed to the Person assessed.
- (G) *Remission of Civil Penalties.* A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed with the Board of Adjustment within 30 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. The following factors shall be considered in determining whether a civil penalty remission request will be approved:
- (i) Whether one or more of the civil penalty assessment factors in G.S. 113A- 64(a)(3) were wrongly applied to the detriment of the petitioner.
 - (ii) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.
 - (iii) Whether the violation was inadvertent or a result of an accident.
 - (iv) Whether the petitioner had been assessed civil penalties for any previous violations.
 - (v) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
 - (vi) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

The petitioner has the burden of providing information concerning the financial impact of a civil penalty on the petitioner and the burden of showing the petitioner's financial hardship.

The Board of Adjustment may remit the entire amount of the penalty only when the petitioner has not been assessed civil penalties for previous violations and payment of the civil penalty will prevent payment for necessary remedial actions.

- (H) *Collection.* If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the Town Attorney for institution of a civil action in the name of the Town in the appropriate division of the General Courts of Justice in Moore County for recovery of the penalty. A civil action must be filed within 3 years of the date the final decision was served on the violator.
- (I) *Credit of civil penalties.* The clear proceeds of civil penalties collected by the Town under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected by the Town may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by the Town for the prior fiscal year.

- (j) *Criminal Penalties.* Any Person who knowingly or willfully violates any provision of this chapter, or rule or order adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000 as provided in G.S. § 113A-64.

(1989 Code, § 154.99) (Ord. 1185, passed 6-14-2005; Am. Ord. 1953, passed 11-9-2021)

§ 154.20 SEVERABILITY.

If any section or section or sections of this chapter is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

DRAFT



MEMO

To: Reagan Parsons, ICMA-CM, Town Manager
From: Jessica Roth, ICMA-CM, Assistant Town Manager
Cc: Cindi King, CPRP, Parks & Recreation Director
Graham Purcell, Parks & Grounds Superintendent
Date: March 7, 2024
Re: AC Sandhills Partnership Agreement

March 7th Update¹

Staff has worked with the AC Sandhills (ACS) to further refine and clarify the partnership agreement that provides for recreation soccer at the Morganton Rd. Sports Complex. The updated agreement includes revisions that address:

- This agreement extends through spring season 2027. The Town has a long-standing public-private partnership (PPP) with ACS. This date does not suggest that either party wishes to end this partnership in 2027, but is an opportunity for both parties to review operating and scheduling details, fees and associated expenses, and other terms.
- Clarifies the Town's expectations for recreation soccer, memorializing the current program as the minimum standard.
- Clarifies ownership and use of the nets and goals for private rentals or Town programs. As these items need to be replaced in the future, the costs will be split 50/50 and the Town will maintain ownership.
- Confirmed field rental fees that fall outside the schedule outlined in this agreement, pending availability.
- Confirms that the Town will line the fields for up to 6 games and 1 tournament per season. Additional requests will be billed to ACS at actual labor and material costs, as determined by the Parks & Grounds Superintendent.

Southern Pines Youth Rugby

Staff has continued discussions with the Southern Pines Youth Rugby Club (SPYRC) about creating a comparable PPP for recreation rugby. SPYRC formed in 2002 and is based in Moore County. Rugby participation has grown significantly, quadrupling in the past 4 years to over 200 players. We are clarifying some final expectations and are optimistic about the ability to enter into an agreement with SPYRC, pending Council approval. In the meantime, SPYRC has secured field time through our traditional rental process.

Facility Scheduling and Programming

Some local parents from Carolina Velocity FC (CV) soccer club spoke during the February 13th Council meeting and expressed a desire for a similar agreement. CV is a club that formed in Raleigh in 2018, primarily training in Apex, Cary, Holly Springs, and Raleigh. CV has rented fields from the Town, as recently as their 2023 fall season, and has requested additional rentals for 2024, which the Town has largely been able to accommodate through our traditional rental process.

Council asked staff to explore whether the Town has the ability to enter into a more formal agreement with CV. Staff has had multiple conversations with Kara Webb, a parent/team manager from CV. We also contacted other municipal recreation departments to understand how they handle their partnerships and manage field rentals, especially when requests exceed scheduling availability. Each athletic facility is unique and those nuances impact scheduling.

- Lighting: Our soccer fields are not lit so they are only available until sunset. Staff received a quote of \$900k about a year ago to light these fields. Based on this cost, coupled with potential site constraints on installing the necessary footings, staff has not recommended that the Town advance this project.
- Parking: The number of spaces at the Morganton Rd. complex limits the number of players and other personnel we can realistically host at any given time. We currently exceed that capacity with routine ACS activities and overflow parking impacts Armory Field (requiring players and families to cross Morganton Rd). Staff does not recommend adding more users that have similar scheduling needs.
- Turf Management: The Town has grass fields, which require mowing, irrigation, lining, and turf management. The

¹ Please see memo dated February 23, 2024 for expanded details.

Town's Parks & Grounds division performs this work through oversight by Superintendent Graham Purcell.

A delicate balance exists between maximizing the fields' use without causing excessive damage. As field condition declines from overuse, the likelihood of player injuries increases as well as the Town's maintenance expenses. In the past, it was necessary to re-sod all 1.5 acres of the soccer fields each year due to poor conditions from overuse. Through proper management, we have greatly improved this, replacing only 400 square feet last year. Part of our management program leaves the fields largely unscheduled during the summer growing months so they can recuperate and turf coverage can be optimized.

The North Carolina Cooperative Extension recommends that grass fields are used for up to 800 hours each year. Beyond that, we can expect significant turf loss, field surface damage, and increased potential for athlete injury. The ACS schedule equals about 700 hours each year, leaving some capacity for rugby, Town programming, and private rentals. If there is a desire to significantly schedule more field time at Morganton Rd, the Town would likely need to consider replacing the grass with synthetic turf (and adding lights).

- Field Lining: The Parks & Grounds division also lines the fields for games and tournaments. By using a robotic field liner, we have significantly reduced labor hours, but this task still requires 2 technicians and takes 6 hours for all fields once a week. Our equipment lease also provides a certain amount of paint annually, which currently covers the needs for ACS. Any additional field lining would require staffing considerations and increased material costs.
- Program Needs: ACS currently has approximately 700-750 players per season and is available for ages 6-18 regardless of talent or ability. The registration fee of \$110 is reasonably affordable for most families.

There are safety considerations around the number of players and coaches that should be on a field at any given time. In order to schedule practices and games for 750 players, it takes considerable field space spread out over multiple days and time slots. Based on current capacity, ACS schedules all six fields for four evenings/week and each Saturday during the season (until midafternoon). If this schedule were reduced (by days, hours, and/or field assignments), staff feels this would negatively impact the recreation soccer program and potentially affect its future viability and quality.

Staff Recommendation

Staff recommends that the Town continue its longstanding and beneficial partnership with ACS for recreation soccer and work toward a similar agreement with SPYRC for recreation rugby. We are comfortable with our capacity to provide the services and space needed for the success of these two programs.

Both ACS and SPYRC offer recreational athletics, which prioritize inclusion, learning, enjoyment, and participation for all skill levels. This is the same philosophy for the Town's athletics programs, such as flag football, basketball, sand volleyball, and Little Tykes Soccer. Further, these two clubs were founded in and have a home base in Moore County, making them a natural extension of the Town.

To contrast, club or elite level programs tend to emphasize competition, skill development, and commitment to achieving higher levels of performance. They typically require skills-based tryouts and much higher registration fees. There is value in both, but recreational programs are more closely aligned with the Town's mission of community access and inclusivity.

Since field space is a constrained resource, the Town is not able to accommodate the needs of every athletic team. Staff recommends prioritizing teams who 1) use our facilities for recreation athletics and 2) are located in Moore County. Based on capacity and operating logistics for the Morganton Rd. Sports Complex, it is staff's opinion that the Town does not have the capacity to enter into additional partnership agreements at that facility beyond recreation soccer and rugby. There is capacity for some field space through the traditional rental process, pending availability.

**PARTNERSHIP & PROPERTY USE AGREEMENT
AC SANDHILLS RECREATIONAL SOCCER PROGRAM**

THIS AGREEMENT is entered into this 12th day of March, 2024, between THE TOWN OF SOUTHERN PINES, an incorporated municipality, a body corporate and politic in Moore County, North Carolina (hereinafter referred to as the "Town"), and THE ATHLETIC CLUB OF THE SANDHILLS/A. C. SANDHILLS (hereinafter referred to as the "Organization"). The agreement is for the Organization's use of the Town's Soccer Facilities, associated concession stand and restroom facilities, as part of the Morganton Rd. Sports Complex at 190 Fire Ln. Southern Pines, NC 28387. These facilities, which consist of four soccer fields, one baseball field (divided into 2 spaces), a concession stand, and restrooms shall collectively be known as the "Soccer Facilities." (The fields for soccer use are numbered 1-6 and will be referred to fields 1-6 for booking purposes.) The Parks & Recreation Director is hereinafter referred to as the "Director."

This is a public-private partnership between the Town and Organization to meet public recreational needs. The Town recognizes the Organization as a long -serving and locally valued non-profit that can provide recreational soccer programs as an extension of the Town's programming. In exchange, the Town will make available the fields and associated amenities and provide for their reliable repair and maintenance.

The Town shall make the facilities available to the Organization for the purpose of spring and fall recreation soccer, to include, but is not limited to, practices, games, recreation tournaments, and other events associated with the recreation soccer program. This schedule is outlined in Exhibit A. The Town will continue to schedule the facilities for Town programming or rentals during other times, at the Town's discretion. Scheduling and oversight is led by the Director or designated staff. The Town and the Organization wish to partner to provide recreational soccer in accordance with the following terms:

1. **Ownership:** The Town owns all areas at the Morganton Rd. Sports Complex, including all fields, bathrooms, concession stand, and playground area.
2. **Length of Agreement:** This agreement shall extend through the spring 2027 recreation soccer season or May 31, 2027, whichever date ends later.
 - A. The parties may extend these terms by mutual consent. When the current agreement expires, both parties will review the fees, schedule, and other terms to ensure they are still adequate to address the responsibilities of each party.
 - B. This agreement may be reviewed and modified at any point during the agreement term upon consensus by both parties. Revisions will be provided within thirty (30) days.
3. **Recreation Soccer Program Expectations**
 - A. For the purposes of this agreement, the Organization will offer a co-ed recreation soccer program for youth ages 6-18.
 - B. The purpose is to provide a fun program in which players learn about the game of soccer and develop skills. There is no minimum skill level required to play.
 - C. The Organization shall provide a minimum of 9 practice weeks (1 hour of practice/week) and 6 officiated games.
 - D. The Organization shall host a recreation tournament at the end of the spring season; no fall tournament is required.
 - E. The Organization shall provide at least one jersey per player.
 - F. The Organization may set reasonable registration fees to cover its costs, up to a maximum of \$200 per player per season.

4. Scheduling: For the purposes of this agreement, there shall be two (2) seasons to provide recreational soccer: "Spring season" and "Fall season." The remainder of the year will be known as the "off-season."

- A. During the Spring and Fall seasons, the Organization may have exclusive use of the designated Soccer Facilities during the scheduled days and times approved by the Director/designated staff.
- B. The Organization must submit a proposed schedule to the Director/designated staff at least thirty (30) days prior to the intended start date of each season. The Organization may use the Soccer Facilities according to that schedule unless the Director has reasonably disapproved the schedule request within fifteen (15) days of its receipt. The schedule shall fall within the range of dates and times as stated above and listed in Exhibit A.
- C. Provided the Soccer Facilities are available, the Organization may schedule them for additional days, weeks, or months outside the spring and fall seasons specified in Exhibit A. The Town will charge the Organization rental fees based on the Town's fee schedule in effect at the time of the requested rental.
- D. The Organization shall accommodate Town personnel to perform scheduled maintenance during normal business hours, generally considered Monday through Friday from 6am until 3pm.
- E. In the event that the Town must temporarily close the Soccer Facilities due to inclement weather, poor field conditions, maintenance reasons, or other emergency situation, the Director/designated staff shall notify the Organization with as much advanced notice as possible.
- F. For the purpose of closures due to inclement weather or field conditions, the Town will make that determination no later than 1pm on the day the Organization is scheduled to use the Facilities.
- G. The Town may rent or schedule the Soccer Facilities for either Town programming and/or private rentals outside the dates and times the Organization is scheduled.
- H. The Organization grants permission to the Town and/or its renters to use the soccer goals and nets for these purposes.

5. Responsibility for Essential Functions: During the Spring and Fall seasons, the Town and Organization will jointly perform the work necessary to maintain the facility in a clean, safe, and sanitary condition.

- A. The Town will perform its essential functions during normal business hours on weekdays.
- B. Exhibit B outlines the required responsibilities for each party during the Spring and Fall seasons.

6. Insurance, Liability, and Loss of Use:

- A. If the Soccer Facilities are damaged by fire, natural disaster, other casualty, act of God, or deterioration and the cost of remediation is so great that Town decides not to repair or rebuild, the Town may terminate this agreement. Upon written notice of termination, the Organization must cease use of the Soccer Facilities.

The Town is not financially responsible for the Organization's loss of income and/or increased expenses for operating elsewhere in the event of fire, natural disaster, other casualty, act of God, deterioration to the Soccer Facilities, need for repairs, and/or federal, state, or local restrictions that impact the operation of the Soccer Facilities.

- 1) The Organization must indemnify the Town against any third party claims by reason of the Organization's use or occupancy of the Soccer Facilities. The Organization must secure and maintain, at its own expense, public liability insurance in an amount of not less than one million dollars (\$1,000,000) in respect to bodily injury, disease, illness, death, or property damage suffered by any one person or entity and/or arising out of any one accident.
- 2) The Organization must list the Town as an additional insured on said policy(ies) and

provide a certificate(s) of insurance to the Town confirming these minimum coverages at the beginning of each Fall season. Should the Organization make changes associated with its insurance policy(ies), it must provide the Town written notice and updated certificates of insurance within thirty (30) days of said change.

7. Rental Fees: The Organization shall pay the following fees to the Town for the use of the Facilities:

A. Year One \$11,000:

- 1) \$2,500 due by March 31, 2024
- 2) \$2,500 due by June 15, 2024
- 3) \$2,500 due by September 15, 2024
- 4) \$2,500 due by January 15, 2025

B. Year Two \$11,000:

- 1) \$2,500 due by March 15, 2025
- 2) \$2,500 due by June 15, 2025
- 3) \$2,500 due by September 15, 2025
- 4) \$2,500 due by January 15, 2026

C. Year Three \$12,000:

- 1) \$3,000 due by March 15, 2026
- 2) \$3,000 due by June 15, 2026
- 3) \$3,000 due by September 15, 2026
- 4) \$3,000 due by January 15, 2027

**If the Organization hosts any tournaments that are not associated with the routine recreational soccer season, the Organization will remit payment to the Town of \$5/participant within 2 weeks after the tournament concludes.

8. Expenses:

- A. Operating Expenses: The Organization must pay one hundred percent (100%) of the expenses to operate the recreation soccer program. This includes, but is not limited to: uniforms, supplies, personnel, officials, marketing, and similar. In exchange, the Organization may collect a registration fee, up to \$200 per participant per season.
- B. Field Wear and Tear: The Organization is responsible for replacing damaged/worn sod at the end of each season or as directed by the Town's Parks & Grounds Superintendent (hereinafter referred to as the "Superintendent"). This may be accomplished by either 1) paying the Town for the cost of the materials and labor or 2) directly purchasing the material and providing the labor, as approved by the Superintendent.
- C. Nets and Goals: It is agreed that at the time of this agreement, the Organization owns the nets and goals at the Soccer Facilities. When they need replacing, the Town and Organization shall each pay 50% of the purchase costs and the Town will maintain ownership of the newly purchased nets and goals.
- D. Little Tykes Soccer: The Organization will sponsor the Town's fall Little Tykes Soccer program and will pay \$500, separate from other fees. The Organization will provide training material and one (1) 30-minute training clinic for players and coaches at the beginning of the season.

9. Policies:

- A. The Organization may establish policies for the use of the Soccer Fields, or portions of the facility, during its reserved use periods so long as those policies are consistent with federal, state, and local laws, ordinances, and regulations.
- B. The policies adopted by the Organization, as referred to above, may include controlling or denying access to the facility during its sole use as booked through the Parks & Recreation Department.
- C. If portable toilets or food trucks are to be utilized, permission and approval must be obtained through the Parks & Recreation department at least 2 weeks prior.

10. Improvements to the Soccer Fields:

- A. If the Organization wishes to construct capital improvements to the Soccer Fields or surrounding facilities, install equipment, erect signage, or the like, the Organization must submit a written request to the Director. If the Director does not reply within thirty (30) days, then the request is deemed denied.
- B. The Organization must pay one hundred percent (100%) of the costs for any improvements, which includes purchase, installation, maintenance, and removal or rehabilitation in the event of deterioration or safety concerns.
- C. The Organization must provide in Exhibit C of this agreement an inventory of everything which it has purchased and/or installed at the Soccer Fields. Said Exhibit must include a description of each item, an estimated date of purchase/installation, the cost of purchase or construction, and the estimated useful lifespan. The Organization must review and update the Exhibit at least annually or at the point when an improvement is added or removed to the Soccer Facilities by the Organization.

11. Appeals to Decisions and Termination of Agreement:

- A. The Director shall have the authority to review issues of discretion and make decisions as described in this agreement. Should the Organization wish to appeal any of the Director's decisions surrounding this agreement, the Organization must submit a written appeal to the Town Manager within ten (10) days.
- B. Either party may terminate this agreement upon providing written notice of sixty (60) days.
- C. The Organization, upon termination of this agreement, may remove all improvements, equipment, etc. that it owns as described in Exhibit C, so long as they may be removed without damage to the Soccer Facilities. All expenses of such removal must be paid by the Organization and must be completed by the time this agreement terminates.
- D. This agreement supersedes all previous agreements between the two parties.
- E. This agreement constitutes the entire understanding between the parties and must not be modified except in writing signed by both parties. The agreement is binding on the parties hereto, their heirs, and permitted assigns.

IN WITNESS WHEREOF, the Town and the Organization have executed this agreement in duplicate.

By: _____ Date: _____
Kristen Hudson, A.C. Sandhills President

By: _____ Date: _____
Taylor Clement, Mayor, Town of Southern Pines

ATTEST: _____ Date: _____
Elizabeth Robertson, Town Clerk

Exhibit A:**Fall Season Schedule | mid-AUGUST through end of NOVEMBER***To be updated annually pending Director's approval*

	AC SANDHILLS (Soccer Fields)	AC SANDHILLS (Optimist Field)	TOSP (Soccer Fields)	TOSP (Optimist Field)
MONDAYS	4:00pm – 8:00 pm	N/A	Sunrise – 4:00pm	Sunrise - Sunset
TUESDAYS	4:00pm – 8:00 pm	5:00pm-8:00pm	Sunrise – 4:00pm	Sunrise – 5:00pm
WEDNESDAYS	4:00pm – 8:00 pm	N/A	Sunrise – 4:00pm	Sunrise - Sunset
THURSDAYS	4:00pm – 8:00 pm	5:00pm-8:00pm	Sunrise – 4:00pm	Sunrise – 5:00pm
FRIDAYS	N/A	N/A	Sunrise – 4:00pm	Sunrise - Sunset
SATURDAYS	7:00am – 3:00pm*	N/A	N/A	Sunrise - Sunset
SUNDAYS		N/A	N/A	Sunrise - Sunset

Spring Season Schedule | mid-FEBRUARY through end of MAY*To be updated annually pending Director's approval*

	AC SANDHILLS (Soccer Fields)	AC SANDHILLS (Optimist Field)	TOSP (Soccer Fields)	TOSP (Optimist Field)
MONDAYS	4:00pm – 8:00 pm	N/A	Sunrise – 4:00pm	Sunrise - Sunset
TUESDAYS	4:00pm – 8:00 pm	N/A	Sunrise – 4:00pm	Sunrise – Sunset
WEDNESDAYS	4:00pm – 8:00 pm	N/A	Sunrise – 4:00pm	Sunrise - Sunset
THURSDAYS	4:00pm – 8:00 pm	N/A	Sunrise – 4:00pm	Sunrise – Sunset
FRIDAYS	N/A	N/A	Sunrise – 4:00pm	Sunrise - Sunset
SATURDAYS	7:00am – 3:00pm*	N/A	N/A	Sunrise - Sunset
SUNDAYS	N/A	N/A	N/A	Sunrise - Sunset

*Organization may use fields up until 5pm on Recreation tournament day (one day per season). These dates will be secured prior to each season.

Starter Tournament will be scheduled prior to each season. This will include a Sat/Sun date, as well as an “In case of rain date” held. Sunday schedule will be 8am-1pm on this scheduled date only.

- While routine maintenance and repairs can typically occur with minimal or no impact to the public's access to the facility, both parties acknowledge that it may be necessary to close the Soccer Facilities for an extended time to complete more significant repairs. In this situation, every attempt will be made to schedule non-emergency work in a manner to minimize cancelling the Organization's weekend activities.

Exhibit B:

Assignments for Essential Functions

TOSP = Town of Southern Pines | AC = AC Sandhills

MAINTENANCE RESPONSIBILTIES DURING BUSINESS HOURS	Spring & Fall Season	Off Season
Mowing Grass	TOSP	TOSP
Lining Fields with Field Paint*	TOSP	TOSP
Cleaning Restrooms	TOSP	TOSP
Emptying Trash/ Replacing Trash Bags	TOSP	TOSP
END OF DAY RESPONSIBILITIES	Spring & Fall Season	Off Season
Removing trash/ Replacing Trash Bags (weekend days)	AC	TOSP
Tidying Restrooms	AC	TOSP
**Cleaning Concession Stand (No storage in this area)	AC	TOSP

*The Town shall line the fields a total of six games each season (plus one end-of-season tournament). If the Organization requests additional lining, a fee will be assessed to cover the costs of labor and materials, as to be determined by the Superintendent. Said requests shall be made at least 72 hours in advance and will be accommodated on weekdays only.

**Organization will obtain any required permit or inspection (if needed) to operate concession stand in conjunction with Moore County regulations.

Exhibit C: AC Sandhills Inventory
Current as of March 12, 2024

Item	Purchase Date	Purchase Price
Nets	Various	Various
Goals	Various	Various

draft

MEMO

To: Reagan Parsons, ICMA-CM, Town Manager
From: Jessica Roth, ICMA-CM, Assistant Town Manager
Cc: Cindi King, CPRP, Parks & Recreation Director
Graham Purcell, Parks & Grounds Superintendent
Date: February 23, 2024
Re: AC Sandhills Partnership Agreement

February 27th Update

The February 13th Council agenda included an agenda item to renew the Town's partnership agreement with the AC Sandhills (ACS) for recreation soccer. Some local parents from Carolina Velocity FC (CV) soccer club spoke during public comments and expressed a desire for a similar agreement. CV is a club that formed in Raleigh in 2018, primarily training in Apex, Cary, Holly Springs, and Raleigh. CV has rented fields from the Town, as recently as their 2023 fall season.

Council voted to postpone consideration of the agreement with ACS until February 27th and asked staff to explore whether the Town has the ability to enter into a more formal agreement with CV. Staff has also been in discussions with the Southern Pines Youth Rugby Club (SPYRC) about creating a PPP for recreation rugby. SPYRC is another Moore-County based sports club, formed in 2002. Rugby participation has grown significantly, quadrupling in the past 4 years to over 200 players.

Over the past two weeks, staff has had multiple conversations with ACS, SPYRC, and CV to understand the needs and requests of all parties. We have also reached out to other municipal recreation departments to understand how they handle their partnerships and manage field rentals. These conversations were continuing at the time that the February 27th agenda was published. While it sounds relatively simple to schedule fields, there are multiple facets to consider, including but not limited to: field conditions and capacity, daylight hours, player safety, ownership of facility resources (the Town does not own the goals or nets at Morganton Sports Complex), parking at Fire Lane, practices vs. games vs. tournaments (some of which may attract teams from all over North Carolina and beyond).

Staff requests that Council postpone consideration of this agreement until March 12th to conclude these conversations and fully evaluate these requests. This postponement does not impact field use. ACS has started their spring recreation season and SPYRC has booked multiple rental times throughout their spring season. CV is familiar with the Town's rental process, but had not booked any rentals at the time this was written.

Partnership with AC Sandhills

The AC Sandhills (ACS) is a 501(c)3 nonprofit organization that has been based in Moore County for nearly 40 years. The Town has had a longstanding public-private partnership (PPP) with ACS to provide recreation soccer. ACS provides low-cost recreation soccer for youth from U7 through high school, open to players at all skill levels. They are an extension of our Town staff in this capacity and also provide a \$500 contribution to our Little Tykes soccer program. Additionally, ACS pays the Town a user fee for hosting tournaments unrelated to recreation soccer.

Through our PPP, ACS takes on the financial and time commitment of registering players, providing uniforms, coaching practices and games, hiring and scheduling referees, hosting an end-of-season tournament, and similar. It is a very popular program with approximately 750 players each season. In exchange, the Town provides the necessary facilities and maintains the fields (mowing, robotic lining, turf management, etc.). ACS also assists with some of this by replacing sod, handling trash during the weekends, and similar. More details on the ACS recreation program are on the following page as well as at www.acsandhills.com.

Until 2022, this was a verbal agreement and ACS used these facilities for free. At staff's recommendation, the Town and ACS executed a two-year property use agreement in March 2022 that outlines the responsibilities of both parties. In 2022, ACS paid \$11,000 to rent these facilities, which increased to \$12,000 in 2023. The Town does not charge ACS "market

rate” for these fields, recognizing the value of their programming as well as the financial investment they have made into the Morganton Park complex (goals and nets, contribution to lighting at the Optimist field, sod replacement, and similar).

While the 2022 agreement had an expiration date of February 2024, it was not the intent to end the PPP. The purpose of the expiration date was to allow both parties to re-negotiate responsibilities, user fees, and similar. This agreement has met both parties’ needs and ACS has requested to renew it. Staff has negotiated renewal terms and recommends that Council approve it. The Town’s recreation staff does not have the bandwidth to host recreation soccer for over 700 players and does not need to since ACS provides a high-quality, affordable, and popular program.

2024 AC Sandhills Spring Recreation Soccer League

Practices Start: Week of February 19th

Games on Saturdays: March 9th, 16th, 23rd, April 6th, 13th and 20th

Rain Date: April 27th

Spring Tournament: May 4th

Location

All games for U7 through the High School Divisions will be held at the Morganton Sports Complex located at 100 Fire Lane in Southern Pines. Practices will be at Morganton Road in addition to other area fields as in Aberdeen and Pinehurst as needed.



U7 / U8 Divisions

- Minimum of 6 Game Days
- 9 Practice Weeks; Practice 1 hour/once a week
- Referee for every game
- Rec Tournament (Spring Only)

U9 to High School Divisions

- U9, U10, U12, U15, & Coed HS League
- Minimum of 6 Game Days
- 9 Practice Weeks; Practice 1 hour/twice a week
- Referee for every game
- Rec Tournament (Spring Only)

Jersey/Uniform

AC Sandhills provides 2 Jerseys for all recreation players.

1 White (Home) Jersey / 1 Orange (Away) Jersey

Fall jerseys will be used for the spring season.



MEMO

To: Reagan Parsons, ICMA-CM, Town Manager
From: Jessica Roth, ICMA-CM, Assistant Town Manager
Date: March 7, 2024
Re: 2024 Council Appointments

Individual councilmembers are appointed by the body each year to serve in various capacities and manage certain responsibilities. At the December 5, 2023 meeting, Council appointed Bill Pate as Mayor Pro-Tem and Ann Petersen as Treasurer. There are some outstanding appointments to be confirmed, which are highlighted below in yellow.

Role	Description	Schedule ¹	2023 or Current Appointee
Mayor Pro-Tem	Perform the duties of Mayor in the Mayor's absence or disability – lead Council meetings, attend meetings or events, etc.	As needed	Bill Pate
Treasurer	2 nd signature on checks issued by Town. Other financial oversight, as needed.	Checks are signed weekly	Ann Petersen
Vice Treasurer	Perform duties in the Treasurer's absence or disability	As needed	Taylor Clement
Central Pines Regional Council Managing Board	The Managing Board oversees the CPRC, including policy direction, managing a budget of over \$45 million and 55 employees, and administrative oversight for the Durham-Chapel Hill-Carrboro MPO. The CPRC includes 40 municipalities and 7 counties and each has a voting seat on the Board. Visit www.centralpinesnc.gov for more details.	The 2024 schedule includes 6 meetings, which are on Wednesday evenings. The meetings are in Durham or on-site with one of the member governments.	Delegate: Open (was Mayor Haney) Alternate: Bill Pate
Sandhills Metropolitan Planning Organization (MPO)	A federally identified transportation planning organization that discusses, ranks, and recommends transportation priorities to state officials. This is a new entity, formed in 2023, since the population of Southern Moore County has now surpassed 50,000. The MPO includes representatives from Aberdeen, Foxfire, Pinebluff, Pinehurst, Southern Pines, Taylortown, Whispering Pines, and Moore County.	This group currently meets on the 3 rd Wednesday of each month in Pinehurst. The meeting frequency may reduce once the MPO is further established.	Delegate: Taylor Clement Alternate: Ann Petersen

¹ Meeting schedules or expectations are always subject to change, especially for external organizations.

Moore County Economic Development Partnership	MCEDP is the formal economic development “arm” for Southern Pines. The Town contributes financially each year to supporting MCEDP. Their role is to facilitate economic, community, and workforce development initiatives to bring quality jobs and capital investment to Southern Pines and Moore. The Council delegate attends MCEDP meetings and informs the full Council on activities. Visit www.moorecountyedp.org for more details.	As needed	Delegate: Open (was Mayor Haney)
Tri-Cities Work Group	This group includes Aberdeen, Pinehurst, and Southern Pines. Participants include each municipality’s Mayor plus an additional elected official and senior staff. The group works together through local opportunities, concerns, and similar involving the 3 local governments.	6 meetings/year with each municipality hosting twice. These are currently lunch meetings on Tuesdays.	Delegates: Open (was Mayor Haney) Bill Pate
Other TBD	It is likely that other opportunities or needs will arise, which might result in temporary commitments (work group or committee) or an ongoing role. These will be addressed, if and when, the need arises.		

Agenda Item

To: Reagan Parsons, Town Manager

From: Alaina Mallette, Senior Planner

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

Date: March 12, 2024

I. SUMMARY OF APPLICATION REQUEST

Bob Koontz of Koontz Jones Design, on behalf of Mill Creek Partners, LLC, has submitted a Special Use Permit major amendment application pursuant to §2.21.12(A) of the Town of Southern Pines Unified Development Ordinance (UDO) to expand the authorized land uses in the General Business conditional zoning district (GB-CD) portion of the development. This amendment proposes adding land uses—in categories such as automobile services; heavy, durable, and other consumer goods sales or services; health and personal care and services; rentals and leasing of cars; health and human services, including outpatient clinics; social assistance, welfare, and charitable services; and other land uses—to the list of authorized uses in the GB-CD portion of the development. The amendment also proposed modifications to the Master Plan map to change “Shopping” and “Office/Condominium” sites within the GB-CD to “General Business.” Lastly, a Traffic Impact Analysis was required as part of this application, and has been submitted for the Town’s review.

II. PROJECT INFORMATION

A. Property Owner & Applicant Information

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

B. Process of Review:

The Mill Creek Master Plan was approved in 1998 under Conditional Use Permit CU-02-98 and an amendment to such permit is required to follow the current Special Use Permit major amendment process. The procedures for review and approval of a Special Use Permit major amendment, per UDO §2.21, establish a process and standards to approve certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right.

III. TOWN COUNCIL REVIEW

Following Planning Board review, on October 2, 2023, the applicant, Robert Koontz, requested an administrative continuance to address town staff items and issues that came up during Planning Board discussion (see Planning Board Review section below). This included a reduction in the number of authorized land uses, continued work on the Traffic Impact Analysis to address the Town Engineer's comments (including pedestrian connectivity and multimodal trips), and reformatting the authorized use table for clarity of interpretation. On October 31, 2023, the applicant requested a second administrative continuance due to continued work on the Traffic Impact Analysis (TIA). Additional application materials were submitted on October 26, November 14, and November 15, 2023. Town planning staff scheduled SU-01-23 for a public hearing at the December 12, 2023 Town Council Regular Meeting and attached all updated application materials.

At the December 12, 2023 Town Council Regular Meeting the applicant requested a continuance for more time to address and resolve issues related to impacts of additional land uses identified in the applicant's TIA. The applicant stated that they needed more time to resolve the issues for next month. On January 8, 2024, the TIA preparer (Travis Fluitt of Kimley-Horn and Associates, Inc.) submitted an updated TIA based on feedback from the Town and NC DOT.

At the hearing on January 23, 2024, Planning staff entered the January 9 Staff Report as Exhibit A, staff's presentation as Exhibit B, and email correspondence regarding the TIA as Exhibit C. The authorized agent, Paul Saathoff of KoontzJones Design, entered his presentation as Exhibit D. Travis Fluitt (the TIA preparer), Robert Koontz of KoontzJones Design (the authorized agent), and Bob Klug (the applicant), all swore in and provided testimony, as well. The Town Council moved to continue the evidentiary hearing until the February 13, 2024, regular meeting to grant the applicant additional time for a response from NC DOT Congestion Management Section regarding the January 2024 TIA and to potentially discuss potential removal of proposed land uses.

The hearing continued on February 13, 2024, and Planning staff entered the February 13 staff report into the record as Exhibit E and the NC DOT letter in response to the TIA as Exhibit F. Planning staff provided an overview of the history of the project, general staff comments, and staff's recommendation for approval with at least one condition regarding the trigger point for the construction of a recommended multimodal path from Mill Creek Road to Olivetree Lane along Highway 22. Town Engineer Michel explained the status of the TIA and the agreed upon trigger of 2,000 additional trips per day for the multimodal path to Olivetree Lane. The applicant, Bob Klug, provided a history of the property and original development, including the original conditions on CU-02-98. The Planning Director clarified the procedural process underway (i.e., special use permit rather than a planned development conceptual development plan). Paul Saathoff explained that "professional services" in the original master plan authorized land uses list, in today's UDO includes over 20 specific types of professional services. TIA preparer, Travis Fluitt, explained the Executive Summary of the January 2024 TIA and trigger points for infrastructure improvements.

Once the evidentiary hearing was closed, the Council discussed the need of the applicant to identify which land uses fall under the original 1998 authorized land use list and which land uses are newly proposed, and of the newly proposed certain inappropriate land uses out-of-character for the neighborhood should be removed from the applicant's proposed authorized land use table. The applicant stated that they would submit an updated authorized land use table removing land uses that do not conform to the character of the neighborhood and the application was continued to the March 12, 2024.

IV. STAFF REVIEW:

A. Application Review Dates:

- Special Use Permit SU-01-23 Application Submitted: **August 14, 2023**
 - Application Deemed Complete: **August 21, 2023**
 - Additional Materials Submitted: **October 26, 2023**
 - Additional Materials Submitted: **November 14, 2023**
 - Additional Materials Submitted: **November 15, 2023**
 - [Additional Materials Submitted: January 8, 2024](#)
 - [Additional Materials Submitted: February 6, 2024](#)
 - No materials have been received since the evidentiary hearing closed on February 13, 2024, as of the writing of this report on March 7, 2024
- TRC Staff Review: **August 22, 2023**
- Notice of Planning Board Preliminary Forum:
 - Posted On-site: **September 14, 2023**
 - Mailed: **September 7, 2023**
 - Internet: **August 24, 2023**
 - Published: N/A for SUP
- Planning Board Preliminary Forum: **September 21, 2023**
- Notice of Town Council Public Hearing:
 - Posted On-site: **September 14, 2023**
 - Mailed: **September 7, 2023**
 - Internet: **September 22, 2023**
 - Published: Sent September 22, 2023 for publishing on **September 27** and **October 4, 2023**
- Town Council Regular Meeting: **Administratively continued the scheduled October 10, 2023 public hearing**
- Town Council Regular Meeting: **Administratively continued the scheduled November 14, 2023 public hearing**
- Town Council Regular Meeting: **Applicant requested and Town Council approved a continuance of the scheduled December 12, 2023 public hearing**
- Town Council Evidentiary Hearing: **January 9, 2024 (Postponed due to inclement weather)**
- Town Council Evidentiary Hearing: **January 23, 2024 (Continued)**
- Town Council Evidentiary Hearing: **February 13, 2024 (Hearing Closed and Application Continued)**
- Town Council Regular meeting: **March 12, 2024**

B. General Staff Comments

- Approval of the request will change a portion of the original master plan from “Office/Condominium site” to “General Business.” The land uses permitted in this area would expand to any land use listed in the new Mill Creek Table of Permissible GB-CD Uses.

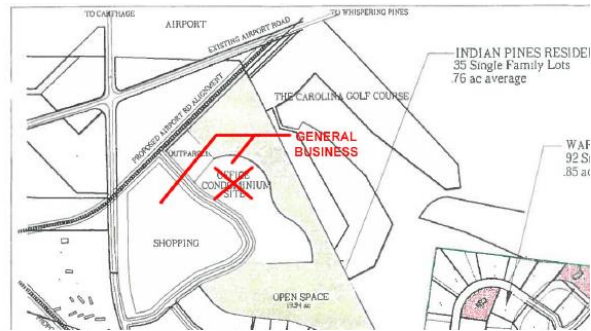


Figure 1. Proposed Changes to Mill Creek Land Use Master Plan

- Approval of the request will result in the modernization and expansion of authorized land uses to a total of 87 land uses. The original list of 14 land uses include several categories that are generalized such as “shopping centers” and “entertainment facilities.” Planning staff has conducted a comparison analysis of the current Land-Based Classification Standards (LBCS) against the 1998 standards, which used the Southern Pines 1989 Unified Development Ordinance (see Table 1 below). This analysis places current LBCS codes into the original 1998 categories, per Town Council’s request.
 - Of the 87 proposed permitted land uses, 16 could be considered to be newly proposed permitted land uses not contemplated in the original 1998 master plan. The newly proposed permitted land uses include:
 1. Car rental/leasing (LBCS 2331),
 2. Bar/Drinking place (LBCS 2540),
 3. Mobile food (LBCS 2550),
 4. Caterer (LBCS 2560),
 5. Dry-cleaning and laundry (LBCS 2622),
 6. Photofinishing (LBCS 2630),
 7. Animal services (LBCS 2721),
 8. Courier and messenger services (LBCS 4160),
 9. Public gym (LBCS 5371),
 10. Preschool (LBCS 6110),
 11. Special needs educational services (LBCS 6125),
 12. Fire and rescue (LBCS 6410),
 13. Police (LBCS 6420),
 14. EMT/Emergency response (LBCS 6430),
 15. Construction-related general contracting services (LBCS 7100), and
 16. Temporary uses (LBCS 9920).

Table. 1. 1998 to 2024 Land Use Table Comparison.

Original Permitted Land Uses	Current UDO Land Uses
Hotel, motels <i>Code 1.540 Hotel, motels, and similar businesses or institutions providing overnight accommodations, UDO 1989</i>	Hotels, motels, and other accommodation services (LBCS 1300 series), which includes Bed and breakfast homes, inns, room and boarding, as well as hotel, motel, tourist homes, or tourist court (n=4 land uses)
Care facilities <i>Code 1.400 Homes emphasizing special services, treatment or supervision, UDO 1989</i> <i>Code 7.000 Institutional Residences or Care or Confinement Facilities, UDO 1989</i>	• Housing services (LBCS 1200 series), which includes retirement housing services, congregate living services, assisted-living board and adult care group homes, continuing care retirement center, and nursing or convalescent home (n=5 land uses) • Personal care services (LBCS 2610 series; n=4 land uses), including salons, dieting services, tanning salon, and other personal care services • Massage therapist (LBCS 2651; n=1 land use) • Health and human services (LBCS 6500 series) provides health care, including ambulatory/outpatient care (i.e., clinics and health spas, family planning care clinic, medical laboratory, and blood/organ bank. Rehabilitative services, hospital, and health care facilities could also be interpreted to be care facilities (n=7 land uses). LBCS 6500 series also includes social assistance, welfare, and charitable services, including child and youth services, child daycare, community food services, emergency/relief services, other family services, services for elderly and disabled, veterans affairs, vocational rehabilitation, and homeless shelters (n=9 land uses) • Death care services (LBCS 6700 series), including funeral home and services and cemetery or cremation services (n=4 land uses)
Home occupations <i>Code 1.700 Home Occupations, UDO 1989</i>	Home occupations (LBCS 9950; n=1 land use)
Convenience stores <i>Code 2.111 Convenience Stores, UDO 1989</i>	<i>Note: Current LBCS standards distinguish between convenience stores and convenience services. Furthermore, any land use that has a gasoline station would be classified as LBCS 2116 gasoline service establishment, regardless of whether it has a convenience store or not. So, convenience stores are currently housed under the following land use code.</i> • Convenience store, excluding those with fuel pumps (LBCS 2152; n=1 land use)

Original Permitted Land Uses	Current UDO Land Uses
Shopping centers <i>Code 2.112 Shopping Center, UDO 1989</i>	<i>Note: Retail sales or service and repair (LBCS 2100 series) is the modern-day “shopping center”. It is broken down as follows.</i> • Goods-oriented shopping (LBCS 2110 series; n=8 land uses), including car dealer, large vehicle sales, small engine vehicle sales, bike sales, watercraft sales, automobile parts sales, gasoline service, and automobile repair and maintenance • Service-oriented shopping (LBCS 2120 series; n=7 land uses), including furniture, hardware, lawn and garden supplies, department store, electronics/appliances, lumber yard, and heating and plumbing equipment • Durable consumer goods (LBCS 2130 series; n=5 land uses), including computer/software, cameras, clothing/jewelry, sporting goods, and books/magazines • Other consumer goods (LBCS 2140 series; n=5 land uses), including florist, art supplies/sales, tobacco sales, door-to-door/home party/mail-order sales, and antiques • Food and beverages grocery store (LBCS 2150 series; n=5 land uses), including supermarket, convenience store, specialty foods, fruit and vegetables, and ABC store • Health and personal services (LBCS 2160 series; n= 3 land uses), including pharmacies, cosmetic and beauty supplies, and optical and contact lens sales • Farmers and craft markets (LBCS 2199; n=1 land use) • Pawn shop (LBCS 2260; n=1 land use)
Professional offices <i>Code 3.000 Office, Clerical, research and services not primarily related to goods or merchandise, UDO 1989</i>	• Real estate services (LBCS 2310; n=1 land use) • Business, professional, scientific, and technical services (LBCS 2400 series; n=20 land uses), including ○ Professional services (LBCS 2410 series), including legal services, bookkeeping/accounting, architectural/engineering/surveying services, graphic/interior design services, consulting services, scientific research and development services, advertising/media/photography, and veterinary services ○ Administrative services (LBCS 2420 series), including office administration, facilities support, employment agency, copy center, and collection agency ○ Travel arrangement and reservation services (LBCS 2430) ○ Investigation and security services (LBCS 2440)

Original Permitted Land Uses	Current UDO Land Uses
	○ Services to buildings and dwellings (LBCS 2450 series), including extermination and pest control, janitorial services, landscaping services, carpet and upholstery cleaning, packing and crating • Ambulatory or outpatient care services (LBCS 6510 series; n=4 land uses), including clinics and health spas, family planning, medical laboratories, and blood/organ banks • Associations, non-profit organizations, clubs (LBCS 6800 series; n=3 land uses), including political organizations, professional membership-based organizations, and civic organizations
Light industry (w/ SUP) <i>The closest code is Code 4.000 Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise, and Equipment, UDO 1989</i>	<i>Note: LBCS 3000 series is closest to “industry” and “light” would be subjectively interpreted and would require further analysis. The APA Planner’s Dictionary includes a template definition from Cecil County, MD, for “light industry”: “Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semifinished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semifinished products may be temporarily stored outdoors pending shipment.” Some possible “light industry” land uses are listed below, but would depend on the intensity of the proposed land use.</i> • Food, textiles, and related products (LBCS 3100 series; n=4 land uses) • Wood, paper, and printing products (LBCS 3200 series; n= 4 land uses) • Chemicals, metals, machinery, and electronics manufacturing (LBCS 3300 series; n=7 land uses) • Miscellaneous manufacturing (LBCS 3400 series; n=4 land uses) • Wholesale trade establishment (LBCS 3500; n=1 land use) • Warehousing and storage services (LBCS 3600 series; n=3 land uses)
Banks <i>Code 3.230 Banks with Drive-in Windows, UDO 1989</i>	Finance and insurance land uses (LBCS 2200 series, except pawn shops; n=5 land uses), including banks, credit/finance establishment, investment banking/brokerages, insurance-related establishment, and other financial establishments
Religious facilities <i>Code 5.200 Churches, Synagogues, and Temples, UDO 1989</i>	Religious institutions (LBCS 6600), which includes small religious institutions (i.e., up to 250 seats) and other institutions (i.e., more than 250 seats)
Restaurants <i>Code 8.100 Restaurants, UDO 1989</i>	• Full-service restaurant (LBCS 2510) • Cafeteria or limited-service restaurant (LBCS 2520)

Original Permitted Land Uses	Current UDO Land Uses
	• Drive-through restaurants (LBCS 2521) • Snack or nonalcoholic bar (LBCS 2530)
Private recreation facilities <i>Code 6.100 Activity Conducted Entirely within a Building/Structure, UDO 1989</i> <i>Code 6.200 Activity Conducted Primarily Outside Enclosed Building/Structure (excluding Publicly-Owned Outdoor Recreational Facilities)</i>	<i>This category is so broad that essentially any privately-owned recreation facility mentioned in LBCS 5000 Arts, Entertainment, and Recreation could be interpreted to be permitted.</i> • Arts, Entertainment, and Recreation (LBCS 5000, excluding public facilities; n=24 land uses)
Major/minor subdivisions (w/ SUP) <i>Code 28.000 Subdivisions, UDO 1989</i>	Major/minor subdivisions (LBCS 9930)
Apartments accessory to commercial use (25 units or less) <i>Code 1.340 Apartments Accessory to a Commercial Use Under Multi-Family), UDO 1989</i>	Multi-family (LBCS 1150 series; n=3 land uses)

- The revised Traffic Impact Analysis was submitted on January 8, 2023, to Planning staff and the Town Engineer. The Town Engineer James Michel has provided TIA feedback to the TIA preparer (Travis Fluitt of Kimley-Horn & Associates, Inc.), which can be reviewed in [Attachment 5 and 5a of the January 9, 2024 staff report](#) and additional email correspondence entered into the record as Exhibit C (attached to this staff report, for reference, as Attachment 7).
 - The authorized agent has submitted a modified narrative that includes the following statement:
 1. *“Any improvements recommended by the final approved TIA, after review by the Town of Southern Pines and NCDOT, will be implemented as described in the document. Improvements will be made at a time when they are warranted based on a specified number of added trips per day as described in the TIA or as required by NCDOT.”*
 - The TIA preparer has been in conversations with NC DOT Congestion Management Section regarding the adequacy of the analysis and proposed improvements, which may affect the TIA improvements noted in the January 2024 TIA. **A modified TIA will be submitted for the Town Engineer’s review. It has not been submitted as of the writing of this staff report, March 7, 2024.**
 - Of particular concern is the inadequate levels of service for the intersection/roundabout at Highway 22 and Airport Road. According to the January 2024 TIA, “No other reasonably constructible improvements were identified to bring the intersection back to an acceptable level of service.”

C. Staff Recommendation

Planning staff recommend approval of SU-01-23 with the updated narrative that states that the applicant has committed to any improvements, including vehicular and multi-modal improvements, that will be made at the point that they are warranted as described in the January 2024 TIA or subsequent version approved by the Town Engineer.

V. ATTACHMENTS

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

1. Draft Findings of Fact
2. [Planning Department Staff Report Dated January 9, 2024, and Entered as Exhibit A during the Evidentiary Hearing on January 23, 2024](#)
3. [Special Use Permit Application](#)
4. [Applicant’s Updated Special Use Permit Narrative and Justification](#)
5. [Mill Creek Master Plan with Track Changes and Additional Exhibit](#)
6. [Mill Creek Traffic Impact Analysis Executive Summary received January 8, 2024](#)
7. [Town Engineer Communication with Traffic Impact Analysis Preparer \(Exhibit C\)](#)

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

- Agent Authorization Form
- Deeds
- List of Adjoining Properties Provided by Applicant
- Mill Creek Traffic Impact Analysis dated January 2024 (276 pages)

VI. TOWN COUNCIL ACTION

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

Pursuant to UDO §2.27.7, in approving any Special Use Permit, the Town Council may impose such reasonable standards, conditions, or requirements as it may deem necessary to protect the public health, safety and welfare. The Town Council may choose among the following motions or any alternative at their discretion.

I move to:

1. **Adopt Attachment 1 of the staff report as Findings of Fact regarding the proposed Special Use Permit SU-01-23; OR**
2. Adopt Attachment 1 of the staff report as Findings of Fact regarding the proposed Special Use Permit SU-01-23, with the following changes...

I move to:

1. Approve Special Use Permit SU-01-23; OR
2. **Approve Special Use Permit SU-01-23 with the following conditions (as recommended by Planning Staff):**
 - a. **The Mill Creek Table of Permissible GB-CD Uses shall be updated to remove the following land uses that do not conform to the character of the neighborhood in which it is located, and the updated list of land uses shall be submitted to the Planning Department by March 29, 2024:**
 - i.

OR

3. Deny Special Use Permit SU-01-23.

ATTACHMENT 1
Draft Town Council Findings of Fact
Special Use Permit Application SU-01-23

Finding of Fact #1

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

Finding of Fact #2

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

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

The applicant's Justification document (Attachment 4 to the February 13, 2024 Staff Report) states that the intent of the major amendment is to clarify permissible uses within the General Business portion of the development. The applicant uses a similar format to UDO Exhibit 3-15 Table of Authorized Land Uses to create a list of permissible uses. Applicable supplemental use regulations will be reviewed during site plan review and architectural compliance review. Therefore, the application satisfies this criterion.

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

The applicant states that they will adhere to the UDO General Business standards and other applicable zoning standards. Additionally, the area surrounding the subject properties include Planned Development districts—such as Tyler's Ridge and Ace Hardware— which include commercial land uses and buildings. Therefore, Town Council believe that the proposed amendment, **with the removal of specific land uses mentioned in the conditions of approval**, conforms to the commercial neighborhood where it is located.

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

The applicant states that water and sewer are readily available to the site, infrastructure has been installed in previous phases of development, and any further expansion will be borne at the cost of the developer. The Town's geographic information systems spatial data layers show both sewer gravity main and water main lines intersecting the properties (see Figure 4). Furthermore, Mill Creek Road is a paved town road while Airport Road and Central Drive are both minor arterial roads owned and maintained by North Carolina Department of Transportation. The applicant has committed to both vehicular and multi-modal improvements. Improvements will be made as described in the January 2024 Traffic Impact Analysis or subsequent version approved by the Town Engineer, or as required by NCDOT.

Considering this information, the Town Council consider the properties to have adequate public facilities.

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

The Master Plan states in Section III. Planning Goals, that the development intends to “Provide for orderly and efficient circulation and access... as to allow for the efficient circulation and access of pedestrian and vehicular movement.” The application narrative states that the modifications are “in conformance with the surrounding development and zoning classifications.” No analysis has been submitted on the potential impact of the expanded permitted uses on property values within the neighborhood nor on other potential positive or negative impacts to orderly development (such as sewer and water demand, noise generation, parking, etc.) by the applicant.

The applicant has committed to both vehicular and multi-modal improvements. Improvements will be made as described in the January 2024 Traffic Impact Analysis or subsequent version approved by the Town Engineer, or as required by NCDOT. Considering this information, the Town Council finds that sufficient qualified evidence was presented to show that the proposed uses will not impede orderly development and the improvement of the surrounding properties nor impair property values in the neighborhood, especially considering the commitment to vehicular and multimodal improvements when triggered.

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

The Applicant Justification states that “future phases will conform to all development standards... and requirements of the Town. As a result, the use will not be detrimental...” The traffic impact analysis entered into the record for SU-01-23 found that the proposed development will create a roadway safety issue, including multiple level of service issues at failing intersections. The applicant has committed to both vehicular and multi-modal improvements. Improvements will be made as described in the January 2024 Traffic Impact Analysis or subsequent version approved by the Town Engineer, or as required by NCDOT. Town Council finds that, there being no additional qualified evidence entered into the record of potential negative impacts resulting from the expansion of proposed permissible uses, there is no expected detrimental impact to the public health, safety, comfort or general welfare.

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

Policy P-7 Streetscapes states that “when streets are developed as part of new developments, ensure that the streets are designed and constructed to support the needs of all users (e.g., cars, bicycles, pedestrians and, where applicable, truck traffic) in context with their location and function in the region, Town and neighborhood in which they are located...” Furthermore, UDO Section 4.12.2(A)(1)(f) states that a Traffic Impact Analysis should “ensure that adequate facilities for pedestrians, transit users and bicyclists have been provided.” The applicant has committed to both vehicular and multi-modal improvements.

Improvements will be made as described in the January 2024 Traffic Impact Analysis or subsequent version approved by the Town Engineer, or as required by NCDOT. Therefore, the proposed expansion of permissible uses within the General Business Conditional Zoning District portion of the Mill Creek Master Plan is consistent with the future land use designation of Commercial as denoted in the 2016 Comprehensive Long-Range Plan's (CLRP) Future Land Use Map.

Despite the large number of proposed uses, Town Council has determined that sufficient evidence was presented that the public interest and welfare, if any of the proposed individual uses were to be constructed, outweigh individual interests that are adversely affected by the establishment of the proposed use.

Agenda Item

To: Town Council

From: BJ Grieve, Planning Director

Subject: OA-01-24: Conditional Zoning Districts Amendments to the Unified Development Ordinance (UDO).

Date: March 12, 2024

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 increasing the use, and usefulness, of Conditional Zoning Districts and reducing the number of development approvals requiring quasi-judicial decisions throughout the Southern Pines planning jurisdiction. The proposed amendments are an implementation of Policies 3.3 and 3.4 in the town's new Comprehensive Plan. The planning staff is requesting Town Council review and approval per UDO §2.17. The proposed amendments are as follows, with reference to applicable section(s) of the UDO proposed for amendment:

1. Amend UDO §2.17.11 and §3.3.2 to expand the design flexibility provided by using Conditional Zoning Districts and make clear that Conditional Zoning Districts are to be consistent with the Comprehensive Plan.
2. Eliminate the redundancy of requiring approval of both a Special Use Permit and a Major Subdivision Preliminary Plat for Major Subdivisions (UDO §2.20) by requiring approval of only the Major Subdivision Preliminary Plat (which will remain a quasi-judicial decision by the Town Council).
3. Revise UDO §3.7 to better describe and simplify the letters used to reflect different types of development approvals in Exhibit 3-15 and revise UDO §3.7.1(F) to require a Conditional Zoning District (instead of a Planned Development) for Multi-Family residential developments of between ten (10) and forty-eight (48) dwelling units. Similarly, revise letters in Exhibit 3-15 to reflect the changes to letters in UDO §3.7. For example, "C" that used to mean Special Use Permit will change to "SU" meaning the same thing.
4. Amend Exhibit 3-15 to gain greater public input and flexibility in project design by requiring Conditional Zoning Districts for Manufactured Home Parks in RR zones; Duplexes in RS-1 zones; Nursing Homes in RM-1, RM-2 and GB zones; Bed and Breakfast Inns in RE, RR, RS-1, RS-2, RS-3, RM-1, RM-2, CB, GB and NB zones; Hotels and Motels in CB, GB and OS zones; Food Truck Campuses in GB zones; Golf Course Resorts in the FRR zone; Camps and Camping Establishments in RE and RR zones; Nursery Schools or Preschools in RE, RS-1, NB and OS zones; Elementary

Schools, Middle or Junior High Schools, Senior or High Schools, Special Needs Education Services and Colleges or Universities in RS-1, RS-2, RS-3, RM-1, RM-2, CB, GB, NB and OS zones; Child Daycares in RS-1, RS-2, RS-3, RM-1 and RM-2 zones; and Special Home Events in RE, RR, RS-1, RS-2, RS-3, RM-1, and RM-2 zones.

5. Amend UDO §4.2.1 Height, §4.2.2 Setbacks, §4.2.3 Lot Size, Density and Lot Width, §4.3.2 (Landscaping) Applicability, §4.5.2 (Off-Street Parking) Applicability, §4.6.2 (Sign) Applicability, §4.9.1 Usable Open Space Required, §4.10.1 (Development Design Standards) Applicability and §4.11 Transportation to allow flexibility from these standards in a manner consistent with the design goals and policies in the Comprehensive Plan when rezoning to a Conditional Zoning District.
6. Amend UDO §4.9.1 to expand the applicability of the Usable Open Space requirement to new commercial, industrial, institutional and Multi-Family development and Major Subdivisions to increase the percentage of open space required from 5% of the total area of the development to 10% of the total area of the development, and to expand the applicability of open space requirements in subdivisions by reducing the number of lots that are exempt from open space requirements from less than 25 to only subdivisions with five (5) or fewer lots (Minor Subdivisions).

A full copy of the UDO showing all proposed amendments using **red text** for all changes and **underlining** for additions and **strikeout** for deletions, along with margin comments providing explanatory context for many of the changes, may be found on the Planning Department's website at the following link:

<https://www.southernpines.net/DocumentCenter/View/10906/OA-01-24-Proposed-UDO-Text-Amendments-w-Planning-Board-Recommended-Modifications>

Planning staff will provide a presentation and further explanation at the public hearing on February 22, 2024.

II. PLANNING BOARD REVIEW:

At the February 22, 2024, Planning Board regular meeting, a public hearing was held prior to the Board's motion on the text amendments. Planning staff presented the proposed amendments and distributed a letter that had been received that day via email from Mr. Kelly Miller opposing the change of Golf Course Resorts (LBCS 5353) to a Conditional Zoning District. Planning staff responded to a variety of questions and comments from the Planning Board. Following planning staff's presentation, only one public comment was made regarding the proposed amendments. Mr. Tom McCabe spoke regarding an interest in seeing more contributions to community parks from development, rather than open space on each development site.

After closing the public hearing, a motion was made by Monica Harvey and seconded by Matthew Walden that the text amendments are consistent with the 2040 Comprehensive

Plan and that the Board adopts Attachment A of the staff report. Furthermore, the Planning Board recommends approval of OA-01-24 to the Town Council with one comment and three modifications as follows:

1. That the Planning Board is fine with Golf Course Resorts being either a Special Use in the FRR zoning district or requires a rezoning to FRR Conditional Zoning District.
2. That the proposed use of the word “Compatibility” in UDO §2.17.11(F) be changed to “consistency” for the same reasons as stated in the margin comments of UDO §2.17.11(A).
3. That the proposed word “elsewhere” in UDO §3.7.1(E) be replaced by “Chapters 3, 4, 5 6 and/or 9 as applicable.”
4. That Child Daycare (LBCS 6562) also be allowed with the use of a Conditional Zoning District in RE and RR zoning districts.

The motion to recommend approval with comment and modifications passed on a 4-0 unanimous vote. The Planning Board’s recommended modifications have been incorporated into a version of the UDO showing proposed amendments that is posted on the Planning Department’s website at the link above.

III. APPLICATION REVIEW:

A. Review Process:

Applications for text amendments are reviewed pursuant to UDO §2.17.

B. Criteria for Review:

When reviewing an application for amendments to the text of the UDO, the hearing bodies (Planning Board followed by Town Council) shall consider and be guided by the following criteria, as set forth in UDO §2.17.10:

2.17.10. Criteria for UDO Text Amendments

In its review of an application for a UDO text amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.

(A) Consistency. *The text amendment shall be consistent with the adopted Comprehensive Plan.*

(B) Health, Safety, and Welfare. *The amending ordinance must bear a substantial relationship to the public health, safety, or general welfare, or protect and preserve historical cultural places and areas.*

(C) Public Policy. *Certain public policies in favor of the text amendment may be considered. Examples include a need for affordable housing, economic development, mixed-use development, or sustainable environmental features, which are consistent with the Town, area, neighborhood, or specific plans.*

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

(E) Impacts. The Hearing Bodies shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed amendment on the public at large.

C. Staff Comments:

All of the proposed amendments to the UDO are depicted using **red text** for all changes and ~~strikeout~~ for proposed deletions and underline for proposed additions on a copy of the UDO that is attached to this staff report. Furthermore, margin comments explain the reason for the proposed amendment and the policy or policies from the 2040 Comprehensive Plan being implemented with each proposed change. Planning staff is available during regular business hours prior to the Town Council public hearing on March 12, 2024 for questions and/or to discuss any of the proposed amendments. Each topic will be presented to the Town Council and public at the March 12, 2024 Town Council Regular meeting.

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 February 8, 2024.

As of the completion of the staff report on February 15, 2024 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. Draft Ordinance with proposed amendments attached, using ~~strikeout~~ for proposed deletions and underline for proposed additions.

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 amendments are consistent with the Comprehensive Plan and are a reasonable way to implement the Comprehensive Plan for the reasons set forth in the Planning Board's resolution that was included as an attachment to the staff report for OA-01-24;**
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 resolution that is included as an attachment to the staff report for OA-01-24, but with the following edits or additions to the resolution...
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-01-24 with modifications recommended by the Planning Board and as attached to the ordinance *(if desired, the Town Council may state any additional reasons you support the proposed amendment, besides those already listed in the Planning Board resolution)*;
2. Approve OA-01-24 with modifications recommended by the Planning Board and as attached to the ordinance, and with the following additional changes... *(if any changes were made to the proposed revisions, list the changes and reason(s) the text was changed)*;
3. Deny OA-01-24 *(the Town Council shall state any reasons for denial of the proposed amendment)*; OR
4. Other...



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**PLANNING BOARD
RESOLUTION TO ADOPT A WRITTEN RECOMMENDATION
FOR ORDINANCE AMENDMENT APPLICATION
OA-01-24**

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 February 22, 2024 to listen to public comments, ask questions of the Town's Planning staff and to consider ordinance amendment application OA-01-24.

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 consistent with the Town of Southern Pines Comprehensive Plan (Comprehensive Plan).

The 2040 Comprehensive Plan supports growth and development as long as it retains the character of the community. Policies 3.3 and 3.4 call for greater utilization of conditional zoning districts as a zoning tool that can be used to accommodate growth and development while enhancing design through voluntary conditions of approval. The proposed change to UDO Section 2.17.11 directly implements Policies 3.3 and 3.4. The amendment to UDO Section 2.17.11 also allows the use of conditional zoning districts to achieve well-designed day care facilities and schools in more than just business zones (Policies 5.1, 6.1, 8.9), development of smaller-scale multi-family residential projects that match neighborhood scale and character (Policy 5.4), duplexes that are consistent with the design characteristics of the Comprehensive Plan in RS-1 zones (Policy 7.1, 7.5) and better design of Food Truck Campuses (Policies 9.3 and 9.4).

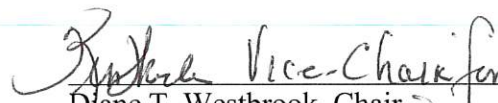
To further achieve development design consistent with the 2040 Comprehensive Plan, modifications to many design standards may be recommended by the Planning Board and

approved by the Town Council when rezoning to a conditional zoning district. Modifications to building height (Policy 3.1, 3.2), setbacks (Policy 3.1), lot size, density and lot width (Policy 3.1), landscaping, parking (Policy 3.9), signage (Policy 3.9), development design standards and street standards may be used to achieve better design when an applicant also volunteers conditions to maintain consistency with the 2040 Comprehensive Plan, maintain and enhance existing neighborhood characteristics and to mitigate neighborhood impacts.

Finally, additional open space requirements implement multiple policies in the 2040 Comprehensive Plan (Policies 3.2, 3.8, 4.1, 7.2). This open space requirement can be applied when critical open space exists to preserve, or used as a tool to further incentivize development design that is consistent with the 2040 Comprehensive Plan.

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

ADOPTED this the 22nd day of February, 2024.


Diane T. Westbrook, Chair 

ATTEST:


Cindy Williams
Secretary to the Planning Board



ORDINANCE #3031
AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE
TOWN OF SOUTHERN PINES
OA-01-24

THAT WHEREAS, after notice being duly given according to law, a public hearing was held before the Town Council of Southern Pines, North Carolina, at its regular meeting held on March 12th, 2024 at 6:00 PM for the purpose of considering an Ordinance amending the Unified Development Ordinance of the Town of Southern Pines, North Carolina; and.

WHEREAS, after the completion of said public hearing, and upon consideration of any comments, objections or presentations at the hearing, the Town Council of the Town of Southern Pines deems it advisable and in the best interest of the Town of Southern Pines that the Unified Development Ordinance of the Town of Southern Pines be amended as herein set forth below.

NOW THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines, North Carolina at its Regular Business Meeting assembled on the 12th day of March, 2024:

Section 1. That multiple sections of the Unified Development Ordinance are hereby amended as depicted on Attachment A to this Ordinance, wherein deletions to the current text are depicted as ~~stricken~~ and additions to the text are depicted as underlined.

Section 2. That this Ordinance shall be and shall remain in full force and effect from the date of its adoption.

Adopted this 12th day of March, 2024.

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on March 12th, 2024 as shown in the Minutes of the Town Council meeting for that date.

Elizabeth Robertson, Town Clerk

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Southern Pines Unified Development Ordinance

Chapter 2. Development Processes

Development Application	Public Review Process	Recommendation	Final Decision	Appeal	Section/Comments
Development Agreement (optional)	Legislative Hearing	Town Manager	Town Council		2.20.7
Final Development Plan (includes final zoning approval and may include Final Plat approval)		Planning Director/TRC	Planning Director	Town Council	2.18.7
Major Subdivision:					2.20
Pre-Application Conference (required)	---	---	---	---	2.20.2 / Advisory
Neighborhood Meeting (recommended)	---	---	---	---	2.20.3 / Applicant responsibility
Preliminary Plat (includes SUP approval)	Evidentiary Hearing	Planning Board	Town Council	Superior Court	2.20.4
Development Agreement (optional)	Legislative Hearing	Town Manager	Town Council		2.20.7
Final Plat (includes final SUP approval)	---	Planning Director/TRC	Planning Director	Town Council	2.20.8
Special Use Permit	Evidentiary Hearing	Planning Board	Town Council	Superior Court	2.21
Variance	Evidentiary Hearing	Planning Director	Board of Adjustment	Superior Court	2.22
Appeals	Evidentiary Hearing	Planning Director	Board of Adjustment	Superior Court	2.23
Vested Rights Determination	Evidentiary Hearing	Planning Director	Town Council	Superior Court	2.24
Development Approval Revocation	Evidentiary Hearing	Planning Director	Planning Board	Town Council	2.25
Certificate of Appropriateness – Major Work	Evidentiary Hearing	Planning Director	Historic District Commission	Board of Adjustment	2.28
Vacations of Streets and Alleys	Legislative Hearing	Planning Director/TRC	City Council	Superior Court	2.29
Approvals NOT Requiring a Public Hearing:					
Architectural Compliance Permit (non-compliant with Section 4.10 and/or greater than or equal to 10,000 square feet Gross Floor Area)	---	Planning Director	Town Council	Superior Court	2.26
Architectural Compliance Permit (compliant with Section 4.10 and less than 10,000 square feet Gross Floor Area)	---		Planning Director	Town Council	2.26
Minor Subdivision (includes Lot splits, Lot consolidation, dedications, and conveyances to the public)	---	TRC	Planning Director	Town Council	2.32
Vacations of, Easements or Plats	---	Planning Director/TRC	Town Council	District Court	2.33

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been no intervening changes or other saving characteristics. Proof that a small Tract is unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify ordinance rezoning.

- (G) **Other Factors.** The Hearing Body may consider any other factors relevant to a rezoning application under state law.
- (H) **Applicant Representations.** Except for rezoning requests submitted in accordance with the provisions herein for Conditional Zoning districts, the Hearing Body shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Hearing Body shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(Ord. # 1716; Ord. #1919)

2.17.10. Criteria for UDO Text Amendments

In its review of an application for a UDO text amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.

- (A) **Consistency.** The text amendment shall be consistent with the adopted Comprehensive Plan.
- (B) **Health, Safety, and Welfare.** The amending ordinance must bear a substantial relationship to the public health, safety, or general welfare, or protect and preserve historical cultural places and areas.
- (C) **Public Policy.** Certain public policies in favor of the text amendment may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with the Town, area, Neighborhood, or specific plans.
- (D) **Other Factors.** The Hearing Body may consider any other factors relevant to a text amendment application under state law.

- (E) **Impacts.** The Hearing Bodies shall not regard as controlling any advantages or disadvantages to the individual requesting the change but shall consider the impact of the proposed amendment on the public at large.

(Ord. # 1716)

2.17.11. Conditional Zoning Districts (Conditional Zoning)

- (A) There are circumstances in which a conventional zoning district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly developed, be appropriate for the property and consistent with the objectives of this ordinance and the adopted ~~Land Development Plan~~Comprehensive Plan. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a Conditional Zoning district, subject to specific conditions that ensure Compatibility consistency of the ~~use-Development~~ with the Comprehensive Plan and with the use and enjoyment of neighboring properties.
- (B) The Conditional Zoning district approval process allows the Council to approve a proposal for a specific use with reasonable conditions to mitigate the negative impacts of the proposed Development and assure the Compatibility consistency of the ~~use-Development~~ with the Comprehensive Plan and surrounding properties. Where specifically allowed in this UDO, the regulations for the corresponding general zoning district may be modified by the Conditional Zoning District~~Any use permitted under this process must also conform to the regulations for the corresponding general zoning district.~~
- (C) Conditional ~~z~~zoning is a voluntary procedure that is allowed only in response to a petition by all owners of the property to be included and is intended for specific Development proposals. It is not intended or suited for securing early zoning for tentative proposals, which may not be undertaken for some time nor shall it be used to relieve hardships that would otherwise be handled using a variance procedure.
- (D) Uses that may be proposed and considered for a Conditional Zoning district shall be restricted to those uses permitted either by right or as Conditional Zoning as set forth in Exhibit 3-15~~in the underlying conventional zoning district.~~

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- (E) Every petition for the reclassification of property to a Conditional Zoning district shall be accompanied by a Site Plan containing the requisite information specified in Appendix A as well as a text document establishing those standards that deviate from this UDO. In the course of evaluating the proposed use, the Hearing Body may request additional information deemed appropriate to provide a complete analysis of the proposal.
- (F) The Council may approve the reclassification of property to a Conditional Zoning district only upon determining that the proposed use will either meet all standards and requirements in these regulations that are applicable to the proposed use or will establish and meet unique standards created by the Conditional Zoning district that assure the consistency of the Development with the Comprehensive Plan and surrounding properties.
- (G) In approving a petition for the reclassification of property to a Conditional Zoning district, the petitioner, Planning Board and the Council may propose specific conditions to approval of the petition, but only those conditions approved by the Council and consented to by the petitioner in writing may be incorporated into the Conditional Zoning District.
- (H) If a petition is approved under this section, the district that is established, the approved petition and all conditions that have been attached to the approval are binding on the property as an amendment to these regulations and to the Zoning Map. All subsequent Development and use of the property shall be in accordance with the standards for the approved Conditional Zoning district; the approved petition and all conditions attached to the approval. Only those uses and structures indicated in the approved petition and Site Plan shall be allowed on the subject property. Any Development in the district shall comply with all provisions of and conditions to the approved petition and Site Plan. Any uses and structures on the subject property also shall comply with all standards and requirements for Development in the underlying general zoning district.
- (I) Following the approval of the application for a Conditional Zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation. A Conditional Zoning district shall be identified by the same designation as the underlying general zoning district followed by the letters "CD" (for example, RS-1 CD).
- (J) Amendments to the site plan or standards for development in a Conditional Zoning District shall be considered pursuant to Section 2.8.4 of this Ordinance~~Except as provided in paragraph (K), changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures in this section.~~
- ~~(K) Minor changes in the detail of the approved petition or Site Plan that do not involve a change in uses permitted or the density of overall Development permitted and that will not alter the basic relationship of the proposed Development to surrounding properties or the standards and requirements of these regulations or to any conditions attached to the approval may be approved by the Planning Director without going through the amendment process or a public hearing. The Planning Director may forward any application for changes in detail to the Planning Board for its consideration as an amendment to these regulations or the Zoning Map. The Applicant may appeal the decision of the Planning Director to the Planning Board for review and decision as to whether an amendment to the approved district shall be required.~~
- ~~(L)~~(K) The Planning Director shall periodically examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Director determines that construction has not commenced or is not in accordance with the approved petition and conditions, the Planning Director shall either initiate a reclassification of the property in accordance with the procedures established in this section or shall forward a report to the Council recommending that the property be classified to another district.

(Ord. #1775; Ord. #1919)

2.17.12. Effect of Approval

Approval of a map amendment entitles the property owner to use the property in accordance with the standards of the applicable zoning district. The approval of an amendment to the UDO text or Zoning Map does not authorize the use, occupancy, or Development of property until the Applicant receives necessary Development Approvals, such as Subdivision, Site Plan and Building permit approval.

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submitted on the Sketch or Preliminary Plat; such approval shall be noted on the Sketch or Preliminary Plat.

- (D) Where only a portion of an approved Preliminary Plat is submitted for final approval, a Final Plat of the remaining area may be submitted at any time within two (2) years of the Preliminary Plat, provided that the Final Plat for the additional area conforms substantially to the approved Preliminary Plat.

(Ord. #3024)

2.20. MAJOR SUBDIVISION

- (A) Approval and Submittal Process. The Applicant for major Subdivision shall follow the procedures established in this section, which is summarized in Exhibit 2-12. ~~All major Subdivisions require approval of a Special Use Permit, which shall be reviewed and granted concurrently with the Subdivision process.~~

Exhibit 2-12: Major Subdivision Approval Process Summary

Major Subdivision Process
Pre-application Conference (recommended)
Neighborhood Meeting (only under specified conditions)
Preliminary Plat (includes preliminary SUP approval)
Engineering Plan
Improvement Guarantees and Development Agreement
Final Plat (CUP becomes effective upon recordation)

(Ord. # 1716; Ord. # 1919)

2.20.2. Pre-Application Conference

A pre-application conference is recommended.

2.20.3. Neighborhood Meeting

A Neighborhood Information Meeting is encouraged, but optional for Subdivisions.

(Ord. # 1919)

2.20.4. Preliminary Plat

(A) Purpose

- (1) The Preliminary Plat serves as a guide to future density, intensity, land uses, pedestrian and bicycle ways, trails, parks and open space, as well as Lot, street and drainage patterns. It is intended to ensure that a landowner investigates the broad effects that Subdivision of property will have on the site itself as well as on adjacent properties and public infrastructure systems.
- (2) Approval of a Preliminary Plat shall constitute acceptance of the ~~land use mix, Development intensity,~~ general street patterns, drainage patterns, Lot patterns, parks and open space lands, and the general layout of pedestrian and bicycle trails, provided that these may be modified in conjunction with subsequent approvals if additional information reveals Development constraints that are not evident during Preliminary Plat review.

~~(3) The Preliminary Plat also provides feedback on the Special Use Permit (CUP) application from the Planning Board and Town Council.~~

- ~~(4)~~(3) The Preliminary Plat, together with the attendant items required herein, is to provide a basis for the construction of the Subdivision and its improvements as well as a draft of the Final Plat of the Subdivision. To achieve this, the Applicant should consult with the Planning Director, Town Engineer and other agencies concerned with the Subdivision and the improvements.

- (B) **Applicability.** Preliminary Plat approval is required prior to Final Plat approval for any major Subdivision.

- (C) **Preliminary Plat Process Overview.** The approval process and typical timing Preliminary Plat approval are summarized in Exhibits 2-13 and 2-14. Actual timing may vary based on the date of submittal and scheduled hearing dates.

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Exhibit 2-13: Preliminary Plat Approval Process Summary

Preliminary Plat Process
Application, Review and Notice
Planning Board Preliminary Forum
Town Council Public Hearing

(Ord. #1959)

Exhibit 2-14: Timing

Preliminary Plat Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Board Preliminary Forum Notice	25 days (from Completeness Certification)
Planning Board Decision	30 days (from Planning Board Preliminary Forum)
Town Council Public Hearing	30 days (from Planning Board Decision)
Town Council Decision (includes SUP approval)	30 days (from Town Council Public Hearing)

(Ord. #1959)

(D) **Initiation.** The Applicant shall file the Preliminary Plat application with the Planning Director and shall comply with the requirements established in Appendix A.

(E) **Completeness.**

- (1) The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of Section 2.6.

- (2) Reviewing agencies shall act on a plat within thirty (30) days after the date the Preliminary Plat is found to be complete. A plat is deemed approved by a reviewing agency unless the reviewing agency has provided reasons for disapproval within the thirty (30) day period.
- (3) Upon finding that the application is complete and after consultation with the TRC, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with Section 2.10.

(F) **Planning Board Action.** The Planning Board shall conduct a Preliminary Forum.

(Ord. #1959)

(G) **Criteria**

- (1) The application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities;
- (2) The proposed Subdivision complies with the UDO and applicable state and federal regulations;
- (3) The proposed Subdivision, including its Lot sizes, density, access, and circulation, is Compatible with the existing and/or permissible zoning and future land use of adjacent property;
- (4) The proposed Subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties; and
- (5) The proposed public facilities are adequate to serve the normal and emergency demands of the proposed Development, and to provide for the efficient and timely extension to serve future Development.

(Ord. #2052)

(H) **Town Council Action.** The Town Council shall conduct an Evidentiary Hearing and shall approve, conditionally approve or deny the Preliminary Plat based on the preceding criteria. If the application is conditionally approved, the Town Council shall obtain written consent to conditions by the landowner ~~or permit Applicantsubdivider. The Town Council also shall approve, conditionally approve or deny the SUP based on the criteria~~

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~~established in the preceding paragraphs and in Section 2.21.6.~~ The **SUP Subdivision** shall not become effective until the Planning Director approves, and the Applicant records the Final Plat for the applicable area. (Ord. #1959)

(I) **Amendments.** Amendments to a Preliminary Plat shall be approved in the following manners:

- (1) Minor Amendments. Minor amendments may be approved by the Planning Director without filing a new Preliminary Plat. Minor amendments include the following:
 - (a) Changes in the internal alignment of streets that do not affect external properties or connectivity;
 - (b) Changes in internal Parcel boundaries that do not abut external property lines;
 - (c) Changes in Setbacks along internal property lines;
 - (d) Changes in the routing of trails and pedestrian ways;
 - (e) Adjustments in easements, utilities or drainage improvements identified as necessary during the preparation of Engineering Plans; or
 - (f) Changes in the orientation of Buildings on internal Parcels.
- (2) Minor plat amendment shall not include any of the following:
 - (a) Change in permitted uses or the density of overall Development permitted;
 - (b) Increased intensity of use as measured by the number of Dwelling Units or square feet of nonresidential Building area;
 - (c) Increased trip generation or demand for public utilities;
 - (d) Decreased public or private open space area; or
 - (e) Increased volume or velocity of stormwater runoff from the Development.
- (3) Major Amendments. Plat amendments not categorized as minor amendments in the above paragraph require the filing and approval

of a new Preliminary Plat. Such amendments may be processed concurrently with a Final Plat application at the option and risk of the Applicant.

(J) **Effect of Approval**

- (1) The Preliminary Plat governs the preparation of Engineering Plans and the final Subdivision plat, which must be submitted for approval and recordation upon fulfillment of the requirements of this chapter.
- (2) The approval is valid so long as the Applicant receives and maintains a valid Development Approval per this ordinance.
- (3) If a Final Plat is not submitted within the period of Development Approval validity, the Preliminary Plat approval shall be void.
- (4) Approval of the Preliminary Plat by the Town Council shall not be deemed final approval of the overall Subdivision.

(K) **Recording Procedures.** A copy of the Preliminary Plat shall be kept on file in the planning department offices.

(Ord. #1718; Ord. #1919)

2.20.5. Engineering Plans (Site Plans)

- (A) **Purpose.** To establish an efficient process to ensure that public improvements associated with private Developments are consistent with the Town's design standards and that improvements are documented in a way that facilitates the long-term management and enhancement of public infrastructure.
- (B) **Applicability.** Following approval of the Preliminary Plat, the Applicant shall have prepared, by a professional engineer registered in the State of North Carolina, Engineering Plans consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, street lights, sanitary sewers, stormwater facilities, water system facilities, sidewalks, and other improvements required by this chapter. Landscape plans shall be prepared by a Registered Landscape Architect.

Chapter 3. Zoning

Chapter 3 Contents

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3.7.	Use Matrix and Interpretation	3-34

3.1. PURPOSE

It is the purpose of this chapter to establish and adopt zoning districts to govern the use of land and water in the Town.

3.2. OVERVIEW AND APPLICABILITY

This chapter of the UDO establishes conventional, conditional, and overlay zoning districts; the official Zoning Map, as well as the rules for its maintenance, amendment, interpretation and replacement; the use matrix, which identifies the land uses and the types of approvals required for each authorized land use; and the rules for interpretation of the use matrix.

(Ord. #1919)

3.3. ESTABLISHMENT OF ZONING DISTRICTS

The following zoning districts are declared to be in effect upon all land and water areas included within the boundaries of each district as shown on the Official Zoning Map (see rules for interpretation of boundaries in section 3.4 of the UDO). After adoption of the UDO, amendments to the Zoning Map shall be made by Plat, legal description or metes and bounds description, which shall be the best evidence of the boundaries, amended or created, and shall control unless a scrivener's or other error in such plat or description is manifestly contrary to the intent of the amending ordinance.

3.3.1. Conventional Districts

The following conventional districts are established.

(A) Residential

- (1) RE – Rural Estate
- (2) RR – Rural Residential
- (3) RS-1 – Residential Single-Family
- (4) RS-2 – Residential Single-Family
- (5) RS-3 – Residential Single-Family
- (6) RM-1 – Residential Multi-Family Medium Density
- (7) RM-2 – Residential Multi-Family Low Density

(B) Non-Residential or Mixed Use

- (1) CB – Central Business
- (2) GB – General Business
- (3) NB – Neighborhood Business
- (4) OS – Office/Service
- (5) I – Industrial
- (6) FRR – Facilities Resource and Recreation

(C) PD - Planned Development District

3.3.2. Conditional **Zoning** Districts

Where the Town Council finds that the application of conventional district rules may be contrary to either the purposes of this UDO or to implementation of the Comprehensive Plan due to the conditions of a site or adjacent properties, and only in response to a petition by all owners of the property to be included, it may establish a eConditional Zoning dDistrict and establish additional use and or design standards if consented to by the petitioner(s) in writing. Conditional Zoning dDistricts shall be designated with the base corresponding conventional district designation and followed by the letters "CD".

(Ord. #1919)

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(G) Public Health Regulations

- (1) Public health, in general. No activity, situation, structure or land use shall be allowed within the Watershed, which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and Hazardous Materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.
- (2) Abatement. The Planning Director shall monitor land use activities within the Watershed areas to identify situations that may pose a threat to water quality.
- (3) Where the Planning Director finds a threat to water quality and the public health, safety and welfare the Planning Director shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.
- (4) Stormwater runoff from Development should be transported by vegetated conveyances to the maximum extent practicable

3.6.9. FHO - Flood Hazard Overlay

- (A) Purpose
The **FHO** district is established as an overlay district of all general zoning districts for the purpose of protecting people and property from the hazards of flooding.
- (B) Areas of Applicability
The flood hazard districts are further described in section 4.13 of this UDO.
- (C) District Development Standards
All Development shall comply with the provisions of section 4.13 of this UDO.

3.7. USE MATRIX AND INTERPRETATION

3.7.1. Table of Authorized Uses Established

Exhibit 3-15 lists the Principal Uses allowed by right within zoning districts as well as uses that may be authorized subject to approval of a Conditional Zoning District or Special Use Permit. Function codes of the Land Based Classification Standards (LBCS) of the American Planning Association (APA) correspond to the authorized uses and shall be used to define uses. All uses are subject to the standards and regulations within this UDO.

- (A) **LBCS Hierarchy.** The LBCS function codes establish a four-digit hierarchy of uses with digits to the right expressing greater specificity. Where no entry appears in the zoning district columns of Exhibit 3-15 (for example 1000, 1100 and 1110), the uses described more specifically in the rows below (1111 and 1112 in the above example) indicate whether or not a specific use is authorized. Where an entry appears in the zoning district columns of Exhibit 3-15 for a general use (for example 2520) and also for a more specific use (for example 2521) within the same classification, the more specific code and its entry shall govern.
- (B) **Zoning Permit Uses.** A “Z” indicates the listed use is allowed by right within the respective zoning district subject to issuance of a zoning permit in accordance with the procedures established in chapter 2. Note that some conditionsstandards for development of the listed use may be established in the zoning district standards or elsewhere in this UDO.
- (C) **Supplemental Conditions.** A “ZS” indicates that the listed use is allowed by right, but is also subject to supplemental use regulations established in the zoning district regulations and in Articles 4 and/or supplementary conditions for specific uses set forth in Chapter 5 of this UDO.
- (D) **Conditional Zoning.** A “CZ” indicates that the use is only allowed in a Conditional Zoning district in accordance with the procedures established in Chapter 2.
- ~~(D)~~(E) **Special Uses.** A “~~CSU~~” indicates the listed use is allowed within the respective zoning district only after approval of a Special Use Permit by the Town Council in accordance with the procedures established in chapter 2.

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Specific conditions for some of these uses are ~~established in chapter 6~~
~~of set forth in Chapters 3, 4, 5, 6 and/or 9 as applicable in~~ this UDO.

~~(E) Combination Uses~~

- ~~(1) The designation "ZC" is used for Combination Uses when one or more of the Principal Uses requires a Special Use Permit.~~
- ~~(2) Under some circumstances, a second Principal Use may be regarded as accessory to the first and thus a Combination Use is not established. [See section 5.3]~~
- ~~(3) When two or more separately owned or separately operated enterprises occupy the same Lot and all such enterprises fall within the same Principal Use Classification, or the Planning Director finds that the Principal Use Classification are substantially similar, this shall not constitute a Combination Use.~~

(F) ~~Multi-Family Structures and Townhouses~~. When used in connection with Multi-Family Residential structures, the designation "ZC" means that:

- (1) Development of apartments with fewer than ten (10) Dwelling Units may be established pursuant to a zoning permit. ~~and~~ Developments of (10) or more Dwelling Units shall be developed as part of a PD.
- (2) ~~Townhouses require a Special Use Permit when major Subdivision regulations apply and when six (6) or more Townhouse Lots are created. Developments of between ten (10) and forty-eight (48) Dwelling Units, with no more than sixteen (16) Dwelling Units in a single building, shall only be permitted in a Conditional Zoning district.~~
- (3) ~~Condominium Developments shall be developed as part of a PD when ten (10) or more Dwelling Units are proposed in a Development Project. Developments of forty-nine (49) or more Dwelling Units shall be developed as part of a PD.~~

(Ord. # 1919; Ord. #2000)

3.7.2. Interpretation of Exhibit 3-15

- (A) **Uses Not Specifically Listed.** In the case where a use is not listed in the use matrix, either as a specific LBCS classification or as an example, and such

use is not otherwise prohibited by law, the Planning Director shall determine whether a substantially similar use exists in the use matrix. If the Planning Director determines that a substantially similar use exists, then the regulations governing that use shall apply to the particular use not listed. In making the Determination, the Planning Director shall endeavor to maintain the national standardization of the LBCS while addressing the Town's particular needs for zoning and land use classification, and shall refer to the following rules of construction:

- (1) If a use is listed for a general classification while a more specific classification within the same industry classification is also listed, the specific classification shall govern.
- (2) The presumption established by this chapter is that most uses of land are permissible within at least one zoning district in the Town's Planning Jurisdiction. Therefore, because the list of permissible uses set forth in Exhibit 3-15 cannot be all-inclusive; those uses that are listed shall be interpreted liberally by the Planning Director to include other uses that have similar impacts to the listed uses.
- (3) If the Planning Director determines that the LBCS Tables do not address the use at the appropriate level of specificity, then he shall refer to the North American Industry Classification System (NAICS), United States, 2007 or latest edition for guidance.
- (4) In referring to the NAICS, the Planning Director shall consider the industry description and illustrative examples of the most specific NAICS classification that may apply to the use, and shall compare uses across similar levels of specificity within the same NAICS classification and between NAICS and LBCS classifications.
- (5) If a use cannot be interpreted by the Planning Director for inclusion in Exhibit 3-15, that use shall be prohibited. Exhibit 3-15 shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.
- (6) If, when seeking periodic ratification of interpretations through text amendment to this UDO, the Planning Director's interpretation is reversed by action of the Board of Adjustment, then prior decisions

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regarding a Development application made in reliance on the Planning Director's interpretation shall be valid, except that nonconforming use regulations of this UDO shall apply.

(B) Prohibited Uses

The following uses are specifically prohibited in all districts:

- (1) Any use that involves the manufacture, handling, sale, distribution or storage of any highly combustible or explosive materials in violation of the Town's fire prevention code.
- (2) Stockyards, slaughterhouses, rendering plants.

- (3) Use of a Travel Trailer as a temporary or permanent residence. Situations that do not comply with this paragraph on the effective date of this chapter are required to conform within one year.
- (4) Use of a motor vehicle parked on a Lot as a structure in which, out of which or from which any goods are sold or stored, any services are performed, or other business is conducted. If the aforementioned motor vehicle existed on the current Lot prior March 13, 2002, the motor vehicle shall qualify for an exemption hereunder and shall not be subject to removal or penalty as set forth herein provided that appropriate screening be accomplished and approved by staff.

Exhibit 3-15: Table of Authorized Land Uses

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
RESIDENCE OR ACCOMMODATION FUNCTIONS	1000	Homes, apartments, housing for the elderly, and hotels													
Private Dwelling	1100	Single-Family homes, doubles, apartments, Condominiums, mobile homes, Townhouses; excludes households with special provisions													
Single-Family	1110														
Single-Family detached	1111	Typical Single-Family Dwelling	Z	Z	Z	Z	Z	Z	Z	Z S		Z	Z		
Single-Family attached (Townhouses) (Ord. # 1716)	1112	Each Dwelling Unit on a separate Lot; fire wall may protrude from roof or roofs may be staggered						Z S	Z S	Z S		Z S	Z S		
Class A Single-Family Manufactured Home	1113	modular homes and other structures that comply with the NC Residential Building Code as amended	Z	Z	Z	Z	Z	Z	Z	Z S					
Class B Single-Family Manufactured Home	1114	Manufactured Homes that comply with HUD standards and other local criteria		Z											
Class C Single-Family Manufactured Home	1115	Manufactured Homes that comply with HUD standards and do not meet the standards for Class A or Class B Manufactured Homes		<u>CSU</u>											

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Manufactured Home Park	1116	a group of three or more spaces for sale or lease that are designed to accommodate Manufactured Homes		CSC <u>Z</u>											
Two-Family (double or Duplex)	1120				<u>CZ</u>			Z	Z	ZS		Z	Z		
Accessory Dwelling	S1130		ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		
Multi-Family	S1200	Three or more Dwelling Units													
Multi-Family	1151	Three or more Dwelling Units						ZC	ZC	ZC		ZC	ZC		
Multi-Family Conversion	1152	Three or more Dwelling Units in a converted Single-Family home						ZC	ZC	ZC		ZC	ZC		
Multi-Family Condominium	1153	Three or more Dwelling Units that are individually owned and common elements owned by the unit owners as tenants-in-common						ZC	ZC	ZC		ZC	ZC		
Housing Services	1200	Housing and custodial services for those who cannot care for themselves													
Retirement housing services	1210	Offer minimal convenience services						ZS	ZS						
Congregate living services	1220	Provide convenience services such as housekeeping, transportation, recreational programs						ZS	ZS						
Assisted-living board and care and adult care group homes	1230	Adult care, group homes, board and care (excludes rehab uses in code #6520)	ZS	ZS	ZS	ZS	ZS	ZS	ZS		ZS	ZS	ZS		
Continuing care retirement center (PD zoning required)	1240	Continuing care retirement centers; includes some health care													
Nursing or convalescent home	1250	Nursing homes and convalescent hospitals						ZCC <u>Z</u>	ZCC <u>Z</u>		ZCC <u>Z</u>				
Hotels, Motels, or Other Accommodation Services	1300	Lodging and short-term accommodation for travelers													
Bed and Breakfast Home	1311	Primarily in private homes and small Buildings	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		
Bed and Breakfast Inn	1312	Primarily in private homes and small Buildings	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>			
Tourist Home	1313	A Dwelling Unit used for periods of less than 30 days								ZS	ZS		ZS		

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Rooming and boarding	1320	Dormitory, fraternity or sorority house or other specific group of members						Z	Z	ZS			ZS		
Hotel or motel	1330	Hotels or motels that do not have gambling services; includes extended-stay hotels								ZSC Z	ZSC Z		ZSC Z		
GENERAL SALES OR SERVICES	2000	Comprises the vast majority of establishments associated with commercial land use													
Retail Sales or Service and Repair	2100	Establishments with displays of merchandise sold to the general public and other businesses, or after-sales services such as repair													
Automobile sales or service establishment	2110	Motor vehicle and parts dealers including repair and maintenance													
car dealer	2111	New or used automobiles and light trucks such as SUV's									Z				
bus, truck, mobile homes, or large vehicles	2112	New or used larger vehicles such as buses, RV's, and trucks									Z				
motorcycle, atv	2113 a	New or used motorcycles or motorbikes									Z				
bicycle sales and repair	2113 b	New or used bicycles sales or repair								Z	Z	Z			
boat or marine craft dealer	2114	New or used boats and related repair services									Z				
parts, accessories, or tires	2115	Automotive parts and supply stores, automotive stereo stores, tire and tube shops									Z				
gasoline service	2116	Gas stations with or without convenience stores or food marts, includes truck stops									Z				
automotive repair and maintenance	2117	Repair garages, body and paint shops, oil change, car wash									Z				
Heavy consumer goods sales or service	2120	Heavy or durable goods sales or services													
furniture or home furnishings	2121	Furniture, flooring, bedding stores, window treatment								Z	Z				

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
hardware, home center	2122	Home building and repair supplies, lighting supply									Z				
lawn and garden supplies	2123	Nursery and garden products predominantly grown elsewhere, outdoor power equipment sales or services									Z				
department store, warehouse club, or superstore	2124	Large variety of goods									Z				
electronics and appliances	2125	Household-type appliances, tv's, stereos, including repair shops and cell phone stores									Z				
lumber yard and building materials	2126	Lumber yards and heavy building materials									Z				
heating and plumbing equipment	2127	Heating and plumbing equipment retailers; for heating and plumbing contractors who install or service, use the appropriate construction category									Z				
Durable consumer goods sales and service	2130	Wide range of product lines such as apparel, appliances, hardware, jewelry, etc.													
computer and software	2131	Computers and prepackaged software without other electronic equipment, including repair, support, and training								Z	Z				
camera and photographic supplies	2132	Primarily retail cameras and photographic supplies or retail with repair and film developing								Z	Z				
clothing, jewelry, luggage, shoes, clocks, sewing	2133	Including shoe repair and tailoring								Z	Z	Z			
sporting goods, toy and hobby, and musical instruments	2134									Z	Z				
books, magazines, music, videos, CDs, stationery, greeting cards, seasonal decorations, school and office supplies, etc,	2135									Z	Z				
Consumer goods, other	2140	Establishments that retail merchandise (except groceries or health items) not included in preceding codes													

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
florist	2141									Z	Z	Z			
art dealer, supplies, sales and service	2142	Including frame shops								Z	Z	Z			
tobacco or tobacconist establishment	2143									Z	Z	Z			
mail order or direct selling establishment	2144	Retailing other than in stores									Z			Z	
antique shop, flea market, thrift stores	2145									Z	Z	Z			
Grocery, food, beverage, dairy	2150	Retail food and beverage merchandise from fixed point-of-sale locations													
grocery store, supermarket, or bakery	2151	Included are meat and seafood markets and delicatessens								Z	Z				
convenience store	2152	Excludes those with fuel pumps								Z	Z	Z			
specialty food store	2153	Retail specialty food items such as coffee and gourmet foods								Z	Z	Z			
fruit and vegetable store	2154									Z	Z	Z			
beer, wine, and liquor store	2155									Z	Z	Z			
Health and personal care	2160	Retail health and personal care merchandise from fixed point-of-sale locations													
pharmacy or drug store	2161	Primarily retail prescription or nonprescription drugs								Z	Z	Z			
cosmetic and beauty supplies and personal grooming products	2162	Primarily retail cosmetics, perfumes, toiletries,								Z	Z	Z			
optical and contact lenses	2163	Retail prescription or nonprescription eyeglasses								Z	Z	Z			
Markets for farm produce or crafts	2199			ZS						ZS	ZS	ZS			ZS
Finance and Insurance	2200	Use this category when difficult to differentiate an establishment into a subcategory													
Bank, credit union, or savings institution	2210	Central banking functions								ZS Z	Z	Z	Z		

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Credit and finance establishment	2220	Credit card, sales financing, unsecured consumer lending, real estate credit, international trade financing								ZS/ Z	Z	Z	Z		
Investment banking, securities, and brokerages	2230	Securities underwriting, brokering, exchange services, managing portfolios								ZS/ Z	Z	Z	Z		
Insurance-related establishment	2240	Insurance underwriting, selling insurance								ZS/ Z	Z	Z	Z		
Fund, trust, or other financial establishment	2250	Pool assets on behalf of shareholders or beneficiaries								ZS/ Z	Z	Z	Z		
Pawn shop	2260										Z				
Real Estate, and Rental and Leasing	2300	Rent or lease assets													
Real estate services	2310	Lease real estate (except Buildings) such as Manufactured Home sites and vacant Lots; includes real estate appraisers								ZS/ Z	Z	Z	Z		
Property management services	2320	Manage real property for others													
commercial property-related, mini- or self-storage	2321	Lease Buildings not used as residences; includes mini-warehouses and self-storage Dwelling Units												Z	
rental housing-related	2322	Lease Buildings used as residences								ZS/ Z	Z	Z	Z		
Rental and leasing	2330	Rent tangible goods such as consumer goods and mechanical equipment to customers; excludes establishment primarily renting equipment with operators													
cars	2331	Lease passenger cars without drivers									Z				
leasing trucks, trailers, RVs, buses, aircraft, tugboats, etc.	2332	Drivers not provided									Z				
recreational goods rental	2333	Rent skis, canoes, bicycles, sailboats, motorcycles									Z				

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leasing commercial, industrial machinery and equipment	2334	Rent or lease office machinery and equipment, heavy equipment used for construction, well-drilling, telecommunications, manufacturing, institutional furniture									Z			Z	
consumer goods rental	2335	Rent personal and household-type goods and a range of consumer, commercial, and industrial equipment geared toward consumers									Z				
intellectual property rental	2336	Establishments that assign patents, trademarks, brand names, and franchise agreements								ZS Z	Z	Z	Z		
Business, Professional, Scientific, and Technical	2400	Perform professional, scientific, and technical services													
Professional services	2410	Services provided depend on worker skills and knowledge rather than equipment													
legal services	2411	Title abstract, lawyers, notaries								ZS Z	Z	Z	Z		
accounting, tax, bookkeeping, payroll services	2412									ZS Z	Z	Z	Z		
architectural, engineering, surveying and related services	2413	Architectural, engineering, Building inspection, surveying and mapping, and laboratory testing (except medical, veterinary, or auto emission)								ZS Z	Z	Z	Z		
graphic, industrial, interior design services	2414	Interior, industrial, and graphic design								ZS Z	Z	Z	Z		
consulting services (management, environmental technical)	2415	Advise and assist businesses on management, scientific, and technological issues								ZS Z	Z	Z	Z		
scientific research and Development services	2416	Conduct research or analyze in the physical, engineering, cognitive, or life sciences									ZS			Z	
advertising, media, and photography services	2417	Advertising, public relations, media buying agencies, direct mail advertisers, market research, translation providers								ZS Z	Z	Z	Z		

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
veterinary services	2418	Veterinary medicine, testing services for veterinary practitioners									ZS	ZS		ZS	
Administrative services	2420	Typical office establishments in any business area. Use as a default category for most office Buildings (nursing staffing)													
office administrative services	2421	Office administration such as billing, record keeping, personnel, organizational planning								ZS Z	Z	Z	Z		
facilities support services	2422	Provide operating staff for support services within a client's facilities, including janitorial, security, laundry services, etc.								ZS Z	Z	Z	Z		
employment agency	2423	Provide employee placement, temporary help								ZS Z	Z	Z	Z		
copy center, private mail center, other business support services	2424	Provide document preparation, telephone answering, telemarketing, court reporting, steno typing, FAX, etc.								ZS Z	Z	Z	Z		
collection agency	2425	Collect payments, compile credit information, repossess tangible assets								ZS Z	Z				
Travel arrangement and reservation services	2430	Promote or sell travel, includes convention and visitors' bureaus								ZS Z	Z	Z	Z		
Investigation and security services	2440	Provide detective, guard and patrol services, picking up and delivery of money, selling of security systems, remote monitoring of security systems									Z				
Services to Buildings and Dwellings	2450	Provide pest control, janitorial services, landscaping, carpet cleaning, etc.													
extermination and pest control	2451													Z	
janitorial	2452													Z	
landscaping	2453										Z			Z	
carpet and upholstery cleaning	2454										Z			Z	
packing, crating, and convention and trade show	2455										Z				

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Food Services	2500	Prepare meals, snacks, and beverages													
Full-service restaurant	2510	Provide services to patrons who order and are served while seated or in combination with takeout								Z	Z	Z			
Cafeteria or limited service restaurant	2520	Provide services to patrons who order or select items and pay before eating; may be consumed on Premises, taken out, or delivered								Z	Z				
drive-through restaurants	2521	Provides drive-in, drive-through or drive-up service to patrons; includes most fast-food restaurants									Z				
Snack or nonalcoholic bar	2530	Prepare and serve specialty snacks, such as ice cream, frozen yogurt, cookies, coffee, juices for consumption on or near the Premises, snowball stand								Z	Z	Z			
Bar or drinking place	2540	Bars, taverns, nightclubs primarily serving alcoholic beverages; may provide limited food and entertainment								Z	Z				
Mobile food services	2550	Prepare and serve meals and snacks for immediate consumption from motorized vehicles									ZS/ €	ZS		ZS	
<u>Food Truck Campus</u>											<u>CZ</u>				
Caterer	2560	Provide single event-based food services, including banquet halls with catering for wedding receptions, etc.								Z	Z	Z		Z	
Food service contractor	2570	Provide food services at institutional, governmental, commercial, or industrial locations based on contracts									Z			Z	
Vending machine operator	2580	Retail merchandise through vending machines that they service									Z			Z	
Personal Services	2600	Catch-all category for personal service establishments not classified elsewhere such as bail bonding, wedding planning, psychic services, etc.													
Personal care	2610	Hair, nail, and skin care and related personal care													
hair, nail, and cosmetic skin care	2611	Barber or beauty shop								Z	Z	Z			

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
dieting and weight reducing	2612									Z	Z	Z			
tanning salon	2614									Z	Z	Z			
electrolysis, ear piercing, and other personal care services	2616									Z	Z	Z			
Dry cleaning and laundry	2620														
coin-operated laundromat	2621									ZS Z	Z	Z			
dry cleaning and laundry	2622									ZS Z	Z	Z			
linen and uniform supply	2623										Z			Z	
Photofinishing	2630	Primarily engaged in developing film or making slides, etc.									Z			Z	
Parking Lot and parking garage	2640									Z	Z				
Special Services	2650														
massage therapist	2651									Z	Z				
tattoo parlor	2652									Z	Z				
adult establishment	2653										ZS				
adult cabaret	2654										ZS				
Pet and Animal Sales or Service (except Veterinary)	2700	Retails pets and other animals (except for farming purposes) and pet supplies, grooming, training, and care taking													
Pet or pet supply store	2710	Retail pets, pet foods, pet supplies								Z	Z	Z			
Animal and pet services and kennels	2720	Boarding, grooming, sitting, and training (except veterinary and horse boarding)													
animal services	2721	grooming and training	<u>ZS</u>								<u>ZS</u>	<u>ZS</u>			
animal boarding	2722	sitting and boarding	<u>ZS</u>	<u>ZS</u>							<u>ZS</u>			<u>ZS</u>	
pet cemetery	2723										Z				

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
MANUFACTURING AND WHOLESALE TRADE	3000	When captive services such as accounting are provide by a separate establishment, they are classified in the appropriate function code and not in manufacturing													
Foods, Textiles, and Related Products	3100	Produce food, tobacco, textiles, and leather													
Food and beverages	3110	Includes bakery and candy establishments that produce for later consumption; ice manufacturing												Z	
Tobacco manufacturing	3120													Z	
Textiles	3130	Textile mills, apparel manufacturers												Z	
Leather and leather substitute products	3140	Leather and leather substitutes such as rubber footwear												Z	
Wood, Paper, and Printing Products	3200														
Wood products	3210	Except furniture												Z	
Paper and printing materials	3220	Manufactures paper and offer printing-related products												Z	
printing and related support activities	3221	Establishments do not manufacture the stock that they print; for publishers and publishers that also print, use publishing or information codes									ZC			Z	
Furniture and related products	3230	Includes mattresses, window blinds, cabinets, fixtures												Z	
Chemicals, and Metals, Machinery, and Electronics Manufacturing	3300	Transform or refine chemicals or metals, and manufacture products from chemicals or metals													
Petroleum products	3310	Transform crude petroleum into usable products												CS <u>U</u>	
Chemicals, plastics, and rubber products	3320													CS <u>U</u>	
Nonmetallic mineral products	3330	Manufacture bricks, ceramics, glass, cement, concrete, statuary, stone products												CS <u>U</u>	

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Primary metal manufacturing	3340	Manufacture basic metal products, such as bars, rods, wires, and castings or finished products												CS <u>U</u>	
Machinery manufacturing	3350	Make machinery for particular applications, such as construction, ventilation, heating and cooling												Z	
Electrical equipment, appliance, and components manufacturing	3360	Manufacture computers, communication equipment, lighting equipment, batteries, motors, appliances												CS <u>U</u>	
Transportation equipment	3370													Z	
Miscellaneous Manufacturing	3400	Use for manufacturing establishments not classified elsewhere													
Jewelry and silverware	3410										Z C			CS <u>U</u>	
Dolls, toys, games, and musical instruments	3420										Z C			Z	
Office supplies, inks, etc.	3430	Except paper									Z C			Z	
Signs	3440										Z C			Z	
Wholesale Trade Establishment	3500	Normally operate from a warehouse or office, selling or arranging the purchase of goods to other businesses									Z C			Z	
Warehousing and Storage Services	3600	Operate warehouse and storage facilities for general merchandise, refrigerated goods													
Office and warehousing	3610										Z C			Z	
Warehousing	3620													Z	
Tankfarm	3630													CS <u>U</u>	
TRANSPORTATION, COMMUNICATION, INFORMATION, AND UTILITIES	4000														
Transportation Services	4100	Serve passengers and cargo movements													

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Air transportation	4110	Provide transportation for passengers or cargo using aircraft, excludes air courier (see 4160)													
air passenger transportation	4111	Provide scheduled and nonscheduled air transportation for passengers													CS U
air freight transportation	4112	Provide scheduled and nonscheduled air transportation of cargo without transporting passengers													CS U
airport and support establishment	4113	Provide air traffic control, operate airports and support airport operations such as rental of hangar space													CS U
aircraft and accessories	4114	Aircraft maintenance and repair (except factory conversions)													CS U
other air transportation	4115	Hot air balloon rides, helicopter rides, aerial tram and cable cars													CS U
Rail transportation	4120	Provide passenger and freight transportation and rail transportation support; use this category for establishments providing both transportation and support services, otherwise use the more specific subcategory													
rail passenger transportation	4121	For passengers only								Z					
rail freight transportation	4122	For freight systems only													
rail transportation support establishment	4123	Provide specialized services such as repair, maintenance, loading and unloading													
Road, ground passenger, and transit transportation	4130	Urban transit systems, charter and school bus transportation, taxis													
local transit systems--bus, special needs, and other motor vehicles	4133	Single-mode local transit systems other than rail									Z				
non-local and charter bus	4134	Non-local passenger buses for charter or for special needs transportation for elderly, infirm, or handicapped									Z			Z	

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
school and employee bus transportation	4135	Provide buses and other motor vehicles to transport pupils or employees												Z	
sightseeing	4136	Scenic or sightseeing land transportation								Z	Z				
taxi and limousine service	4137	Provide passenger transportation by automobile or van									Z			Z	
towing and other road and ground services	4138	Tow vehicles									Z			Z	
Truck and freight transportation services	4140	Provide over-the-road transportation of cargo using motor vehicles													
general freight trucking, local	4141	Provide local general freight trucking												Z	
general freight trucking, long-distance	4142	Provide long-distance freight trucking												Z	
Courier and messenger services	4160	Provide air, surface, or combined courier delivery services of Parcels and messages									Z			Z	<u>CS</u>
Postal services	4170	Operate the national postal service, including establishments that sort, route, and deliver on a contract basis									Z			Z	
national post office	4171									Z	Z			Z	
Pipeline transportation	4180	Use transmission pipelines to transport products, such as crude oil or natural gas													
Communications and Information	4200	Produce or distribute information													
Publishing	4210	Issue copies of works for which they usually possess copyright													
newspapers, books, periodicals, etc.	4211	Publish newspapers, magazines, books, databases, greeting cards, calendars, maps, and similar works								Z	Z		Z	Z	
software publisher	4212	Publish and reproduce computer software								Z	Z	Z	Z		
Motion pictures and sound recording	4220	Produce and distribute motion pictures and sound recordings													
motion picture and video production, publishing, and distribution	4221	Produce or distribute motion pictures, videos, television programs, or commercials									Z	Z	Z	Z	

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
motion picture viewing and exhibition services	4222	Operate movie theaters, drive-ins, film festival exhibitions								Z	Z				
sound recording, production, publishing, and	4223	Produce, distribute, or publish music and musical recordings or provide sound recording									Z			Z	
Tele-communications and broadcasting	4230	Provide point-to-point communications; if multiple services are shared between the same facilities, use this general category; if separate facilities are maintained for each type of service, then use a specific classification													
radio and television broadcasting	4231	Operate broadcasting studios and facilities for over the air or satellite delivery of radio and television programs								Z	Z			Z	
cable networks and distribution	4232	Operate studios and facilities or cable systems, direct-to-home satellite systems									Z			Z	
wireless telecommunications	4233	Operate, maintain or provide access to facilities for the transmission of voice, data, text, sound, or full motion picture video, cell towers									Z			Z	
towers and antennas 50ft tall or less	4233 a		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
towers and antennas taller than 50 ft	4233 b			<u>ESU</u>							<u>ESU</u>				<u>ESU</u>
telephone and other wired tele-communications	4234	Operate telephone networks	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Information services and data processing industries	4240	News syndicates and information data processing services													
online information services	4241	Internet access and service providers									Z	Z	Z	Z	
library or archive	4242	Provide library or archive services									Z	Z	Z	Z	
news syndicate	4243	Supply information such as news reports, articles, pictures and features to the news media									Z		Z	Z	
Utilities and Utility Services	4300	Provide utility services such as electric power, gas, water and sewage removal													

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Electric power	4310	Provide electric power generation, transmission, control, and distribution													
service distribution lines	4315		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
electric substations	4316										Z			Z	Z
Natural gas, petroleum, fuels	4320	Operate gas distribution systems, gas marketers, gas brokers, transmit and distribute gas													
natural gas service	4329	Provide natural gas service distribution to retail customers (includes distribution lines and valves)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Water, steam, air conditioning supply	4330	Public and private utility establishments that offer drinking water, water treatment, water supply, or hot or cool air supply													
drinking water	4331	Operate water treatment plants, filtration plants, pumping stations												Z	Z
water service	4339	Provide water service distribution to retail customers (includes distribution lines pumps and valves)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Sewer, solid waste, and related services	4340	Collect, treat, and dispose of waste materials													
hazardous waste collection	4341	Operate treatment and disposal facilities for hazardous waste, combine, collect, or haul hazardous waste materials												<u>CS</u>	
hazardous waste treatment and disposal	4342	Remediate and clean contaminated Buildings, soil, or ground water, abate asbestos, lead paint and other toxic material												<u>CS</u>	
solid waste collection	4343	Collect or haul hazardous waste, non-hazardous waste, or recyclable materials, operate waste transfer stations									<u>CSU</u>			<u>CS</u>	Z
solid waste combustor or incinerator	4344	Operate combustors and incinerators for the disposal of non-hazardous solid waste, includes compost dumps												<u>CS</u>	
solid waste landfill	4345	Operate landfills for the disposal of non-hazardous solid wastes												<u>CS</u>	

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
waste treatment and disposal	4346	Operate facilities for separating and sorting recyclable materials from non-hazardous waste streams												CS U	Z
septic tank and related services	4347	Pump septic tanks and cesspools, rent or service portable toilets												CS U	
wastewater treatment plants	4348													Z	Z
wastewater service	4349	Provide wastewater service distribution to retail customers (includes collection lines and lift stations)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
ARTS, ENTERTAINMENT, AND RECREATION	5000														
Performing Arts or Supporting Establishments	5100	Produce or organize and promote live presentations, excludes nightclubs													
Theater, dance or music establishment	5110	Companies, groups, or theaters that produce theatrical presentations, dance, dinner theaters, and live musical entertainment								Z	Z				
Sports team or club	5120	Professional or semi-professional sports teams or clubs participating in live sporting events													
Racetrack establishment	5130	Operate racetracks for events													
horse track	5131		Z	Z											
dog track	5132														
automotive track	5133														
Promoter of sports, performing arts, similar events	5140	Organize, promote, and manage performances, events													
Agent for management services	5150	Agents representing artists, athletes, entertainers, etc.								Z	Z	Z	Z	Z	
Independent artist, writer, or performer	5160	Independent individuals engaged in art, productions								Z	Z	Z	Z	Z	
Museums and Other Special Purpose Recreational Institutions	5200	Public and private museums, historical sites, zoos, and similar establishments													
Museum	5210									Z	Z	Z	Z		

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Historical or archeological institution	5220	Archeological sites, battlefields								Z	Z	Z	Z		Z
Zoos, botanical gardens, arboreta	5230													CS U	Z
Amusement, Sports, or Recreation Establishment	5300	Operate facilities offering activities and provide services													
Amusement or theme park establishment	5310	Operate a variety of attractions such as mechanical rides, water rides, games									CSU				
Games arcade establishment	5320	Operate arcades and parlors, except gambling, billiard, or pool								Z	Z	Z			
Casino or gambling establishment	5330	Except casino hotels, includes riverboat casinos, bingo halls, and video gaming terminals, or provide services such as Lotteries or off-track betting													
Miniature golf establishment	5340										Z				
Golf course	5350														
public golf course	5351	may include country club	Z	Z	Z	Z	Z	Z	Z						Z
private golf course	5352	may include country club			Z	Z	Z								Z
golf course resort	5353	may include club house, guest accommodations and/or residences that may be individually owned, but fall within the management of the resort													CZ
Marina or yachting club facility operators	5360	Operate docking and storage facilities for pleasure craft owners													
Fitness, recreational sports, gym, athletic club, multipurpose facility	5370	Includes archery and shooting ranges, horseback riding, ball parks and courts, fitness clubs, and more													
public facilities	5371		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z			Z
private facilities	5372									Z	Z	Z	Z	Z	
Horse Riding Stables	5373	not constructed pursuant to a residential Development Approval	Z	Z											Z
Bowling, billiards, pool	5380									Z	Z	Z			
Skating rink, roller skating	5390										Z				

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Camps, Camping, and Related Establishments such as trailer parks	5400	Operate sites to accommodate campers and their equipment, provide overnight recreational camps, may provide cabins, food services, washrooms, trailer parks	<u>CZ</u>	<u>CZ</u>											
Natural and other Recreational Parks	5500	All parks without special economic functions	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
EDUCATION, PUBLIC ADMINISTRATION, HEALTH CARE, AND OTHER INSTITUTIONS	6000														
Educational Services	6100	Offer teaching and learning													
Nursery or preschool	6110		<u>CZ</u>	Z	<u>CZ</u>	Z	Z	Z	Z	Z	Z	<u>CZ</u>	<u>CZ</u>		
Grade school	6120	Comprises all public, private, and specialty schools between the preschool and university level													
elementary	6121		€	€	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>
middle or junior	6122				<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>
senior or high	6123				<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>
special needs education services	6125	Offer specialized services such as for the physically or mentally disabled			<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		
adult education services	6126										Z				
College or university	6130				<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>VZ</u>			<u>CZ</u>
Technical, trade, or other specialty school	6140	Offer vocational and technical training													
beauty schools	6141										Z				
business management	6142	Offer courses in office procedures, secretarial skills, and basic office skills									Z				
computer training	6143	Except computer repair									Z				
driving education	6144										Z				
fine and performing arts education	6145	Dance, art, drama, and music schools									Z				
flight training	6146	Offer aviation and flight training									Z				

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
sports and recreation education	6147	Offer instruction in athletic activities									Z				
Public Administration	6200	All government functions, includes federal, state and local government agencies													
Legislative and executive functions	6210	Government and public administrative offices								Z	Z	Z	Z		
Judicial functions	6220	Civilian courts of law and correctional institutions								Z	Z	Z	Z		
court	6221									Z					
correctional institution or jail	6222	Facilities for the confinement, correction, and rehabilitation of offenders sentenced by a court												Z	
Other Government Functions	6300	Use this category for government owned establishments not classified elsewhere such as defense and national guard establishments								Z S	Z S			Z	
Public Safety	6400	Government-owned establishments providing fire and rescue, police, and emergency response services													
Fire and rescue	6410		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Police	6420	Includes combined police and fire departments	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Emergency response	6430	Provide ground or air transportation for medical relief purposes	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Health and Human Services	6500	Provide health care, social assistance, and associated services													
Ambulatory or outpatient care services	6510	Offer health care services directly to patients without providing inpatient services													
clinics and health spas (Ord. # 1716)	6511	Include physician offices, dentists, chiropractors, optometrists, licensed massage therapists, and other licensed or certified health care providers									Z	Z	Z		
family planning or outpatient care clinic	6512	Provide outpatient family planning services and outpatient care									Z	Z	Z		
medical or diagnostic laboratory	6513	Provide analytic or diagnostic services including medical imaging									Z				

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
blood or organ bank	6514										Z				
Nursing, supervision and other rehabilitative services, except	6520	Provide inpatient nursing and rehabilitative services and can accommodate patients for extended care, includes convalescent homes, nursing homes, inpatient care hospices, alcoholism or drug addiction rehabilitation, mental health Halfway Houses, group homes, and psychiatric convalescent homes	ESU	ESU	ZS						ZS				
Hospital	6530										ESU				
Health care facility	6540	Maximum of 25 beds for overnight care									ZS	ZS			
Social assistance, welfare, and charitable services	6560	Provide social assistance directly to individuals, does not offer residential or accommodation services except for Homeless Shelters													
child and youth services	6561	Offer services such as adoption, foster care, drug prevention services									Z	Z	Z		
child daycare	6562	Provide care for infants and preschool children, offer pre-kindergarten education programs	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	ZS	ZS	ZS		
community food services	6563	Collect, prepare, and deliver food for the needy, food banks, meal delivery programs and soup kitchens									Z	Z			
emergency and relief services	6564	Provide food, shelter, clothing, medical relief, resettlement to disaster victims									Z	Z			
other family services	6565	Hotline centers, suicide crisis centers, self-help organizations, etc.									Z	Z			
services for elderly and disabled	6566	Does not include housing for the elderly									Z	Z			
veterans affairs	6567										Z	Z			
vocational rehabilitation	6568	Provide job counseling, job training, and other vocational services									Z	Z			
homeless shelters	6569	Provide temporary residential or accommodation services									ESU				
Religious Institutions	6600	Churches, temples, synagogues, mosques													

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
small institution		Up to 250 seats in largest seating area		ZS							ZS	ZS			
other institutions		More than 250 seats in largest seating area		ZS							ZS				
Death Care Services	6700	Funeral homes, crematories, cemeteries													
Funeral home and services	6710	Includes funeral homes combined with crematories									Z	Z			
Cemetery or cremation services	6720														
cemetery accessory to religious institution			ZS	ZS							ZS	ZS			
free-standing cemetery															Z
crematorium											<u>CSU</u>			Z	
Associations, Non-Profit Organizations, Clubs	6800	Includes grant making, civic, professional, and similar organizations													
Labor or political organization	6810	Labor unions, political groups, and political fund-raising groups								Z	Z	Z	Z		
Business association or professional membership	6820	Promote the business interests of their members organization or of their profession								Z	Z	Z	Z		
Civic, social, or fraternal organization	6830									Z	Z	Z	Z		
CONSTRUCTION-RELATED BUSINESSES	7000	Build or demolish Buildings, leveling, earthmoving, excavating, land drainage; should reflect the location of the establishment and not where it is performing its services													
Building, Developing, and General Contracting	7100	Custom builders, general contractors, Developers, land Applicants, and construction management firms									Z			Z	
Machinery Related	7200	Contractors that install or utilize specialized machinery not generally used by other contractors, machinery installation, excavation, wrecking and demolition, structural steel erection contractors												Z	
Special Trade Contractor	7300	Specialize in construction activities such as plumbing, painting and electrical work													

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Carpentry, floor, and tile contractor	7310										Z			Z	
Concrete contractor	7320													Z	
Electrical contractor	7330										Z			Z	
Glass and glazing contractor	7340	Excludes automotive glass establishments									Z			Z	
Masonry and drywall contractor	7350	Includes bricklaying, drywall, and plaster work									Z			Z	
Painting and wall covering	7360										Z			Z	
Plumbing, heating, and air conditioning	7370										Z			Z	
Roofing, siding, or sheet metal contractor	7380										Z			Z	
Heavy Construction	7400	Provide heavy non-Building construction												Z	
MINING AND EXTRACTION ESTABLISHMENTS	8000														
Oil and Natural Gas	8100	Operate and develop oil and gas field properties													
AGRICULTURE, FORESTRY, FISHING, AND HUNTING	9000	Grow crops, raise animals, harvest timber, and harvest fish and other animals, may be described as farms, greenhouses, nurseries, or hatcheries													
Crop Production	9100														
Outdoor Production	9110		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Greenhouse Production	9140														
Greenhouse - no on-premises sales	9141		Z	Z						Z	Z	Z			Z
Greenhouse - sales of products grown on Premises	9142			Z							Z	Z			
Greenhouse - sales of products and related accessory products	9143										Z	Z			
Support Functions for Agriculture	9200	Includes dusting, spraying, fertilizing												Z	

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Animal Production	9300	Keep, graze, breed or feed animals in farms or feedlots													
Cattle ranch	9310		Z	Z											
Dairy cattle	9320		Z	Z											
Hog farm	9330		Z	Z											
Poultry and egg production	9340	Commercial facilities	Z	Z											
Domestic backyard chickens	9340 a	The keeping of up to 10 hens (no roosters) for personal use	Z	Z	Z	Z	Z	Z	Z						
Sheep and goats	9350		Z	Z											
Fish	9360		Z	Z											
All other animals	9370		Z	Z											
bees	9371		Z	Z	Z	Z	Z	Z	Z						
horses	9372	See Exhibit 4-1 regarding minimum Parcel size required for the keeping of horses. (Ord. # 1775)	Z	Z											
fur-bearing	9373		Z	Z											
Support functions	9380	Includes horse boarding and animal breeding	Z												
Forestry and Logging	9400		Z	Z											
Fishing, Hunting and Trapping	9500		Z	Z											
Unclassifiable or No Function	9900	Temporary placeholder until a code can be assigned													
Special Events	9910														
special home events (Ord. # 1716)	9911		Z	Z	Z	Z	Z	Z	Z						C
Other (Ord. # 1716)	9912		Z	Z											Z
Temporary Uses (Ord. # 1716)	9920	Temporary uses specifically authorized in applicable zoning districts by section 5-25 or 5-265.22	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z

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Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Subdivisions	9930														
major	9931		€	€	€	€	€	€	€	€	€	€	€	€	€
minor	9932		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Combination Uses	9940		ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC
Home Occupations	9950		ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		
Development Patterns	9960														
Cluster Subdivisions (sec. 6.1)	9961				ZS	ZS	ZS	ZS	ZS						
Conservation Subdivision (sec. 6.2)	9962		ZS	ZS											
Reserved	9963														
Small Lot Patterns (sec. 6.4)	9964							ZS	ZS						
Traditional Neighborhood Development (sec. 6.5)	9965							ZS	ZS						
Morganton Road (sec. 6.6)	9966														

(Ord. #1714; Ord. #1717; Ord. #1604; Ord. #1820; Ord. #1871; Ord. #2096; Ord. #3024)

Chapter 4. Development and Design Standards

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4.1. GENERALLY

The standards in this section are intended to be minimum standards for Development of Buildings, sites and infrastructure. Stricter standards or relief from standards may be established through the procedures in chapter 2, the zoning district standards in chapter 3, the specific use standards in chapter 5 or the Development Patterns in chapter 6.

4.2. LOT DEVELOPMENT STANDARDS

Lot development standards are summarized in Exhibit 4-1. Guidance for applying these is included in sections 4.2.1 (height), 4.2.2 (Setbacks), and 4.2.3 (lot size, density and width).

4.2.1. Height

- (A) Subject to the provisions of this section, unless specifically authorized as part of a PD or Conditional Zoning District, Buildings and structures shall not exceed the maximum heights established in Exhibit 4-1.
- (B) The height of a Building is the vertical distance measured from the mean elevation of the finished grade at the front of the Building to the highest point of the Building.
(Ord. #1959; Ord. #2040)
- (C) A story includes any Floor above the mean elevation of finished grade at the front of the Building. Where Floor levels are staggered, the number of stories is the number of Floors counting vertically from the point of the mean elevation of finished grade at the Building Front.
- (D) The base of any access door to a roof shall not be higher than six (6) inches above the lowest point of any parapet wall or six (6) inches above the lowest point of a roof's surface, whichever is greater. The top of a roof access point shall not be greater than nine (9) feet above the base of the door.
- (E) Roofs with slopes greater than seventy-five (75) percent are regarded as walls.
- (F) In the CB, and GB and PD-Districts, Buildings are limited to a maximum of three (3) stories with the ceiling of the top story not to exceed thirty-eight (38) feet in height. Buildings must have pitched or mansard roofs, or provide a parapet along any side facing a street.
(Ord. # 1716; Ord. #1959; Ord. #2040)

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- (G) In the I districts, Buildings are limited to a maximum of four (4) stories. Buildings must have pitched or mansard roofs, or provide a parapet along any side facing a street. Buildings that are taller than thirty-five (35) feet shall not be located within two-hundred (200) feet of a residential zoning district.

(Ord. #1959; Ord. #2040)

- (H) The following Buildings, where authorized by Exhibit 3-15, may be constructed to a Height of fifty (50) feet provided a sprinkler system and fire-resistant stairway enclosures shall be provided as required in the North Carolina State Building Code:

- (1) Government Offices;
- (2) Schools;
- (3) Religious Institutions;
- (4) Libraries, Museums, Art Galleries, Art Centers and Similar Uses;
- (5) Golf Course Club House, provided that the Building shall be located no closer than 500 feet to any property line or public Right-of-Way; that there shall be no occupied Floor height above 28 feet; that the Building shall not be more than three (3) stories; and that no Living Quarters shall be in the golf course club house;
- (6) Hospitals, Clinics and Other Medical Facilities in Excess of 10,000 square feet of Floor area; and
- (7) Post Offices.

- (I) Chimneys, church spires, water tanks, elevator shafts, scenery lofts and similar structural appendages not intended as places of occupancy are exempt from the height limitation set forth in this section, provided that not more than one-third (1/3) of the roof area is covered by such structures.
- (J) Heating and air conditioning equipment, solar collectors and similar equipment, fixtures and devices are exempt from the height limitation

set forth in this section, provided that they are set back from the edge of the roof a minimum distance of one (1) foot for every foot the feature extends above the roof surface. Screen or parapet walls shall be constructed to the height of any fixture taller than three (3) feet in height that would be visible from a street or residential property abutting the property.

- (K) Towers and antennas are allowed in all zoning districts to the extent authorized in Exhibit 3-15 (table of authorized land uses), and subject to the provisions of section 5.23.

- (L) Light standard heights shall not exceed the limits established in section 4.7(G).

- (M) Flagpoles and similar devices shall be limited to thirty-five (35) feet in Height.

4.2.2. Setbacks

- (A) **Setbacks Required.** Except as specifically provided in this section, or as authorized as part of a Variance, PD, Conditional Zoning district or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district, no portion of any Building, excluding eaves, decks, patios, steps and uncovered porches may be located on any Lot closer to any Lot line or to the street Right-of-Way line or centerline than is authorized in Exhibit 4-1. All Setbacks are expressed in feet and are minimum Setbacks unless otherwise noted. Additional Setbacks may be required to meet parking, landscaping, buffers or other standards specified in this chapter, the specific use standards of chapter 5 or the Development Pattern standards in chapter 6 of this UDO.

- (B) **Allowed Setback Encroachments.** A step, stoop, open porch, awnings or other appurtenances may extend up to five (5) feet into the Front Setback, provided such features do not impede pedestrian circulation or extend more than twenty-five (25) percent into the minimum Setback.

(C) **Setback Measurement**

- (1) Setback distances shall be measured from the property line or street Right-of-Way line to a point on the Lot that is directly below the nearest extension of any part of the Building that is substantially a part of the Building itself and not a mere appendage to it (such as a flagpole, etc.).
- (2) If the street Right-of-Way line is readily determinable (by reference to a recorded map, set irons, or other means), the Setback shall be measured at a right angle to such Right-of-Way line. If the Right-of-Way line is not so determinable, the Setback shall be measured from the street centerline.

(D) All Setbacks are subject to compliance with adopted Fire Code provisions.

(E) The following structures shall comply with all Setback requirements:

- (1) Gas pumps and overhead canopies or roofs; and
- (2) Substantially opaque fences or walls that exceed (6) six feet in height.

(F) Private roads or driveways that serve more than three (3) Lots, more than three (3) Dwelling Units or any non-residential use projected to generate traffic equivalent to three (3) or more Dwelling Units shall be treated as public streets for purposes of measuring front and exterior Side Setbacks.

4.2.3. Lot Size, Density and Lot Width

(A) **Minimum Lot Size Established.** Except as specifically provided in this section, or as authorized as part of a PD approval or Conditional Zoning district, or as allowed for a Development Pattern authorized in a specific zoning district, minimum Lot size shall comply with Exhibit 4-1. Larger Lots may be required to meet parking, landscaping, buffers or other standards specified in this chapter or Chapter 5 of this UDO.

(B) **Adequate Facilities Required.** The minimum Lot sizes set forth in this section are permissible only if adequate public water and sewer facilities are or can be made available to serve every Lot in accordance with the provisions of this chapter of the UDO. [For example, in some areas zoned RS-1 that are not served by public sewer, Lots may have to exceed the 10,000 square feet minimum required below in order to accommodate septic tanks. In such cases and in cases where Lots of less than 15,000 square feet are proposed and such Lots do not have access to sewage treatment facility or county sewer lines, the Health Department-Environmental Health Division shall review and approve proposed plans as provided in sections 4.15.11 and 4.15.12.

(C) **Additional Area Required for Additional Dwelling Units.** The “Additional Area” in the third column applies to the area required for each Dwelling Unit in addition to the first Dwelling Unit. In districts permitting Two-Family or Multi-Family Dwellings, where the area of the property is such that a portion remains after full requirements have been met for other Dwelling Units on the same property, the following rules shall apply in determining density and no relaxation of these rules shall be permitted by a variance. If otherwise permitted by the regulations of a district:

- (1) A total of two (2) Dwelling Units shall be permitted on a Lot containing area for one (1) Dwelling Unit and 95% of the area for the second.
- (2) A total of three (3) Dwelling Units shall be permitted on a Lot containing area for two (2) Dwelling Units and 90% of the area required for a third.
- (3) A total of four (4) Dwelling Units shall be permitted on a Lot containing area for three (3) Dwelling Units and 85% of the area for a fourth.
- (4) One additional Dwelling Unit shall be permitted on a Lot containing area for four (4) or more Dwelling Units and 80% of the area required for the additional Dwelling Unit.

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(D) **Core Area Exemption.** There shall be no minimum Lot Area requirement for determining density in the following areas:

- (1) The portion of the CB district bounded by Connecticut Avenue, Massachusetts Avenue, Bennett Street and Ashe Street;
- (2) The block bounded by new Hampshire Avenue, Page Street, Pennsylvania Avenue, and Bennett Street; and
- (3) The block bounded by Broad Street, Wisconsin Avenue, Bennett Street and Illinois Avenue.

(E) **~~Combination Uses~~Calculating Dwelling Units density.** When a ~~Combination Use~~Development consists of different residential Dwelling Unit types, the total number of Dwelling Units permissible on the entire Tract shall be determined by dividing the area of the Tract by the minimum square footage per Dwelling Unit. The mix of Dwelling Unit types and Setback requirements may limit the ability to achieve the theoretical maximum density.

(F) **Credit for Dedicated Lands.** If an Applicant agrees to dedicate and the Town agrees to accept a portion of a Tract that lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway or bikeway, then the total acreage of the dedicated area and the remaining area of the Tract intended to be used for residential purposes shall be used to calculate the maximum

permissible density for the remainder of the Subdivision, subject to minimum Lot width requirements.

(G) **Minimum Lot Width.**

- (1) Except as specifically provided in this section, or as authorized as part of a Variance, PD or Conditional Zoning District, Exhibit 4-1 establishes minimum Lot widths.
- (2) Minimum Lot width is the shortest straight line connecting side Lot lines between the Front and Rear Setbacks.
- (3) No Lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a Building that could be used for purposes that are permissible in that zoning district and could satisfy any applicable Setback requirements for that district. Lots specifically created for equestrian access purposes and only as permitted in RE and RR districts are exempt from this requirement.
- (4) No Lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any Building Setback requirement.

(Ord. #1871)

4.3. LANDSCAPING

This section shall be known as the Town of Southern Pines Landscaping Code or Landscaping Code.

4.3.1. Findings and Purpose

The Council finds that:

- (A) The natural conditions (topography, vegetation and wildlife) typify the North Carolina Sandhills and Longleaf Pine Ecosystems, which are unique within North Carolina. These elements are of economic value to the Town and make it a desirable place for both residents and visitors.
- (B) The natural conditions are a strong aspect of the visual character of the Town and contribute to the economic prosperity.
- (C) The purposes of the landscaping standards are, in part:
 - (1) To create an appearance in all zoning districts, where manmade Development is situated within an urban forest; or
 - (2) To create plantings that screen or buffer visual pollution within the Town.
- (D) Development should preserve and/or create landscape conditions typical of the surrounding ecosystem and site conditions using native and culturally adapted plant materials in appropriate settings.
- (E) Growth and Development necessitates removal of trees, shrubs and soils. The landscaping plans shall address preservation of existing vegetation and soils.
- (F) The general goal is to improve property and community appearance, allow for the ecological benefits provided by plants, prevent the overcrowding of land and enhance the privacy and welfare of citizens by providing transition between differing land uses.

4.3.2. Applicability

- (A) The landscaping and buffering standards of this section shall apply to the following Development, except as specifically provided in this section, authorized as part of a Variance, PD, ~~Architectural Compliance Permit~~Conditional Zoning District or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district:
 - (1) All new Multi-Family, commercial, mixed-use and industrial Development;
 - (2) ReDevelopment that increases the number of required parking spaces by ten (10) or more spaces;
 - (3) Any expansion of a parking lot by ten (10) or more parking spaces.
- (B) All requirements shall run with the land use and shall apply against any owner or subsequent owner.
- (C) Land used toward achieving the requirements shall be on the same Lot or on property under the same permanent possession or control as the Lot on which the use is located.
- (D) The Airport Hazard Overlay District (see section3.6.7) includes a tree restriction in the approach zone to a height that projects above the upper surface of the approach zone. Within the approach zone is a clear zone in which trees are prohibited.

4.3.3. Street Trees

- (A) Street trees are an essential part of the Town streetscape. The Town seeks to maintain existing trees where possible and to encourage the planting and continuance of the established street tree patterns.
- (B) To accomplish this objective the following shall apply:

- (2) No person shall deposit, place, store or maintain upon any street Right-of-Way, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein.

4.4.7. Preservation and Removal on Private Property

The following provisions apply to Specimen Trees on private land:

- (A) Specimen trees shall be shown on all Preliminary Development Plans and located by survey on required Site Plans. The Planning Director may visit the site to determine the accuracy of identification. The location and identification of specimen trees shall be required if such trees are within one hundred (100) feet of areas of a Development site where soil disturbance or construction activity is proposed.
- (B) Proposed Development should be designed to maximize the preservation of specimen trees. Where specimen trees exist, flexible approaches such as adjustments to Lot layout, placement of Buildings and paved surfaces and location of utilities should be pursued in order to save them.
- (C) Saving a specimen tree shall constitute sufficient evidence that the requirements have been met for a variance application.
- (D) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any specimen tree to be preserved unless during Development application review it is determined there is no reasonable way the property can be developed without such disturbance.

4.5. OFF-STREET PARKING AND LOADING

4.5.1. Generally

This section 4.5 establishes the minimum requirements for the number of spaces and the design of parking areas. This section provides

administrative flexibility for the Planning Director to adjust the number of required spaces and the design of spaces to provide for adequate parking, accommodate unique site conditions and capitalize on the benefits of parking opportunities on-street or in shared parking areas.

4.5.2. Applicability

The requirements of this section shall be applicable to all new Development and changes of use that create the need for parking or increase existing parking demands, except as specifically provided in this section, authorized as part of a Variance, PD, Conditional Zoning District or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district.

4.5.3. Parking Space Requirements

- (A) All Developments in all zoning districts other than in portions of the central business area as established herein shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the Development in question. No off-street parking shall be required in the area bounded by Connecticut Avenue, Massachusetts Avenue, Bennett Street and Ashe Street.
- (B) Exhibit 4-6 establishes the minimum number of required off-street parking spaces that shall be provided for specified land uses. When determining the number of parking spaces, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.
- (C) The number and design of parking spaces for the disabled shall comply with the North Carolina State Building Code requirements for handicapped parking. Bicycle parking shall be designed and located in a manner that is consistent with the Town's Bicycle Transportation Plan.

- (S) Regulate the appearance and design of Signs in a manner that promotes and enhances the beautification of the Town, and that complements the natural surroundings in recognition of the Town's reliance on its natural surroundings and beautification efforts in retaining economic advantage for the community; and
- (T) Enable the fair and consistent enforcement of these Sign regulations.

4.6.2. Applicability

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

4.6.3. Substitution of Noncommercial Speech for Commercial Speech

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

(Ord. # 1716)

4.6.4. Severability clause.

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

(Ord. # 1716)

4.6.5. Determining the Number of Signs

- (A) For the purpose of determining the number of Signs, a Sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single Sign.
- (B) A multi-sided Sign shall be regarded as one Sign.
- (C) One (1) Logo Emblem Sign is allowed in addition to the permitted number of Wall Signs.

4.6.6. Computation of Sign Area

- (A) The surface area of a Sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the Sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
- (B) If the Sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the Sign area. The area between a Wall Sign and a Logo Emblem Sign is exempt from the computation of Sign area. In the instance an establishment has a Wall Sign and Logo Emblem Sign on the same frontage, the area between the Wall Sign and the Logo Emblem Sign will not count towards the computation of the Sign area; only the surface area of the Sign shall be included in the computation of the Sign area.

- (I) A Developer or homeowner's association may request non-standard street lighting within a Development provided that the street light fixture types and locations must be approved by the Town of Southern Pines; the Developer or homeowner's association shall be responsible for all installation costs and monthly operation costs associated with non-standard lighting; the Developer or homeowner's association shall be responsible for any costs associated with deletion of non-standard street lights and any costs associated with installing the Town's standard street lights prior to the expiration of the ten (10) year contract with Progress Energy; the Developer shall include all responsibilities of the homeowner's association pertaining to non-standard lighting in the Development covenants. The Developer shall inform all purchasers of property in the Development of these same responsibilities; non – standard street lighting shall not be used on arterial streets and the Developer or the homeowner's association will not have the option of deleting the private, non-standard street lighting at any time in the future. Staff consultation includes discussion of reflector caps or similar devices to reduce Light Pollution.
- (J) The Applicant, Developer, homeowner's association or other responsible organization representing the Subdivision Development will be responsible for the installation, maintenance and power consumption for all landscape lighting or any other device or fixture requiring electrical power.

4.8.8. Excessive Illumination

Lighting within any Lot that unnecessarily illuminates any other Lot and substantially interferes with the use or enjoyment of such other Lot is prohibited. Lighting unnecessarily illuminates another Lot if it clearly exceeds the standard set forth in section 4.15.6 or if the standard set forth therein could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

4.9. OPEN SPACE / GREENSPACE

This section 4.9 shall be referred to as the Town of Southern Pines Open Space Standards or open space standards.

4.9.1. Usable Open Space Required

- (A) Except as provided in paragraph (C) of this section or within a PD district, Conditional Zoning district or authorized Development Pattern, every residential new commercial, industrial, institutional and Multi-Family Development and Major Subdivision shall be developed so that at least fiveten (510) percent of the total area of the Development remains permanently as Usable Open Space.
- (B) For purposes of this section, Usable Open Space means an area that:
- (1) Is not encumbered with any substantial structure;
 - (2) Is not devoted to use as a roadway, parking area, or sidewalk, provided, however that Multi-user Trails may be counted towards required open space;
 - (3) Reflects the character of the land as of the date Development began. Wooded Areas shall be left in their natural or undisturbed state except for the cutting of trails for walking, bicycling or jogging. Areas not wooded shall be landscaped for open play fields, picnic areas or similar facilities, or be properly vegetated and landscaped with the objective of creating a Wooded Area or other area that is consistent with the objectives of this section;
 - (4) Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation;
 - (5) Is part of an independent Lot shown on the plan as being reserved for open space; and
 - (6) Is legally and practicably accessible to the residents of the Development from which the required open space subdivided

or to the public if the open space is dedicated to the Town pursuant to section 4.9.3.

(C) Areas Not Allowed as Open Space

The following areas shall not count toward common open space set-aside requirements:

- (1) Private Lots, Yards, balconies and patios dedicated for use by a specific Dwelling Unit;
- (2) Electric or gas transmission line rights-of-way;
- (3) Public Right-of-Way or private streets and drives;
- (4) Open parking areas and driveways for Dwellings;
- (5) Land covered by structures except for ancillary structures associated with the use of the open space such as gazebos and picnic shelters;
- (6) Designated outdoor storage areas;
- (7) Land areas between Buildings of less than forty (40) feet;
- (8) Land areas between Buildings and parking lots or driveways of less than forty (40) feet in width;
- (9) Required Setbacks; and
- (10) Detention/Retention facilities except as provided section 4.9.7.

(D) Subdivided residential Developments of five (5) or less ~~than twenty-five (25)~~ Dwelling Units are exempt from the requirements of this section ~~unless the Town agrees that it will accept an offer of dedication of such open space and in that case the offer of dedication shall be made.~~

4.9.2. Ownership and Maintenance of Recreational Areas and Required Open Space:

- (A) Open space required to be provided by the Applicant in accordance with these open space standards shall not be dedicated to the public but shall remain under the ownership and control of the Developer (or his successor) or a homeowners association or similar organization that satisfies the criteria established in section 4.9.4. Open space shall be designated as an independent Lot on the plat and shall be noted as being reserved for their intended purposes.
- (B) The person or entity identified in paragraph (A) as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.
- (C) Open space may be dedicated to a registered land trust, if approved by the Town Council.

4.9.3. Dedication of Open Space

- (A) If any portion of any Lot proposed for residential or commercial Development lies within an area designated on the officially adopted recreation master plan as a Neighborhood park or part of the greenway system or bikeway system, the area so designated (not exceeding ~~five~~ten (5~~10~~) percent of the total Lot Area) shall be included as part of the area set aside to satisfy the requirement of section 4.9.1. This area shall be dedicated to public use.
- (B) If more than ~~ten~~ five (5~~10~~) percent of a Lot proposed for ~~residential~~ Development lies within an area designated as provided in paragraph (A), the Town may attempt to acquire the additional land in the following manner:
 - (1) The Applicant may voluntarily dedicate the additional land to the Town;

4.9.8. Connectivity Required

To the maximum extent practicable, common open space shall be organized to create integrated systems of open space that connect with the following types of lands located within or adjacent to the Development:

- (A) Dedicated public park or greenway lands;
- (B) Dedicated school sites;
- (C) Other dedicated open spaces;
- (D) Common open space located adjacent to the Development;
- (E) Portions of the regional trail and open space system;

4.10. DEVELOPMENT DESIGN STANDARDS

(Ord. #1716)

4.10.1. Applicability

- (A) The commercial Building design standards of this section are applicable to the new Development and redevelopment of all commercial structures in any zoning district. The standards may be modified pursuant to Architectural Compliance Permit, Conditional Zoning district or Certificate of Appropriateness approval. For purposes of this section, redevelopment does not include any project that is considered routine maintenance, such as painting, re-roofing or replacement or repair of existing doors, windows, trim or existing walls. Remodeling that involves the change of an exterior portion of a Building shall comply with these standards for portion of the Building being changed.
- (B) These commercial Building design standards apply in a variety of settings, and the Town shall apply discretion to modify standards where the character and function of a site and neighboring Development justify such modifications.

- (C) The large-scale retail Development standards in section 4.10.6 provide an alternative Development Pattern for Developments with Buildings encompassing 25,000 or more square feet of retail and service space.

(Ord. #1703)

4.10.2. Purpose and General Principles

The integration of proposed Development, Building, or site improvement into the existing fabric of the Town is of critical public concern. The intent of design requirements is to assure respect for the character of the Town and reduce incompatible and adverse impacts on the community.

- (A) Proposed Development shall be located and configured in a manner that is visually harmonious with the terrain and vegetation of the Parcel and with nearby Parcels.
- (B) The design and configuration of structures and their materials and colors shall be visually harmonious with the overall appearance, history and heritage of the Town.
- (C) Structures shall demonstrate the general principles of good design including, but not limited to those dealing with form, mass, scale, height, texture and color. Specific consideration shall be given to Compatibility with adjacent structures and Neighborhoods and surrounding areas of the Town where the structures reflect the characteristics set forth in this section.

4.10.3. Site Design Requirements

(A) Building Continuity

- (1) Buildings along a block face shall provide a continuous Frontage, particularly where maximum Setbacks (build-to lines) require Buildings to be constructed close to the front property line. Building fronts may be recessed for allowed courtyards and outdoor dining facilities as provided in this section.

(E) **Parking**

- (1) Provide parking in small Lots that are designed and located to ensure that most parked vehicles are visible from one (1) or more Dwellings.
- (2) To the greatest extent practicable, parking shall not separate Dwelling Units from common open space.

(F) **Open Space**

- (1) Common Usable Open Space shall comprise ten (10) percent of the total project area.
- (2) Open spaces shall be configured so that the ratio of Building height to open space width is in the range of 1:3 or greater. Ratios as tight as 1:2 may be approved if landscaping effectively screens Buildings from each other.
- (3) Common open space shall be configured in square or nearly square areas with sides of at least one hundred (100) feet.
- (4) To the greatest extent practicable, Dwelling Units shall have access to common open space without having to cross a street.
- (5) Play Areas
 - (a) Play areas for young children should be physically separated from potential traffic hazards.
 - (b) Provide a variety of hard-surfaces areas in the form pathways that are least five (5) feet wide and small areas off the circulation system for various children's activities.
- (6) For Developments with more than twenty (20) Dwellings, provide on-site; well-equipped and challenging play areas for school age children within a five (5) minute walk from each Dwelling Unit.
 - (a) Provide places for school age children to sit.

- (b) Where possible include a space for ball games on site (minimum 80 feet x 40 feet).

- (7) Provide retaining walls that can also be used for casual seating.
- (8) Where cluster Dwellings are included in a project, ensure some uniqueness for each cluster. Vary the design (size, dimensions, grading, planting, site furniture and play equipment) of the common open spaces of each cluster.
- (9) The number of Dwelling Units grouped around common and open space should range between twenty (20) to one hundred (100).

(Ord. #1703)

4.11. TRANSPORTATION (STREETS)

4.11.1. Generally

~~These transportation provisions address the mobility needs within the Town of Southern Pines. In addition to addressing the design, function and access to public and private streets, these regulations address mobility for bicyclists and pedestrians and the necessary coordination of design between the public and private realms. The transportation standards of this section are applicable as described in each subsection and may be modified only as authorized as part of a PD or Conditional Zoning District.~~

(Ord. #1745, 7-10-18)

4.11.2. Street Classification

- (A) Whenever a new street is to be constructed, the street shall be defined by one of the classification provided in paragraph (B).
 - (1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day;

- (3) When open for business, the Food Truck, Trailer or Cart operator, or his or her designee, must be present at all times, except in cases of an emergency.
- (4) Food trucks, trailers and carts and any associated features of the operation including but not limited to trash receptacles and seating shall be removed from the Lot or Parcel each day.
- (5) The Food Truck, Trailer or Cart operator is responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Operators shall remove all waste and trash from their approved location at the end of each day or more frequently to maintain the health and safety of the public.
- (6) The operator shall keep all areas of the permitted Lot free and clean of grease, trash, paper, cups, cans or other materials associated with the operation. No liquid waste or grease is to be disposed in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of in the Town's sanitary sewer system.
- (7) All equipment required for the operation shall be contained within, attached to or within twenty (20) feet of the Food Truck, Trailer or Cart. All food preparation, storage, and sales-distribution shall comply with all applicable Town, County, State and Federal Health Department sanitary and safety regulations.

5.9.2. Food Truck Campuses

- (A) **Districts Where Allowed.** Food Truck Campuses shall be limited to the GB district and shall require an approval of a Special Use Permit subject Section 2.21 and Conditional Zoning district subject to the performance standards listed below.

(Ord. #1919)

- (B) **Location Requirements**

Amended

- (1) Food trucks, trailers or carts operating within a Food Truck Campus shall not be located on any public Right-of-Way.
- (2) Food trucks, trailers or carts operating within a Food Truck Campus shall be located on an improved surface to include but not limited to asphalt, concrete, stone or similar surface.
- (3) A maximum of six (6) food trucks, trailers or carts may operate concurrently on a Lot or Parcel. Additional food trucks, trailers or carts may be authorized to operate within a Food Campus, but no more than six (6) shall operate at any given time.
- (4) Food trucks, trailers or carts operating within a Food Truck Campus shall be located a minimum of one hundred (100) feet from the main entrance to any eating establishment or similar food service business, and one hundred (100) feet from any outdoor dining area, as measured from the designated location on the Lot or Parcel accommodating the food truck or trailer.
- (5) Food trucks, trailers or carts operating within a Food Truck Campus shall be located a minimum distance of fifteen (15) feet from the edge of any driveway or public sidewalk, utility box or vaults, handicapped ramp, Building entrance, exit or emergency access/exit, emergency call box or fire hydrant.
- (6) Food trucks, trailers or carts operating within a Food Truck Campus shall not be located within any area of the Lot or Parcel that impedes, endangers, or interferes with pedestrian or vehicular traffic.
- (7) Food trucks, trailers or carts operating within a Food Truck Campus shall not occupy any parking spaces required to fulfill the minimum requirements of the Principal Use of any Lot or Parcel, unless the Principal Use's hours of operation do not coincide with those of the Food Truck, Trailer or Cart business. Nor shall any retail sales - Food Truck, Trailer or Cart occupy parking spaces that may be leased to another business and used to fulfill its minimum parking requirements.

Ordinance #XXXX

ATTACHMENT A

Southern Pines Unified Development Ordinance

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

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

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

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

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

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

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

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

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

Right-of-Way: An interest in land to the Town, County or State that provides for the perpetual right and privilege of the Town, its agents, franchise holders,

Amended

2-13-24

Chapter 9. Definitions

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

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

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

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

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

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

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

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

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

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

Sign, Electronic Message Center: An electrically activated, changeable Sign with a variable message and/or graphic presentation capability that can be electronically programmed by computer from a remote location or at the Sign.

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