

AGENDA

Agenda Meeting of the Southern Pines Town Council
August 3, 2016, 7:00 PM, C. Michael Haney Community Room, Southern Pines
Police Department
450 West Pennsylvania Avenue

1. Manager's Comments

2. Consent Agenda

All items listed below are considered routine and will be enacted by one motion and without discussion.

- A. Adopt Worksession Meeting Minutes of June 27, 2016, Agenda Meeting Minutes of July 6, 2016 and Regular Business Meeting Minutes of July 12, 2016 as written.
- B. Amendment to AX-04-15

3. Public Hearings

- A. OA-02-16 Ordinance Amendment to Chapter 4: Section 4.11. Transportation: Section 4.11.3 Access to Lots: Petitioner, Nancy Garner
- B. Right of Way Abandonment of N. Mechanic Street & W. Rhode Island Avenue
- C. AX-03-16: Voluntary Annexation Request for the 325 Sheldon Road: Contiguous Annexation: Petitioner, Moore HL Properties Inc.
- D. Right-of-Way Abandonment for a Portion of N. Ridge Street: Petitioner, Moore HL Properties, Inc.

4. Miscellaneous

- A. CU-01-16: Written Decision and Conditional Use Permit for Major Subdivision for Multi-Family Residential Development for 288 Apartments: Petitioner, Caviness & Cates Building and Development Company
**(Action to be taken at Agenda Meeting)*

MINUTES
Worksession Meeting of the Southern Pines Town Council
June 27, 2016, 3:00 PM, Douglass Community Center
1185 W. Pennsylvania Avenue

Present: Mayor David McNeill, Mayor Pro Tem Mike Fields, Councilmember Fred Walden and Councilman Jim Simeon

Absent: Councilwoman Teresa VanCamp

1. Discussion of Midland Road Draft Plans – NCDOT

Chuck Dumas and Travis Morgan from NCDOT presented a plan for proposed intersection improvements on Midland Road and NC 22, and Midland Road and US 1 ramps. Mr. Dumas listed the recommendations, accident analysis and project details with an anticipated construction date of 2018 and an estimated construction cost of approximately \$1.3 million. Mr. Dumas commented that State funding and a Town commitment to the project is required prior to NCDOT proceeding further with the funding request.

Mr. Dumas explained that the full report from the Midland Rd corridor study is not complete at this time and therefore not presented. While these two improvements are expected to be a part of that final report, waiting until it is available might put the available STIP money in jeopardy.

After some discussion regarding the proposed island, traffic circle, possible rumble strips, etc. Town Council consensually agreed to allow NCDOT to continue moving forward with the project.

2. Discussion Regarding Proposed Downtown Stage – Sunrise Preservation Group

Robert Anderson of Anderson Architecture was present to discuss the proposed performance stage for the Sunrise Theater and gave an update on the new concept plan that included several different layouts.

Discussion ensued regarding a less expensive removable aluminum ramp, parking spaces and exterior design.

Town Manager Reagan Parsons stated Town Attorney Doug Gill is currently drafting documents to include specific language to address swapping of the parking spaces, etc. for review of Council.

Upon motion by Mayor Pro Tem Fields, seconded by Councilmember Simeon and carried unanimously 4-0, the proposed Downtown Stage project was approved to move forward for review before the Historic District Commission.

3. Discussion Regarding Revised Hyland Hills Plan and Potential Rezoning/CUP Application – BC Prime, Inc.

Brandon Brown was present representing BC Prime, Inc. and provided a map referencing the proposed layout of the Major Subdivision of forty-one single-family homes.

Senior Town Planner Chris Kennedy gave a brief history of past issues with this property and current zoning classification of the property while referring to the CLRP.

Discussion ensued regarding requirements of the current CLRP, density, traffic in the school area and criteria to request a rezoning classification for the property.

Mayor McNeill stated his preference that the development of this tract be guided by the CLRP.

Senior Town Planner Kennedy explained the alternate options that Mr. Brown could explore that would meet the goals and policies of the CLRP.

Mr. Brown stated he would further research more available options and return at a later time with an updated request.

4. Discussion Regarding Proposed Rezoning from RS-3 to RE – Richard Lee Yelverton III

Richard Yelverton discussed his request to rezone property located at 940 E. Connecticut Avenue. Mr. Yelverton stated the property is currently zoned RS-3 and he is requesting it be rezoned to RE for larger tracts to allow horses to be boarded on the property as so in the past.

Senior Town Planner Kennedy reviewed the current zoning and explained that surrounding properties had been grandfathered relative to horses, but once a property is no longer being used for horses for over 180 days, it cannot be converted back to a grandfathered property and thus the rezoning would be necessary to allow this use.

Councilmember Walden stated he does not recommend to make these lots any smaller.

Mr. Yelverton replied that he would prefer to keep the lot sizes as is and allow the horses.

Mayor McNeill stated the change would require an official application to rezone at such time Hearings would be held and Council could consider the matter.

5. Discussion Regarding Bed and Breakfast Code Amendments and 310 Crest Road – Bill Smith

Bill Smith of Berkshire Hathaway HS Pinehurst Realty Group was present and provided a slide show illustrating the proposed Bed & Breakfast Inn located at 310 Crest Road. Mr. Smith explained the desire to preserve the history of this pristine 1930 home and explained the opportunity this would allow for the public to utilize it as well.

Discussion ensued regarding the number of bedrooms, acreage, square footage of the home, ingress and egress points and possible waivers. Council suggested that Mr. Smith share his intentions with the surrounding neighbors to gather their input and feedback for consideration and return to Council at a later date.

Mr. Smith stated this project would be an economic asset to the Town and would preserve the beautiful home for the public.

Councilmember Walden suggested that Mr. Smith return at a later date and submit these stated advantages with the request.

6. Discussion Regarding Potential Conditional Use Permit 2250 E. Connecticut Avenue – Colin Webster

Senior Town Planner Kennedy provided a brief overview with an ariel map.

Colin Webster discussed his request for a Conditional Use Permit for property located at 2250 E. Connecticut Avenue. Mr. Webster explained the history of the property and stated the property does contain some red cockaded woodpecker impacts. Mr. Webster stated he is seeking advisement on how to pursue his request to best utilize the property.

Mayor Pro Tem Fields inquired if there are woodpeckers currently located on the property.

Mr. Webster replied not in one area, but some may be located in different areas of the property.

Mayor McNeill inquired if anyone currently resides on the property.

Mr. Webster stated that only a caretaker resides on the property at this time.

After further discussion of lot size requirements, etc., Town Council suggested that Mr. Webster follow up more with a woodpecker study and with RULAC.

7. Discussion Regarding Single Family Homes and The Code of Ordinances – Staff

Town Manager Parsons gave a brief overview of the item and stated Town Attorney Doug Gill is reviewing the request to pursue Code changes suggested by Mr. Crawford.

Jim Crawford provided excerpts of ordinances of several North Carolina communities including Durham that address the requested ordinance code changes regarding single family homes and discussed his request.

Mayor McNeill stated Town staff will further review the request, consult with legal, and return to Council with any suggested Code changes.

8. Review of Draft Request for Proposals Regarding Freight Depot – Staff

Town Manager Parsons provided a draft list of items to be provided in any proposal regarding leasing of the old freight station. Mr. Parsons stated to better reach other possible interested parties, he suggests that the Town run a very short public advertisement in the Pilot directing interested parties to the Administration Office or the Town website where they can obtain further detailed request as drafted. Mr. Parsons further stated the same notice would be forwarded to local commercial Realtors that may know of potential interest with a sixty to ninety-day period that would be set for proposal acceptance. Mr. Parsons stated any and all details are subject to be worked out at the time of lease negotiations with Council review.

9. NCDOT Mowing Agreement – Staff

Assistant Town Manager Adam Lindsay gave an overview of the item with a detailed map color coding the grass mowing schedule of NCDOT right-of-ways located in Southern Pines. Mr. Lindsay explained the rotation schedule and the delays of the NCDOT mowing schedule that is prompted Council to fund a right-of-way mowing crew in Buildings & Grounds. Initially, the thought was that the Town would supplement mowing between the NCDOT contractors. Too often, staff found, that because the Town had mowed those areas, contractors simply skipped over what the Town had done.

Mr. Lindsay explained that since we are already maintaining those areas, NCDOT will agree to pay us the same amount they would pay a third party to mow on their current schedule. The NCDOT agreement will not cover our costs but will pay the Town \$7,481.11 annually, which represents a little towards the Town's total costs to mow and clean right-of-ways.

Council unanimously agreed to move forward and place the item on Consent Agenda.

Council unanimously agreed to move forward with the presented mowing maintenance agreement with NCDOT, and the agreement will be placed on the next Consent Agenda for adoption.

10. Discussion of CU-02-16 Written Decision and CUP – Staff

Senior Town Planner Kennedy provided an overview and explained the quasi-judicial application process procedures.

Town Manager Parsons explained the language specific criteria and wording to be included. Mr. Parsons commented the request will stand as is for right now, and after additional engineering plans are submitted, it will be further evaluated.

Mayor Pro Tem Fields stated he wants to make sure it states "either" or "or" in the wording.

Upon motion by Mayor Pro Tem Fields, seconded by Mayor McNeill and carried unanimously 4-0, CU-02-16 was approved.

As so incorporated to these minutes of June 27, 2016 are exact copies as so recorded in the ordinance and resolution books of the Town of Southern Pines as if fully set out in the minutes.

There being no further business the meeting adjourned at 5:30 p.m.

Peggy K. Smith
Town Clerk

MINUTES
Agenda Meeting of the Southern Pines Town Council July
6, 2016, 7:00 PM, C. Michael Haney Community Room,
Southern Pines Police Department
450 W. Pennsylvania Avenue

Present: Mayor David McNeill, Mayor Pro Tem Mike Fields, Councilmember Fred Walden, Councilmember Jim Simeon and Councilwoman Teresa VanCamp

Absent: None

Call to Order

1. Manager's Comments

Mayor McNeil introduced Assistant Town Manager Adam Lindsay, who is present while Town Manager Reagan Parsons is on vacation.

2. Consent Agenda

- A. Adopt Worksession Meeting Minutes of May 23, 2016 Agenda Meeting Minutes of June 8, 2016, and Regular Business Meeting Minutes of June 14, 2016, as written.

Corrections to minutes were noted by Clerical Assistant.

- B. NCDOT Mowing Agreement

Assistant Town Manager Lindsay gave a brief overview of the item.

- C. Right-of-Way Abandonment of N. Ridge Street to Springwood Way

Assistant Town Manager Lindsay gave a brief overview of the item.

- D. AX-03-16 – 325 Sheldon Road

Assistant Town Manager Lindsay gave a brief overview of the item.

3. Public Hearings

- A. Continuation of **CU-01-16 Conditional Use Permit: Major Subdivision Application of a Multi-Family Residential Development to include 288 Apartments: Petitioner Caviness & Cates Building and Development Company**

A request has been submitted by opponents of the permit to continue this item to the August Regular Business Meeting rather than at the Council Meeting on July 12, 2016. Assistant Town Manager Lindsay states that past requests weren't granted and a decision to continue this item will not be discussed today. Town Attorney Doug Gill agrees that the item should be decided at Council Meeting so that there is adequate opportunity for public discussion.

- B. Right-of-Way Abandonment of portion of N. Mechanic Street and W. Rhode Island Ave.

Assistant Town Manager Lindsay gave a brief overview of the item.

- C. **OA-02-16 Ordinance Amendment to Chapter 4; Section 4.11, Transportation: Section 4.11.3 Access Lots: Petitioner. Nancy Garner**

Senior Town Planner Chris Kennedy provided an overview of the item, discussed what the current ordinance allows. Town Planner Bart Nuckols added to the discussion that adding this amendment would in part address the issue of having too many driveways too close together.

Councilwoman Teresa VanCamp questioned if RS-2 should be added as well. Senior Planner Kennedy advised against it at this time. It could always be addressed as an amendment in the future.

Mayor McNeil questioned Senior Town Planner Kennedy as to whether the Planning Board had reviewed the Amendment yet. Senior Town Planner Kennedy stated that the Board had voted at the last meeting with only 1 dissenting vote and when questioned that voter had no reason other than they didn't feel comfortable voting "for" at this time. He went on to say that adopting the amendment would be compatible with both the Town's comprehensive long range plan and DOT current practice on DOT road to reducing curb and driveway cuts on the roadways. Mayor McNeil asked Senior Town Planner Kennedy to provide a visual example of how this amendment would be used to council meeting.

D. AX-02-16: Voluntary Annexation Request for the Property Along Clark Street; Petitioner, Bailey Pines LLC and Dabbs Brothers Development LLC

Assistant Town Manager Adam Lindsay provided a brief overview of the item. Senior Town Planner Kennedy provided a map to detail the different boundaries as he found the meets & bounds to be unclear.

4. Miscellaneous

Senior Town Planner Kennedy advised the council that both he and Councilman Fred Walden attended the Moore County Transportation Committee Meeting the previous week and the NCCC voted on the 5 recommended areas for the Moore County CTP dot now has all their alternatives in place and they're beginning their study process and will spend another 8-9 months preparing all their documentation. They will then come back to all the councils in the county with their updates and findings. This is a big step to getting the western connector of the Carthage bypass, the US 1, etc. study areas consented to as far as what alternatives the Town is willing to consider. The plans are available for review on the Triangle Area Rural Planning Organization website.

As so incorporated to these minutes of July 6, 2016 are exact copies as so recorded in the ordinance and resolution books of the Town of Southern Pines as fully set out in the minutes.

There being no further business the meeting adjourned at 7:28 p.m.

Elizabeth F. Robertson
Clerical Assistant III

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE TOWN OF SOUTHERN PINES, NORTH CAROLINA**

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

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

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held in Regular Session of the Town Council at the Douglass Community Center at 7:00 o'clock, P.M. the 11th of August, 2015 after due notice by publication on July 26, 2015 and July 29, 2015;

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

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

Legal Description:

Exhibit A

Being all of that certain tract or parcel of land lying and being in the extraterritorial jurisdiction of Southern Pines, Moore County, North Carolina, and more particularly described as follows:

BEING ALL of Recombined Tract 1, containing +18.8501 acres and that tract labeled as N/F MLE PROPERTIES, LLC DB 3104 PG 215, PIN#20060576, said tract being 0.8178 acres, as shown on that certain plat entitled "Recombination Plat of 84.2457 acres, Tax Parcels #98000750, #98000749, #00052502, #20050319, #20060576 & #00052504" recorded April 24, 2015 in Plat Cabinet 16 at Slides 581 through 583 in the Office of the Register of Deeds for Moore County, North Carolina, reference to which is hereby made for a more particular description.

The subject property is a part of the Morganton Park South development and the property in this annexation request consists of 18.8501 acres and that tract labeled as N/F MLE PROPERTIES, LLC DB 3104 PG 215, PIN#20060576, said tract being 0.8178 acres in the PD (Planned Development) zoning classification. The request for annexation also includes the right-of-way for Morganton Road. The parcels subject to this voluntary annexation request are identified by the following: PIN # 857100487636 (Parcel ID: 98000750); PIN # 857107588080 (Parcel ID: 98000749); PIN # 857107580140 (Parcel ID: 00052502); PIN # 857100485331 (Parcel ID: 20050319); PIN # 857100483156 (Parcel ID: 20060576); PIN # 857106476829 (Parcel ID: 00052504).

TOGETHER WITH, all rights, benefits and easements appurtenant to the above-described tract of land as described in that certain (i) Declaration of Easements, Covenants, Conditions and Restrictions for Morganton Park South recorded May 1, 2015 in Book 4484, Page 417 in the Office of the Register of Deeds for Moore County, North Carolina, and (ii) Easement, Right of First Offer and Option to Purchase Agreement recorded May 1, 2015 in Book 4484, Page 481 in the Office of the Register of Deeds for Moore County, North Carolina, and (iii) Declaration of Rights, Restrictions and Easements recorded May 1, 2015 in Book 4484, Page 526, in the Office of the Register of Deeds for Moore County, North Carolina, as each may be amended from time to time.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines, North Carolina in regular session this 11th day of August, 2015;

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the above described territory is hereby annexed and made part of the Town of Southern Pines as of the 11th day of August, 2015.

Section 2. Upon and after the 11th day of August, 2015, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force of the Town of Southern Pines and shall be entitled to the same privileges and benefits as other parts of the Town of Southern Pines. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

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

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

Adopted this 11th day of August, 2015.

ATTEST:

TOWN OF SOUTHERN PINES


Peggy K. Smith, Town Clerk


W. David McNeill, Mayor

APPROVED AS TO FORM:


Doug Gill, Town Attorney

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on August 11, 2015 as shown in the minutes of the Town Council for that date.


Peggy K. Smith, Town Clerk

CERTIFICATE OF SUFFICIENCY

To the Town Council of the Town of Southern Pines, North Carolina.

I, Peggy K. Smith, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31, as amended.

Legal Description: **AX-04-15**

Exhibit A

Being all of that certain tract or parcel of land lying and being in the extraterritorial jurisdiction of Southern Pines, Moore County, North Carolina, and more particularly described as follows:

BEING ALL of Recombined Tract 1, containing +18.8501 acres and that tract labeled as N/F MLE PROPERTIES, LLC DB 3104 PG 215, PIN#20060576, said tract being 0.8178 acres, as shown on that certain plat entitled "Recombination Plat of 84.2457 acres, Tax Parcels #98000750, #98000749, #00052502, #20050319, #20060576 & #00052504" recorded April 24, 2015 in Plat Cabinet 16 at Slides 581 through 583 in the Office of the Register of Deeds for Moore County, North Carolina, reference to which is hereby made for a more particular description.

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In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Southern Pines, this 14th day of July, 2015.

(SEAL)



Peggy K. Smith, Town Clerk

Agenda Item

To: Reagan Parsons, Town Manager

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: OA-02-16 Ordinance Amendment to Chapter 4: Section 4.11. Transportation: Section 4.11.3 Access to Lots; Petitioner, Nancy Garner

Date: August 9, 2016

OA-02-16 Ordinance Amendment to Chapter 4: Section 4.11. Transportation: Section 4.11.3 Access to Lots; Petitioner, Nancy Garner

On behalf of the petitioner Ms. Nancy Garner, Mr. Richard Lee Yelverton III of Van Camp, Meacham & Newman, PLLC 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 (Residential Single-Family – 3) zoning classification.

Planning Board Recommendation:

At the June 23, 2016 Regular Meeting of the Planning Board, the Planning Board held a legislative public hearing and received comments on the application from those in attendance regarding the application OA-02-16. During the public hearing the Board, the public present, and the petitioner discussed the inclusion of the RS-3 zoning classification into UDO Section 4.11.3 (C)(2). After an extensive discussion relative to the appropriateness of the proposed amendment, the Board closed the public hearing and proceeded with their recommendation to the Town Council. The Planning Board voted (6-1) to recommend that the proposed amendment to the ordinance is consistent with those documents that constitute the officially adopted land development plan and other applicable plans in that the proposed amendment furthers the goal to preserve low density development and is consistent with CLRP Policy P-9 which encourages access management and specifically shared driveway accesses. Then, the Planning Board voted (6-1) to recommend approval of OA-02-16 to the Town Council.

Staff Comments:

- The Town Council public hearing shall be conducted using legislative hearing procedures.
- The petitioner has submitted a narrative to address the UDO Criteria for an Ordinance Amendment set forth in UDO Section 2.17.10 (please see attached at end of Planning Board packet).
- RLUAC found no issues or concerns with the requested ordinance amendment.

- **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.

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- Section 2.17.10 outlines the criteria to be used by the hearing bodies in their consideration of an ordinance amendment. The Planning Board public hearing shall be conducted using legislative hearing procedures.

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.

Attachments:

- RLUAC Response
- Planning Board Memo and Packet

Town Council Actions:

The Town Council shall vote on whether the proposed amendment is consistent with *Comprehensive Long Range Plan* that has been adopted and any other officially adopted plan that is applicable. The Town Council could make one of the following motions for recommendations or any alternative they wish:

I move that:

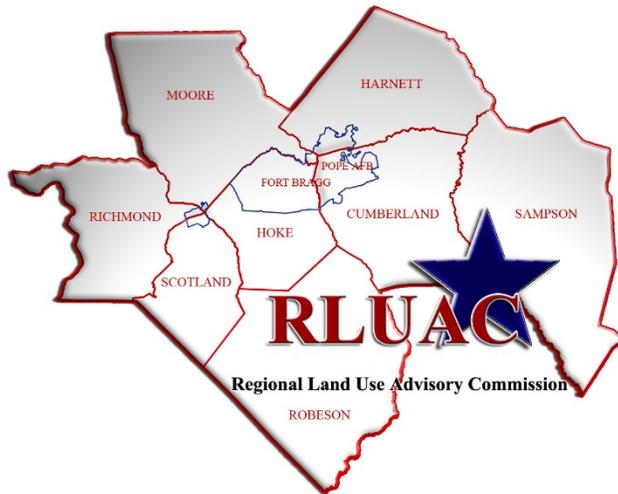
1. Motion to **approve** the requested text amendment and to make a finding and determination that the approval of the text amendment request is consistent with the adopted Land Use Plan and that the approval of the text amendment request is reasonable and in the public interest due to the approval being consistent with the comprehensive plan and, as a result, the approval furthers the goals and objectives of the comprehensive plan, in that...

OR

2. Motion to **deny** the requested text amendment and to make a finding and determination that the denial of the text amendment request is consistent with the adopted Land Use Plan and that that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan, in that...

I move to:

1. Approve OA-02-16;
2. Deny OA-02-16; OR
3. Approve OA-02-16 with the following additional conditions...



TOWN OF SOUTHERN PINES

Case OA-02-16 - Proposed Amendment to the Unified Development Ordinance – Chapter

4: Section 4.11. Transportation: Section 4.11.3 Access to Lots

To allow an easement to serve as the primary access for up to three dwelling units in the RS-3 Zoning District

June 24, 2016

The Regional Land Use Advisory Commission (RLUAC) staff and Board of Directors have reviewed the proposed amendment to the Southern Pines Unified Development Ordinance and find no conflicts with the recommendations contained in the 2003 and 2008 Joint Land Use Studies.

RLUAC therefore has no issues or concerns with this proposed amendment.

Thank you for allowing RLUAC the opportunity to review this case.

Robert McLaughlin, Chairman

James Dougherty, Executive Director

Agenda Item

To: Planning Board

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: OA-02-16 Ordinance Amendment to Chapter 4: Section 4.11. Transportation: Section 4.11.3 Access to Lots; Petitioner, Nancy Garner

Date: June 23, 2016

OA-02-16 Ordinance Amendment to Chapter 4: Section 4.11. Transportation: Section 4.11.3 Access to Lots; Petitioner, Nancy Garner

On behalf of the petitioner Ms. Nancy Garner, Mr. Richard Lee Yelverton III of Van Camp, Meacham & Newman, PLLC 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 (Residential Single-Family – 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:

- (4) It accesses a public or private street and is located on a perpetual easement not less than twenty (20) feet in width;
- (5) 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;
- (6) 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:

- (4) It accesses a public or private street and is located on a perpetual easement not less than twenty (20) feet in width;
 - (5) 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;
 - (6) 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 Planning Board public hearing shall be conducted using legislative hearing procedures.

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.

- (F) Consistency. The text amendment shall be consistent with the adopted Comprehensive Plan.
- (G) 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.
- (H) 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.
- (I) Other Factors. The Hearing Body may consider any other factors relevant to a text amendment application under state law.
- (J) 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.

Attachments:

- Ordinance Amendment Application
- Criteria Narrative Submitted by Petitioner

Planning Board Actions:

The Planning Board shall vote on whether the proposed amendment is consistent with *Comprehensive Long Range Plan* that has been adopted and any other officially adopted plan that is applicable. The Planning Board could make one of the following motions for recommendations or any alternative they wish:

I move to recommend...

3. **Approval** of the requested text amendment and to make a finding and determination that the approval of the text amendment request is consistent with the adopted Land Use Plan and that the approval of the text amendment request is reasonable and in the public interest due to the approval being consistent with the comprehensive plan and, as a result, the approval furthers the goals and objectives of the comprehensive plan, in that...

Or

4. **Denial** of the requested text amendment and to make a finding and determination that the denial of the text amendment request is consistent with the adopted Land Use Plan and that that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan, in that...

Then:

1. I move to recommend to the Town Council the approval of OA-02-16;
2. I move to recommend to the Town Council the denial of OA-02-16; OR
3. I move to recommend to the Town Council the approval of OA-02-16 with the following additional conditions...

**Petition for an Amendment to the Zoning Ordinance of the
Town of Southern Pines**

Date Received : 6/3/16 *oaw*

Case: OA- 02-16

**TO THE PLANNING BOARD AND TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES,
NORTH CAROLINA:**

I, the undersigned, do hereby make a petition to amend the zoning Ordinance of the Town of Southern Pines a herein requested:

It is desired and requested that Section 4.11/4.11.3 be amended to

Add the RS-3 zoning district to Section 4.11.3(C) of the UDO. The proposed language is included in the staff comments to the 28-March 2016 Work Session Agenda and is attached hereto.

I certify that all information furnished in this petition is accurate to the best of my knowledge.

Name of Petitioner (please print): Nancy Garner by Richard Lee Yelverton III

Petitioner's Signature: 

Mailing Address: P.O. Box 1389
Pinehurst, NC 28374

Email Address: richardy@vancamplaw.com

Phone Number: 910-295-2525

NOTE: If the petition is made by a corporation, the names and addresses of all officers of the corporation **MUST BE** provided.

The **petitioner or a representative of the petitioner is expected to attend all meetings** to answer questions concerning the request. The absence of the petitioner/representative is sufficient grounds to warrant a deferral of action by the Planning Board and/or Town Council.

**ALL APPLICATION MATERIALS INCLUDING THE PETITION FEE OF \$800.00 MUST BE SUBMITTED TO THE
PLANNING DEPARTMENT THIRTY (30) DAYS PRIOR TO THE PLANNING BOARD MEETING.**

Revised July 1, 2014

Written Narrative Explaining How the Application to Amend the Town of Southern Pines
Unified Development Ordinance at Chapter 4: Section 4.11.3 Complies with
UDO Section 2.17.10 (the criteria for a text amendment)
In an Effort to Assist the Board in Their Deliberation.

Pursuant to TOSP UDO Section 2.17.10, prior to approving an application for a UDO text amendment, the Hearing Bodies are required to consider the following criteria:

- (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.

While no single factor is controlling, the Hearing Body must weigh each factor in relation to other standards. With respect to each factor above, please see the following discussion:

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

The current language of the UDO Section 4.11.3 (C) authorizes a private drive to be approved as the sole access point for no more than three (3) lots in the RE and/or the RR zoning districts. Under the language of the proposed text amendment, this three (3) lot access authorization would be expanded to include the RS-3 zoning district.

- This application to permit the inclusion of the RS-3 district into the regulations of 4.11.3(C) is consistent with the CLRP as one of the underlying themes listed in Chapter 3 of the 2015-16 Comprehensive Long Range Plan Update for the RE, RR, and RS-3 zoning districts is to preserve low density development that is compatible with existing development.
- In the 2015-16 Comprehensive Long Range Plan Update, the policy section is intended to guide the Town's decision makers as they act on development proposals and during the creation or modification of regulations. Policy P-9 *Access Management* of the CLRP states that the Town should "[e]nhance the safety and function of arterial and collector streets through access management strategies that:
 - Encourage common or shared parking facilities as well as common driveways;
 - Control the number, width, and location of driveways; and,
 - Require site access from side streets where appropriate."

The proposed amendment is consistent with CLRP Policy P-9 as it seeks to further the ability for the Town to implement access management strategies in the RS-3 zoning classification.

- **(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.**

One of the benefits of allowing a single access point to multiple lots in the RS-3 (or any other district for that matter) is the reduction in curb cuts that would be required if each lot were to require an individualized access point. For example, if three lots were developed off of Midland Road in the RS-3 district, currently each lot would require a separate curb cut off of Midland Road increasing the risk of collisions when entering or exiting from those three lots. Under the single access point approach, there would never be a time when multiple cars are attempting to exit or enter multiple access points, potentially directly adjacent to each other, along the primary road. The UDO and the CLRP, both documents adopted to promote the health, safety, and general welfare of the public, include policies and regulations to promote the reduction in driveway access through improved access management policies; the current application seeks to increase the ability for the Town to address access management issues.

- **(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.**

When considering the public policy reasons for authorizing the proposed text amendment several factors appear to be important:

- First, while the Board typically strays away from dealing with direct costs the developer in their decision making and focuses more on the validity of the project in general, it is far more economic to develop property utilizing a single access point as opposed to multiple access points for a variety of reasons including: material costs, labor, and time management; all such aspects of developing the access to property are reduced by allowing for a single point of access to multiple lots.
- Second, the environmental impact of a single access point would be significantly less than that of requiring each individual lot to have its own access point. The amount of tree clearing and impervious surface created with each driveway further increases the environmental impact of development. This environmental benefit is also relevant under paragraph (E) above, "Impacts."
- Third, from a purely aesthetic standpoint, the impact on the eye of a single point of access (one entry point to a piece or parcels of property) as opposed to multiple access points close together off of a primary road cannot be understated. The aesthetic benefit of a single access point is only an additional plus when considering the safety concerns that can be alleviated by maintaining the one access point approach as opposed to a multiple access point approach.

- **(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.

With respect to the impact of the proposed text amendment on the public at large, it appears to the applicant that such an amendment would have nothing but positive impact. Under the current language of the UDO the minimum lot sizes for an RR zoned property and an RS-3 zoned property are both 30,000 square feet. Therefore this request to allow the RS-3 district the same ability to utilize the provisions under UDO Section 4.11.3 (C) as RR zoned property should provide no more of a negative impact than currently seen in the RR zoning classification. Any subdivision of land greater than three lots would necessitate a separate access or the construction of a street. It is our opinion that while the inclusion of the RS-3 zoning classification into UDO Section 4.11.3 (C) (2) increases the flexibility allowed to RS-3 landowners, it also promotes the policies of the CLRP and the UDO with respect to access management, environmental, and smart growth initiatives. For example, a particular property in the RS-3 district could, subject to the terms of the UDO, be divided into three lots. However, under the current UDO those three lots would require three separate driveways causing the impacts detailed above. The costs of building those three driveways can be quantified in terms of aesthetic, financial, environmental, and safety impacts. These impacts of the three driveway scenario certainly affect the overall impact on the public at large in a negative manner if the proposed text amendment is denied; the approval of the amendment will provide a positive impact. We do not anticipate a proliferation of building permits attempting to utilize the standards of UDO Section 4.11.3(C), however we contend that having the flexibility to utilize the standards under this section can only further a property owner's ability to be creative in mitigating any negative impacts as a result of development. We acknowledge that the proposed text amendment may bring upon a perceived or real adverse impact, just like with any development, however the benefits available to those in the RS-3 zoning district should the Board wish to approve proposed text amendment, as listed above, will considerably outweigh any of the adverse impacts created.

Agenda Item

To: Reagan Parsons, Town Manager

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: Abandonment of Right-of-Way: N. Mechanic Street & W. Rhode Island Avenue; Petitioner, Caviness & Cates Building and Development Company

Date: August 9, 2016

Abandonment of Right-of-Way: N. Mechanic Street & W. Rhode Island Avenue; Petitioner, Caviness & Cates Building and Development Company

In April 2016, the Town of Southern Pines Public Works Department received a request that the Town Council consider two sections of road for a right-of-way abandonment. The first section identified for right-of-way abandonment is comprised of the one and one-half (1.5) block portion of N. Mechanic Street extending from the eastern boundary of the intersection with W. Maine Avenue and N. Mechanic Street to the termination of N. Mechanic Street at the NE Service Road. The second section identified for right-of-way abandonment includes the portion of W. Rhode Island Avenue extending from the northern boundary of the intersection of W. Rhode Island Avenue and N. Mechanic Street extending to the termination of W. Rhode Island Avenue at the NE Service Road. Both portions included in the request are unopened sections of right-of-way (See attachment). At the April 12, 2016 Regular Business Meeting of the Town Council the Town Council adopted a resolution to review the request for this abandonment at the May 2016 Regular Business Meeting of the Town Council.

Both sections of right-of-way listed in this request are considered “paper” streets in that the areas designated for a street are not currently improved or easily accessible for most types of transportation. These sections of street are not included in Powell Bill funding calculations. The Town does not have future plans to improve these portions of unopened road. The Town does have a sewer line that runs east to west along W. Maine Avenue that will require an easement if the abandonment is approved.

Per UDO Section 2.29, the procedure to abandon streets, no matter their condition or utility, requires an adopted resolution, public notices, and a public hearing. Per UDO Section 2.29.2, the process for abandonment may be initiated by the Town Council or the owner of property abutting the street or alley. The Town Council shall adopt a resolution declaring its intent to close a street or alley and call for a public hearing. If the abandonment is approved, the areas abandoned revert automatically to the adjoining property owners to the midway point of the right-of-way on their side of the street for the length of their property on that right-of-way.

Town Council Hearing – July 25, 2016 (July 2016 Town Council Work Session):

At the July 25, 2016 Town Council Work Session, the Town Council deliberated and made a series of findings of facts and motions to deny Conditional Use Permit application CU-01-16. The Town Council decided to continue the public hearing for this right-of-way abandonment until the August 9, 2016 Regular Business Meeting of the Town Council.

Town Council Hearing – July 12, 2016 (July 2016 Regular Business Meeting of the Town Council):

At the July 12, 2016 Regular Business Meeting of the Town Council, the Town Council continued and the public hearing for Conditional Use Permit application CU-01-16. The Town Council then closed the public hearing but did not deliberate or make any motion to approve or deny CU-01-16, therefore, per the staff recommendation listed herein, the Town Council decided to continue the public hearing for this right-of-way abandonment until the July 25, 2016 Town Council Work Session.

Town Council Hearing – June 14, 2016 (June 2016 Regular Business Meeting of the Town Council):

At the June 14, 2016 Regular Business Meeting of the Town Council, the Town Council continued the public hearing for Conditional Use Permit application CU-01-16. Per the staff recommendation listed herein the Town Council decided to continue the public hearing for this right-of-way abandonment until the July 12, 2016 Regular Business Meeting of the Town Council.

Town Council Hearing - May 23, 2016 (May 2016 Town Council Work Session):

At the May 23, 2016 Town Council Work Session, the Town Council continued the public hearing for Conditional Use Permit application CU-01-16. Per the staff recommendation listed herein the Town Council decided to continue the public hearing for this right-of-way abandonment until the June 14, 2016 Regular Business Meeting of the Town Council.

Town Council Hearing - May 10, 2016 (May 2016 Regular Business Meeting of the Town Council):

At the May 10, 2016 Regular Business Meeting of the Town Council, the Town Council continued the public hearing for Conditional Use Permit application CU-01-16. Per the staff recommendation listed herein the Town Council decided to continue the public hearing for this right-of-way abandonment until the May 23, 2016 Town Council Work Session.

Staff Comments:

- This right-of-way abandonment request has been submitted by the same petitioner as Conditional Use Permit application CU-01-16. The petitioner is seeking the approval of a Conditional Use Permit for a multi-family development along the NE Service Road and the abandonment of the right-of-ways included herein as part of the development request.
 - Town staff recommends that the Town Council delay their decision making of this right-of-way abandonment request until the Town Council formally makes a decision on Conditional Use Permit application CU-01-16.
 - Furthermore, Town staff recommends to the Town Council that should the Conditional Use Permit application CU-01-16 be denied, the right-of-way abandonment requests listed herein also be denied.
 - As a part of any denial or approval of CU-01-16, Town staff recommends that the Town Council delay action and table any decision relative to this right-of-way abandonment until after the expiration of the legal appeal period provided to a Conditional Use Permit and/or any appeal of the decision is resolved.
- The UDO standards and requirements for the abandonment or vacation of right-of-way are defined in UDO Section 2.29.

2.29 VACATION OF STREETS OR ALLEYS

2.29.1 Purpose and Applicability

This section establishes the process for approving the elimination of a Street or Alley, in whole or in part.

2.29.2 Initiation

The process may be initiated by the Town Council or the owner of property abutting the street or alley. The Town Council shall adopt a resolution declaring its intent to close a street or alley and call for a public hearing.

2.29.3 Notice

The Town Manager shall cause the notice to be published once a week for four successive weeks prior to the hearing, mail a copy of the notice by registered or certified mail to all the owners of property adjoining the street or alley and post notice in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto. The cost of notice shall be borne by the applicant for the vacation.

2.29.4 Decision

At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the Town Council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress

and egress to his property, the Council may adopt an order closing the street or alley. A certified copy of the order shall be filed in the office of the register of deeds.

2.29.5 Appeals

Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the Council's order to the District Court within 30 days after its adoption.

2.29.6 Ownership

- (A) Except as provided in paragraph (C) of this section, upon the closing of a street or alley in accordance with this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.
- (B) The provisions of this subsection regarding division of right-of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.
- (C) The Town may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to this section. Such reservation shall be stated in the order of closing. Such reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the Town. To retain such easements, the Town Council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements.

2.29.7 Recording Procedures

The recorder of deeds shall write legibly on the vacated plat the word "vacated," and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

Attachments:

- Map Depicting Right-of-Way to be Vacated

Town Council Actions:

The Town Council shall vote on whether the proposed street or alley vacation request is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property. The Town Council could make one of the following motions for recommendations or any alternative they wish:

I move that the proposed street or alley vacation request...

- 1) **is not contrary to the public interest, and that no individual** owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, therefore...
- 2) **is contrary to the public interest, and that individuals** owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, therefore...

I move to:

- 1) **Approve** the abandonment of the portions of N. Mechanic Street and W. Rhode Island Avenue as specified in the attached map;
- 2) **Deny** the abandonment of the portions of N. Mechanic Street and W. Rhode Island Avenue as specified in the attached map; OR
- 3) **Approve** the abandonment of the portions of N. Mechanic Street and W. Rhode Island Avenue as specified in the attached map **with the following additional conditions...**

IN ADDITION TO *Street or Alley Vacation Approval from Town Council*, THE APPLICANT SHOULD BE REMINDED THAT ALL APPLICABLE PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION AND/OR DEMOLITION CAN BEGIN. When the applicant applies for the required permits such as zoning, grading, soil erosion control, building, sign, etc., a set of detailed plans (including a site plan in compliance with various Sections of the Town of Southern Pines UDO) will be necessary. Planning staff recommends a staff consultation of the applicant's preliminary plans to provide comprehensive remarks by all appropriate Town departments/divisions. Such staff consultation should minimize development costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements.

Agenda Item

To: Reagan Parsons, Town Manager

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: AX-03-16; Voluntary Annexation Request for the 325 Sheldon Road; Contiguous Annexation; Petitioner, Moore HL Properties Inc.

Date: August 9, 2016

AX-03-16; Voluntary Annexation Request for the 325 Sheldon Road; Contiguous Annexation; Petitioner, Moore HL Properties Inc.

The petitioner, Moore HL Properties Inc. is requesting voluntary annexation for property located at 325 Sheldon Road. The request is for a contiguous annexation. The total acreage of the subject property is 1.31 acres. The property is identified by the following: PIN: 858108891571 (PARID: 00038287) and portions of PIN: 858108893610 (PARID: 96000473). Per the Moore County Tax records, the property owner(s) are listed as Moore HL Properties, Inc.

Staff Comments:

- In July 2016 the Town Council set a hearing for the August 2016 Town Council meeting for AX-03-16.
- The applicant has submitted an application with a plat map and a written metes and bounds description.

Town Council Actions:

To either approve or deny the *Voluntary Annexation*, the Town Council may choose one of the following motions or any alternative they wish:

- 1) I move to approve the Voluntary Annexation request in the application AX-03-16 for the property as defined in the submitted written metes and bounds.

Or

- 2) I move to deny the Voluntary Annexation request in the application AX-03-16 for the property as defined in the submitted written metes and bounds.

This map was created by the Town of Southern Pines Planning Department. The Town of Southern Pines, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media whether expressed or implied, in fact or in law, including without limitation the implied warranties of merchantability and fitness for a particular use. Any resale of this data is strictly prohibited in accordance with North Carolina General Statute 132-10. Grid is based on North Carolina State Plane Coordinate System NAD83 (feet).

AX-03-16 Voluntary Annexation for 325 Sheldon Road PIN: 858108891571 (Parcel ID: 00038287)



**AX-03-16 Voluntary Annexation for 325 Sheldon Road
PIN: 858108891571 (Parcel ID: 00038287)**

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Legal description of property to be considered for Voluntary Annexation into the Town of Southern Pines, North Carolina.

Certain parcels of land situate in McNeill Township, Moore County, North Carolina, fronting and lying on the southeast side of Shelton Road (a.k.a. Sheldon Road), being further described by metes and bounds as follows:

BEGINNING at a concrete monument found in the southeast right of way line of Shelton Road, also known as Sheldon Road, as well as SR 2133, said monument being the North corner of Lot 1R as shown in Plat Cabinet 15 Slide 940 in the Moore County Registry, said monument also being the West corner of Tract 1R, as shown in Plat Cabinet 16 Slide 804;

running thence from said beginning corner with said right of way line of Shelton Road, North 55°12'13"East for a distance of 208.86 feet to an iron pipe found;

thence continuing with said right of way line, North 55°03'00"East for a distance of 23.77 feet to an iron rod found, said iron rod being the common corner of said Tract 1R and Lot 1, as shown on said map recorded in Plat Cabinet 16 Slide 804;

thence continuing with said right of way line, North 55°03'00"East for a distance of 75.67 feet to an iron rod found, said iron rod being the common corner of said Lot 1 and Tract 2R, as shown on said map;

thence leaving said right of way line with a common line of said Lot 1 and Tract 2R, South 20°55'51"East for a distance of 209.55 feet to an iron rod found, another common corner of said Lot 1 and Tract 2R;

thence with another common line of said common line of said Lot 1 and Tract 2R, South 55°08'40"West for a distance of 50.36 feet to an iron rod found, said iron rod being the common corner of said Lot 1 and said Tract 1R situate in a line of said Tract 2R;

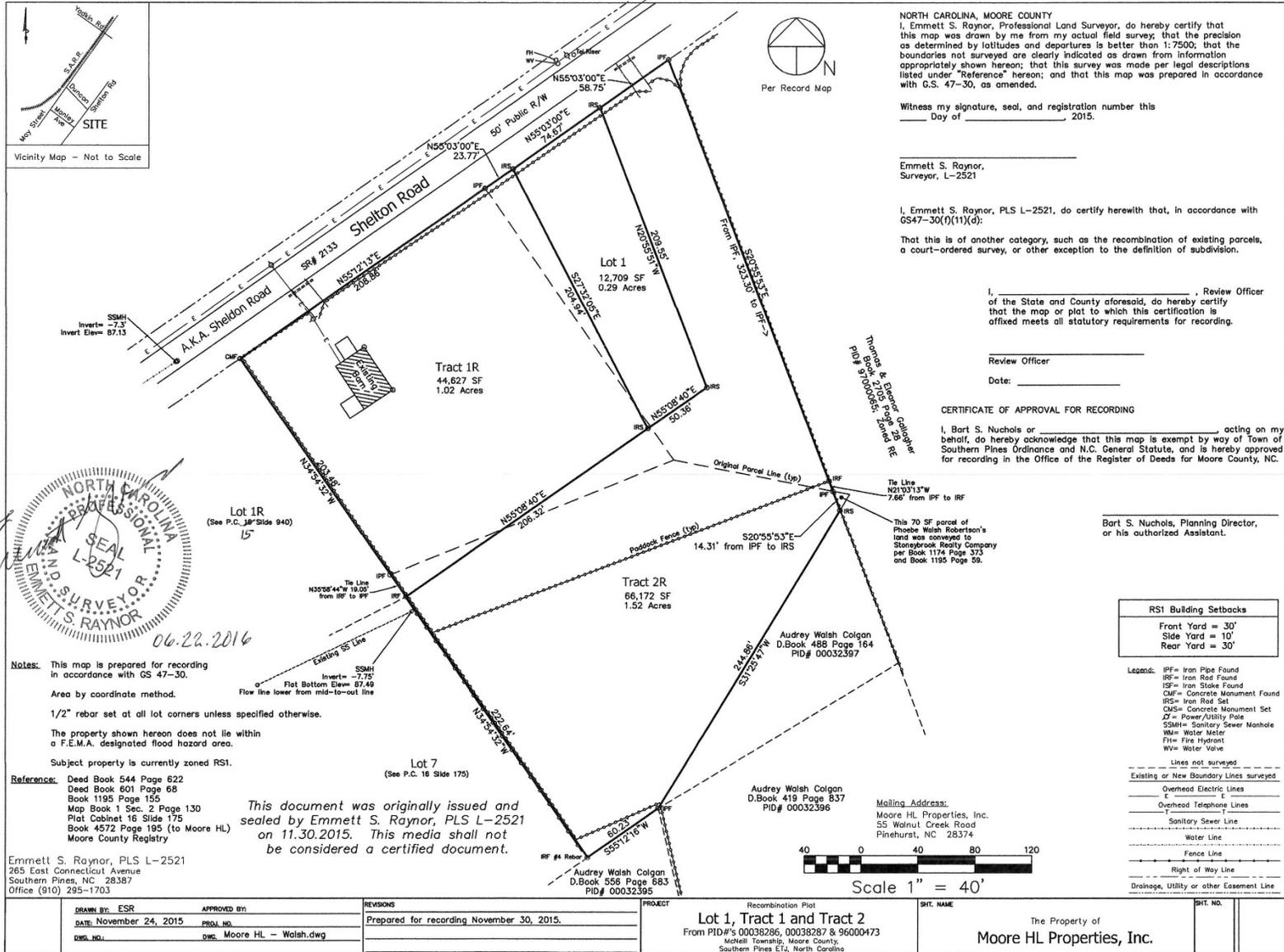
thence with the common line of said Tract 1R and said Tract 2R, South 55°08'40"West for a distance of 206.32 feet to an iron rod found, said iron rod being the common corner of said Lot 1R, Tract 1R, Tract 2R and Lot 7 (see Plat Cabinet 16 Slide 175 as reference for said Lot 7);

thence with the common line of said Lot 1R and Tract 1R, North 34°54'32"West for a distance of 203.48 feet to the BEGINNING, containing 1.31 acres, more or less.



06.22.2016

This map is recorded in Plat Cabinet 16 Slide 804 in the Moore County Registry.



NORTH CAROLINA, MOORE COUNTY
 I, Emmett S. Raynor, Professional Land Surveyor, do hereby certify that this map was drawn by me from my actual field survey; that the precision as determined by latitudes and departures is better than 1:7500; that the boundaries not surveyed are clearly indicated as drawn from information appropriately shown hereon; that this survey was made per legal descriptions listed under "Reference" hereon; and that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my signature, seal, and registration number this
 Day of _____, 2015.

Emmett S. Raynor,
 Surveyor, L-2521

I, Emmett S. Raynor, PLS L-2521, do certify herewith that, in accordance with GS47-30(1)(11)(d):
 That this is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision.

I, _____, Review Officer of the State and County aforesaid, do hereby certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer _____
 Date: _____

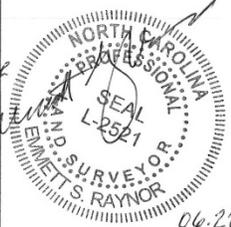
CERTIFICATE OF APPROVAL FOR RECORDING

I, Bart S. Nuchols or _____ acting on my behalf, do hereby acknowledge that this map is exempt by way of Town of Southern Pines Ordinances and N.C. General Statute, and is hereby approved for recording in the Office of the Register of Deeds for Moore County, NC.

Bart S. Nuchols, Planning Director, or his authorized Assistant.

RS1 Building Setbacks	
Front Yard =	30'
Side Yard =	10'
Rear Yard =	30'

Legend:	
IPF	Iron Pipe Found
IRF	Iron Rod Found
ISF	Iron Stake Found
CRF	Concrete Monument Found
IRS	Iron Rod Set
CMF	Concrete Monument Set
UP	Power/Utility Pole
SSM	Sanitary Sewer Nonhole
WM	Water Meter
FW	Fire Hydrant
WV	Water Valve
---	Lines not surveyed
- - - -	Existing or New Boundary Lines surveyed
---	Overhead Electric Lines
---	Overhead Telephone Lines
---	Sanitary Sewer Line
---	Water Line
---	Fence Line
---	Right of Way Line
---	Drainage, Utility or other Easement Line

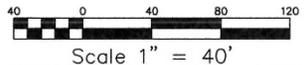


Notes: This map is prepared for recording in accordance with GS 47-30.
 Area by coordinate method.
 1/2" rebar set at all lot corners unless specified otherwise.
 The property shown hereon does not lie within a F.E.M.A. designated flood hazard area.
 Subject property is currently zoned RS1.

Reference: Deed Book 544 Page 622
 Deed Book 601 Page 68
 Book 1195 Page 155
 Map Book 1 Sec. 2 Page 130
 Plat Cabinet 16 Slide 175
 Book 4572 Page 195 (to Moore HL)
 Moore County Registry

This document was originally issued and sealed by Emmett S. Raynor, PLS L-2521 on 11.30.2015. This media shall not be considered a certified document.

Emmett S. Raynor, PLS L-2521
 265 East Connecticut Avenue
 Southern Pines, NC 28387
 Office (910) 295-1703



DRAWN BY: ESR DATE: November 24, 2015 DWG. NO.:	APPROVED BY: _____ PROJ. NO.: _____ DWS: Moore HL - Walsh.dwg	REVISIONS Prepared for recording November 30, 2015.	PROJECT Recombination Plat Lot 1, Tract 1 and Tract 2 From PID# 00038286, 00038287 & 96000473 McNeill Township, Moore County, Southern Pines E.T.D., North Carolina	SHT. NAME The Property of Moore HL Properties, Inc.	SHT. NO.
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This map was created by the Town of Southern Pines Planning Department. The Town of Southern Pines, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media whether expressed or implied, in fact or in law, including without limitation the implied warranties of merchantability and fitness for a particular use. Any resale of this data is strictly prohibited in accordance with North Carolina General Statute 132-10. Grid is based on North Carolina State Plane Coordinate System NAD83 (feet).

Future Land Use Map: AX-03-16

325 Sheldon Road



 = Subject Property

Legend

-  City Limits
-  Primary Roads
- Future Land Use Categories**
-  Parks / Open Space
-  Residential / Golf
-  Rural Equestrian 
-  Urban Reserve
-  Low Density Residential
-  Residential
-  Commercial
-  Traditional Mixed Use
-  Industrial

Agenda Item

To: Reagan Parsons, Town Manager
Via: Bart Nuckols, Planning Director
From: Chris Kennedy, Senior Planner
Subject: Right-of-Way Abandonment for a Portion of N. Ridge Street; Petitioner, Moore HL Properties, Inc.
Date: August 9, 2016

Right-of-Way Abandonment for a Portion of N. Ridge Street; Petitioner, Moore HL Properties, Inc.

The Town has received a request to abandon an approximate 575' foot section of N. Ridge Street. The section of right-of-way to be vacated is N. Ridge Street, the portion of N. Ridge Street extending from the southern boundary of the intersection of N. Ridge Street and Springwood Way to the southernmost property corner of parcel 00038821 adjoining N. Ridge Street extending directly across to the southernmost property corner of parcel 20100351 adjoining N. Ridge Street in the Town of Southern Pines (See attachment 1).

This section of right-of-way is considered a “paper” street in that it is not currently improved or easily accessible for most types of transportation. This section of street is not included in Powell Bill funding calculations. The Town does not have future plans to improve these portions of unopened road. The Town does have a sewer line that runs to this right-of-way, however the Town shall maintain the ability to secure any necessary utility easements per UDO requirements. Per UDO Section 2.29.6 (C), the Town may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to this section. Such reservation shall be stated in the order of closing. Such reservation also extends to utility improvements or easements owned by private utilities which at the time of street closing have a utility agreement or franchise with the Town. To retain such easements, the Town Council shall, after public hearing, approve a “declaration of retention of utility easements” specifically describing such easements.

Per UDO Section 2.29, the procedure to abandon streets, no matter their condition or utility, requires an adopted resolution (see attached), public notices, and a public hearing. Per UDO Section 2.29.2, the process for abandonment may be initiated by the Town Council or the owner of property abutting the street or alley. The Town Council shall adopt a resolution declaring its intent to close a street or alley and call for a public hearing. If the abandonment is approved, the areas abandoned revert automatically to the adjoining property owners to the midway point of the right-of-way on their side of the street for the length of their property on that right-of-way.

Attachments:

- Attachment 1
- Applicant's Request Letter
- Exhibit A Submitted by Applicant

Town Council Actions:

The Town Council shall vote on whether the proposed street or alley vacation request is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property. The Town Council could make one of the following motions for recommendations or any alternative they wish:

I move that the proposed street or alley vacation request...

- 1) **is not contrary to the public interest, and that no individual** owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, therefore...
- 2) **is contrary to the public interest, and that individuals** owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, therefore...

I move to:

- 1) **Approve** the abandonment of the portions of N. Ridge Street as specified in the attached map;
- 2) **Deny** the abandonment of the portions of N. Ridge Street as specified in the attached map;
OR
- 3) **Approve** the abandonment of the portions of N. Ridge Street as specified in the attached map **with the following additional conditions...**

IN ADDITION TO *Street or Alley Vacation Approval* from Town Council, THE APPLICANT SHOULD BE REMINDED THAT ALL APPLICABLE PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION AND/OR DEMOLITION CAN BEGIN.

When the applicant applies for the required permits such as zoning, grading, soil erosion control, building, sign, etc., a set of detailed plans (including a site plan in compliance with various Sections of the Town of Southern Pines UDO) will be necessary. Planning staff recommends a staff consultation of the applicant's preliminary plans to provide comprehensive remarks by all appropriate Town departments/divisions. Such staff consultation should minimize development costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements.

Attachment 1



June 27, 2016

Town of Southern Pines
Attn: Reagan Parsons, Manager
125 SE Broad Street
Southern Pines, NC 28387

Re: Right-of-Way Abandonment Request
(N. Ridge Street)

Mr. Parsons,

Moore HL Properties, Inc. would like to request right-of-way abandonment for a portion of North Ridge Street, from Springwood Way to the overall project boundary, as shown on the attached exhibit. We would like to add this request to the next scheduled Town Council meeting for further consideration. Please let me know if there are any additional fees for public notice advertisement and we will provide those applicable fees.

If there are any additional questions, please let me know.

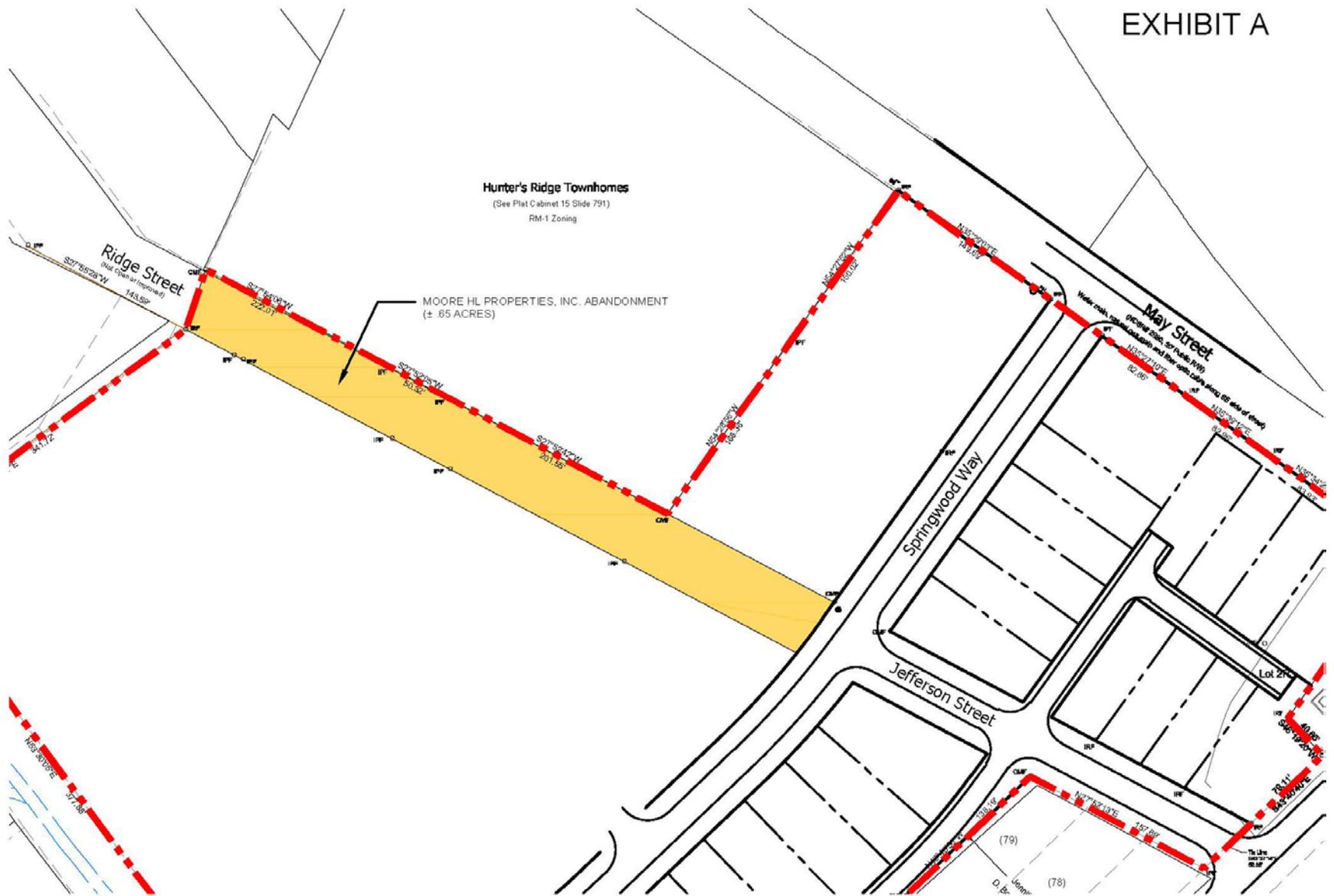
Best Regards,



Robert E. Koontz, PLA



EXHIBIT A



Agenda Item

To: Reagan Parsons, Town Manger

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: CU-01-16; Written Decision and Conditional Use Permit for Major Subdivision for Multi-Family Residential Development for 288 Apartments; Petitioner, Caviness & Cates Building and Development Company

Date: August 3, 2016

CU-01-16; Written Decision and Conditional Use Permit for Major Subdivision for Multi-Family Residential Development for 288 Apartments; Petitioner, Caviness & Cates Building and Development Company

Per Section 2.14.6 (F) (11) “A written decision must be approved for every quasi-judicial application, either by entering the decision at the end of the hearing or at a subsequent meeting of the Hearing Body, which shall generally be the next scheduled meeting. As part of the written decision, the Hearing Body must make findings of fact and conclusions as to applicable standards and any conditions. The Chair may direct the Planning Director or Town Attorney to draft a written decision for approval by the Hearing Body at its next regularly scheduled meeting, which approval may be on a consent agenda.” Staff has prepared the Written Decision document for the application CU-01-16. If the Written Decision is approved by the Town Council, the Mayor will sign the Written Decision and the original will be delivered to the petitioner with staff maintaining a copy of the document in the file.

Attachments:

- Written Decision for CU-01-16

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

1. No action;
2. Accept the Written Decision for CU-01-16 as prepared by the Town staff;
3. An action listed above with the following conditions...
4. Action not listed above...

TOWN OF SOUTHERN PINES

TOWN COUNCIL PUBLIC HEARING & MEETING DATES:

May 10, 2016 (Public Hearing Opened, Public Hearing Continued)
May 23, 2016 (Public Hearing Continued)
June 14, 2016 (Public Hearing Continued)
July 12, 2016 (Public Hearing Closed)
July 25, 2016 (Town Council Deliberation and Vote)
August 3, 2016 (Final Action on Application)

**Douglass Community Center
1185 W. Pennsylvania Avenue**

DECISION OF THE BOARD

Petitioner: Caviness & Cates Building and Development Company

Case Number: CU-01-16

The meeting was called to order with five (5) members present and the Chairman declared that a quorum was present. The petitioner, Caviness & Cates Building and Development Company appeared before the Board through its agents, Mr. Bob Koontz of Koontz Jones Design for the May 10, 2016 and the May 23, 2016 Town Council Meetings, and Mr. Lacy Reeves of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP beginning at the June 14, 2016 Town Council meeting through the final action on the application by the Town Council. The opponents to the project appeared before the Board through their agent, Mr. T.C. Morphis Jr. of the Brough Law Firm, PLLC beginning at the July 12, 2016 Town Council meeting through the final action on the application by the Town Council. The oath was administered to the witnesses prior to their testimony.

Matter at Issue:

CU-01-16 Conditional Use Permit: Major Subdivision Application for a Multi-Family Residential Development to include 288 Apartments; Petitioner, Caviness & Cates Building and Development Company

On behalf of the petitioner Caviness & Cates Building and Development Company, Mr. Bob Koontz of Koontz Jones Design is requesting a development project that will require a Conditional Use Permit application for a multi-family residential development off of US Highway 1 North and NE Service Road. Per Section 4.10.8 of the Unified Development Ordinance, no multi-family development may include more than ten (10) dwelling units except pursuant to a Planned

Development or Conditional Use Permit (CUP) approval. The proposed development consists of an apartment project to include two-hundred eighty-eight (288) dwelling units, thereby the proposal will require a CUP. The subject property is comprised of approximately 25.59 acres in the OS (Office Services) and RM-2 (Residential Multi-Family 2) zoning classifications. The property is identified by the following: PIN: 858214321933 (PARID: 00039174); PIN: 858217214672 (PARID: 00032830); and, PIN: 858217213440 (PARID: 00032829). Per the Moore County Tax records, the property owner(s) are listed as MLC Automotive LLC and the Caviness & Cates Building and Development Company.

The following exhibits for CU-01-16 were entered into the record with the Town Clerk:

- A. CUP Permit paperwork and 5/70 watershed tally sheet
- B. Criteria for the Preliminary Plat
- C. Explanation of compliance with CLRP
- D. The applicant's version of how they comply with the standards of the UDO
- E. Page 4-71 of the UDO
- F. Page 4-72 of the UDO
- G. US Department of the Interior Fish and Wildlife Service Letter
- H. Southern Pines Site Draft Apartment Market Analysis
- I. Bob Koontz slide presentation
- J. Chris Smithson slide presentation
- K. Letter from Luba Cehelska
- L. Proposed and Existing Sidewalks from Senior Planner Chris Kennedy
- M. Development Comparison Information from Senior Planner Chris Kennedy
- N. MLC Automotive/Leith Tract Timeline from Town Manager Reagan Parsons
- O. Sale of Town Parcels 32829 and 32830 Timeline from Town Manager Reagan Parsons
- P. CU-01-16 Potential Public Services Impacts from Town Manager Reagan Parsons
- Q. Department of Public Works letter of response from Town Engineer Brent Lockamy
- R. Expert Witness backgrounds submitted by Lacy Reaves
- S. Neighborhood Meeting Report dated July 7, 2016 (location Bradford Village) submitted by Bob Koontz
- T. 1. US 1 Residential Development TIA – Kimley-Horn
2. Site Location handout – Kimley-Horn
- U. US Highway 1 Property Project Justification - Bob Koontz
- V. US 1 Property Handout - Bob Koontz
- W. Southern Pines Comprehensive Long-Range Plan Figure 4.6-Future Land Use Map – T.C. Morphis Jr.
- X. Regular Business Meeting Minutes of the Town of Southern Pines Town Council – July 12, 2016 typed testimony of Rick Fumea
- Y. Secondary Health data submitted by Graven Powers
- Z. Special Use Permits in NC Zoning – Greg Zywockinski
 - 1. Letter from Lt. Col. Allan Feek read into the record by Sarah Jane Harmon
 - 2. Southern Pines Conditional Use Permit RLUAC – Sarah Jane Harmon

The Town Council disqualified the testimony of Mr. Greg Zywockinski and Ms. Leslie Brians.

Town Council Action: Hearing all evidence submitted by the petitioner and any comments from those in attendance the Town Council then closed the public hearing. After a period of discussion and deliberation the Town Council made the following findings of fact on the application:

Findings of Fact:

The following findings of fact were made by the Town Council as required by Section 2.20.5(G):

Finding of Fact #1

1) I (Mayor McNeill) move that as a finding of fact that the application is complete and that the facts submitted are relevant to the case, in that

- a. The request for Preliminary Plat approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices; and,
- b. The facts submitted are relevant to the case as the evidence submitted was sworn testimony done so by qualified experts or provided through substantiated documentation.

Second by Councilman Simeon, approved 5-0.

Finding of Fact #2

2) I (Mayor McNeill) move that as a finding of fact the application does not comply with Section 2.20.5(G) Criteria for a Preliminary Plat, Criteria 1-6, in that...

2.20.5 (G) Criteria

1. **The application is consistent with the approved Sketch Plat, if applicable.**
Not 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;**
The proposed project is not consistent with the goals and objectives of the Comprehensive Long Range Plan due to the fact that the Comprehensive Plan recommends that Council ensure new development and redevelopment are compatible with the overall scale, architectural, transportation and public-space characteristics of the neighborhood in which it occurs. While multi-family is an appropriate use in this area, the proposed project consists of 288 apartment units housed in twelve buildings where the density would be between two to five times greater than five surrounding developments. One of the key concerns for residents is ensuring that growth and change do not degrade the quality of existing neighborhoods, this means: maintaining compatible scales and intensities of development. The Town does have the authority to address the streetscapes, landscaping, scale and setbacks of projects to maintain internal compatibility and neighborhood vitality.

3. **The proposed subdivision complies with the UDO and applicable state and federal regulations;**
The proposed project does not fully comply with Section 3.5.11 Office Service due to the fact that one of the major objectives of the OS District is to encourage a mixture of medium density residential uses with offices and services and under the proposed preliminary plat, the entire subject OS tract of land would be solely used for multi-family purposes.
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;**
The proposed project is not compatible with surrounding existing single family and multi-family developments due to the size and scale of the project.
5. **The proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties;**
The proposed project's effect on the vitality of adjoining properties would be greater on the Village on the Green than any of the other four previously mentioned developments of Village in the Woods, Village by the Lake, Knollwood in the Pines, and the Southern Pines Housing Authority due to the Village on the Green bordering the proposed project consisting of three story buildings within 60 feet of the property line.
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;**
The proposed project would be adequately served by the Town's water and sewer services with expenses borne by the developer. The existing service road would be improved to State standards by the developer as the primary means of ingress and egress to the proposed project.

Second by Councilman Simeon, approved 4-1; Councilman Fields dissenting.

I (Mayor McNeill) move that the Preliminary Plat be denied in that while the project is consistent with the Comprehensive Long Range Plan of favoring infill development in areas with access to public facilities over development on the perimeter that requires extension of public facilities, I move that the proposed Preliminary Plat is not consistent with those documents that constitute the officially adopted land development plan and other applicable plans as the proposed project fails to meet P-2 Neighborhoods due to its density and scale of buildings not compatible with the surrounding neighborhood characteristics and P-4 Future Land Use due to replacing the entire OS zoned parcel with a multi-family project in effect eliminating the primary uses for this tract of land in which it was provided the OS zoning designation; failing to encourage a mixture of medium density residential land uses with offices and services.

Second by Councilman Walden, approved 4-1; Councilman Fields dissenting.

The following findings of fact were made by the Town Council as required by Section 2.21.7:

Finding of Fact #1

1) I (Mayor McNeill) move that as a finding of fact that the application is complete and that the facts submitted are relevant to the case.

- a. The request for a Conditional Use Permit approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices; and,
- b. The facts submitted are relevant to the case as the evidence submitted was sworn testimony done so by qualified experts or provided through substantiated documentation.

Second by Councilman Walden, approved 5-0.

Finding of Fact #2

2) I (Mayor McNeill) move that as a finding of fact the application does not comply with Section 2.21.7 Criteria for a Conditional Use Permit, Criteria A-F, in that...

2.21.7 Criteria

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;

The proposed conditional use fails to meet Section 3.5.11 (3) by not containing a mixture of medium density multi-family residential units with office and services uses.

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;

The proposed conditional use does not conform to the character of the neighborhood in which it is located due to the CUP requesting a total of 288 apartment units for a rate of 11.2 units per acre and the range of units in the neighborhood is 2.6 to 6.4 units per acre. In addition, the proposed scale for the apartment building is planned at three stories each whereby the surrounding neighborhood is predominantly one to two story dwellings.

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

The proposed project would be adequately served by the Town's water and sewer services with expenses borne by the developer. The existing service road would be improved to State standards by the developer as the primary means of ingress and egress to the proposed project.

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;

The proposed project's effect on the vitality of adjoining properties would be greater on the Village on the Green than any of the other four previously mentioned developments of Village in the Woods, Village by the Lake, Knollwood in the Pines, and the Southern Pines Housing Authority due to the Village on the Green bordering the proposed project consisting of three story buildings within 60 feet of the property line. Furthermore, the application develops the entire OS zoned parcel with a multi-family project in effect eliminating the primary uses for this tract of land for which it was provided the OS zoning designation.

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;

The application and testimony demonstrate sufficient evidence that the use will not be detrimental to public health, safety, or welfare.

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

The public interest and welfare supporting the proposed use is not sufficient to outweigh both individual and collective interest that is adversely affected by the establishment of the proposed use due to the size and scale of the project.

Second by Councilman Simeon, approved 4-1; Councilman Fields dissenting.

I (Mayor McNeill) move that the proposed Conditional Use Application is not consistent with the documents that constitute the officially adopted land development plan or applicable plans and shall be denied, in that the proposed CUP eliminates any further Office Services uses in this area, therefore creating in essence a rezoning of the property from Office Services to Residential which fails to meet the Long Range Plan for the Town of Southern Pines.

Second by Councilwoman VanCamp, approved 4-1; Councilman Fields dissenting.

The denial of Conditional Use Permit CU-01-16 thereby also denies Watershed Protection Permit application WP-01-16 that was submitted in conjunction with the Conditional Use Permit Application.

Decision of the Board:

The requests under application CU-01-16 for Preliminary Plat approval and Conditional Use Permit approval, including Watershed Protection Permit WP-01-16, were *denied* by the Town Council.

This is the 3rd day of August, 2016.

FOR THE TOWN COUNCIL:

David McNeill, Mayor

cc: Douglas Gill, Esq.
Southern Pines Planning Department
Southern Pines Planning Board
Reagan Parsons, Town Manager
Southern Pines Town Clerk
David McNeill, Mayor
Mike Fields, Mayor Pro Tem
Fred Walden
Jim Simeon
Teresa Van Camp

Caviness & Cates Building and Development Co.
Koontz Jones Design
Kimley-Horn and Associates, Inc.
Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP
The Brough Law Firm, PLLC.