



**Town of Southern Pines
Monday March 28, 2016, 3:00 PM,
C. Michael Haney Community Room, Southern Pines Police Department
450 West Pennsylvania Avenue**

Worksession Agenda

- 1. Request to Discuss a Potential Ordinance Amendment to Chapter 4: Section 4.11. Transportation; Section 4.11.3 Access to Lots;, Petitioner, Nancy Garner**
- 2. Request to Discuss a Major Amendment to CU-01-05; Forest Creek Section 17; Airport Road; Petitioner, JSJ Builders Inc.**
- 3. Request to Discuss a Rezoning of Property Adjacent to Talamore Golf Club and a Major Amendment to CU-03-89; Talamore Golf Club; 1515 Midland Road; Petitioners, Black Point Development LLC & Talamore Partners Limited Partnership**
- 4. Request to Discuss a Major Amendment to CU-01-11; Tyler's Ridge; NC HWY 22; Petitioner, Tyler's Ridge Business Park LLC**
- 5. Discussion of a Draft Resolution Regarding a Proposed Southern Moore County Transportation Plan**
- 6. Discussion of an Appearance Commission Recommended Update to the Tree Removal Ordinance**

Work Session Agenda Item

To: Reagan Parsons, Town Manager
Via: Bart Nuckols, Planning Director
From: Chris Kennedy, Senior Planner
Subject: Request to Discuss a Potential Ordinance Amendment to Chapter 4: Section 4.11. Transportation: Section 4.11.3 Access to Lots; Petitioner, Nancy Garner
Date: March 28, 2016

The petitioner Ms. Nancy Garner is requesting to amend the Town of Southern Pines Unified Development Ordinance Chapter 4: Section 4.11. Transportation (Streets): Section 4.11.3 *Access to Lots*; to amend the existing ordinance language to include the RS-3 (Residential Single-Family – 3) zoning classification into the standards set forth in Section 4.11.3(c)(2) so that an easement can serve as the primary access for up to three (3) dwelling units in the RS-3 zoning classification.

Staff Comments:

- **Current Language from UDO:**

4.11.3(C) A private drive may be approved as the sole access for a Lot or Parcel subject to the following conditions:

- (1) It accesses a public or private street and is located on a perpetual easement not less than twenty (20) feet in width;
- (2) The easement serves no more than three (3) lots in the RE or RR zoning district or no more than twenty-five (25) dwelling units in a RS-1, RM, or PD zoning district;
- (3) Prior to recording of the plat, that delineates the Lot, restrictive covenants are recorded in the Moore County Registry that permanently establish the easement, provide for maintenance of the private drive and prohibit further division of any of the Lots served by the easement. If the private drive is part of a subdivision for Townhouses or Condominiums, the Lots may be served by a “Private Ingress/Egress/Access Easement” that is maintained by the “home owners association” and shall be clearly designated on Final Plat and in restrictive HOA documents.

- **Proposed Language:**

4.11.3(C) A private drive may be approved as the sole access for a Lot or Parcel subject to the following conditions:

- (1) It accesses a public or private street and is located on a perpetual easement not less than twenty (20) feet in width;
- (2) The easement serves no more than three (3) lots in the **RS-3**, RE or RR zoning district or no more than twenty-five (25) dwelling units in a RS-1, RM, or PD zoning district;
- (3) Prior to recording of the plat, that delineates the Lot, restrictive covenants are recorded in the Moore County Registry that permanently establish the easement, provide for

maintenance of the private drive and prohibit further division of any of the Lots served by the easement. If the private drive is part of a subdivision for Townhouses or Condominiums, the Lots may be served by a “Private Ingress/Egress/Access Easement” that is maintained by the “home owners association” and shall be clearly designated on Final Plat and in restrictive HOA documents.

- Section 2.17.10 outlines the criteria to be used by the hearing bodies in their consideration of an ordinance amendment.

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

1. No action;
2. Allow the petitioners to pursue this project through the required ordinance amendment processes as outlined in the Town of Southern Pines Unified Development Ordinance;
3. An action listed above with the following conditions...
4. Action not listed above...

Work Session Agenda Item

To: Reagan Parsons, Town Manager

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: Request to Discuss a Major Amendment to CU-01-05; Forest Creek Section 17; Airport Road; Petitioner, JSJ Builders Inc.

Date: March 28, 2016

On behalf of the petitioner, JSJ Builders Inc., Mr. Shane Sanders of SNS Engineering has requested to speak in front of the Town Council to discuss a major amendment to approved Conditional Use Permit CU-01-05. The Forest Creek development was originally approved under Conditional Use Permit application CU-05-89 as a PRD (Planned Residential Development). The approved CU-05-89 was modified in 2005 with Conditional Use Permit application CU-01-05. CU-01-05 was approved as a major modification to CU-05-89 adding 10.03 acres to the Forest Creek development, thereafter referred to as Section 17. Section 17 is platted with twenty (20) single-family residential home lots that access internally to Meyer Farm Drive. The petitioner is seeking a Major Amendment to the previously approved Conditional Use Permit CU-01-05 to remove Section 17 from the Forest Creek PRD, returning the development to a pre- CU-01-05 acreage, and to develop Section 17 as a stand-alone project separate from the Forest Creek development. Per the Moore County Tax records, the property owner(s) are listed as Forest Creek Investors, LLC, Forest Creek Property Owners Association, and The Rhodes Family Investments, Inc.

The property is identified by the following:

PIN:857300664119	PARID:20080662;
PIN:857300664068	PARID:20080654;
PIN:857300656932	PARID:20080652;
PIN:857300658706	PARID:20080650;
PIN:857300659670	PARID:20080648;
PIN:857300751447	PARID:20080646;
PIN:857300752607	PARID:20080644;
PIN:857300750822	PARID:20080660;
PIN:857300658957	PARID:20080658;
PIN:857300666183	PARID:20080656;
PIN:857300665229	PARID:20080663;
PIN:857300563143	PARID:00034211

Staff Comments:

- The property is an approximately 10.03 acre site included in Section 17 of the Forest Creek development.
- The property is currently zoned RS-3 and is a part of the PRD (Planned Residential Development) for Forest Creek.

- The plat recorded in September 2008 lists twenty (20) single-family lots. The roads and utilities have been installed for the development however no homes are currently built.
 - The current proposal shows a reduction in the number of lots from twenty (20) to nineteen (19).
 - The primary change in the proposal aside from its removal from Forest Creek, is the modification to the ingress and egress into Section 17. The existing entrance into Section 17 provides an internal access to Meyer Farm Drive. The proposal presents a scenario where the cul-de-sac is flipped to the internal side of the development with the only access to Section 17 shown directly onto Airport Road.
- The property has a 100' greenway buffer and trail along Airport Road and a 50' greenway buffer and trail along the side contiguous with the O'Neal School property.
 - The Town of Southern Pines has an easement for this greenway trail area to maintain the trail.
- CU-01-05 was approved with the condition that:
 - A mutually agreed upon pedestrian greenway trail easement be granted to the Town of Southern Pines prior to the construction of Section 17.
 - The greenway trail is to be built in accordance with the Town's specifications.
 - The greenway trail is to be constructed prior to issuance of any Certificate of Occupancy for any unit within Section 17.
- The requested modification to CU-01-05 and subsequent removal of the property from the Forest Creek PRD will require a Conditional Use Permit for a Major Modification to CU-01-05. If a removal from Forest Creek is approved, Section 17 will require a new Conditional Use Permit for a Major Subdivision. The new Conditional Use Permit as proposed with a 15,000 square foot minimum lot size will also necessitate a rezoning of the property due to the density proposed. The RS-3 zoning classification has a minimum lot size of 30,000 square feet. Section 17 is currently zoned RS-3 however the lots sizes are well below the 30,000 square feet minimum and permitted to be so due to the inclusion into the Forest Creek PRD; Planned Residential Developments may allow lots sizes to be reduced under the minimum lot sizes specified in the UDO so long as the overall density is not affected. The request to remove Section 17 from the Forest Creek PRD will render the existing lots non-existent as the property is no longer a part of the PRD density. If removed from Forest Creek, the property in Section 17 will act as a stand-alone project within the RS-3 zoning classification. To accommodate the request for lots with a 15,000 minimum lot size a rezoning to RS-2 with a request to utilize the Cluster Subdivision development pattern will be required. Cluster Subdivisions, per UDO Section 6.1, may allow the minimum lot size in the RS-2 zoning classification to be reduced to a minimum lot size of 15,000 square feet so long as the square footage amount deducted from 20,000 square feet is equally exchanged into usable open space.
- The entirety of the property is within the Nicks Creek Watershed.
- If removed from the Forest Creek development, Section 17 may be required to obtain a Watershed Protection Permit from the Town Council due to its location within the Nicks Creek Watershed. Should the project exceed the 24% impervious level the project will be required to apply for the 5/70 Exemption from the Town Council as part of the CUP application.

- The Watershed Protection Permit, if approved, will provide the project with the 5/70 exemption allowing the project to develop up to the 70% impervious surface level.
- Per UDO Section 2.21.13 Conditional Use Permit Amendments are subject to the following standards:
 - (A) An amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid CUP.
 - (B) Minor CUP amendments may be authorized by the Planning Director for shifts in on-site location and changes in height, area, or intensity of development by less than five (5) percent, or a five (5) percent or less increase in either impervious surface or floor area over what was originally approved provided that such minor changes comply with the following criteria:
 - 1) No previous minor modification has been granted pursuant to this section;
 - 2) There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property or any other contributing factor;
 - 3) Nothing in the currently valid CUP precludes or otherwise limits such amendment; and,
 - 4) The proposal conforms to the UDO and is in keeping with the spirit and intent of any adopted comprehensive plan.
 - (C) Major CUP amendments are any proposed amendment other than those defined above as Minor CUP amendments and shall be approved in the same manner and under the same procedures as the original approval.
 - Per UDO Section 3.5.4, the RS-2 zoning classification has a minimum lot size of 20,000 square feet and permits a density of approximately 2.1 dwelling units per acre.
 - The RS-2 zoning classification is established as a district in which to allow primarily low-density single-family residential land uses. The regulation of the RS-2 district are intended to:
 - Preserve existing single-family residential neighborhoods that have developed at a low-density; and,
 - Encourage new residential development that is compatible with that in the existing neighborhoods.
 - The setbacks for the property in the RS-2 zoning classification would be:
 - Front: 30.0'; Side: 10.0'; Exterior Side: 15.0'; Rear: 30.0'
 - Per Section 2.17.7 *Planning Board Action*; The Planning Board shall hold a legislative public hearing and shall render its recommendation in accordance with the procedures set forth in this chapter.
 - Per Section 2.17.8 *Town Council Action*;
- (A) Within thirty (30) days of the Planning Board recommendation, the application shall be submitted to the Council to review at a legislative public hearing.
- (B) The Council is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.
- (C) Following the hearing, the Council may approve, conditionally approve or deny the application. If the Application is denied, the Council shall advise the Applicant of the reason for denial.

- (D) The Council need not await the recommendations of the Planning Board before taking action on a proposed amendment, nor is the Council bound by any recommendations of the Planning Board that are before it at the time it takes action on a proposed amendment.
- (E) At the conclusion of the public hearing on a proposed amendment, the Council may proceed to vote on the proposed ordinance, refer it to a committee for further study or take any other action consistent with its usual rules of procedure.
- (F) Voting on amendments to this chapter shall proceed in the same manner as other ordinances, subject to the provisions for protests to zoning district changes as set forth herein.
- (G) Impacts. The council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.
 - Per Section 2.17.9 a Rezoning Application must satisfy the following criteria:

2.17.9 *Criteria for Zoning Map Amendments*

In its review of an application for a zoning map 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.* Rezoning shall be consistent with the adopted Comprehensive Plan.
- (B) *Adverse Impacts on Neighboring Lands.* The Hearing Body shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. The Town finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences, such as traffic congestion, air pollution, and social alienation. Accordingly, rezonings may promote mixed uses subject to a high degree of design control.
- (C) *Suitability as Presently Zoned.* The Hearing Body shall consider the suitability or unsuitability of the Tract for its use as presently zoned. This factor, like the others, should be weighed in relation to the other standards, and instances can exist in which the land may be rezoned to meet public need, to reflect substantially changed conditions in the neighborhood, or to effectuate important goals, objectives and policies of the Comprehensive Plan or UDO.
- (D) *Health, Safety, and Welfare.* The amending ordinance must bear a substantial relationship to the public health, safety or general welfare, or protect and preserve historical and cultural places and areas. The rezoning may be justified, however, if a substantial public need or purpose exists, even if the private owner of the Tract will also benefit.
- (E) *Public Policy.* Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with neighborhood, area, or specific plans.
- (F) *Size of Tract.* The Hearing Body shall consider the size, shape, and characteristics of the Tract in relation to the affected neighboring lands. Amendatory ordinances shall not rezone a single Lot when there have been no intervening changes or other saving characteristics. Proof that a small Tract is

unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify ordinance rezoning.

(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 use district rezonings, 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.*

- Once the Rezoning application has received a decision, the Conditional Use Permit application for a Major Subdivision shall be heard. Per Section 2.20.5 (H) The Town Council shall conduct a quasi-judicial hearing and shall approve, conditionally approve or deny the Preliminary Plat based on the preceding criteria. The Town Council also shall approve, conditionally approve or deny the CUP based on the criteria established in the preceding paragraphs and in Section 2.21.7. The CUP shall not become effective until the Planning Director grants approval of the Final Plat.
- Per Section 2.20.5 a Preliminary Plat must satisfy the following criteria: A Sketch Plat shall be required when an Applicant is applying for the subdivision of less than the entire, contiguous land area held in common ownership.*

2.20.5 (G) *Criteria for a Preliminary Plat*

The application is consistent with the approved Sketch Plat, if applicable. *Not applicable in this request

- (1) *The application is consistent with the approved Sketch Plat, if applicable.*
 - (2) *The application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities;*
 - (3) *The proposed subdivision complies with the UDO and applicable state and federal regulations;*
 - (4) *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;*
 - (5) *The proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties; and*
 - (6) *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.*
- Per Section 2.21.7 an Application for a Conditional Use Permit must satisfy the following criteria:

2.21.7 *Criteria for a Conditional Use Permit*

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

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

- (B) *The proposed conditional 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;*
- (C) *Adequate public facilities shall be provided as set forth herein;*
- (D) *The proposed use shall not impede the orderly Development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values within the neighborhood;*
- (E) *The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, comfort or general welfare; and,*
- (F) *The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use.*

Attachments:

- GIS Aerial Vicinity Maps
- Presentation Submitted by Petitioner

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

1. No action;
2. Allow the petitioner to pursue this project through the required CUP amendment, CUP, and Rezoning processes as outlined in the Town of Southern Pines Unified Development Ordinance;
3. An action listed above with the following conditions...
4. Action not listed above...

Forest Creek Request for Major Amendment to CU-01-05

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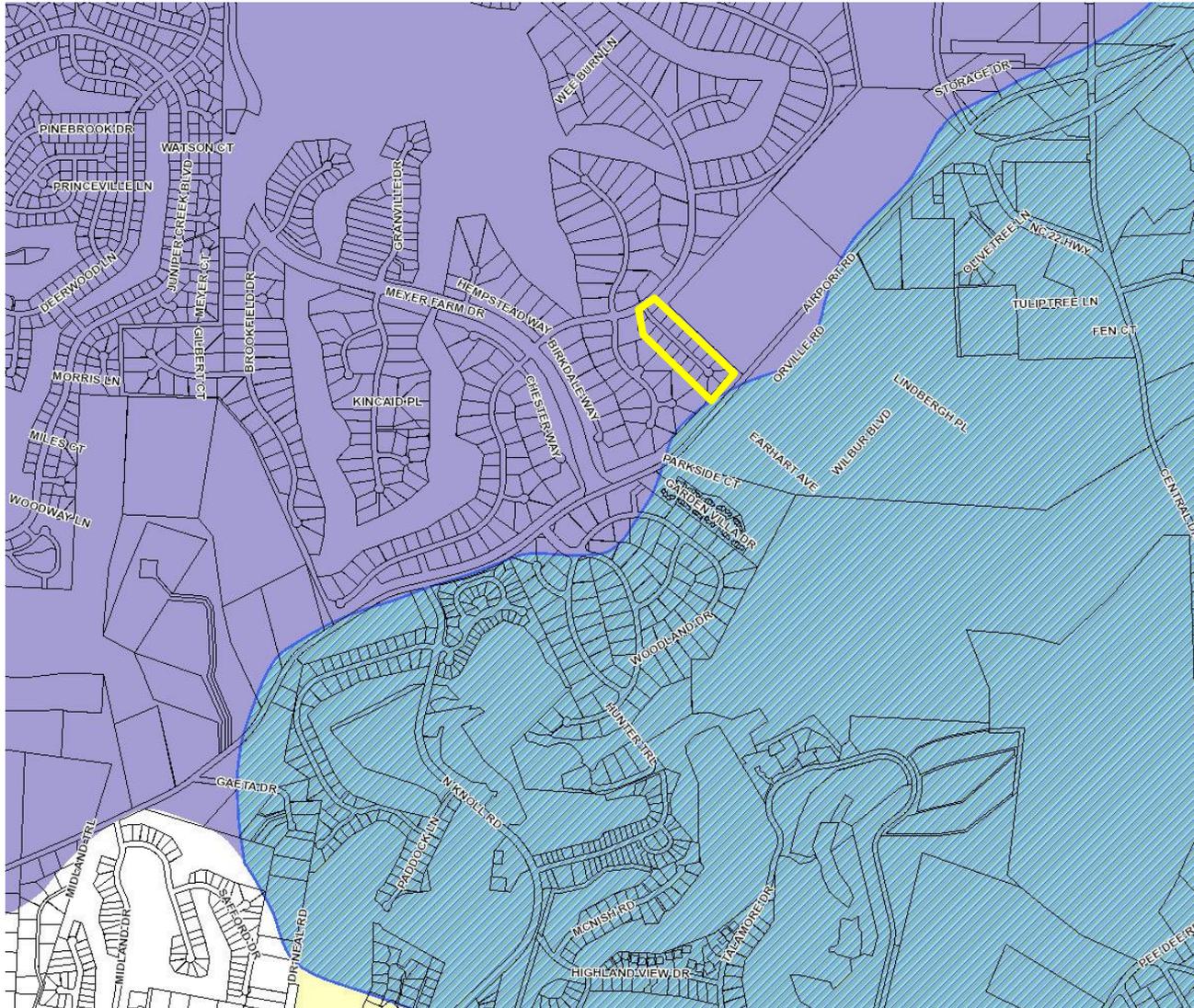
Forest Creek Request for Major Amendment to CU-01-05

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FOREST CREEK SECTION 17

SOUTHERN PINES, NORTH CAROLINA
TOWN COUNCIL WORK SESSION

MARCH 28, 2016

FOR:
JSJ BUILDERS, INC.



Site Information

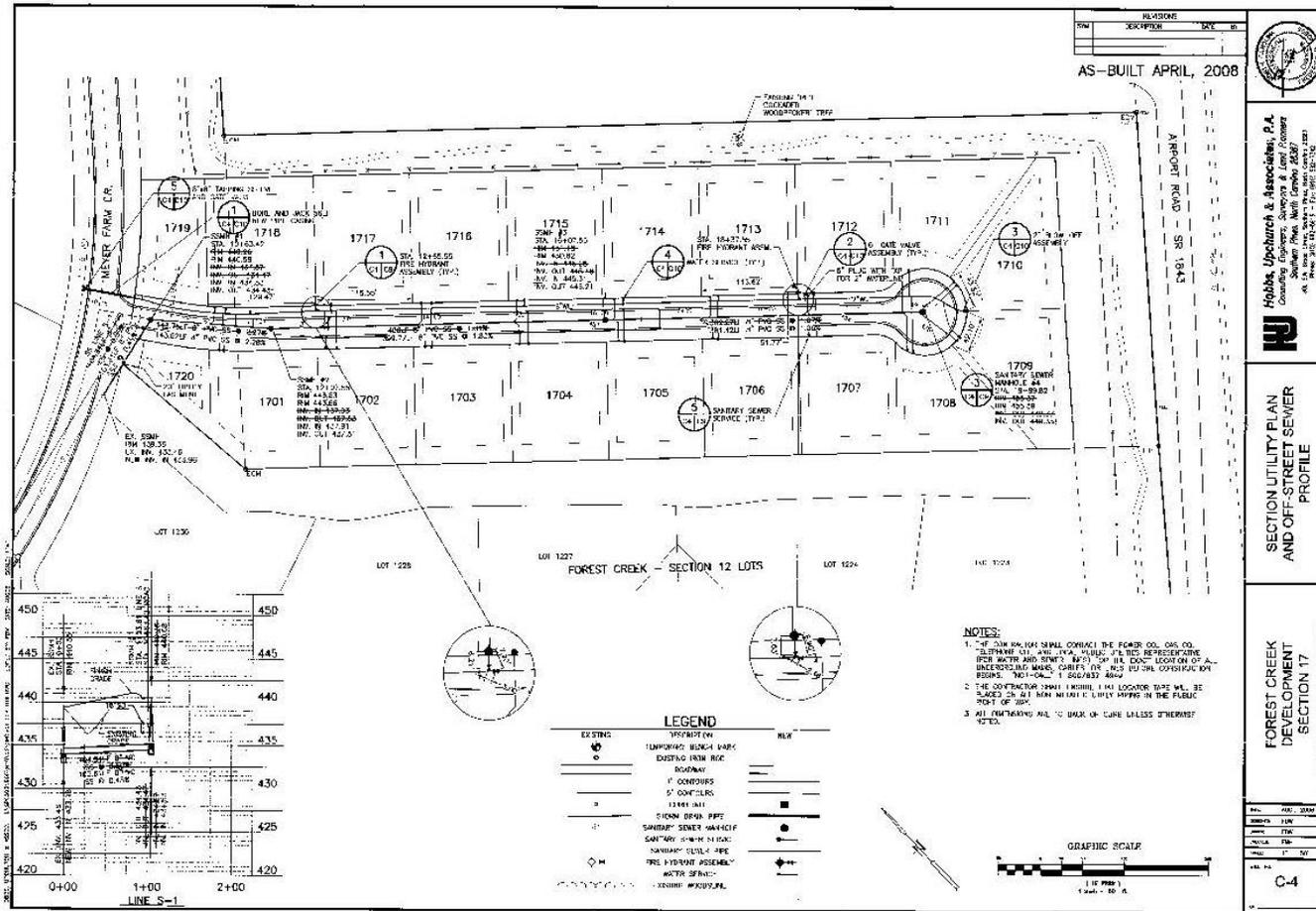
■ CURRENT DEVELOPMENT:

- Current Zoning: RS-3 (Conditional Use Permit)
- Currently 20 Single Family Lots
- 6,830 SF Minimum lot size.
- Original completion was in June, 2008.
- All utilities (water, sewer, power, storm drainage), associated services, and roadways have been installed to existing lot layout.
- Final plat recorded on September 19, 2008.
- No homes exist on any lot, all lots are vacant.

■ PROPOSED RE-DEVELOPMENT:

- 19 Single Family Lots.
- 15,000 SF Minimum lot size.

Utility As-Built Conditions



Existing Conditions



Work Session Agenda Item

To: Reagan Parsons, Town Manager

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: Request to Discuss a Rezoning of Property Adjacent to Talamore Golf Club and a Major Amendment to CU-03-89; Talamore Golf Club; 1515 Midland Road; Petitioners, Black Point Development LLC & Talamore Partners Limited Partnership

Date: March 28, 2016

On behalf of the petitioner, Black Point Development LLC and Talamore Partners Limited Partnership, Mr. Mike Rokoski has requested to speak in front of the Town Council to discuss a rezoning and subsequent major amendment to Conditional Use Permit CU-03-89. The application CU-03-89 approved a PRD (Planned Residential Development) and a golf course off of Midland Road for Talamore Golf Club. The petitioner seeks to rezone property adjacent to the Talamore Golf Club development from RS-2 to RS-1 CD, the same zoning approved for Talamore Golf Club, and incorporate the subject properties into the approved Master Plan for the Talamore Golf Club development. The proposal will utilize the existing density and approved dwelling unit total approved for the Talamore development. The subject property is identified by the following: PIN: 857208880154 (PARID: 00030890); PIN: 857208779873 (PARID: 00030889); and PIN: 857208779501 (PARID: 00030888). Per the Moore County Tax records, the property owner(s) are listed as Black Point Development, LLC.

Staff Comments:

- The proposal includes a development area of 13.96 acres. The subject properties to be added to the Talamore Golf Club development comprise an approximate 9.97 acres. The total project acreage of the Talamore Golf Club development 310.89 acres; adding the proposed properties will bring the total acreage for the Talamore development to 320.86 acres.
 - Portions of the subject property are currently in the Town of Southern Pines Extraterritorial Jurisdiction (ETJ) and not within the corporate limits of the Town, therefore a voluntary annexation request will also run concurrent to the CUP application at the Town Council public hearing to annex the entirety of the 13.96 acres into the Town limits.
- The Talamore Golf Club development is zoned RS-1 – CD (Residential Single-Family 1 – Conditional District).
- The subject properties to be added to the Talamore Golf Club development are currently zoned RS-2
- The neighboring properties are zoned RS-1-CD, RS-2, RM-2, and RS-3.

- The building setbacks for the RS-2 zoning classification are as follows:
 - Front: 30.0’; Interior Side: 10.0’; Exterior Side: 15.0’; Rear: 30.0’
 - The Talamore Golf Club development was approved under a Conditional Use Permit, CU-03-89 for the PRD and CU-04-89 for the golf course. The Talamore Golf Club development consists of 310.89 total acres. The golf course and open space comprise 169.05 acres.
 - The approved Talamore Golf Club development Master Plan allots 455 total dwelling units for the development. With a density of 1.46 dwelling units per acre.
 - Standard (1/3 acre) lots: 85 lots
 - Patio Homes: 207 lots
 - Townhomes: 163 lots
 - The standard lots have the following setbacks as per the approved Master Plan:
 - Front: 35.0’; Side: 15.0’; Rear: 35.0’
 - The patio home lots have the following setbacks as per the approved Master Plan:
 - Front: 20.0’; Side: 15.0’; Rear: 20.0’
 - Per the conditions of the original rezoning of the Talamore Golf Club development property, there shall be a fifty (50) foot wide natural buffer maintained adjacent to surrounding private property.
 - Per Section 2.17.7 *Planning Board Action*; The Planning Board shall hold a legislative public hearing and shall render its recommendation in accordance with the procedures set forth in this chapter.
 - Per Section 2.17.8 *Town Council Action*;
- (A) Within thirty (30) days of the Planning Board recommendation, the application shall be submitted to the Council to review at a legislative public hearing.
- (B) The Council is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.
- (C) Following the hearing, the Council may approve, conditionally approve or deny the application. If the Application is denied, the Council shall advise the Applicant of the reason for denial.
- (D) The Council need not await the recommendations of the Planning Board before taking action on a proposed amendment, nor is the Council bound by any recommendations of the Planning Board that are before it at the time it takes action on a proposed amendment.
- (E) At the conclusion of the public hearing on a proposed amendment, the Council may proceed to vote on the proposed ordinance, refer it to a committee for further study or take any other action consistent with its usual rules of procedure.
- (F) Voting on amendments to this chapter shall proceed in the same manner as other ordinances, subject to the provisions for protests to zoning district changes as set forth herein.
- (G) Impacts. The council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.
- Per Section 2.17.9 a Rezoning Application must satisfy the following criteria:

2.17.9 *Criteria for Zoning Map Amendments*

In its review of an application for a zoning map 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.* Rezoning shall be consistent with the adopted Comprehensive Plan.
- (B) *Adverse Impacts on Neighboring Lands.* The Hearing Body shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. The Town finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences, such as traffic congestion, air pollution, and social alienation. Accordingly, rezonings may promote mixed uses subject to a high degree of design control.
- (C) *Suitability as Presently Zoned.* The Hearing Body shall consider the suitability or unsuitability of the Tract for its use as presently zoned. This factor, like the others, should be weighed in relation to the other standards, and instances can exist in which the land may be rezoned to meet public need, to reflect substantially changed conditions in the neighborhood, or to effectuate important goals, objectives and policies of the Comprehensive Plan or UDO.
- (D) *Health, Safety, and Welfare.* The amending ordinance must bear a substantial relationship to the public health, safety or general welfare, or protect and preserve historical and cultural places and areas. The rezoning may be justified, however, if a substantial public need or purpose exists, even if the private owner of the Tract will also benefit.
- (E) *Public Policy.* Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with neighborhood, area, or specific plans.
- (F) *Size of Tract.* The Hearing Body shall consider the size, shape, and characteristics of the Tract in relation to the affected neighboring lands. Amendatory ordinances shall not rezone a single Lot when there have been no intervening changes or other saving characteristics. Proof that a small Tract is unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify ordinance rezoning.
- (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 use district rezonings, 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.

- Per UDO Section 2.21.13 Conditional Use Permit Amendments are subject to the following standards:

(A) An amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid CUP.

(B) Minor CUP amendments may be authorized by the Planning Director for shifts in on-site location and changes in height, area, or intensity of development by less than five (5) percent, or a five (5) percent or less increase in either impervious surface or floor area over what was originally approved provided that such minor changes comply with the following criteria:

- 1) No previous minor modification has been granted pursuant to this section;
- 2) There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property or any other contributing factor;
- 3) Nothing in the currently valid CUP precludes or otherwise limits such amendment; and,
- 4) The proposal conforms to the UDO and is in keeping with the spirit and intent of any adopted comprehensive plan.

(C) Major CUP amendments are any proposed amendment other than those defined above as Minor CUP amendments and shall be approved in the same manner and under the same procedures as the original approval.

- The entirety of the property is within the Little River #2 Intake (LR#2) Watershed.
- The area designated for the requested modification to the approved CUP may be required to obtain a Watershed Protection Permit from the Town Council due to its location within the high quality water portion of the Little River Intake #2 Watershed. Should the project exceed the 12% impervious level the project will be required to utilize BMPs for storm water management. Should the project exceed the 24% impervious level the project will be required to apply for the 5/70 Exemption from the Town Council as part of the CUP application.
 - The Watershed Protection Permit, if approved, will provide the project with the 5/70 exemption allowing the project to develop up to the 70% impervious surface level.
 - The requested modification will likely trigger the UDO requirements for the developer to apply for the 5/70 exemption for area currently designated as single-family lots in conjunction with the CUP Major Modification.

Attachments:

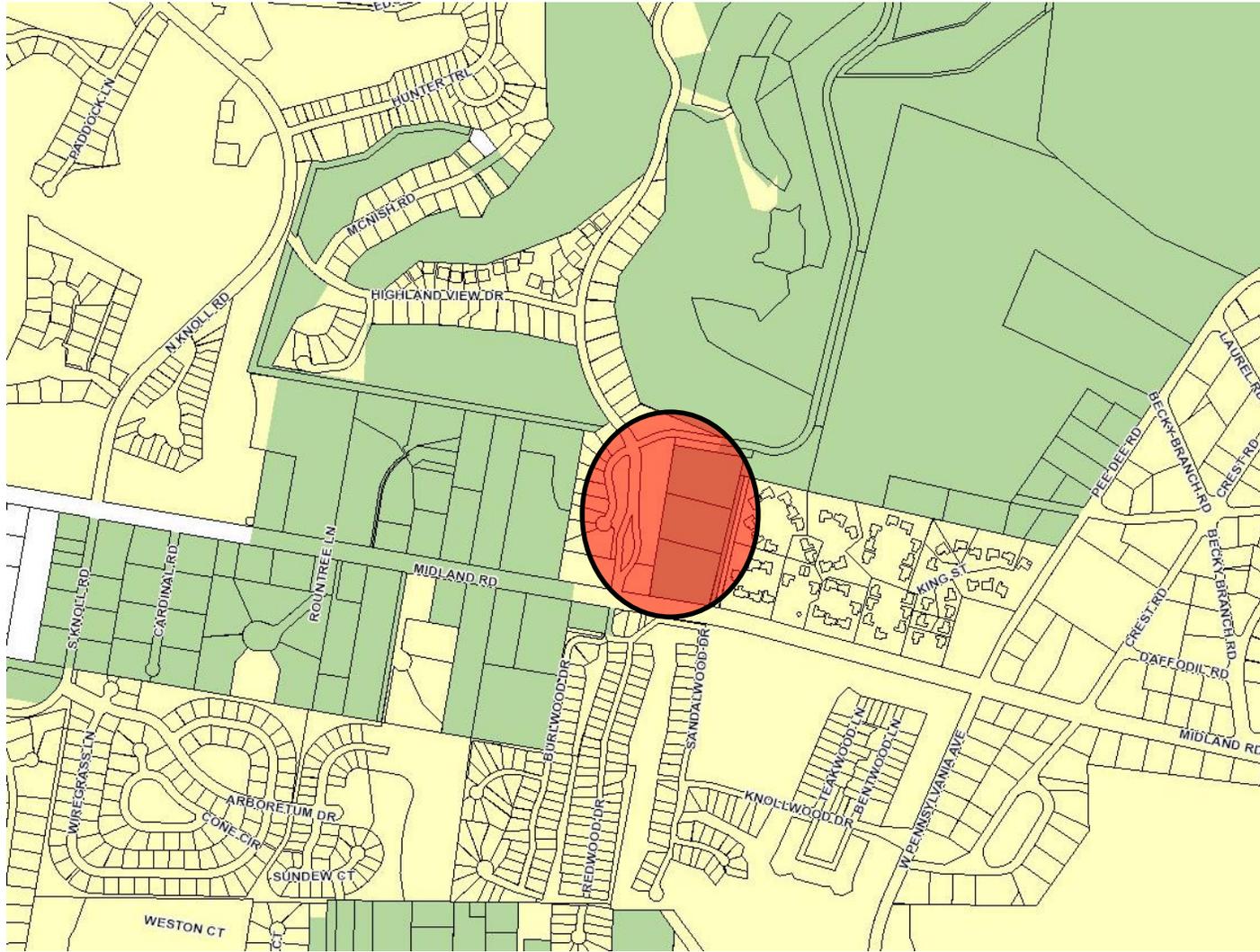
- GIS Aerial Vicinity Maps
- Proposed Layout

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

1. No action;
2. Allow the petitioner to pursue this project through the required Rezoning and CUP amendment processes as outlined in the Town of Southern Pines Unified Development Ordinance;
3. An action listed above with the following conditions...
4. Action not listed above...

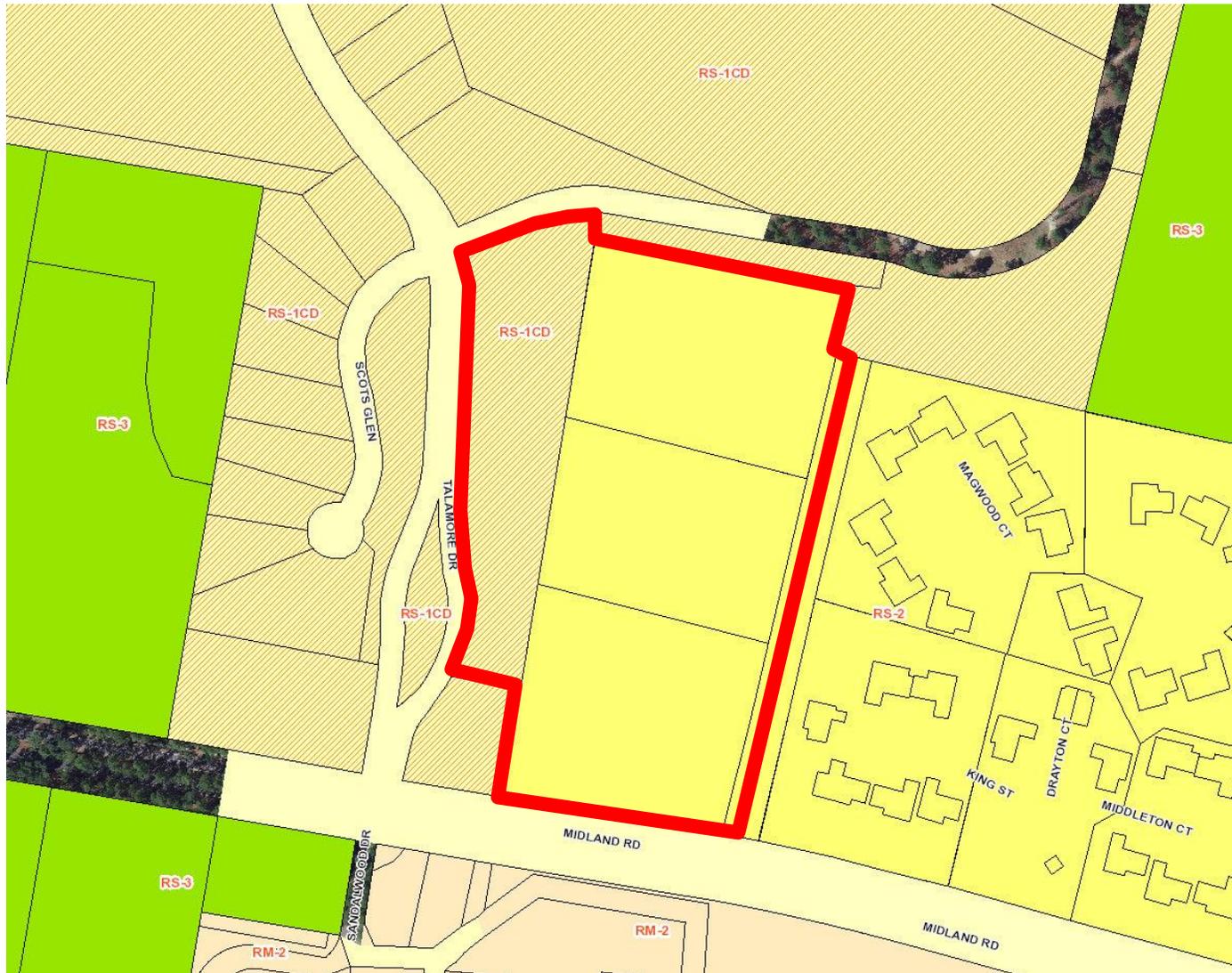
Talamore Golf Club Request for Major Amendment to CU-03-89

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Talamore Golf Club Request for Major Amendment to CU-03-89

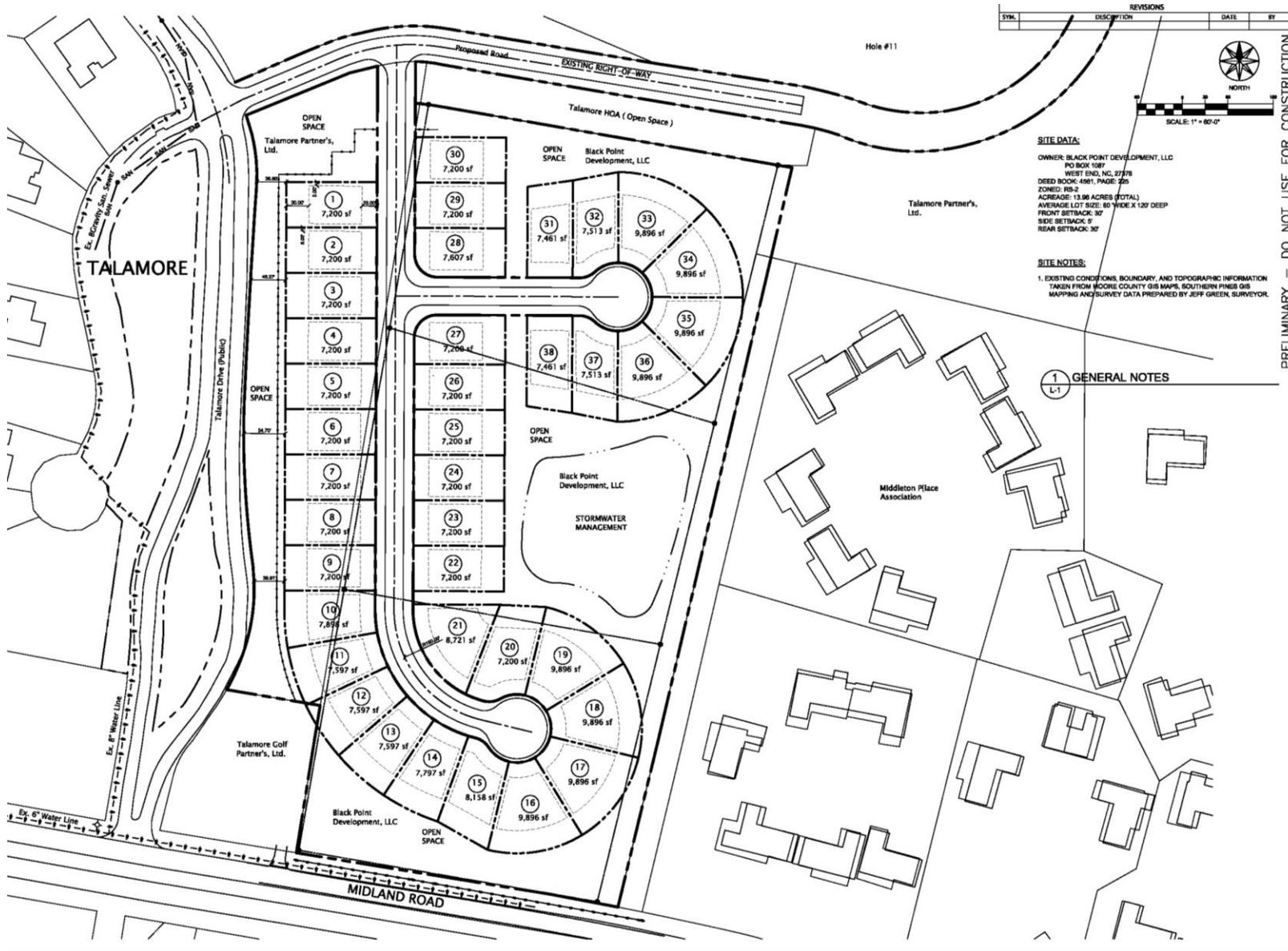
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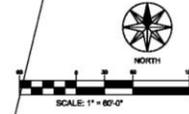
Talamore Golf Club Request for Major Amendment to CU-03-89

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REVISIONS			
SYM.	DESCRIPTION	DATE	BY



SITE DATA:
 OWNER: BLACK POINT DEVELOPMENT, LLC
 PO BOX 1087
 WEST END, NC 27778
 DEED BOOK: 4581, PAGE: 226
 ZONED: RS-2
 ACREAGE: 13.96 ACRES (TOTAL)
 AVERAGE LOT SIZE: 80' WIDE X 120' DEEP
 FRONT SETBACK: 30'
 SIDE SETBACK: 0'
 REAR SETBACK: 30'

SITE NOTES:
 1. EXISTING CONDITIONS, BOUNDARY, AND TOPOGRAPHIC INFORMATION TAKEN FROM MOORE COUNTY GIS MAPS, SOUTHERN PINNACLES GIS MAPPING AND SURVEY DATA PREPARED BY JEFF GREEN, SURVEYOR.

1 GENERAL NOTES
 L-1

PRELIMINARY - DO NOT USE FOR CONSTRUCTION

LKC Engineering, PLLC
 140 Aqua Shed Court
 Raleigh, NC 27603
 P: 910.420.1437
 F: 910.637.0096
 lkcengineering.com
 License No. P-1095

Engineering
 Landscape Architecture
 Planning

LKC

Conceptual Development
 Plan

BLACK POINT
 DEVELOPMENT, LLC
 Southern Pines, North Carolina

DATE: March 7, 2016
 DESIGNED: -
 DRAWN: -
 CHECKED: -
 NO.

L-1



Work Session Agenda Item

To: Reagan Parsons, Town Manager

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: Request to Discuss a Major Amendment to CU-01-11; Tyler's Ridge; NC HWY 22; Petitioner, Tyler's Ridge Business Park LLC

Date: March 28, 2016

On behalf of the petitioner, Tyler's Ridge Business Park LLC, Mr. Jim O'Malley has requested to speak in front of the Town Council to discuss a major amendment to Conditional Use Permit CU-01-11. The application CU-01-11 approved a mixed-use development off of NC Highway 22 to include a commercial business park, a residential apartment section, and three (3) single-family homes. Mr. O'Malley is seeking a Major Amendment to the previously approved Conditional Use Permit to remove the requirement for the single family homes in favor of a daycare center to be constructed on the same lots designated for single family development. The property is identified by the following: PIN: 857300969695 (PARID: 00035939); PIN: 857300969508 (PARID: 20110241); and PIN: 857300967690 (PARID: 20110242). Per the Moore County Tax records, the property owner(s) are listed as Tyler's Ridge Business Park, LLC.

Staff Comments:

- The subject properties comprise an approximately 1.34 acre site included in the Tyler's Ridge development.
- The entirety of the property is within the Little River #2 Intake (LR#2) Watershed.
- The area designated for the requested modification to the approved CUP may be required to obtain a Watershed Protection Permit from the Town Council due to its location within the high quality water portion of the Little River Intake #2 Watershed. Should the project exceed the 12% impervious level the project will be required to utilize BMPs for storm water management. Should the project exceed the 24% impervious level the project will be required to apply for the 5/70 Exemption from the Town Council as part of the CUP application.
 - The Watershed Protection Permit, if approved, will provide the project with the 5/70 exemption allowing the project to develop up to the 70% impervious surface level.
 - The requested modification will likely trigger the UDO requirements for the developer to apply for the 5/70 exemption for area currently designated as single-family lots in conjunction with the CUP Major Modification.
 - Currently only the previously approved commercial section is permitted the 5/70 exemption and that portion of the development is further limited to a maximum of a 65% impervious level per the CUP conditions applied to CU-01-11.

- The Property is zoned Planned Development (PD). The Tyler’s Ridge development was approved under a Conditional Use Permit, CU-01-11, which specifies the permitted land uses for the development. The approved Site Plan lists the following:
 - “Commercial: (As shown, exact design and layout to be determined by actual use and will be subject to approval by Planning Board and Town Council)
 - Lot 6 (Retail Use): 30,425sf of building space
 - Proposed Parking: 152 spaces (152 spaces required @ 1/200sf)
 - Lot 7 (Restaurant Use): 6,500sf of building space
 - Proposed Parking: 48 spaces + 17 shared from Lot #6 (65 spaces required @ 1/100sf)
 - Lot 8 (Retail Use): 14,490sf of building space
 - Proposed Parking: 72 spaces (72 spaces required @ 1/200sf)
 - Lot 9* (Service Use): 12,000sf of building space
 - Proposed Parking: 48 spaces (30 spaces required @ 1/400sf)
 - *this lot is actually part of Lot 6 on the site plan, it is not subdivided off as an individual parcel, however per the site plan sheet detail it is listed as Lot 9
 - TOTAL (As Shown on Site Plan): 63,415sf of building space
 - Proposed Parking: 320 spaces
 - Proposed Impervious Surface: 258,477sf
 - Optimum Build-out: 64,000sf GB Commercial Building Space
 - Maximum Impervious Surface: 355,946sf (65% of Commercial Lots)
 - Maximum Parking: 320 Spaces (1 per 200sf of building space) or as required by Town development ordinance”
- The Conditional Use Permit lists the commercial development project area as “Neighborhood Commercial” however the land uses permitted in the commercial development project area should follow the land uses permitted in the GB (General Business) zoning classification. However regardless of zoning classification the following land uses are not permitted: Land uses under the Land Use Code 1300 (formerly the Use 1.540) Hotels, Motels, and Similar Businesses or Institutions providing overnight accommodation; Use Code 2540 (formerly Use 8.20) Bars, Night Clubs; Use Code 4222 (formerly use 6.12) Movie Theaters.

- Per UDO Section 2.21.13 Conditional Use Permit Amendments are subject to the following standards:

(A) An amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid CUP.

(B) Minor CUP amendments may be authorized by the Planning Director for shifts in on-site location and changes in height, area, or intensity of development by less than five (5) percent, or a five (5) percent or less increase in either impervious surface or floor area over what was originally approved provided that such minor changes comply with the following criteria:

- 1) No previous minor modification has been granted pursuant to this section;
- 2) There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property or any other contributing factor;
- 3) Nothing in the currently valid CUP precludes or otherwise limits such amendment; and,

- 4) The proposal conforms to the UDO and is in keeping with the spirit and intent of any adopted comprehensive plan.

(C) Major CUP amendments are any proposed amendment other than those defined above as Minor CUP amendments and shall be approved in the same manner and under the same procedures as the original approval.

Attachments:

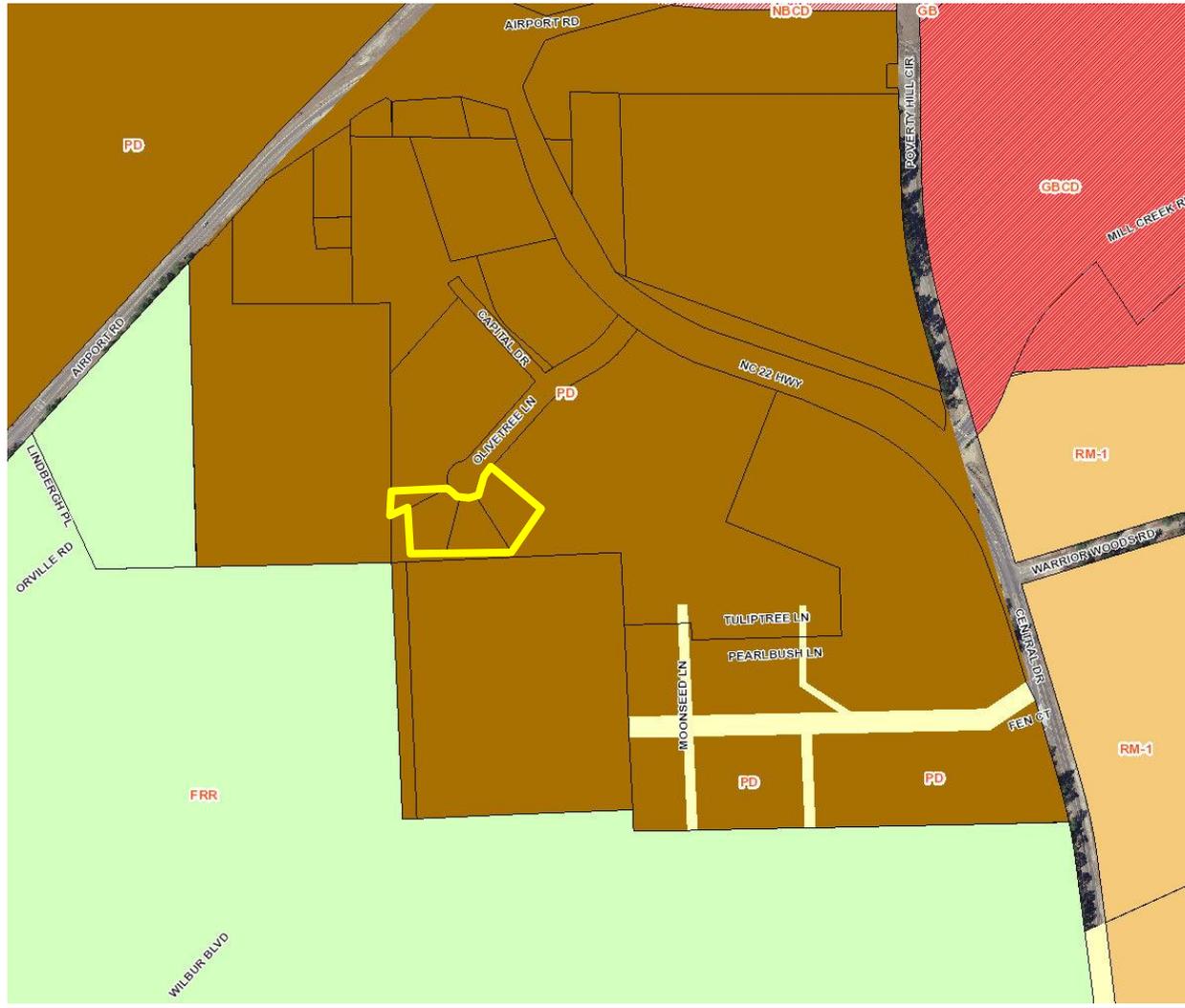
- GIS Aerial Vicinity Maps
- Proposed Daycare Layout
- CU-01-11 Master Plan for use a reference

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

1. No action;
2. Allow the petitioner to pursue this project through the required CUP amendment processes as outlined in the Town of Southern Pines Unified Development Ordinance;
3. An action listed above with the following conditions...
4. Action not listed above...

Tyler's Ridge Request for Major Amendment to CU-01-11

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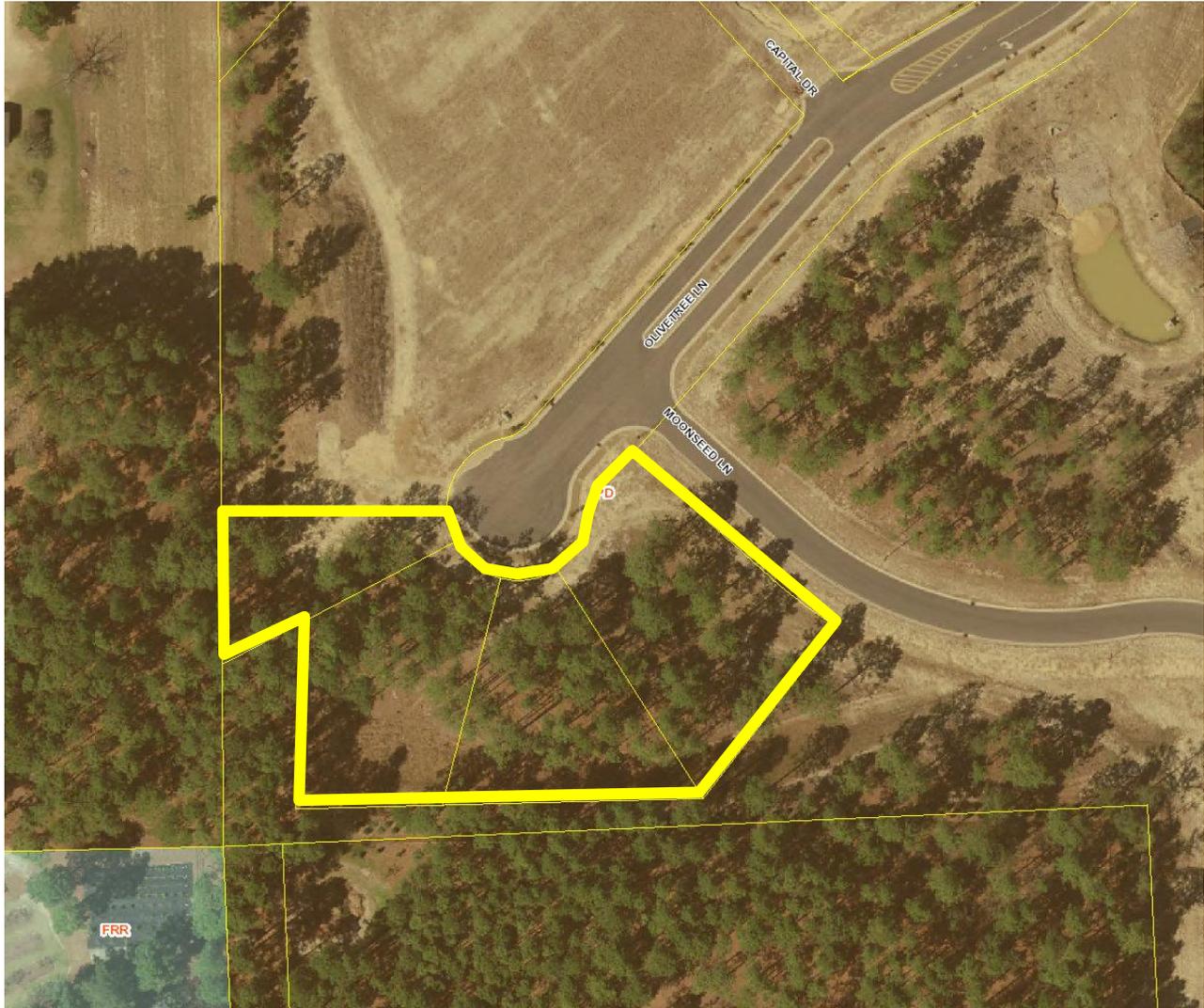
Tyler's Ridge Request for Major Amendment to CU-01-11

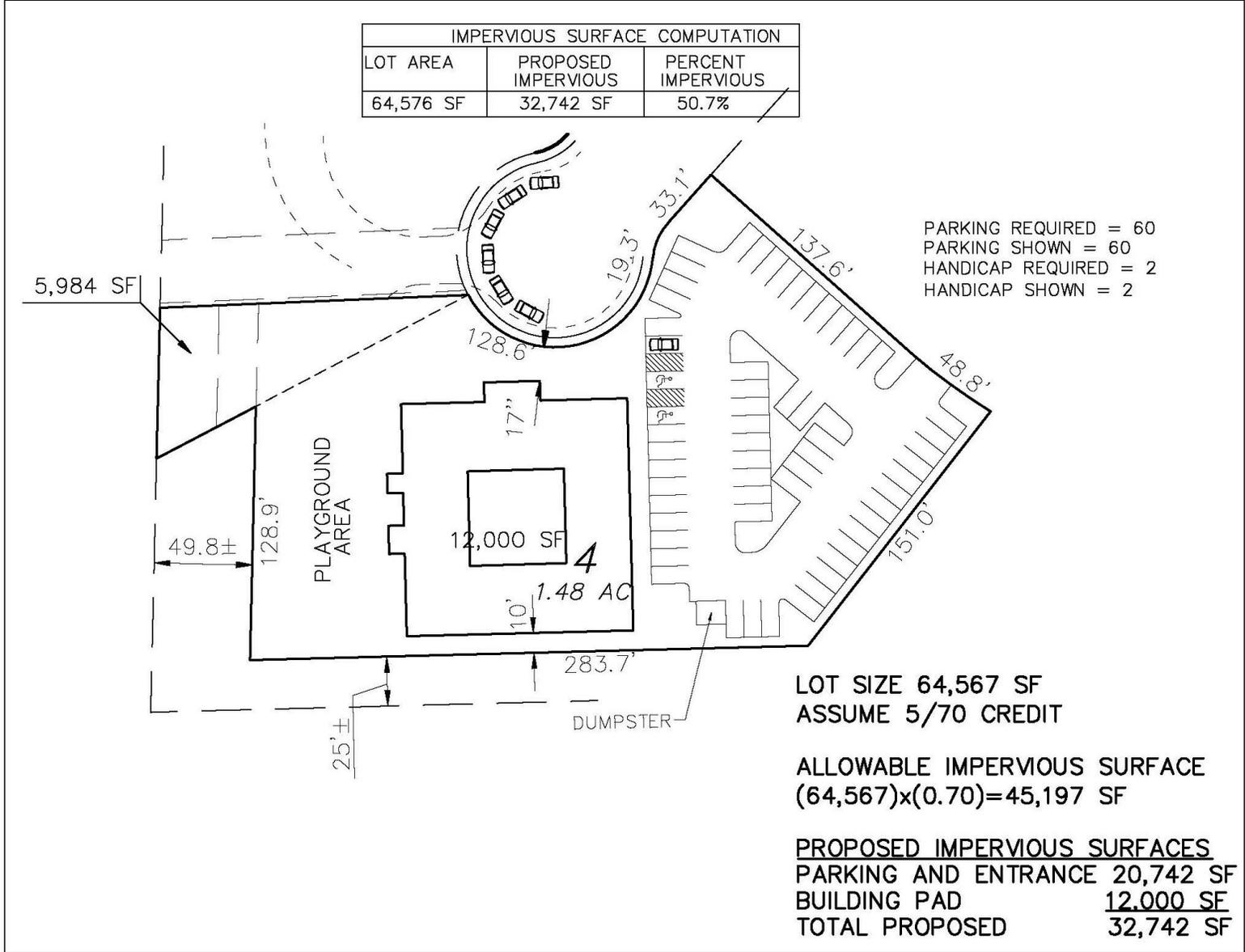
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Tyler's Ridge Request for Major Amendment to CU-01-11

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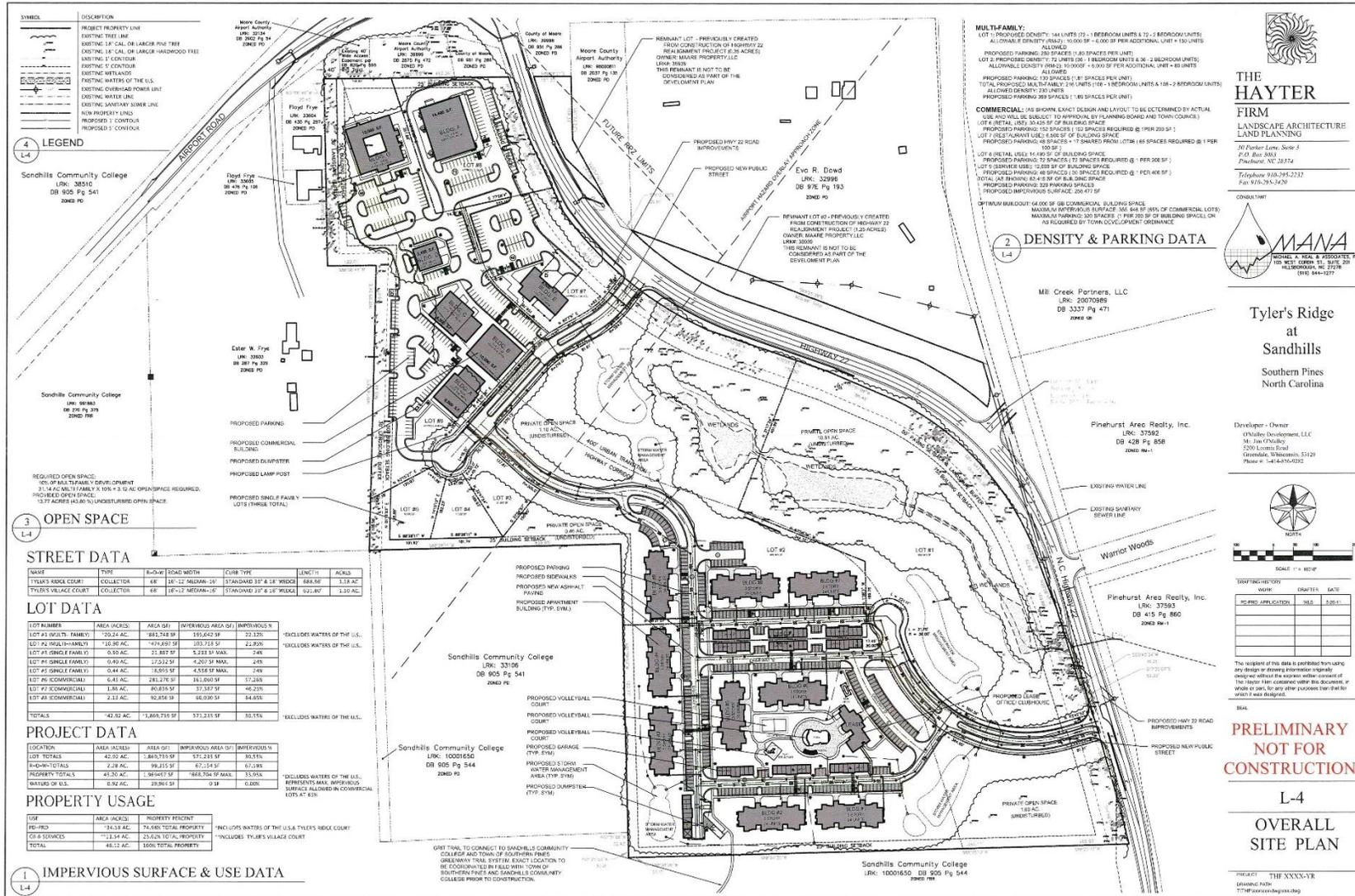








Tyler's Ridge Development Overall Master Plan Approval – CU-01-11



THE HAYTER FIRM
 LANDSCAPE ARCHITECTURE
 LAND PLANNING
 30 Barker Lane, Suite 3
 P.O. Box 3083
 Pinebluff, NC 28134
 Telephone 910.794.2333
 Fax 910.794.3420
 CONSULTANT

MANA
 MICHAEL A. NEAL & ASSOCIATES, LLC
 100 W. GARDNER ST., SUITE 200
 WILSON, NC 27157
 (704) 684-1277
 CONSULTANT

Tyler's Ridge at Sandhills
 Southern Pines North Carolina
 Developer - Owner
 Oakley Development, LLC
 501 Jax Center
 5200 Louisa Road
 Greensboro, North Carolina 27409
 Phone 1-484-854-6282

SCALE: 1" = 100'-0"

DATE	DESCRIPTION	BY

The recipient of this data is prohibited from using any design or drawing information originally prepared without the express written consent of the originator. Any reproduction or use of this data in whole or in part, for any other project, without the prior written consent of the originator is prohibited.

PRELIMINARY NOT FOR CONSTRUCTION

L-4

OVERALL SITE PLAN

PROJECT: THE XXXX-YR
 DRAWING PATH: T:\TM\Drawings\proj\0111

**RESOLUTION FOR SOUTHERN MOORE COUNTY
COMPREHENSIVE TRANSPORTATION PLAN**

WHEREAS, The Village of Pinehurst, the Town of Southern Pines, and the Town of Aberdeen (herein “southern Moore County”) are collectively Moore County’s retail, tourism, commercial and industrial core, and represent almost 40% of the County’s total population; and

WHEREAS, Significant growth and development, accelerated by southern Moore County’s population increase of 51% since 2000 and the 1.1 million tourists that visit Moore County annually, are straining local transportation infrastructure; and

WHEREAS, Projections through 2030 indicate that the population is expected to continue increasing which, in addition to the ongoing volume of tourist traffic, will put additional demands on local transportation infrastructure; and

WHEREAS, In March 2015, the North Carolina Department of Transportation (NCDOT) presented a draft Comprehensive Transportation Plan (CTP) for all of Moore County that is a long-range analysis and amendable concept plan of the County’s transportation needs through 2040; and

WHEREAS, While NCDOT will continue to solicit ongoing community input for the Moore County CTP, NCDOT representatives from the state office and local Division 8 office have expressed the feasibility of developing a separate transportation plan specifically for southern Moore County; and

WHEREAS, Southern Moore County welcomes the opportunity to develop its own plan and is committed to collaborating closely with NCDOT to bring the plan to fruition.

NOW, THEREFORE, BE IT RESOLVED that the Village of Pinehurst, the Town of Southern Pines, and the Town of Aberdeen endorse the development of a comprehensive transportation plan for their collective communities and adjacent surrounds through 2030 and request NCDOT’s assistance, through its Transportation Planning Branch, in preparing the plan within the framework of NCDOT’s institutional processes.

Adopted and approved this ___ day of _____, 2016.

W. David McNeill, Mayor

Public Services
140 Memorial Park Ct.
Southern Pines, NC 28387
910-692-1983



Date: March 23, 2016
To: Reagan Parsons, Town Manager
CC: Peggy Smith, Town Clerk
From: Adam Lindsay, Assistant Town Manager
RE: 101.23 Removing Trees

Please include the attached draft ordinance revision for discussion at the 3/28/16 Council Work Session.

Please also attach the current version of the same ordinance for comparison purposes.

At that time we will provide background on this proposed rewrite and why we didn't change it substantially.

The Appearance Commission reviewed the draft ordinance and recommends it for adoption.

§ 101.23 REMOVING TREES.

(A) No abutting property owner nor any agent acting in his or her behalf, a utility company, nor any other person, firm, or corporation shall remove any tree now or hereafter growing on a public right-of-way of the Town without first obtaining written permission from the Town Horticulturist or designated Town agent. Permission may be granted if it is found that a compelling public or private need exists for the removal of the tree. Abutting property owners shall be advised of the decision of the Town Horticulturist or designated Town agent and shall have 5 days' notice to appeal the decision in writing, the procedure for which is set forth in § [101.27](#). Permission may be issued without a hearing if an emergency exists or if the abutting property owners agree.

(B) (1) Any person who without authorization removes or causes to be removed any tree from Town-owned property or right-of-way, if there is a suitable location, must replace each removed tree with an equivalent tree or trees as follows:

(a) A suitable tree is one that the Town Horticulturist or designee determines to have characteristics equivalent to the removed tree or one that is suitable for the location of the removed tree.

(b) If the removed tree has a caliper of less than 4 inches, it must be replaced by a tree of equivalent caliper. If the removed tree has a caliper equal to, or greater than 4 inches, it may be replaced by 2 or more trees with a caliper of at least 2 inches and a cumulative caliper equal to or greater than the tree removed.

(c) Replacement trees must be planted in a location determined by the Town Horticulturist or designee to be a location that is suitable for planting and in which the replacement tree or trees will have as nearly as possible the same effect as the tree removed.

(d) The timing and technique of planting the replacement trees must be done in the manner determined by the Town Horticulturist or designee to be that which is best suited for the health of the trees.

(2) If the Town Horticulturist or designee determines that the removed tree may not be effectively replaced, the person responsible for replacing the tree must pay to the Town an amount that is equal to the cost of replacing the tree had a suitable replacement been possible.

(C) This section is inapplicable to any project which shall hereinafter be authorized or approved by the Town Council. No permission will be required of the State Department of Transportation when working on their rights-of-way. However, as a matter of policy, coordination will be effected between the Department of Transportation and the Town prior to the removal of any trees.

(1989 Code, § 101.13) (Ord. passed 4-8-1980; Am. Ord. 938, passed 4-9-2002) [Penalty, see § 10.99](#)

Add definitions to § 101.03:

PERSON. As defined in §10.05.

TREE PROTECTION OFFICER. An individual designated by the Public Services Director to administer any provision of this chapter.

Modify § 101.23 to read as follows:

§ 101.23 REMOVING TREES

- (A) It shall be unlawful for any person, unless otherwise authorized, to remove a tree from a right-of-way or from town property without written authorization from a tree protection officer.
- (B) A tree protection officer shall issue a permit authorizing tree removal only when, after application is made, the officer determines that the tree's removal is reasonably necessary for health, safety, or welfare.
- (C) The tree protection officer may include the Tree Committee in making the determination, but if the Committee has not participated in the initial determination, the applicant may appeal to the Tree Committee.
- (D) In addition to the penalties provided by § 10.99, a person who removes a tree without authorization shall provide a replacement tree or trees or other

restitution as determined by the tree protection officer.

(E) Unless the tree protection officer determines that the removed tree can not be replaced in a manner that satisfies the criteria set forth below, the person who removed the tree must provide a suitable replacement in accordance with specifications determined by the officer, applying these criteria:

- 1) the replacement shall provide benefits similar to those provided by the removed tree;
- 2) the location of the replacement shall be in reasonable proximity to the site of the removed tree but without causing deleterious effects;
- 3) the timing and technique of installation of the replacement shall be as needed to assure the health of the replacement;
- 4) if the caliper of the stump of the removed tree is less than four inches, the replacement shall be a tree at least as great at the same caliper; if the caliper of the removed tree is greater, then the replacement shall consist of trees with a cumulative caliper at least as great as that of the removed tree when measured at the stump at its widest diameter.
- 5) If the person ordered to provide replacement fails to complete the replacement in the time that had been provided by the tree protection officer, that officer may extend the time for replacement for up to an additional year upon the person's providing security in an amount determined by the officer to be 125% of the cost to the Town of the materials, labor, and a reasonable administrative charge to complete the replacement. The security may be in the form of

bond, letter of credit, or cash deposit. If it becomes necessary for the Town to complete the replacement, any unused portion of the security shall be returned.

- (F) If the tree cannot be satisfactorily replaced, then the person who removed the tree is liable to the town for the amount that the tree protection officer determines as the cost of a suitable replacement had that been possible.
- (G) Any decision by the tree protection officer or the Tree Committee shall be subject to review in the Superior Court by proceedings in the nature of certiorari instituted within 15 days of notice of the determination.