

AGENDA

**Agenda Meeting of the Southern Pines Town Council
October 5, 2016, 7:00 PM, C. Michael Haney Community Room,
Southern Pines Police Department
450 West Pennsylvania Avenue**

Council Review of Letters of Interest for Vacant Seat and Discussion

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 August 22, 2016, Agenda Meeting Minutes of September 7, 2016 and Regular Business Meeting Minutes of September 13, 2016 as written.

3. **Architectural Reviews**

- A. **AR-09-16 Pinehurst Toyota; 10760 US Highway 15-501; Penney Design Group**

On behalf of the petitioner Penney Design Group, Mr. Jonathan J. Penney has submitted an application requesting Architectural Review approval for a redevelopment to the existing Pinehurst Toyota site located at 10760 US Highway 15-501. The proposed project includes the demolition of the existing structure and the new construction of a vehicle repair shop, showroom, and parts department. The proposed project includes approximately 37,415 square feet of commercial space dedicated to the dealership.

- B. **AR-10-16 Zaxby's Restaurant; 160 Partner Circle; Hill Foley Rossi & Associates**

On behalf of the petitioner Hill Foley Rossi & Associates, Ms. Cathy Truong has submitted an application requesting Architectural Review approval for a new commercial development located at 10760 US Highway 15-501. The proposed project includes the new construction of a Zaxby's restaurant. The proposed project includes approximately 3,654 square feet of commercial space dedicated to the restaurant.

4. **Public Hearings**

- A. Right of Way Abandonment of N. Mechanic Street & W. Rhode Island Avenue – *(Tabled 08-03-16)*

- B. **Z-03-16; Request to Rezone Property from PD to GB; 195 Short Street; Petitioner, Tammy Lyne**

On behalf of property owners, the petitioner Ms. Tammy Lyne is requesting to rezone property from PD (Planned Development) to GB (General Business). The subject property is comprised of two parcels totaling 1.296 acres.

- C. **Z-04-16; Request to Rezone Property from PD to GB; 00048374; Petitioner, Tammy Lyne**

On behalf of property owner, the petitioner Ms. Tammy Lyne is requesting to rezone property from PD (Planned Development) to GB (General Business). The subject property is comprised of 0.687 acres.

- D. **CU-06-16 Conditional Use Permit: Major Modification to CU-01-11 for a Daycare; Tyler's Ridge; Petitioner, Building Blocks Early Education Centers**

On behalf of the petitioner, Building Blocks Early Education Centers, Mr. Perry Melton has submitted a request for a major amendment to Conditional Use Permit CU-01-11. The approval of 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. Melton 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 subject property is comprised of 1.48 acres with the entirety of the subject property located within the corporate limits of the Town of Southern Pines.

- E. **Public Hearing to Review Water & Sewer CIP and Associated Impact Fees**

5. **Miscellaneous**

MINUTES

Worksession Meeting of the Southern Pines Town Council

August 22, 2016, 3:00 pm, C. Michael Haney Community Room, Southern Pines Police Department
450 W. Pennsylvania Avenue

Present: Mayor David McNeill, Councilmember Fred Walden, Councilman Jim Simeon and Councilwoman Teresa VanCamp

Absent: None

- 1. Request to Discuss the Potential for a Rezoning from PD to GB; Property along Murray Hill Road & Short Street; Petitioner; Tammy Lyne**
- 2. Request to Discuss the Potential for a Rezoning from RM-1 to GB; Property Along Murray Hill Road & Richards Street; Petitioner, Tammy Lyne**

Blake Webb represented Tammy Lyne and gave a brief overview of the request for items 1 and 2.

Discussion ensued amongst Council, Town Manager Parsons, Planning Director Bart Nuckols and Mr. Webb regarding the CLRP, current zoning map and reasons they are asking for this rezoning.

Mr. Webb stated items 1 and 2 are two separate applications, but are asking for the same result of GB zoning.

Mayor McNeill asked Mr. Webb if there is a specific reason that they are requesting this particular rezoning.

Mr. Webb stated they trying to fit into the long range plan and utilize the greatest percentage of the land.

Councilwoman VanCamp stated there is no GB currently located adjacent to the Murray Hill/Richards tract.

Mr. Webb replied they are looking into the future use.

Councilmember Walden stated GB does not currently fit the second location because there is no GB in the area, it's all residential and has no sidewalks, which would pose a safety issue.

Mayor McNeill stated this is two separate issues and two separate requests and suggests that this item be further discussed later.

3. Discussion regarding Penick Village “No Parking” request along Ridge Street

Town Manager Parsons provided an overview of the item.

Councilmember Simeon stated a Hearing or resident feedback on this issue would be very appropriate to consider should Council move forward.

Discussion ensued.

Councilwoman VanCamp asked if Penick has exhausted all of their other available options prior to coming to Council.

Town Manager Parsons stated he will follow up with Mr. Hutchins and also ask that Public Works take a look at site distance and mark areas appropriately should a problem be found.

4. Connect NC Bond Recreation Grant Program – Director Robert Reeve

Recreation Director Reeve presented an overview of the item and explained the Connect NC Bond Grant Program for Children and Veterans with Disabilities and the procedural process of applying for the grant. Mr. Reeve stated this grant opportunity would provide a unique and financially attractive opportunity to enhance the Reservoir Park for Veterans and children with disabilities. Mr. Reeve discussed the list of Reservoir Park improvements and costs with the estimated potential grant monies and total amount the Town would be required to contribute. Mr. Reeves stated upon approval to move forward with the application for the grant, it will typically take about 60 days for the final agreements to be completed and awarded to the grantees with a 3-year window of opportunity to fully complete the proposed funded project. Mr. Reeves explained the benefits and importance of this rare opportunity for the proposed project and the positive impact these amenities could bring to the people that really need it.

Discussion ensued regarding the inclusion of upgraded restroom facilities and the likelihood that, if included, they would push the project budget high enough that a grant award would be unlikely or we may be asked to pursue PARTF instead.

Discussion ensued regarding matching funds that would have to be available if awarded the grant and the proposed timeline.

Councilwoman VanCamp stated this is a fabulous opportunity that we can take part in and thanked Mr. Reeve for all of his determination and time to research this unique project and bringing it to the attention of the community.

Councilmember Simeon commented that some of the partners that have been mentioned and possibly other partners may be willing to assist in some form of funding for this project if awarded.

Upon motion by Councilmember Simeon, seconded by Councilmember Walden and carried unanimously 4-0, it was approved to move forward with the application to apply for the Connect NC Bond Grant Program for Children and Veterans with Disabilities.

5. Selection of Mayor Pro-Tem

Upon motion by Councilmember Walden, seconded by Councilwoman VanCamp and carried unanimously 4-0, Councilmember Jim Simeon was nominated to fill the vacated Mayor Pro Tem seat and Councilmember Simeon accepted.

6. Discussion Regarding Vacancy on Council

It was unanimously decided by Council to post a public notice to inform the community and interested persons that an open Council seat is available as of today and letters of interest for the open Council seat will be accepted until Friday, September 23, 2016 with a nomination or next steps being discussed at the September 26, 2016 Worksession Meeting of Town Council.

7. Discussion Regarding Council Schedule: November Business Meeting

It was unanimously decided to move the November 8, 2016 Regular Business Meeting of Town Council at the Douglass Community Center to November 9, 2016 at the Douglass Community Center due to the elections taking place at the Douglass Community Center on November 8, 2016. Public notice will be provided in the Pilot newspaper prior to the meeting date.

8. Miscellaneous

Councilmember Walden discussed some concerns regarding a conversation with a NC Highway department representative about designating a scenic byway route along US1 into Southern Pines in an effort to limit any development along the stretch of highway.

Town Manager Parsons stated a goal such as this would require some significant changes to the UDO, likely through an existing or new overlay. A scenic byway designation from DOT would not have the effect stated.

Discussion ensued.

Mayor McNeill stated staff will look into this request further.

Councilmember Walden stated additional language needs to be added to the UDO that will not allow apartment complexes that have more than 10 units to be allowed within the Southern Pines public school district to prevent over-population of the schools.

Town Manager Parsons stated that a different approach may be more appropriate as our zoning code should not tie to District lines that the Council has no authority to control. Where apartments might or might not be allowed today under such language could change tomorrow based on school board designations with no thought or discussion as to zoning implications. Mr. Parsons stated there may be more suitable language or mechanisms that will make this request possible should it be something that the Town Council wishes to pursue.

Discussion ensued.

Mayor McNeill suggested staff further research this item.

Councilwoman VanCamp asked for an update on Lost City.

Town Manager Parsons provided an update and stated no negative feedback has been submitted relative to the emergency access and one of the property owners stated they haven't had nearly the dumping activity issues lately as they have in the past.

Councilwoman VanCamp asked for an update on the new administration building changes.

Assistant Town Manager Lindsay provided an update.

Mayor McNeill stated Steve Kastner has submitted his letter of resignation from the Board of Zoning and Adjustment Committee and there is a current open seat on this board.

As so incorporated to these minutes of August 22, 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 4:16 p.m.

Peggy K. Smith
Town Clerk

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

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

Absent: None

Call to Order

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 July 25, 2016, Agenda Meeting Minutes of August 3, 2016 and Regular Business Meeting Minutes of August 9, 2016 as written.

Edits to the minutes were noted by the Town Clerk.

- B.** Resolution to Support AIA Grant Funding request

Assistant Town Manager Adam Lindsay provided an overview of the item and explained the process of funding if approved.

- C.** Board Appointments

- Board of Zoning Adjustment

Town Manager Reagan Parsons reviewed the current open seats on the Board of Zoning Adjustment and provided an update on possible interested candidates. Mr. Parsons stated staff will review the current openings and he will follow up with interested candidates in the coming months. Mr. Parsons stated the newly appointed persons would take office effectively on October 1, 2016.

3. Public Hearings

- A.** Right of Way Abandonment of N. Mechanic Street & W. Rhode Island Avenue – (Tabled 08-03-16)

Town Manager Parsons provided an update on this item as currently still tabled.

4. Miscellaneous

Mayor McNeill joined Council in congratulating Assistant Town Manager Adam Lindsay on his acceptance of the Town Manager's position in Clayton, NC. Mayor McNeill stated Mr. Lindsay has been a valuable asset with a tremendous positive impact to the Town for the last three years and they are saddened to learn of his departure, but wish Mr. Lindsay and his family well on their new endeavors.

Town Manager Parsons reviewed the purposes of Council retiring to closed session per NC General Statute 143-318.11 (a) (6) and NC General Statute 143-318.11 (A) (6).

Upon motion by Councilmember Walden, seconded by Mayor Pro Tem Simeon and carried unanimously 4-0, Council retired to closed session at 7:15 pm to discuss the following:

A. Closed Session to Discuss a Personnel Matter Per NC General Statute 143-318.11 (a) (6) in addition to consulting with Town Attorney per NC General Statute 143-318.11 (a) (3)

As so incorporated to these minutes of September 7, 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 7:15 p.m.

Peggy K. Smith
Town Clerk

Minutes

Regular Business Meeting of the Southern Pines Town Council September 13, 2016, 7:00 PM, Douglass Community Center, 1185 W. Pennsylvania Avenue

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

Absent: None

Call To Order

Pledge of Allegiance

The Pledge of Allegiance was led by Boys & Girls Club of the Sandhills members De'Bryant Martin and Jordan Martin.

Councilmember Simeon presented De'Bryant and Jordan with certificates of appreciation from the Town of Southern Pines.

1. Manager's Comments

Town Manager Parsons and Councilmembers congratulated Assistant Town Manager/Public Works Director Adam Lindsay on his new position as Town Manager of Clayton, North Carolina.

Town Manager Parsons congratulated Senior Town Planner Chris Kennedy on his promotion to Assistant Town Manager/ Community Development Director, replacing current Assistant Town Manager/Public Services Director, Adam Lindsay as of September 17, 2016. Mr. Parsons spoke very highly of Mr. Kennedy's ability to transition into the new role.

Mayor McNeill thanked Mr. Lindsay for all of his dedicated hard work with the Town which speaks for itself with his level of professionalism.

Councilmember Walden expressed great appreciation of Mr. Lindsay's three years of service as an asset with the Town and stated Mr. Lindsay will truly be missed.

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 July 25, 2016, Agenda Meeting Minutes of August 3, 2016 and Regular Business Meeting Minutes of August 9, 2016 as written.
- B. Resolution to Support AIA Grant Funding request
- C. Board Appointments
 - Board of Zoning Adjustment
 - o Gary Carroll – Initial Appointment – 10/01/2016 – 10/01/2019
 - o Mike Fields – (Alternate) – 10/01/2016 – 10/01/2019
 - o Mike Martin – (ETJ Alternate) – 10/01/2016 – 10/01/2019

Upon motion by Councilmember Walden, seconded by Councilwoman VanCamp and carried unanimously 4-0, the consent agenda was approved.

3. Public Hearings

- A. Right of Way Abandonment of N. Mechanic Street & W. Rhode Island Avenue – (Tabled 08-03-16)

No action taken.

4. Public Comments

Mark Lorence of 140 Riding Lane, Southern Pines discussed he and his neighbor's desire to privatize Riding Lane as they are opposed to the upcoming schedule to pave the street. Mr. Lorence submitted a written petition in formal opposition of the paving project. Mr. Lorence also stated there are several vehicles that are not residents to the street that use the road as a pass through at certain times of the day and are traveling at a high rate of speed.

Town Manager Parsons explained the paving schedule and how it relates to the Powell Bill process. Mr. Parsons stated he would follow up with Assistant Town Manager Lindsay with the request and the flow of pass through traffic issues with the Police Department.

Hugh Mensch of 20 Hunter Court, Southern Pines thanked Mayor Pro Tem Simeon and Town staff for the quick turnaround time regarding a needed stop sign near the new Lowes store. Mr. Mensch discussed the issue of the increased traffic on Morganton Road from Pinecrest Plaza turning left due to all of the new businesses in the area.

Chris Smithson of 920 N. Saylor Street, Southern Pines thanked Council on their previous decision to deny CU-01-16 and stated the request to abandon the right of way of N. Mechanic Street & W. Rhode Island should not move forward and the Town owned streets should continue to be as it is.

Upon motion by Mayor Pro Tem Simeon, seconded by Councilmember Walden and carried unanimously 4-0, the meeting was adjourned.

As so incorporated to these minutes of September 13, 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.

Peggy K. Smith
Town Clerk

Agenda Item

To: Reagan Parsons, Town Manager

From: Chris Kennedy, Community Development Director

Subject: AR-09-16 Pinehurst Toyota; 10760 US Highway 15-501; Penney Design Group

Date: October 11, 2016

AR-09-16 Pinehurst Toyota; 10760 US Highway 15-501; Penney Design Group

On behalf of the petitioner Penney Design Group, Mr. Jonathan J. Penney has submitted an application requesting Architectural Review approval for a redevelopment to the existing Pinehurst Toyota site located at 10760 US Highway 15-501. The proposed project includes the demolition of the existing structure and the new construction of a vehicle repair shop, showroom, and parts department. The proposed project includes approximately 37,415 square feet of commercial space dedicated to the dealership. The property is identified by the following: PIN: 857110355253 (PARID: 00053613). Per the Moore County Tax records, the property owner(s) are listed as Philip P. Smith.

Staff Comments:

- The subject property is a 2.958-acre site.
- The property is zoned General Business (GB).
- The proposed project must comply with the standards of Section 4.10 Commercial Building Design Standards as set forth in the UDO.
- Per Section 4.10.4 (C) Building Materials: The exterior finish of building walls shall be primarily comprised of brick. Cementitious horizontal lap siding, textured concrete masonry, cast stone and stucco may be used for accents, provided that they cover no more than twenty (20) percent of the exterior walls, exclusive of doors and windows. Wood and metal may be used as trim around doors and windows. The permit issuing authority may approve:
 - 1. The use of alternative building materials that establish an equivalent appearance and have equal or greater durability.
 - 2. Alternative materials satisfying minimum building code standards on walls that are screened and not visible from any public street, walkway, or residential zoning district.
 - The petitioner is requesting that the Town Council waive the requirements for an 80% brick façade. Please see the petitioner's narrative attached.
 - The petitioner has submitted the following percentages for the elevations:
 - The percentage of Brick against total façade finish area: 37.5%
 - The percentage of CMU against the total façade finish area: 45%

- The percentage of ACM PANELS (accent material) against the total façade finish area: 17.5%
- All mechanical equipment on the ground and roof will be screened from all sides.
- The building height is proposed at twenty-eight (28) feet to the top of the portal. The GB (General Business) zoning classification has a forty-five (45) feet height maximum.

Attachments:

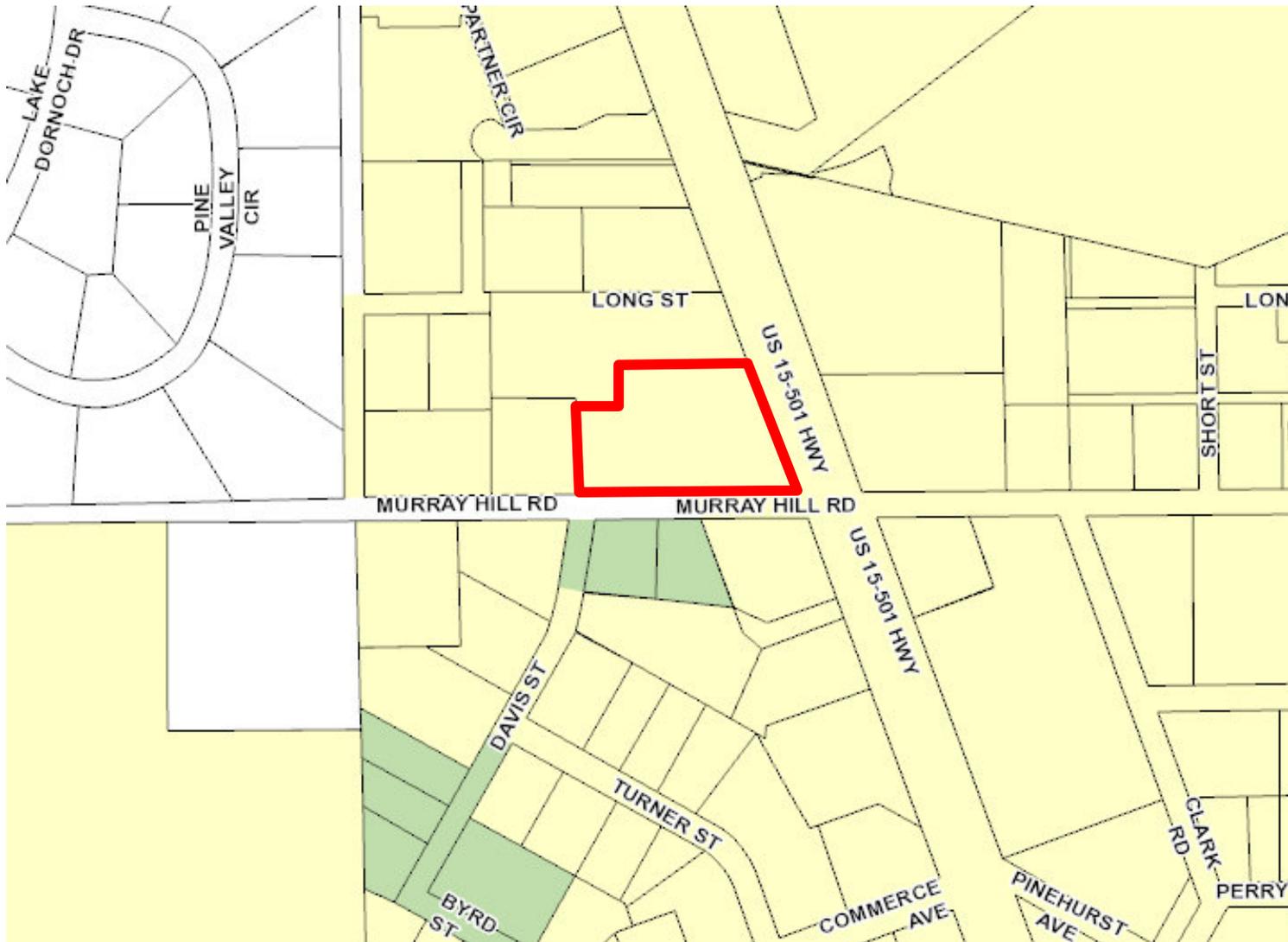
- GIS Aerial Vicinity Maps
- Application
- Narrative
- Illustrative Renderings
- Site Plan
- Floor Plan

IN ADDITION TO Architectural Review 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 recommend 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.

AR-09-16 Pinehurst Toyota
10760 US Highway 15-501

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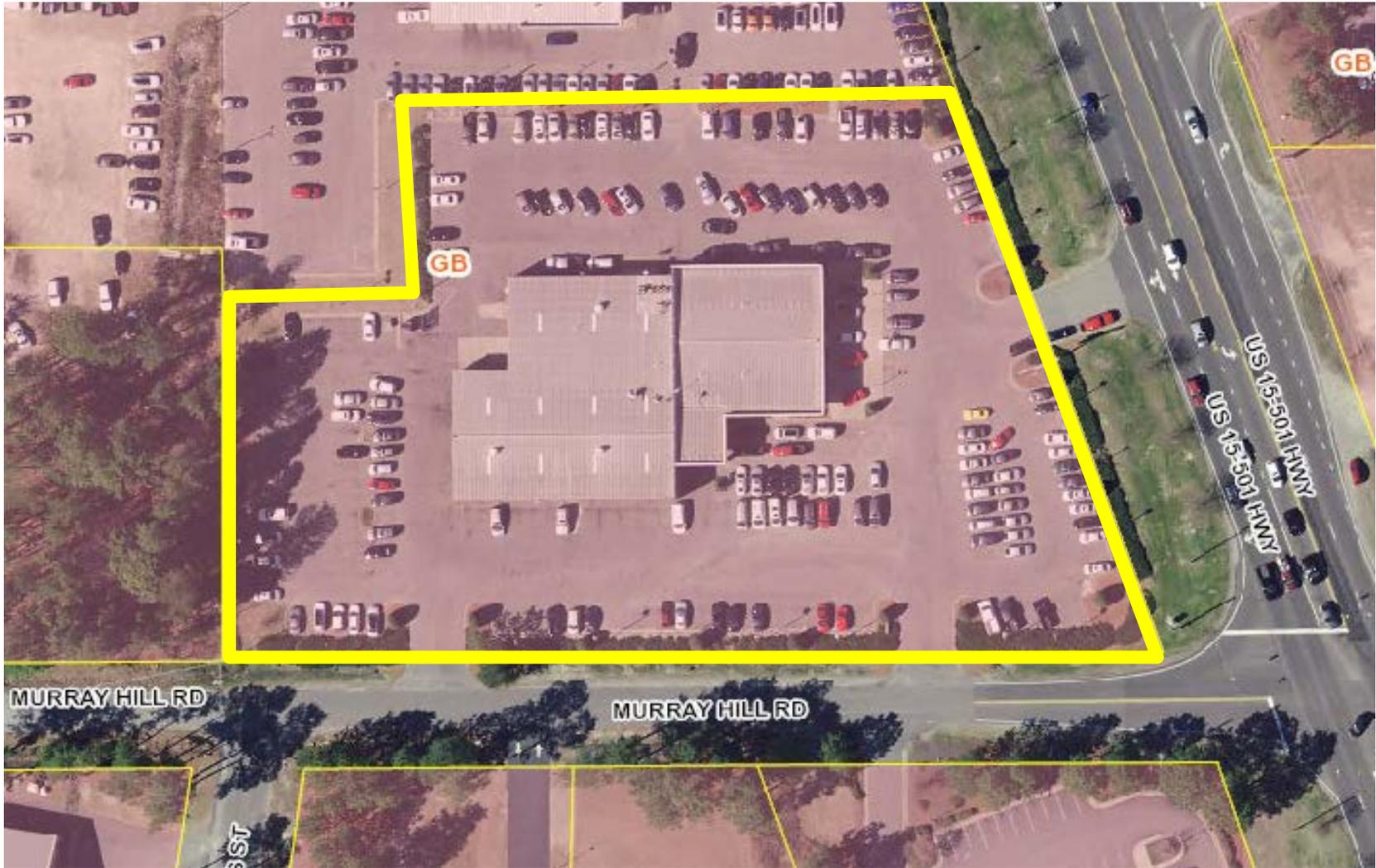
AR-09-16 Pinehurst Toyota
10760 US Highway 15-501

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AR-09-16 Pinehurst Toyota
10760 US Highway 15-501

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PENNEY DESIGN GROUP

September 02, 2016

Mr. Chris Kennedy, AICP
Southern Pines – PDD
180 SW Broad St.
Southern Pines, NC 28387
910-692-4003
kennedy@southernpines.net

Re: Pinehurst Toyota, Southern Pines, NC – Architecture Design Narrative

Dear Planning & Development Department:

Existing Property Information

Existing single-story automotive dealership totaling approx.: 18,612 sf. The property is approx. 3.98 acres located at the intersection of US-15/501 & Murray Hill road - 10760 US-15/501, Southern Pines, NC 28387.

Development District: HCO (Highway Corridor Overlay)

Zoning Classification: GB (General Business)

Proposed Project Information

Proposed new single-story automotive dealership approx.: 37,415 sf footprint. The construction shall be comprised of 2-phases.

Phase-1: Construct a vehicle repair shop and support spaces behind the existing dealership building, this will allow the business to remain open without the use of temporary trailers, etc at this time.

Phase-2: Existing dealership building shall be razed. A new showroom, parts department, service reception drive lanes and associated spaces shall be constructed which will tie into the completed Phase 1 structure. During this phase, service reception/write-up will be handled at the existing Hyundai building located on the same property, the sales function of the business will be accomplished with a mix of temporary sales trailers and off-site offices.

Proposed Architecture

The project seeks to blend Toyota USA's Corporate Identity Program with the materials and the design standards outlined in the Southern Pines UDO for buildings constructed in the HCO District.

It should be noted that Toyota CI mandates full aluminum composite material (ACM) panels essentially on three sides of the showroom & office portion of the building, including the service customer reception structure, the remainder of the building should be covered in EFIS



or left as exposed CMU. We have proposed a compromise which we think incorporates the spirit of Southern Pines' UDO and Toyota USA CI, please refer to the attached building elevations renderings for a comparison exhibit between Toyota CI and our proposed project.

Lastly the project proposes a "portal" which tied to the building façade framing structure and represents Toyota's main brand recognition element. The "portal" has white back-painted glass panels and is internally illuminated with LED fixtures. The "portal" is a pre-fabricated element which is assembled on-site by Toyota USA's vendor, the building design team & general contractor coordinate for required installation prep scope, such as footings/foundation and power as required.

Design Compliance Breakdown: UDO Section 4.14.4 – Building Design Requirements:

(A) Building Orientation: Primary customer entrance has been proposed on the east side of the building which faces US15/501, the side of the building faces the higher of the two streets which bound the property.

(B) Building Dimensions: The primary elevations for customers have been treated with a combination of material changes, height offsets (roof) & plane offsets (bump-in's/out's).

(C) Building Materials: Brick (two colors) has been proposed as the material for the middle 1/3 portion of the building's sides (North & South elevations) including the service customer reception structure (building's south side). Additionally brick is proposed for a water table around the front 1/3 portion of the building's sides (North, East, and South elevations – essentially the showroom/sales portions of the building).

(C): Subsection #1 – Variance Request: The materials on the rear 1/3 portion of the buildings (Phase I of the project) have been proposed as split-face cmu (two colors) in lieu of brick. CMU is more durable than brick and it is the preferred material method to construct Phase I for simplicity and durability. In addition to the aforementioned characteristics of cmu, we think it helps break up the expanse of wall area material heading west towards the rear of the property.

(C) Variance Request – Accent Materials Use: The Building Materials section allows for the use of accent materials up to 20% of façade area as outlined in the section. We request to use ACM panels as an accent material for the façade on 20% or less of the building, actual proposed area is 17.5% - Please refer to Exterior Material Analysis Exhibit on the Building Elevation sheets - . The proposed material is required by Toyota USA CI, there are two colors proposed: metallic silver and red accent banding. The panels have a substantial durability life-expectancy (20 year warranty against color fade) and are a premium material cost. As noted previously we have eliminated a great deal of this material from our proposal as compared to a prototypical build project, we feel this is a great compromise and represents to minimum amount of ACM panels Toyota USA will allow for a new build.



PENNEY DESIGN GROUP

(D) Windows: Storefront glazing has been proposed as clear (non-reflective), with low-e coating.

(E) Awnings: N/A

(F) Galleries & Arcades: We have proposed a covered area to be used for vehicle display and to provide a sense of presence and arrival at the main entrance. The covered area extends approx.: 21'-0" from the showroom face, it does not encroach on any R.O.W.'s.

(G) Roofs: Parapets with height offsets have been incorporated.

(H) Mechanical Equipment: Roof equipment shall be screened from view from public ways/streets.

(I) Loading Zones & Garage Bays: Garage doors & loading areas shall be screened in accordance with section 4.3.4 & 4.3.5.

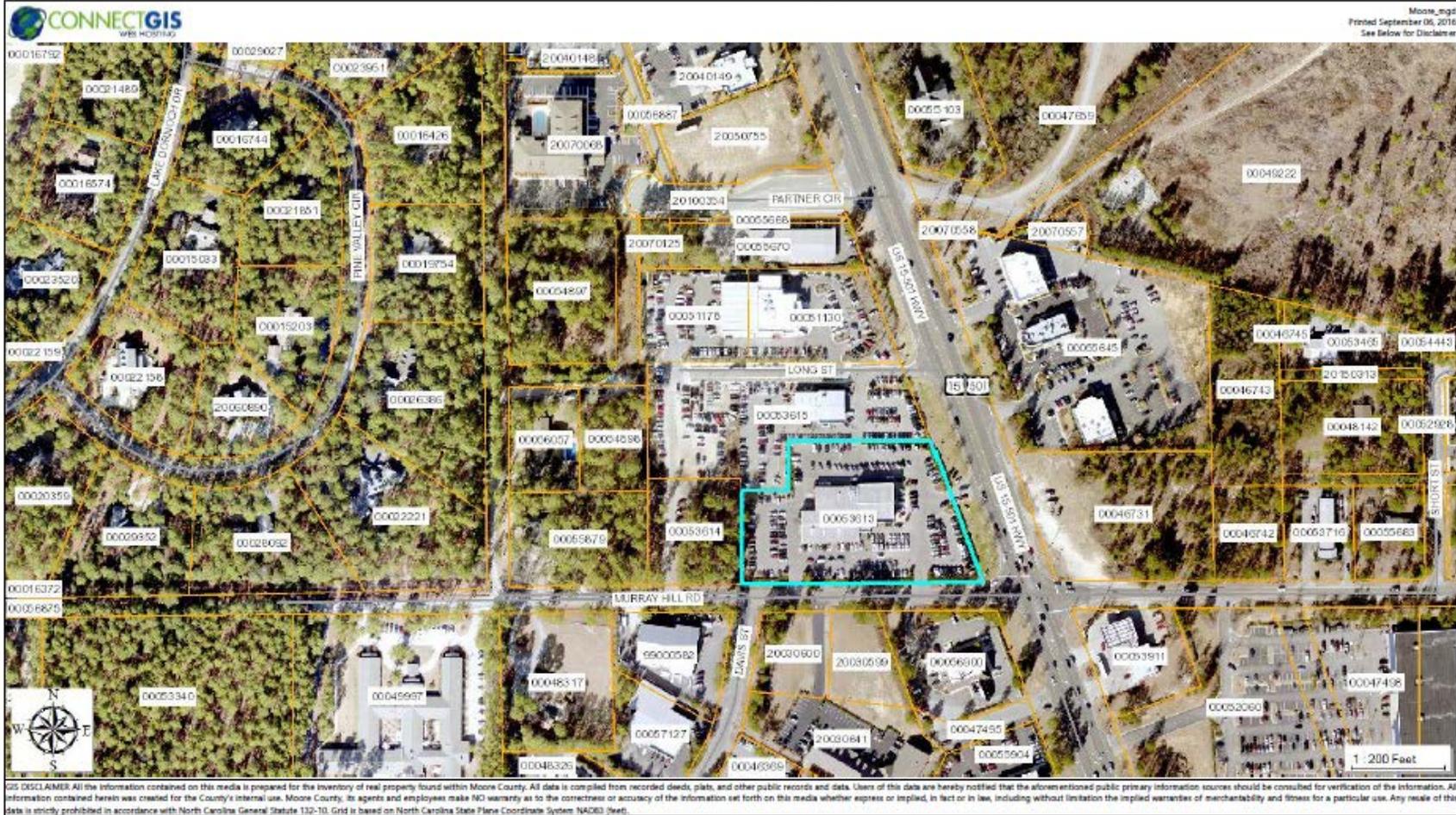
(J) Signage: The property has 323 linear feet of frontage along US-15/501 which translates to 323 square feet of allowable sign area. The project proposes: 134 s.f. of signage, no sign is over 100 s.f. in total area.

Conclusion

We thank you for your time and consideration of the project, please do not hesitate to call or email with any questions or concerns.

Sincerely,

Peter Beylo
Penney Design Group, LLC



DISCLAIMER: All the information contained on this media is prepared for the inventory of real property found within Moore County. All data is compiled from recorded deeds, plats, and other public records and data. Users of this data are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information. All information contained herein was created for the County's internal use. Moore County, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media whether express 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).



1A PROJECT PROPOSED EAST ELEVATION

Scale: 1/8" = 1'-0"



1 EAST ELEVATION - TOYOTA PROTOTYPE C.I.

Scale: 1/8" = 1'-0"



PALETTE: CMU-1 CMU-2 BRICK-1 BRICK-2 BRICK-3 ACM-1 & ACM-2 PT-1



KEY PLAN

BUILDING EXTERIOR MATERIAL ANALYSIS - PINEHURST TOYOTA, SOUTHERN PINES, NC				BUILDING EXTERIOR MATERIAL SCHEDULE - PINEHURST TOYOTA, SOUTHERN PINES, NC			
AREA/DESCRIPTION	QTY	UNIT	AREA	AREA	DESCRIPTION	QTY	UNIT
REAR EXTERIOR WALL	103	SQ YD	103	103	CMU-1	103	SQ YD
FRONT EXTERIOR WALL	103	SQ YD	103	103	CMU-2	103	SQ YD
ROOF	103	SQ YD	103	103	BRICK-1	103	SQ YD
...

PD
PENNEY DESIGN GROUP
832 Woodloch Avenue | Suite 800 | Raleigh, North Carolina 27604
P: 919.439.9300 | F: 919.439.9301 | www.penneydesigngroup.com

PHIL SMITH AUTO. GROUP
4350 North Federal Highway
Lighthouse Point, FL 33054

ELEVATION COMPARISON - TOYOTA PROTOTYPE / PROJECT PROPOSED
NEW CONSTRUCTION (PHASE I & II)
09.02.2016

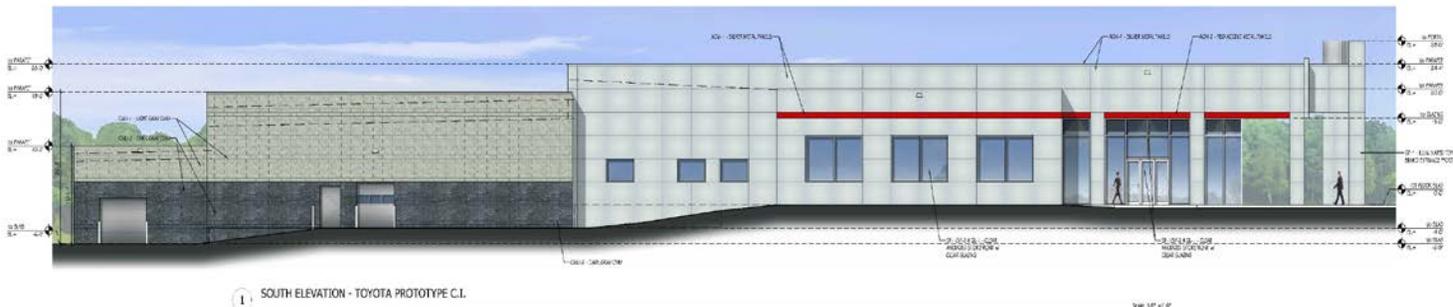
Pinehurst Toyota
10760 US-15
Southern Pines, NC 28387
PINEHURST

ELEV-1
SCALE: 1/8" = 1'-0"
30x42 Sheet Layout



1A PROJECT PROPOSED SOUTH ELEVATION

Scale: 1/8" = 1'-0"



1 SOUTH ELEVATION - TOYOTA PROTOTYPE C.I.

Scale: 1/8" = 1'-0"



BUILDING EXTERIOR MATERIAL ANALYSIS - PINEHURST TOYOTA, SOUTHERN PINES, NC				BUILDING EXTERIOR MATERIAL SCHEDULE - PINEHURST TOYOTA, SOUTHERN PINES, NC			
DESCRIPTION	AREA	UNIT	NOTE	MARK	DESCRIPTION	MARK	REMARKS
CONCRETE EXTERIOR WALL	10,000 SF	SQ. FT.		CMU-1	CONCRETE EXTERIOR WALL	CMU-1	CONCRETE EXTERIOR WALL
CONCRETE EXTERIOR WALL	10,000 SF	SQ. FT.		CMU-2	CONCRETE EXTERIOR WALL	CMU-2	CONCRETE EXTERIOR WALL
BRICK EXTERIOR WALL	10,000 SF	SQ. FT.		BRICK-1	BRICK EXTERIOR WALL	BRICK-1	BRICK EXTERIOR WALL
BRICK EXTERIOR WALL	10,000 SF	SQ. FT.		BRICK-2	BRICK EXTERIOR WALL	BRICK-2	BRICK EXTERIOR WALL
BRICK EXTERIOR WALL	10,000 SF	SQ. FT.		BRICK-3	BRICK EXTERIOR WALL	BRICK-3	BRICK EXTERIOR WALL
ALUMINUM COMPOSITE MATERIAL	10,000 SF	SQ. FT.		ACM-1 & ACM-2	ALUMINUM COMPOSITE MATERIAL	ACM-1 & ACM-2	ALUMINUM COMPOSITE MATERIAL
PAINTED METAL	10,000 SF	SQ. FT.		PT-1	PAINTED METAL	PT-1	PAINTED METAL
TOTAL EXTERIOR MATERIAL AREA	70,000 SF	SQ. FT.					

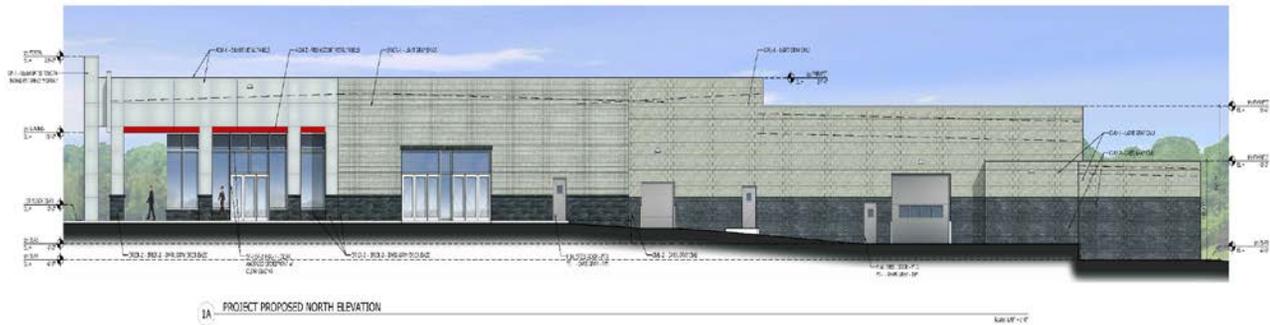
PENNEY DESIGN GROUP
 818 Woodmont Avenue, Suite 101, Bethesda, Maryland 20814
 P: 301.591.9600 | F: 301.281.5881 | www.penneydesign.com

PHIL SMITH AUTO. GROUP
 4250 North Federal Highway
 Lighthouse Point, FL 33064

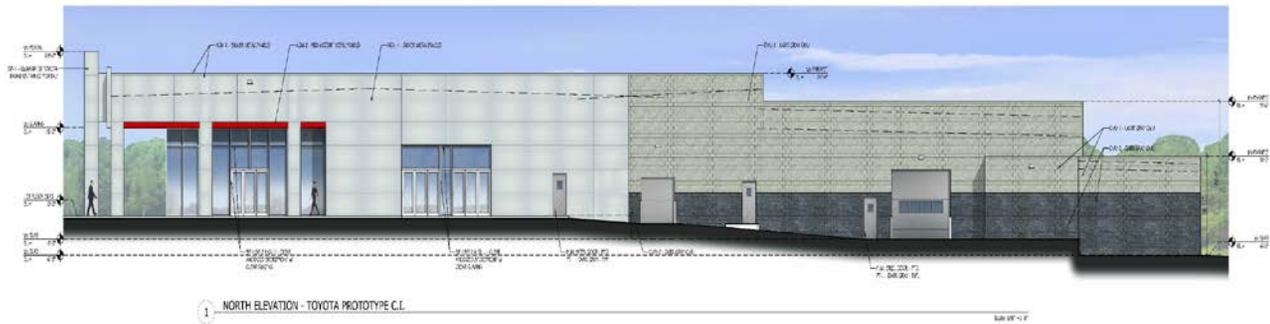
ELEVATION COMPARISON - TOYOTA PROTOTYPE / PROJECT PROPOSED
 NEW CONSTRUCTION (P/N/A) (A.1)
 09.02.2025

Pinehurst Toyota
 2390 US-15
 Southern Pines, NC 28387
 P5AC02a

ELEV-2
 SCALE:
 1/8" = 1'-0" / 20x42 Sheet Layout



1A PROJECT PROPOSED NORTH ELEVATION



1 NORTH ELEVATION - TOYOTA PROTOTYPE C.L.



PALETTE:



KEY PLAN

BUILDING EXTERIOR MATERIAL ANALYSIS - PINEHURST TOYOTA, SOUTHERN PINES, NC				BUILDING EXTERIOR MATERIAL SCHEDULE - PINEHURST TOYOTA, SOUTHERN PINES, NC			
ZONE/STORY	AREA	NET A	NET V	NET H	NET W	NOTES	REMARKS
2ND FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
1ST FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
3RD FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
4TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
5TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
6TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
7TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
8TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
9TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
10TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
11TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
12TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
13TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
14TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
15TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
16TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
17TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
18TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
19TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
20TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
21ST FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
22ND FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
23RD FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
24TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
25TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
26TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
27TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
28TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
29TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			
30TH FLOOR	1,100 SF	4,800 SF	4,700 SF	4,800 SF			

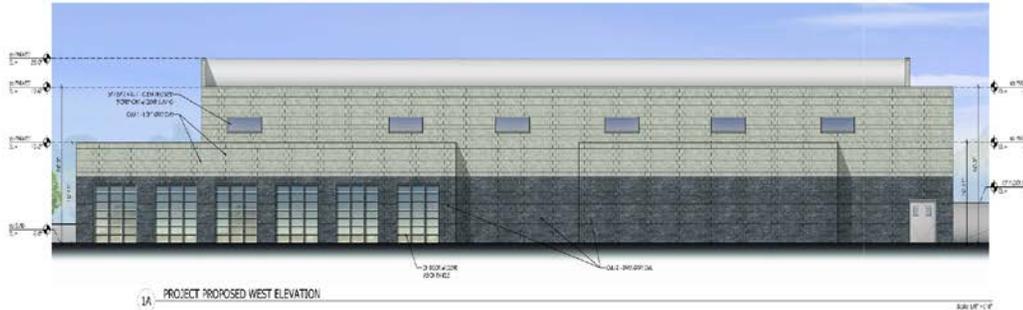
pd PENNEY DESIGN GROUP
 8225 Woodloch Forest Blvd, Suite 100, Raleigh, NC 27615
 919.875.7500 | 1.800.733.6300 | www.penneydesign.com

PHIL SMITH AUTO. GROUP
 4210 North Redwood Highway
 Lighthouse Point, FL 33054

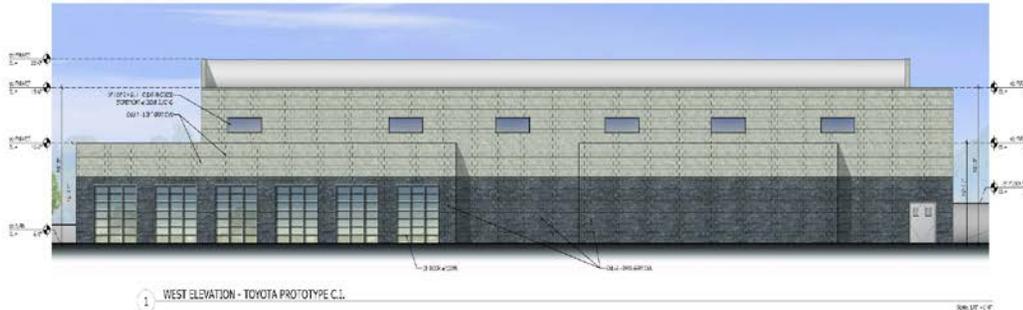
ELEVATION COMPARISON - TOYOTA PROTOTYPE / PROJECT PROPOSED
 NEW CONSTRUCTION (PHASE 1 & 2)
 09.02.2025

Pinehurst Toyota
 17000 US 51
 Southern Pines, NC 28387
 PH4202

ELEV-3
 SCALE:
 1/8" = 1'-0" (3040) Sheet Layout



1A PROJECT PROPOSED WEST ELEVATION



1 WEST ELEVATION - TOYOTA PROTOTYPE C.I.



PALETTE:

CMU-1 CMU-2 BRICK-1 BRICK-2 BRICK-3 ACM-1 & ACM-2 PT-1



BUILDING EXTERIOR MATERIAL ANALYSIS - PINEHURST TOYOTA, SOUTHERN PINES, NC				BUILDING EXTERIOR MATERIAL SCHEDULE - PINEHURST TOYOTA, SOUTHERN PINES, NC			
AREA	FINISH	HEIGHT	WIDTH	AREA	FINISH	HEIGHT	WIDTH
ROOF	ASPH/FLT				ASPH/FLT		
WALLS	CMU-1	8'-0"	100'-0"	800'-0"	CMU-1	8'-0"	100'-0"
WALLS	CMU-2	8'-0"	100'-0"	800'-0"	CMU-2	8'-0"	100'-0"
WALLS	BRICK-1	8'-0"	100'-0"	800'-0"	BRICK-1	8'-0"	100'-0"
WALLS	BRICK-2	8'-0"	100'-0"	800'-0"	BRICK-2	8'-0"	100'-0"
WALLS	BRICK-3	8'-0"	100'-0"	800'-0"	BRICK-3	8'-0"	100'-0"
WALLS	ACM-1 & ACM-2	8'-0"	100'-0"	800'-0"	ACM-1 & ACM-2	8'-0"	100'-0"
WALLS	PT-1	8'-0"	100'-0"	800'-0"	PT-1	8'-0"	100'-0"
WALLS	CMU-1	8'-0"	100'-0"	800'-0"	CMU-1	8'-0"	100'-0"
WALLS	CMU-2	8'-0"	100'-0"	800'-0"	CMU-2	8'-0"	100'-0"
WALLS	BRICK-1	8'-0"	100'-0"	800'-0"	BRICK-1	8'-0"	100'-0"
WALLS	BRICK-2	8'-0"	100'-0"	800'-0"	BRICK-2	8'-0"	100'-0"
WALLS	BRICK-3	8'-0"	100'-0"	800'-0"	BRICK-3	8'-0"	100'-0"
WALLS	ACM-1 & ACM-2	8'-0"	100'-0"	800'-0"	ACM-1 & ACM-2	8'-0"	100'-0"
WALLS	PT-1	8'-0"	100'-0"	800'-0"	PT-1	8'-0"	100'-0"
WALLS	CMU-1	8'-0"	100'-0"	800'-0"	CMU-1	8'-0"	100'-0"
WALLS	CMU-2	8'-0"	100'-0"	800'-0"	CMU-2	8'-0"	100'-0"
WALLS	BRICK-1	8'-0"	100'-0"	800'-0"	BRICK-1	8'-0"	100'-0"
WALLS	BRICK-2	8'-0"	100'-0"	800'-0"	BRICK-2	8'-0"	100'-0"
WALLS	BRICK-3	8'-0"	100'-0"	800'-0"	BRICK-3	8'-0"	100'-0"
WALLS	ACM-1 & ACM-2	8'-0"	100'-0"	800'-0"	ACM-1 & ACM-2	8'-0"	100'-0"
WALLS	PT-1	8'-0"	100'-0"	800'-0"	PT-1	8'-0"	100'-0"
WALLS	CMU-1	8'-0"	100'-0"	800'-0"	CMU-1	8'-0"	100'-0"
WALLS	CMU-2	8'-0"	100'-0"	800'-0"	CMU-2	8'-0"	100'-0"
WALLS	BRICK-1	8'-0"	100'-0"	800'-0"	BRICK-1	8'-0"	100'-0"
WALLS	BRICK-2	8'-0"	100'-0"	800'-0"	BRICK-2	8'-0"	100'-0"
WALLS	BRICK-3	8'-0"	100'-0"	800'-0"	BRICK-3	8'-0"	100'-0"
WALLS	ACM-1 & ACM-2	8'-0"	100'-0"	800'-0"	ACM-1 & ACM-2	8'-0"	100'-0"
WALLS	PT-1	8'-0"	100'-0"	800'-0"	PT-1	8'-0"	100'-0"
WALLS	CMU-1	8'-0"	100'-0"	800'-0"	CMU-1	8'-0"	100'-0"
WALLS	CMU-2	8'-0"	100'-0"	800'-0"	CMU-2	8'-0"	100'-0"
WALLS	BRICK-1	8'-0"	100'-0"	800'-0"	BRICK-1	8'-0"	100'-0"
WALLS	BRICK-2	8'-0"	100'-0"	800'-0"	BRICK-2	8'-0"	100'-0"
WALLS	BRICK-3	8'-0"	100'-0"	800'-0"	BRICK-3	8'-0"	100'-0"
WALLS	ACM-1 & ACM-2	8'-0"	100'-0"	800'-0"	ACM-1 & ACM-2	8'-0"	100'-0"
WALLS	PT-1	8'-0"	100'-0"	800'-0"	PT-1	8'-0"	100'-0"
WALLS	CMU-1	8'-0"	100'-0"	800'-0"	CMU-1	8'-0"	100'-0"
WALLS	CMU-2	8'-0"	100'-0"	800'-0"	CMU-2	8'-0"	100'-0"
WALLS	BRICK-1	8'-0"	100'-0"	800'-0"	BRICK-1	8'-0"	100'-0"
WALLS	BRICK-2	8'-0"	100'-0"	800'-0"	BRICK-2	8'-0"	100'-0"
WALLS	BRICK-3	8'-0"	100'-0"	800'-0"	BRICK-3	8'-0"	100'-0"
WALLS	ACM-1 & ACM-2	8'-0"	100'-0"	800'-0"	ACM-1 & ACM-2	8'-0"	100'-0"
WALLS	PT-1	8'-0"	100'-0"	800'-0"	PT-1	8'-0"	100'-0"
WALLS	CMU-1	8'-0"	100'-0"	800'-0"	CMU-1	8'-0"	100'-0"
WALLS	CMU-2	8'-0"	100'-0"	800'-0"	CMU-2	8'-0"	100'-0"
WALLS	BRICK-1	8'-0"	100'-0"	800'-0"	BRICK-1	8'-0"	100'-0"
WALLS	BRICK-2	8'-0"	100'-0"	800'-0"	BRICK-2	8'-0"	100'-0"
WALLS	BRICK-3	8'-0"	100'-0"	800'-0"	BRICK-3	8'-0"	100'-0"
WALLS	ACM-1 & ACM-2	8'-0"	100'-0"	800'-0"	ACM-1 & ACM-2	8'-0"	100'-0"
WALLS	PT-1	8'-0"	100'-0"	800'-0"	PT-1	8'-0"	100'-0"

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 6330 Woodloch Forest, Suite 1000, Raleigh, NC 27615
 919.879.7800 | 919.879.8888 | www.penneydesign.com

PHILSMITH AUTO. GROUP
 1220 North Federal Highway
 Lighthouse Point, FL 33554

ELEVATION COMPARISON - TOYOTA PROTOTYPE / PROJECT PROPOSED
 NEW CONSTRUCTION (PAGE 1 & 6)
 08.02.2016

Pinehurst Toyota
 12206 US-15
 Southern Pines, NC 28387
 PS400a

ELEV-4
 SCALE:
 1/8" = 1'-0" 3/8x4 Sheet Layout

PINEHURST TOYOTA CONCEPTUAL SITE PLAN

SOUTHERN PINES, NORTH CAROLINA

SEPTEMBER 6, 2016

PIN: 857110351280
SMITH, PHILIP P
DB 1274 P 384
ZONED: GB

PIN: 857110353478
SMITH, PHILIP P
DB 1274 P 384
ZONED: GB

PROPOSED
TOYOTA
DELEARSHIP
+/- 37,415 SF

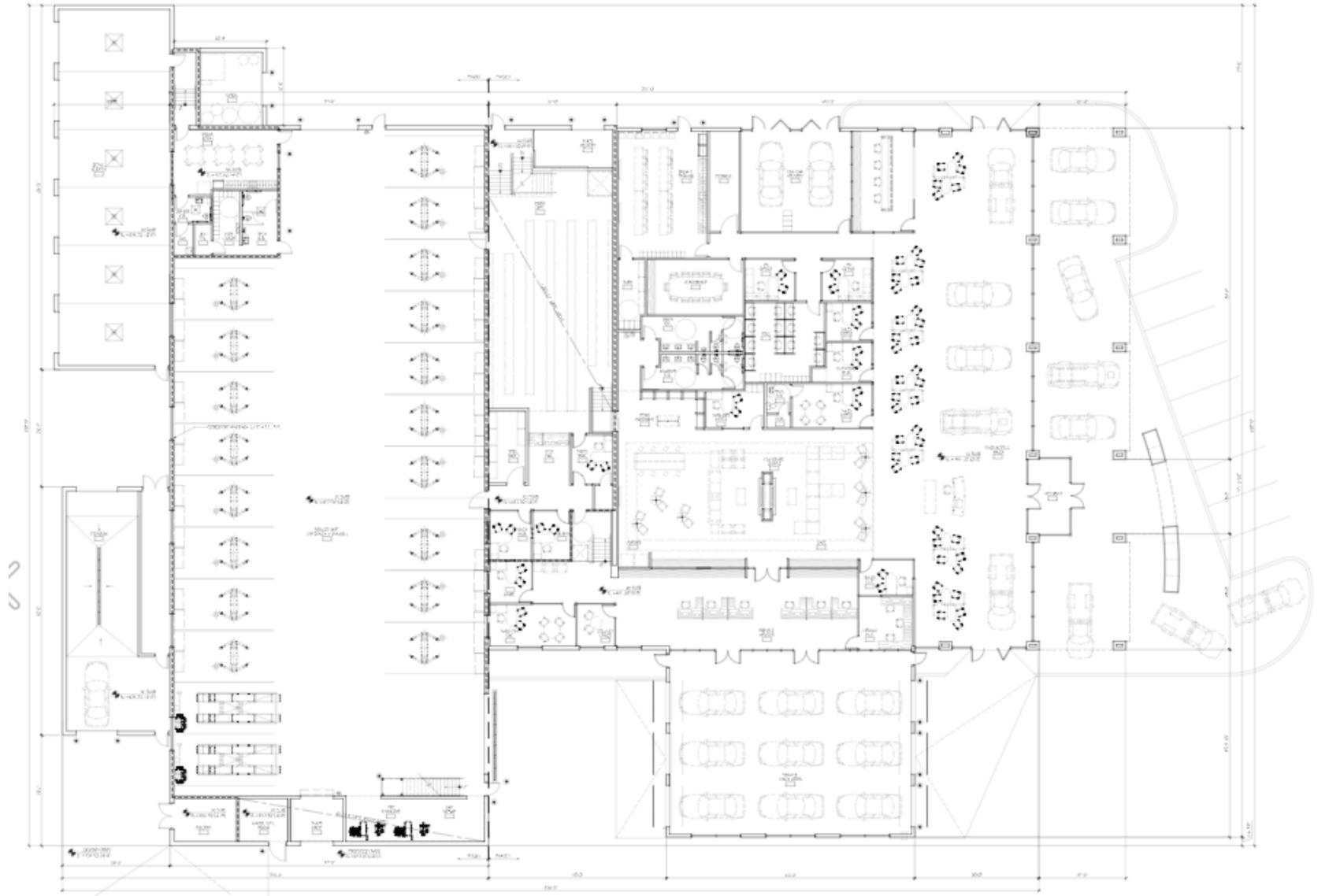
PIN: 85711035253
SMITH, PHILIP P
DB 1274 P 384
ZONED: GB

DEVELOPMENT SUMMARY

SITE:	±3.98 AC
TOYOTA DEALERSHIP BUILDING:	±37,415 SF
PARKING:	
REQUIRED	187 SPACES (511,009 SF)
PROVIDED:	
FRONT:	110 SPACES
REAR:	185 SPACES
TOTAL:	305 SPACES

KOONTZ JONES Design
ARCHITECTURAL ENGINEERING INTERIOR DESIGN



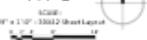



PENNEY DESIGN GROUP
10000 W. UNIVERSITY BLVD., SUITE 1000, WEST PALM BEACH, FL 33411
 561.833.1100 | WWW.PENNEYDESIGN.COM

PHIL SMITH AUTO. GROUP
1200 S.W. 10th Avenue
 Ft. Lauderdale, FL 33304

PROPOSED FLOOR PLAN
1200 S.W. 10th Avenue, Ft. Lauderdale, FL 33304
 02-28-2016

Pinehurst Toyota
1200 S.W. 10th
 Ft. Lauderdale, FL 33304

PFP-1
SCALE
 1/8" = 1'-0" (3000) Sheet Layout


Existing Conditions



Existing Conditions



AR-09-16

2016 October Town Council

Page 18 of 20

Existing Conditions



Existing Conditions



Agenda Item

To: Reagan Parsons, Town Manager

From: Chris Kennedy, Community Development Director

Subject: AR-10-16 Zaxby's Restaurant; 160 Partner Circle; Hill Foley Rossi & Associates

Date: October 11, 2016

AR-10-16 Zaxby's Restaurant; 160 Partner Circle; Hill Foley Rossi & Associates

On behalf of the petitioner Hill Foley Rossi & Associates, Ms. Cathy Truong has submitted an application requesting Architectural Review approval for a new commercial development located at 10760 US Highway 15-501. The proposed project includes the new construction of a Zaxby's restaurant. The proposed project includes approximately 3,654 square feet of commercial space dedicated to the restaurant. The property is identified by the following: PIN: 857110362094 (PARID: 20050755). Per the Moore County Tax records, the property owner(s) are listed as Suntrust Bank.

Staff Comments:

- The subject property is a 1.29-acre site.
- The property is zoned General Business (GB).
- The proposed project must comply with the standards of Section 4.10 Commercial Building Design Standards as set forth in the UDO.
 - The petitioner is not seeking any variations or waivers to UDO Section 4.10.
- The face brick will be a standard 3-5/8" x 2-1/4" x 7-5/8". The mortar joints will be 3/8" thick.
- The primary brick color will be "Brick-Beaumont (Cherokee Brick)" and with the secondary brick color as "Brick-Mosstown (Cherokee Brick)".
- The roof will be a standing seam metal roof in the color of black.
- The window awnings will be of a plantation style with an aluminum frame. The awnings will be in the color of black and will include the standing seam metal roofing material also in the color of black.
- The cornices will be EIFS painted in the color of "Zaxby's Dark Tan".
- The fascia and trim will be painted in the color of "Zaxby's Cream".
- Gooseneck lighting will be attached to the structure and the fixtures will be in the color of black.
- The related accessories including any flashing, end closures, gutters, downspouts, et cetera will be painted to match its installation area.
- The windows be glazed in non-reflective, clear glass.
- All mechanical equipment on the ground and roof will be screened from all sides.

- The building height is proposed at twenty (20) feet to the top of the cornice. The maximum height permitted in the GB (General Business) zoning classification is forty-five (45) feet.
- The colored renderings of the elevations shown in the attachments of this memo will be the reverse orientation from what is presented.

Attachments:

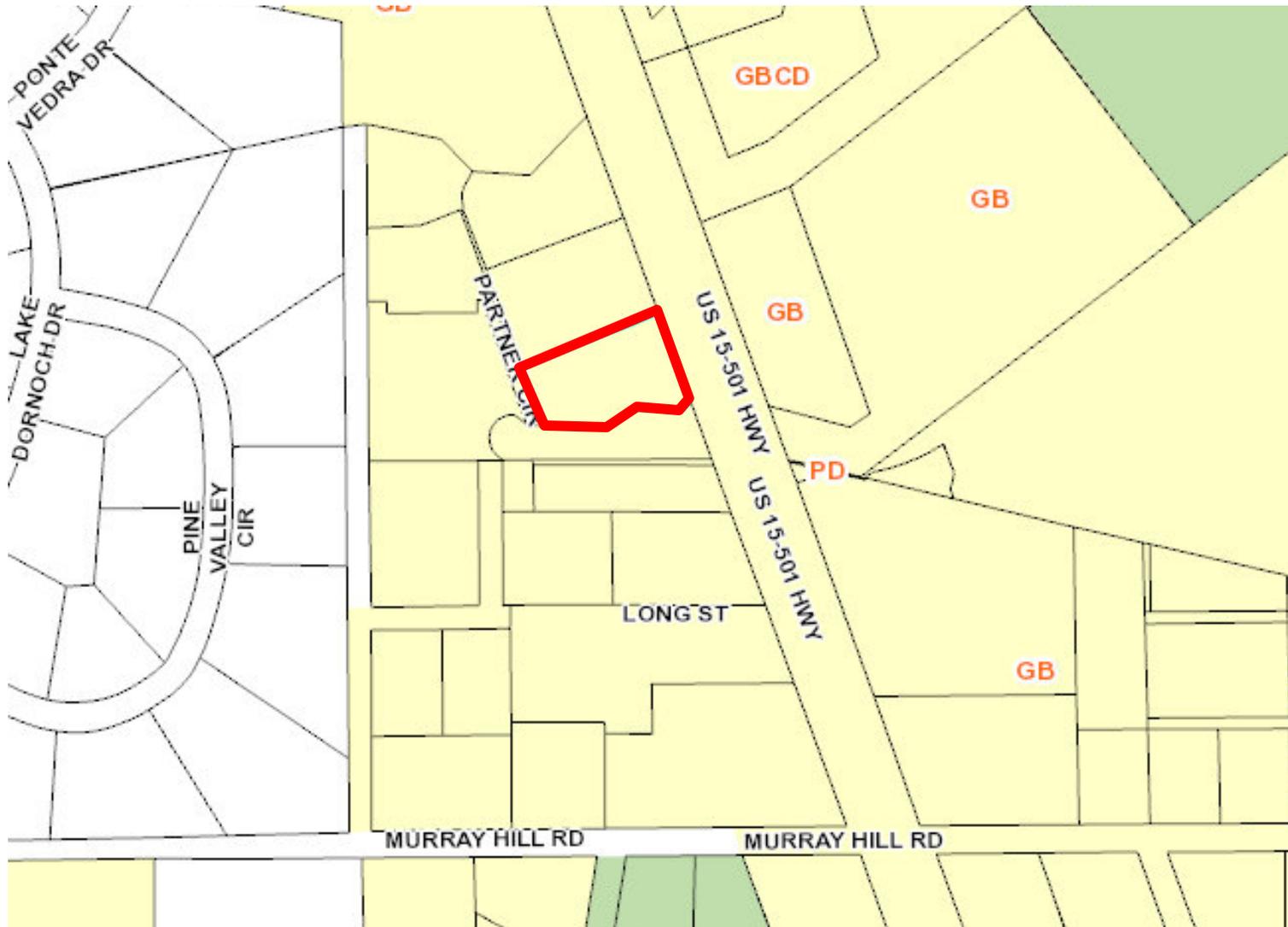
- GIS Aerial Vicinity Maps
- Application
- Narrative
- Elevations
- Illustrative Renderings
- Site Plan
- Floor Plan

IN ADDITION TO Architectural Review 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 recommend 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.

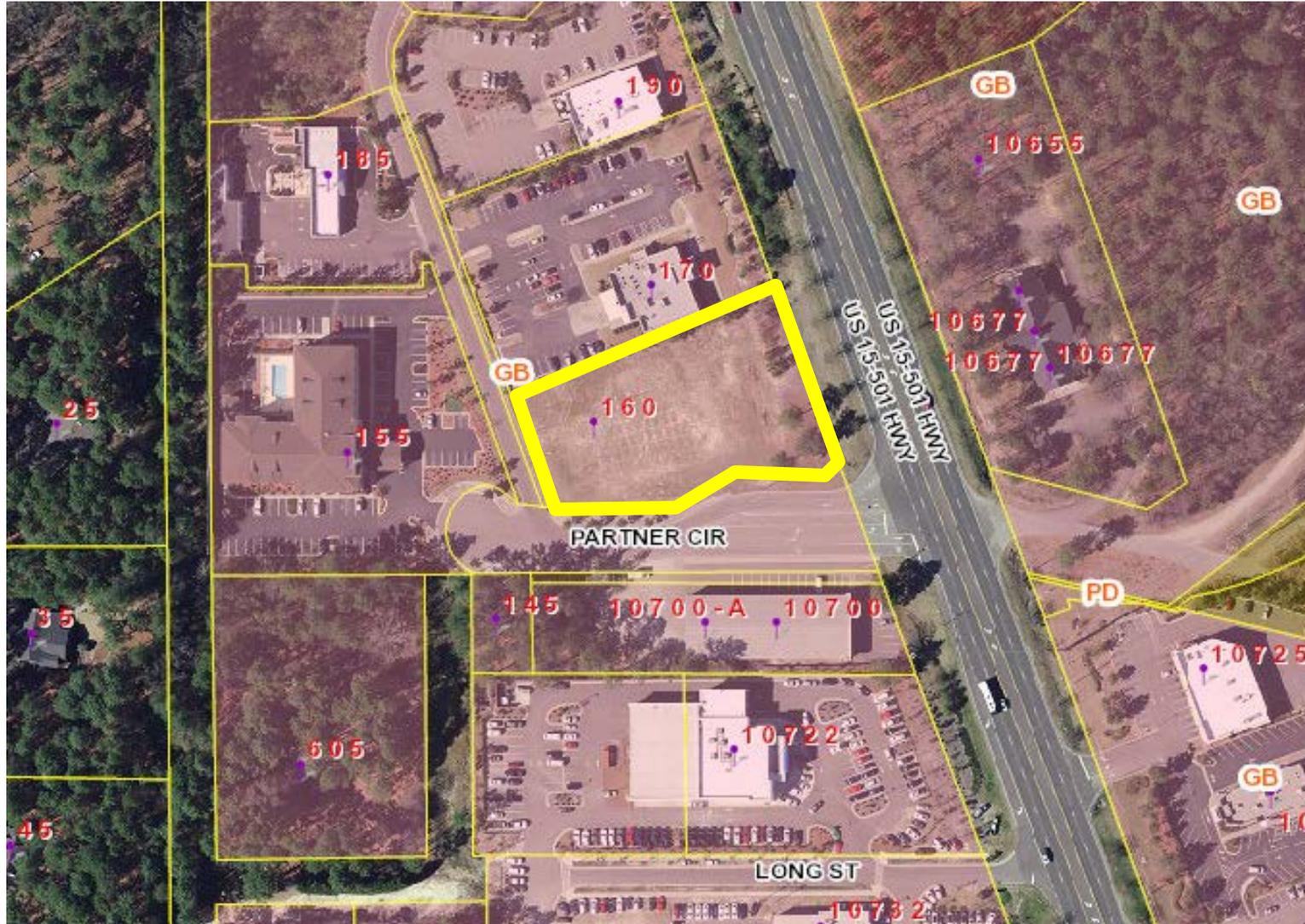
AR-10-16 Zaxby's Restaurant
160 Partner Circle

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 results 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 NAD 83 (feet).



AR-10-16 Zaxby's Restaurant
160 Partner Circle

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AR-10-16 Zaxby's Restaurant
160 Partner Circle

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APPLICATION FOR SOUTHERN PINES TOWN COUNCIL
ARCHITECTURAL REVIEW

Date Received: 9/19/16

Case: AR-10-16

TO THE TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES, NORTH CAROLINA:

I, the undersigned, do hereby make application for an architectural review of the property as described below, to the Town of Southern Pines Town Council:

1. Name of project: ZAXBY'S
2. Project Street Address: 160 PARTNER CIRCLE
3. PIN # 857110362094 LRK 20050755
4. Type of Commercial Building (i.e. retail, office, etc.): RESTAURANT.
5. Square footage of Project: 3,654 SQ. FT.

I certify that all information furnished in this application is accurate and in compliance with the attached architectural standards of the Town of Southern Pines.

Name of Petitioner: CATHY TRUONG Signature: C. Tz
Please Print

Mailing Address of Petitioner: HILL FOLEY ROSSI & ASSOCIATES
3680 PLEASANT HILL RD, STE 200, DULUTH, GA 30096
Please Print

E-Mail of Petitioner: CTRUONG@HFRAA.COM
Please Print

Phone Number of Petitioner: (770) 622-9858
(Area Code)

Name of legal owner of Property Owner CHRIS CARNES
(If different from Petitioner) Please Print

Mailing Address of Legal Property Owner 16930 W CATAWBA AVE, STE 205, CORNELIUS,
(If different from Petitioner) Please Print NC 28031

Phone Number of Legal Property Owner C/O ELIZABETH OATES (704) 791-2870
(If different from Petitioner) Please Print

Form updated July 16, 2014



September 19, 2016

Attn: Chris Kennedy, AICP, CZO
Assistant Town Manager
Community Development Director

Town of Southern Pines
180 SW Broad Street
Southern Pines, NC 28387
(910) 692-4003 x6

RE: Application for Architectural Review
Project: Zaxby's Restaurant – New Construction
Site address: 160 Partner Circle, Southern Pines, NC 28387

The Zaxby's restaurant design narrative to comply with the Unified Development Ordinance, Section 4.10:

- The Zaxby's restaurant will be a commercial building, that is to be built in GB zoned districts. The design and configuration of structures and their materials and colors shall be visually harmonious with the overall appearance, history and heritage of the Town of Southern Pines.
- One free standing Zaxby's sign.
- Three on-wall Zaxby's signages on the front façade and on both side elevations.
- Per UDO standard, the Zaxby's will reflect the characteristics of the adjacent structures and neighborhoods and surrounding areas of the Town.
- Along the front facing streets, there are pedestrian sidewalks, as well as between parking aisles.
- The shape and design (including landscaping) of the Zaxby's shall be fully visible from the sidewalk.
- The front of the building facade will feature the primary customer entrance. This entry shall face the two the main streets in question.

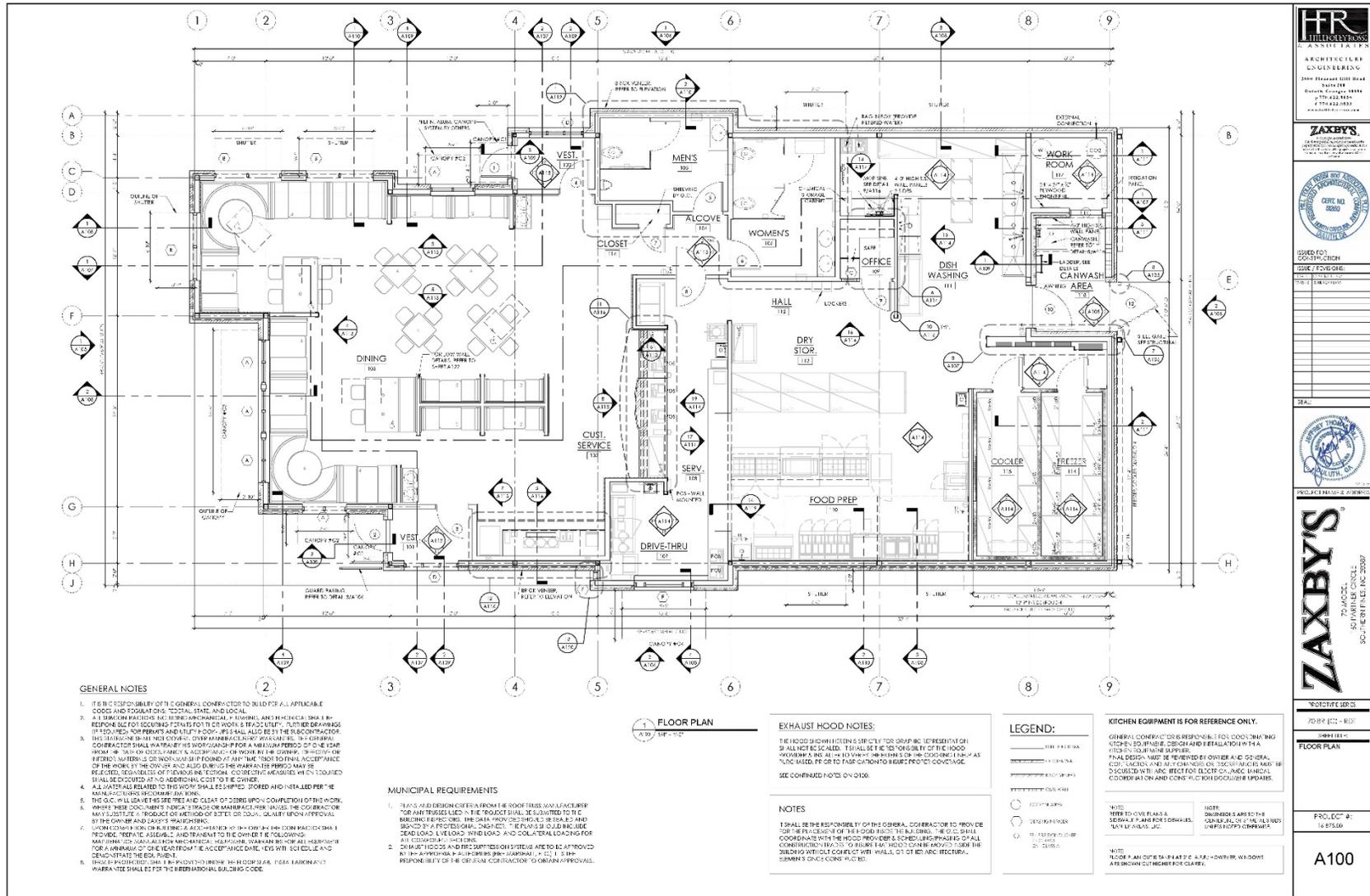
3680 Pleasant Hill Road, Suite 200 ■ Duluth, Georgia 30096 ■ P 770 622 9858 ■ F 770 622 9535

- The exterior finish of Zaxby's building walls shall be primarily comprised of brick, hardie board trim, wood brackets and metal awning.
- The parapet design shall be a minimum of three feet in height and shall incorporate a three-dimensional cornice treatment.
- Building to be set back a minimum of ten (10) feet and a maximum of fifteen (15) feet from sidewalks public walkways.
- The building shall feature pedestrian walkways throughout the site which connect to common open space.

Sincerely,



Cathy Truong
Project Manager
Hill Foley Rossi and Associates
Architectural Department



GENERAL NOTES

1. IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO BUILD FOR ALL APPLICABLE CODES AND REGULATIONS, LOCAL, STATE, AND FEDERAL.
2. ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES. DIMENSIONS IN PARENTHESIS ARE FOR INFORMATION ONLY. DIMENSIONS IN FEET AND INCHES SHALL BE SHOWN TO THE NEAREST 1/8". DIMENSIONS IN METERS SHALL BE SHOWN TO THE NEAREST 0.001.
3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL UTILITIES AT ALL TIMES.
4. ALL MATERIALS RELATED TO THIS WORK SHALL BE SHIPPED, STORED AND INSTALLED PER THE MANUFACTURER'S RECOMMENDATIONS.
5. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES.
6. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES.
7. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES.
8. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL UTILITIES AT ALL TIMES.

MUNICIPAL REQUIREMENTS

1. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.
2. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.

EXHAUST HOOD NOTES:

THE HOOD SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS. THE HOOD SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS.

LEGEND:

- 1. EXHAUST HOOD
- 2. EXHAUST DUCT
- 3. EXHAUST FAN
- 4. EXHAUST FILTER
- 5. EXHAUST MOTOR
- 6. EXHAUST CONTROL
- 7. EXHAUST ELECTRICAL
- 8. EXHAUST PIPING
- 9. EXHAUST TERMINAL
- 10. EXHAUST ACCESS
- 11. EXHAUST MAINTENANCE
- 12. EXHAUST CLEANING
- 13. EXHAUST INSULATION
- 14. EXHAUST PROTECTIVE
- 15. EXHAUST WARNING
- 16. EXHAUST IDENTIFICATION
- 17. EXHAUST RECORDS
- 18. EXHAUST TRAINING
- 19. EXHAUST DOCUMENTATION
- 20. EXHAUST COMPLIANCE

KITCHEN EQUIPMENT IS FOR REFERENCE ONLY.

GENERAL CONTRACTOR IS RESPONSIBLE FOR COORDINATING KITCHEN EQUIPMENT, DESIGN AND INSTALLATION WITH THE KITCHEN EQUIPMENT SUPPLIER. FINAL DESIGN MUST BE REVIEWED BY OWNER AND DESIGNER. ALL EQUIPMENT AND MATERIALS MUST BE DISCUSSED WITH AND ACCEPTED FOR ELECTRICAL, MECHANICAL, COORDINATION AND CONSTRUCTION BEFORE INSTALLATION.

NOTES

IT SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO PROVIDE FOR THE REMEDIATION OF THE HOOD SYSTEMS. THE CONTRACTOR SHALL COORDINATE WITH THE HOOD PROVIDER TO SCHEDULE THE PHASES OF ALL COMPONENTS TO BE INSTALLED. THE HOOD SHALL BE INSTALLED IN THE BUILDING WITHOUT CONFLICT WITH WALLS, CEILING AND STRUCTURAL MEMBERS ONCE COMPLETED.

HTR
ARCHITECTURAL
CONSULTANTS
3000 Pleasant Hill Road
Crest Hill, MO 63016
P: 636.261.1000
F: 636.261.1001
www.htrarchitect.com

ZAXBY'S
RESTAURANT GROUP
10000 W. 112th St.
Overland Park, MO 66204
P: 913.241.1000
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www.zaxbys.com

STATE OF MISSOURI
DEPARTMENT OF REVENUE
OFFICE OF REVENUE
1000 GILCHRIST ST.
JEFFERSON CITY, MO 64102
P: 816.474.2000
F: 816.474.2001
www.sos.mo.gov

ISSUED FOR CONSTRUCTION
DATE: 10/15/16
BY: [Signature]
TITLE: PROJECT MANAGER

STATE OF MISSOURI
DEPARTMENT OF REVENUE
OFFICE OF REVENUE
1000 GILCHRIST ST.
JEFFERSON CITY, MO 64102
P: 816.474.2000
F: 816.474.2001
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PROJECT #
161516

FLOOR PLAN

PROJECT #
161516

PROJECT #
161516

A100

Existing Conditions



Existing Conditions



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: Chris Kennedy, Community Development Director

From: Bart Nuckols, Planning Director

Subject: Z-03-16; Request to Rezone Property from PD to GB; 195 Short Street; Petitioner, Tammy Lyne

Date: October 11, 2016

Z-03-16; Request to Rezone Property from PD to GB; 195 Short Street; Petitioner, Tammy Lyne

On behalf of property owners, the petitioner Ms. Tammy Lyne is requesting to rezone property from PD (Planned Development) to GB (General Business). The subject property is comprised of two parcels totaling 1.296 acres. The subject property is located at 195 Short Street and is identified by the following: PIN: 857110458453 (PARID: 00052928) and PIN: 857100459493 (PARID: 00052929). Per the Moore County GIS records, the property owner(s) are listed as Culture Club, LLC.

Planning Board Recommendation:

At the September 22, 2016 Regular Meeting of the Planning Board, the Board held a legislative public hearing and received comments on the application from those in attendance regarding the application Z-03-16. After closing the public hearing and further discussion amongst the board members, the Board voted unanimously (6-0) to recommend that the proposed amendment to the ordinance is not consistent with the Comprehensive Long Range Plan map as the property is designated as residential and the proposed use is commercial, the Board found that the request is compatible with the goals and objectives of the Comprehensive Long Range Plan and other adopted land development documents. The Planning Board then voted unanimously (6-0) to recommend approval of Z-03-16 with no conditions.

Analysis:

The subject property is identified as “Residential” in the *Comprehensive Long Range Plan Future Land Use Map*. Per the *Comprehensive Long Range Plan 2015-16 Update*:

- **Residential:** This designation encompasses the majority of Southern Pines’ residential land, providing for single-family and attached housing at development densities ranging from one unit per acre in areas that are less intensively developed to up to twelve units per acre in places that are clearly more urban. Elementary schools, civic uses, parks, and neighborhood scale commercial services may be authorized through the rezoning process without amending the Future Land Use Map.

Staff Comments:

- The subject property is comprised of two parcels totaling 1.296 acres along Murray Hill Road and Short Street.
 - The subject properties are all located within the corporate limits of the Town of Southern Pines.
- The petitioner is seeking to rezone the property from PD to GB.
- The adjoining properties are zoned PD to the North, GB to the West and the South, and RM-1 to the East.
- The subject property is identified as “Residential” in the *Comprehensive Long Range Plan* Future Land Use Map. The request for a rezoning to GB is incompatible with the “residential” designation of the CLRP Map.
- Per UDO Section 3.5.14:
 - Purpose: The PD district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational development, and where consistent with the future land use map, light manufacturing and assembly uses that comply with the employment center development patterns in UDO Section 6.5. This district is intended to allow mixed-use developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can readily be improved) to handle the projected traffic volumes generated by the development. The regulations of the PD district are intended to:
 1. Encourage planned, large-tract development, including service, office, commercial, residential, public or private recreational development or light industrial uses;
 2. Exclude heavy commercial and heavy industrial land uses;
 3. Encourage development in areas located on major thoroughfares and collector streets;
 4. Encourage vehicular access from service drives and other local streets;
 5. Provide performance standards to help ensure compatible land uses;
 6. Encourage common or shared parking;
 7. Promote creativity and innovation in the design that leads to more appropriate relationships between land uses and features;
 8. Facilitate clustering of development thereby increasing the amount of saved land;
 9. Foster development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;
 10. Improve connectivity within and between developments to promote mobility and enhance walkability;
 11. Integrate public spaces and amenities to promote community gatherings and activities;
 12. Establish coordinated land plan and consistent treatment of common design elements;
 13. Provide the flexibility to respond to market conditions over longer

projected development periods due to the scale of such developments; and,
14. If residential land uses are proposed, provide a variety of lot sizes and dwelling types to expand the spectrum of housing choices for households of various types, sizes, incomes, and ages.

- Per UDO Section 3.5.9:
 - A. Purpose: The GB district is designed to accommodate highway-oriented retail, commercial service businesses and in some limited cases light manufacturing, which generally have as their market area the entire Town and surrounding area. The major objectives of this district are to:
 1. Encourage planned commercial, light manufacturing conducted within buildings and office parks;
 2. Discourage small lot development on major highways;
 3. Encourage vehicular access from service drives and other local commercial streets rather than directly from arterial streets; and,
 4. Provide a location for major shopping facilities and land uses requiring large outdoor spaces.
- 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.*

Attachments:

- RLUAC Response (Not available at this time)
 - Planning Board 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. The proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans; in that...

Or

2. The proposed amendment is not consistent with the documents that constitute the officially adopted land development plan or other applicable plans, in that...

I move to:

1. Approve Z-03-16;
2. Deny Z-03-16; OR
3. Approve Z-03-16 with the following additional conditions...

Agenda Item

To: Planning Board

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: Z-03-16; Request to Rezone Property from PD to GB; 195 Short Street; Petitioner, Tammy Lyne

Date: September 22, 2016

Z-03-16; Request to Rezone Property from PD to GB; 195 Short Street; Petitioner, Tammy Lyne

On behalf of property owners, the petitioner Ms. Tammy Lyne is requesting to rezone property from PD (Planned Development) to GB (General Business). The subject property is comprised of two parcels totaling 1.296 acres. The subject property is located at 195 Short Street and is identified by the following: PIN: 857110458453 (PARID: 00052928) and PIN: 857100459493 (PARID: 00052929). Per the Moore County GIS records, the property owner(s) are listed as Culture Club, LLC.

Analysis:

The subject property is identified as “Residential” in the *Comprehensive Long Range Plan Future Land Use Map*. Per the *Comprehensive Long Range Plan 2015-16 Update*:

- **Residential:** This designation encompasses the majority of Southern Pines’ residential land, providing for single-family and attached housing at development densities ranging from one unit per acre in areas that are less intensively developed to up to twelve units per acre in places that are clearly more urban. Elementary schools, civic uses, parks, and neighborhood scale commercial services may be authorized through the rezoning process without amending the Future Land Use Map.

Staff Comments:

- The subject property is comprised of two parcels totaling 1.296 acres along Murray Hill Road and Short Street.
 - The subject properties are all located within the corporate limits of the Town of Southern Pines.
- The petitioner is seeking to rezone the property from PD to GB.
- The adjoining properties are zoned PD to the North, GB to the West and the South, and RM-1 to the East.
- The subject property is identified as “Residential” in the *Comprehensive Long Range Plan Future Land Use Map*. The request for a rezoning to GB is incompatible with the

“residential” designation of the CLRP Map.

- Per UDO Section 3.5.14:
 - Purpose: The PD district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational development, and where consistent with the future land use map, light manufacturing and assembly uses that comply with the employment center development patterns in UDO Section 6.5. This district is intended to allow mixed-use developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can readily be improved) to handle the projected traffic volumes generated by the development. The regulations of the PD district are intended to:
 1. Encourage planned, large-tract development, including service, office, commercial, residential, public or private recreational development or light industrial uses;
 2. Exclude heavy commercial and heavy industrial land uses;
 3. Encourage development in areas located on major thoroughfares and collector streets;
 4. Encourage vehicular access from service drives and other local streets;
 5. Provide performance standards to help ensure compatible land uses;
 6. Encourage common or shared parking;
 7. Promote creativity and innovation in the design that leads to more appropriate relationships between land uses and features;
 8. Facilitate clustering of development thereby increasing the amount of saved land;
 9. Foster development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;
 10. Improve connectivity within and between developments to promote mobility and enhance walkability;
 11. Integrate public spaces and amenities to promote community gatherings and activities;
 12. Establish coordinated land plan and consistent treatment of common design elements;
 13. Provide the flexibility to respond to market conditions over longer projected development periods due to the scale of such developments; and,
 14. If residential land uses are proposed, provide a variety of lot sizes and dwelling types to expand the spectrum of housing choices for households of various types, sizes, incomes, and ages.
- Per UDO Section 3.5.9:
 - B. Purpose: The GB district is designed to accommodate highway-oriented retail, commercial service businesses and in some limited cases light manufacturing, which generally have as their market area the entire Town and surrounding area. The major objectives of this district are to:
 1. Encourage planned commercial, light manufacturing conducted within buildings and office parks;

2. Discourage small lot development on major highways;
 3. Encourage vehicular access from service drives and other local commercial streets rather than directly from arterial streets; and,
 4. Provide a location for major shopping facilities and land uses requiring large outdoor spaces.
- 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.*

Attachments:

- GIS Location
 - Application Materials
 - Criteria Narrative
 - Metes and Bounds
 - Future Land Use Map
-

Planning Board Action:

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 that we advise that:

1. The proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans; in that...
2. The proposed amendment is not consistent with the documents that constitute the officially adopted land development plan or other applicable plans, in that...

I move to recommend to the Town Council:

1. The approval of Z-03-16;
2. The denial of Z-03-16;
3. The approval of Z-03-16 with the following additional conditions...

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).

Z-03-16 Request to Rezone from PD to GB

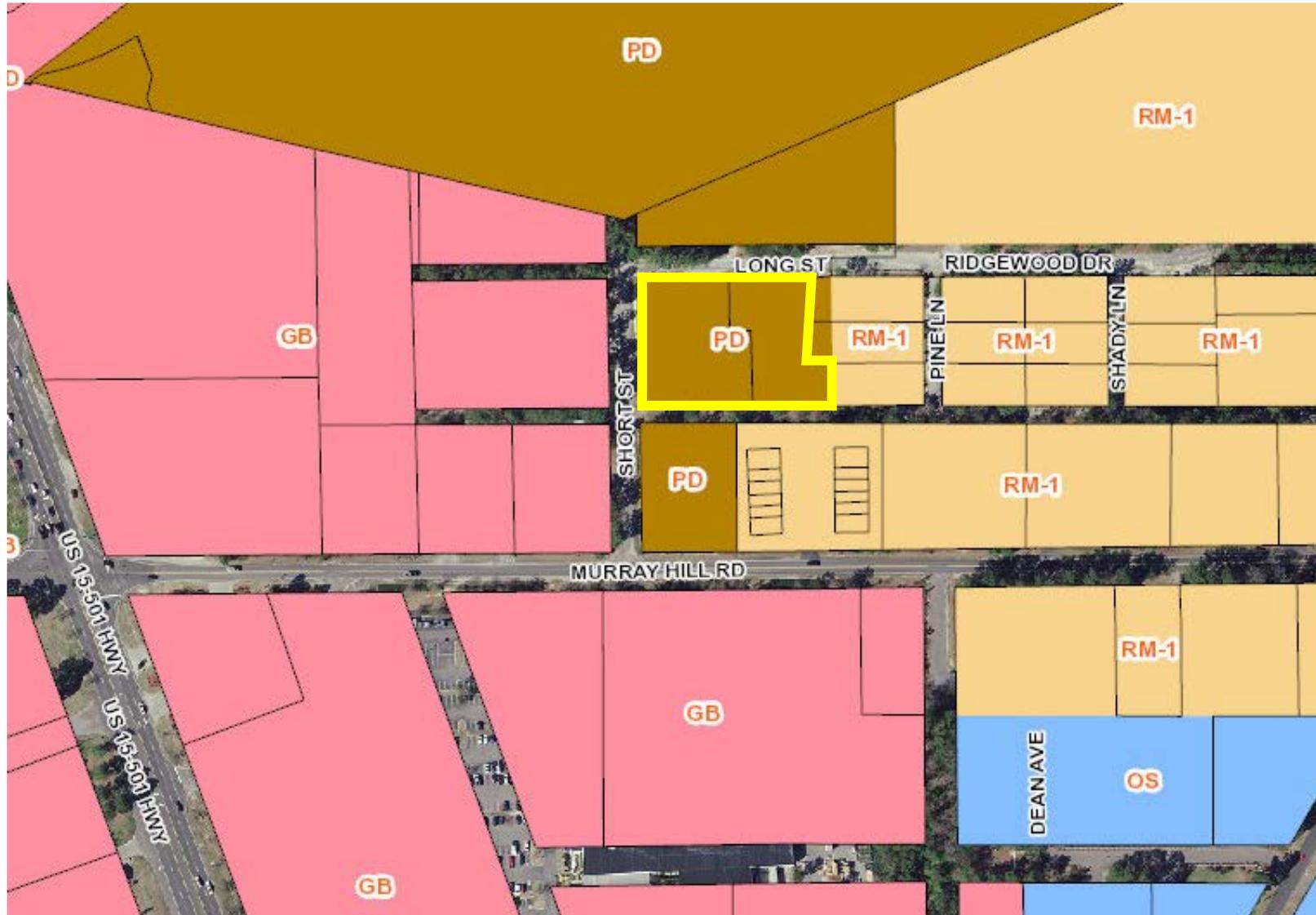
PIN: 857110458453 (PARID:00052928); PIN: 857100459493 (PARID:00052929)



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Z-03-16 Request to Rezone from PD to GB

PIN: 857110458453 (PARID:00052928); PIN: 857100459493 (PARID:00052929)



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Z-03-16 Request to Rezone from PD to GB

PIN: 857110458453 (PARID:00052928); PIN: 857100459493 (PARID:00052929)



To the Planning Board and Town Council of Southern Pines, North Carolina:

I, the undersigned, do hereby make a petition to change the zoning map of the Town of Southern Pines as herein requested:

1. The property is located on the Left side of Short St (St., Ave., Dr., Ct.) between Murray Hill Rd (St., Ave., Dr., Ct.) and Long St (St., Ave., Dr., Ct.). The address is 195 Short St and is identified as PIN Number 00052928 & 00052929 and LRK 857110458453. It has a frontage of 200 feet and an average depth of 118 feet containing 0.75 & 0.55 acres.
2. It is desired and requested that the foregoing property be rezoned from Mixed Use District to General Business District for the following purpose: To achieve the highest and best use of the property.
Properties located directly across Short St fall under GB zoning.
3. A metes and bounds description must be attached to this application.
4. List all individuals, firms or corporations owning property within 200 feet of the rezoning petition and within 200 feet of all other property contiguously owned by the property owner/petitioner or all pieces of land that were part of the property requesting rezoning or at least the ten (10) closest properties prior to the requested rezoning, and the property across the street from the property sought to be rezoned. It is required to furnish PIN and LRK numbers for each property, owner's name and address.

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

Petitioner's Name (Please Print) Tammy O Lyne

Petitioner's Signature Tammy O Lyne datloop verified 08/23/16 11:46AM EDT G7OW-CIGQ-6TBA-EPRL

Mailing Address 195 Short Rd
Southern Pines, NC 28387

Phone Number () 910-692-5553 Email tammy@tammylyne.com

Property Owner (Please Print or Type) Culture Club, LLC

Mailing Address PO Box 4393
Pinehurst, NC 28374

Phone Number () 910-692-5552 Email tammy@tammylyne.com

RECEIVED
AUG 24 2016
BY: C. Williams

1. **Property owners' name:** Overton Body Shop
Mailing Address: 110 Sandy Ave
Southern Pines, NC 28387
LRK #: 857110455473
Adjacent Property Address: 200 Short Rd
Southern Pines, NC 28387

2. **Property owners' name:** Morris Properties, INC
Mailing Address: 200 Short Rd
Southern Pines, NC
LRK #: 857110455651
Adjacent Property Address: _____

3. **Property owners' name:** BSD Holdings, LLC
Mailing Address: 209 Fleetwood Dr
Lookout Mountain, TN 37350
LRK #: 857100562348
Adjacent Property Address: _____

4. **Property owners' name:** Jeffrey Masar
Mailing Address: 15 Pine Valley Circle
Pinehurst, NC 28374
LRK #: 857111550606
Adjacent Property Address: _____

5. Property owners' name: Patricia Hankins
Mailing Address: 3522 Lincoln Ln
Gastonia, NC
LRK #: 857100551530 and 857100551433
Adjacent Property Address: _____

6. Property owners' name: Nancy S. Martin
Mailing Address: 1600 Hoffman Rd
Jackson Springs, NC 27281
LRK #: 857110456250
Adjacent Property Address: _____

7. Property owners' name: Glen-Moore INC
Mailing Address: 711 E. Broad Ave
Rockingham, NC 28379
LRK #: 857111550240
Adjacent Property Address: 205 Murray Hill Rd

8. Property owners' name: Douglass Donnell
Mailing Address: 11354 Links Dr
Reston, VA 20190
LRK #: 857110458250
Adjacent Property Address: _____

9. Property owners' name: CLS Holdings, LLC
Mailing Address: 210 Frye Rd
Pinehurst, NC 28374

LRK #: 857100555776

Adjacent Property Address: _____

10. Property owners' name: Naomi Rose

Mailing Address: 265 Murray Hill Rd

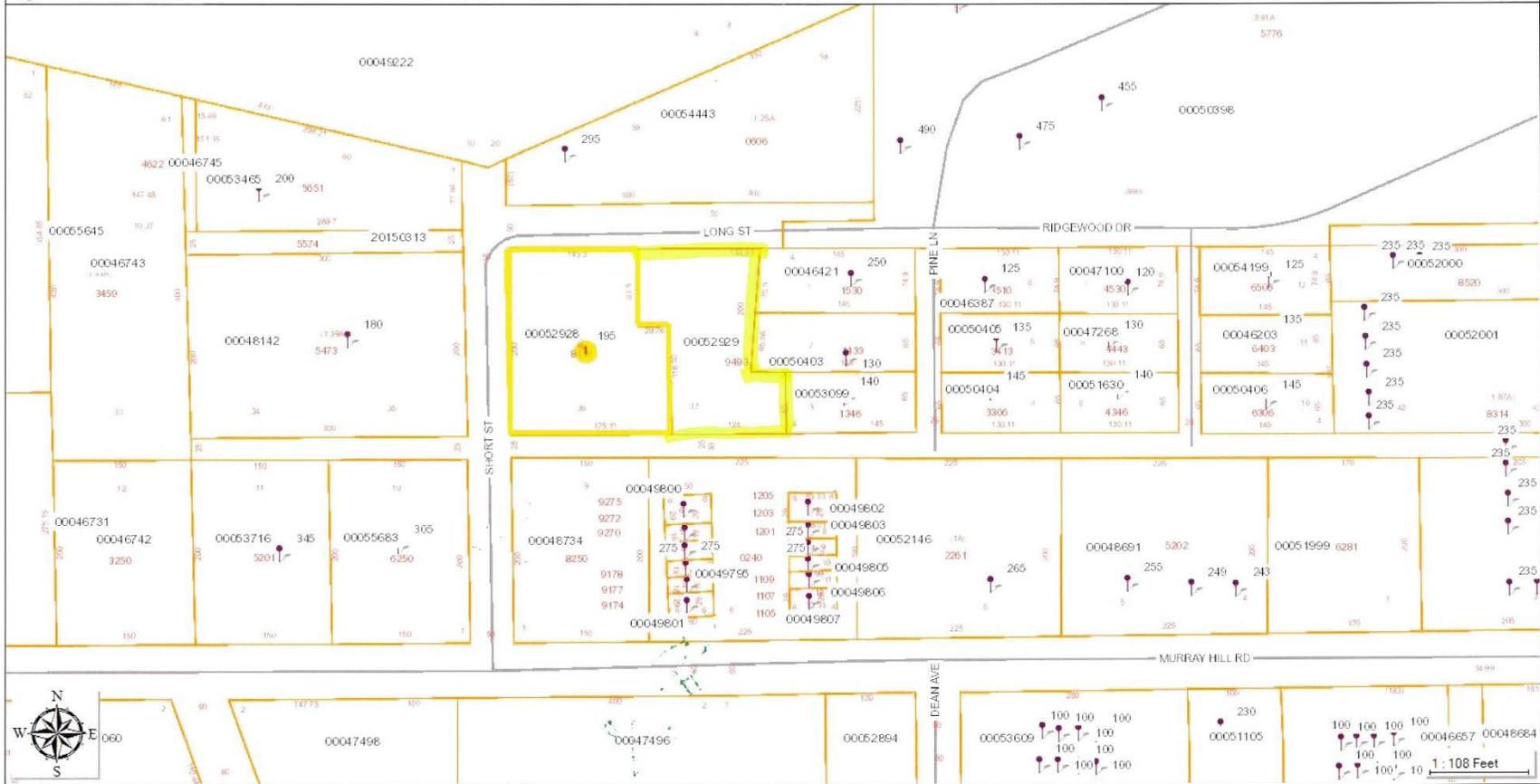
Southern Pines, NC 28387

LRK #: 857111552261

Adjacent Property Address: 255 Murray Hill Rd

Southern Pines, NC 28387

Please note that if you have more than (10) ten adjacent property owners, use another sheet for additional names, if necessary. Please include a stamped envelope addressed to each adjacent property owner with the following return address: Town of Southern Pines, Attn: Planning Department, 180 SW Broad Street, Southern Pines, NC 28387



GIS DISCLAIMER All the information contained on this media is prepared for the inventory of real property found within Moore County. All data is compiled from recorded deeds, plats, and other public records and data. Users of this data are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information. All information contained herein was created for the County's internal use. Moore County, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media whether express 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).

Adjacent Property Owners

PIN:857110458453
PARID:00052928
NAME:CULTURE CLUB, LLC
ADDRESS:PO BOX 4393
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857100459493
PARID:00052929
NAME:CULTURE CLUB, LLC
ADDRESS:PO BOX 4393
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857110458250
PARID:00048734
NAME:DONNELL, DOUGLASS W
ADDRESS:11354 LINKS DR
CITY:RESTON
STATE:VA
ZIP:20190

PIN:857111550240
PARID:00049795
NAME:GLEN-MOORE INC
ADDRESS:711 E BROAD AVE
CITY:ROCKINGHAM
STATE:NC
ZIP:28379-0816

PIN:857110459275
PARID:00049800
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857110459272
PARID:00049796
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857110459270
PARID:00049797
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857110459178
PARID:00049798
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857110459177
PARID:00049799
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857110459174
PARID:00049801
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857111551205
PARID:00049802
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857111551203
PARID:00049803
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857111551201
PARID:00049804
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857111551109
PARID:00049805
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857111551107
PARID:00049806
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:857111551105
PARID:00049807
NAME:ROBINSON, CRAIG F &
NAME2:CRAWFORD, MARY ANN
TRUSTEES
ADDRESS:39 GRAND VIEW LN
CITY:BELLINGHAM
STATE:WA
ZIP:98229

PIN:85710055776
PARID:00050398
NAME:CLS HOLDINGS LLC
ADDRESS:210 FRYE RD
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857111553413
PARID:00050405
NAME:FRYE, NETTIE
ADDRESS:135 PINE LN
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857110455473
PARID:00048142
NAME:OVERTON BODY SHOP
ADDRESS:110 SANDY AVE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857100551530
PARID:00046421
NAME:HANKINS, PATRICIA B
NAME2:GARNER, DEBRA LYNN
& TANT, TERESA GAIL
ADDRESS:3522 LINCOLN LANE
CITY:GASTONIA
STATE:NC
ZIP:28056

PIN:857111553306
PARID:00050404
NAME:SWAGEL, RENEE JEAN
ADDRESS:145 PINE LN
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857110455201
PARID:00053716
NAME:MURRAY HILL
INVESTMENTS, INC
ADDRESS:6010 PAYTON DR
CITY:ROUGEMONT
STATE:NC
ZIP:27572-7368

PIN:857100551433
PARID:00050403
NAME:HANKINS, PATRICIA B
NAME2:GARNER, DEBRA LYNN
& TANT, TERESA GAIL
ADDRESS:3522 LINCOLN LANE
CITY:GASTONIA
STATE:NC
ZIP:28056

PIN:857111552261
PARID:00052146
NAME:ROES, NAOMI B
ADDRESS:265 MURRAY HILL RD
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857100455574
PARID:20150313
NAME:OVERTON BODY SHOP
ADDRESS:110 SANDY AVE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857111551346
PARID:00053099
NAME:COVINGTON, CAROLYN T
ADDRESS:140 PINE LN
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857110456250
PARID:00055683
NAME:MARTIN, NANCY S &
SLATE, JAMES D JR &
NAME2:CHARLES D & TRENT J &
DAWSON, JENNIFER S
ADDRESS:1600 HOFFMAN RD
CITY:JACKSON SPRINGS
STATE:NC
ZIP:27281

PIN:857110455651
PARID:00053465
NAME:MORRIS PROPERTIES INC
ADDRESS:200 SHORT RD
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387-6289

PIN:857111553510
PARID:00046387
NAME:BAILEY, MARIE R
ADDRESS:125 PINE LN
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387-6254

PIN:857111550606
PARID:00054443
NAME:MASAR, JEFFREY A
ADDRESS:15 PINE VALLEY CIR
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857100562348
PARID:00049222
NAME:BSD HOLDINGS, LLC
ADDRESS:209 FLEETWOOD DR
CITY:LOOKOUT MOUNTAIN
STATE:TN
ZIP:37350

2.17.9 Criteria for Zoning Map Amendments

Z-03-16

A. Consistency. *Rezoning shall be consistent with the adopted Comprehensive Plan.*

The subject property is located on Short St. in Southern Pines, and is compatible with contiguous parcels. Short St. is positioned off Murray Hill Rd. in direct proximity to business operating under General Business zoning. These businesses include, and are not limited to, The Oil Changer, Lowe's Home Improvement, Star 102.5 Radio Station, Kick Back Jack's, Chick-Fil-A, and the Kangaroo Gas Station located less than 1000 ft. to the west of the subject. The request is consistent with neighboring properties to the North, South, and West. The request aligns with UDO statutes in promoting highway-oriented retail and commercial service business. With the ever present external forces that drive the market in which we reside a rezoning to GB would allow for the highest and best use of the subject property while promoting sustained economic opportunity for the community.

Provided within the Comprehensive Long Range Plan (CLRP) are objectives for supporting the projected 1% annual growth rate of the county. Encompassed within these objectives are outlines for how to produce safe commuter connectivity routes to relieve congestion and provide alternate vehicular, pedestrian, and bicycle traffic.

As the access management project, which initiates at the intersection of US 1 and 15-501 and extends to Brucewood Rd unfolds, it is recognized that an extension of Short St. to Brucewood Rd. may relieve significant congestion serving in a connector street capacity. The request for rezoning to GB of the subject parcel complies with P-9 of the CLRP by enhancing the safety and function of collector streets.

Goal G-4 of the CLRP states, "Protect and enhance the civic vitality, function, stability and character of Southern Pines commercial and residential neighborhoods." As noted in the preceding paragraphs, the request to rezone the subject parcel from PD to GB is compatible with existing GB zoning of contiguous properties. Prescribed setbacks of 20' (UDO Exhibit 4-3 – Minimum Zoning Widths) for RM-1 zoning that abuts GB zoned parcels protects residents within that zoning district.

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.*

Requesting the zoning map amendment from PD to GB is compatible with the surrounding neighborhood. The petitioner does not feel that granting its request to rezone the parcel will hinder, or jeopardize, any of the surrounding parcels.

C. Suitability as Presently Zoned. *The hearing body shall consider the suitability or unsuitability of the tract as it is currently zoned.*

For consideration; the current PD zoning requires setbacks and buffers that create a hardship for maximizing the highest and best use of the subject parcel. Given the lot size of 1.296 acres, .746 of which is improved, these prescribed setbacks limit the square footage of usable space. In addition; under prescribed requirements of the UDO set forth by PD zoning, 20% of the subject parcel is to be devoted to “open space.” Combined requirements of setbacks, open space, and intent under PD zoning creates a hardship for maximizing the use of the parcel. The subject parcel is not large enough to accommodate setbacks, open space requirements, and a mix of planned uses.

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 area. 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.*

Adopting GB zoning on the subject property will in no way alter public health, safety, or welfare. The current use of the subject property will remain the same. In meeting the requirements for health, safety, and welfare it is important to note that there is little variation between PD and GB statutes.

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 the neighborhood, area, or specific plans.*

The requested change is compatible with the surrounding neighborhood, and fits symmetrically with growth of contiguous properties.

Petitioner cites policy P-15 A of the CLRP – “Favor infill development in areas with access to public facilities over development on the perimeter that requires extension of public facilities.” The subject parcel is served by public facilities and has GB zoning in direct proximity. The request is consistent and compatible with contiguous development, and should bear no burden on existing public systems.

- F. Size of Tract.** *The Hearing Body shall consider the size, shape, and characteristics of the Tract in relation to the neighboring affected 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.*

Rezoning from PD to GB will allow for the highest and best use of the subject property. Total acreage of the parcel is 1.296 acres, with .746 of that already improved. The required setbacks under PD zoning significantly reduce the amount of usable area. The following criteria, referenced from the UDO, further highlights the hardship created from the restrictive size of the subject parcel.

PD – 3.5.14. PD - Planned Development District

(1) Encourage planned, large-tract Development, including service, office, commercial, residential, public or private recreational Development or light industrial uses;
Facilitate clustering of Development thereby increasing the amount of saved land;

(9) Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;

(D) Land Use Mix

Each PD district approval shall identify the authorized land uses, which may include a mix of residential, retail, office, recreational or light industrial uses. The type and location of any and all uses within the PD District must be demonstrated to be appropriate for the project area and surrounding area. All land uses listed in the approved zoning application are permitted subject to the conditions established through the rezoning process.

(G) Open Space

Unless otherwise authorized for a specific Development Pattern established in chapter 5, the following Open Space requirements apply within a PD district:

(1) Not less than twenty (20) percent of the gross land area of the PD shall be devoted to Open Space.

(2) Not less than fifty (50) percent of the required Open Space (ten (10) percent of gross land area) shall be Usable Open Space as defined in this UDO.

(3) The remaining Open Space may be comprised of, but is not limited to, any combination of the following: natural areas, wetlands, trails, boardwalks, parks, ball fields, equestrian fields or tracks, golf courses (not including clubhouse or other vertical structures), buffers (outside of a platted Lot), any water bodies including ponds and lakes, and/or innovative and accessible water quality ponds that are designed as an amenity.

G. Other Factors. *The Hearing Body may consider any other factors relevant to a rezoning application under state law.*

With demands placed on municipalities as the market continues to grow and diversify, a rezoning to General Business will allow for the highest and best use of the subject parcel while remaining in harmony with the surrounding neighborhood. The Comprehensive Long Range Plan considers future land use a seminal value governed by consistent vision, goals, and policies. Recognizing this vision, and the dynamic forces affecting the evolution of our town, a reclassification to General Business on the subject property will remain consistent with zoning standards set forth by the adopted Comprehensive Long Range Plan.

The applicant recognizes that RM-1 zoning abuts to the subject parcel. Through submission of the application it is acknowledged, and accepted, that buffers are set at 20' (UDO Exhibit 4-3 - Minimum Buffer Widths) to support public health, safety, and welfare.

To note; applicant recognizes that GB zoning is more restrictive in nature, giving less ability to negotiate standards than PD zoning.

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.*

The request is not applicable as the request is not for a conditional use or conditional district rezoning.

Matthew A. Callahan, P.L.S.
Land Surveying

August 23, 2016

Culture Club, LLC

Being all of Tract A as shown on Plat Cabinet 15, Slide 178 of the Moore County Registry and being described as follows:

BEGINNING at an existing iron rod, said iron rod being located in the southeast quadrant of Long Street and Short Road in the town of Southern Pines, N.C... Running thence from said beginning point and with the southern right-of-way of Long Street, S 88°01'06" E 145.30 feet to a existing iron pipe; thence leaving said Long Street S 00°57'30" W 81.50 feet to a existing iron rod; thence S 87°58'43" E 29.76 feet to a existing iron pipe; thence S 01°59'22" W 118.44 feet to a existing iron pipe in the northern right-of-way of Blue Lane; thence with the northern right-of-way of Blue Lane N 87°59'07" W 175.11 feet to a existing iron rod in the eastern right-of-way of Short Road; thence with the eastern right-of-way of Short Road N 01°35'00" E 199.85 feet to the beginning and being all of Tract A, containing 0.75 acres as shown on Plat Cabinet 15, Slide 178 of the Moore County Registry.

Note:

Above bearings are in reference to Plat Cabinet 15, Slide 178 of the Moore County Registry.

P.O. Box 938 – Vass, NC 28394 – (910)245-2980

Matthew A. Callahan, P.L.S.
Land Surveying

August 23, 2016

Culture Club, LLC

Being all of Tract B as shown on Plat Cabinet 15, Slide 178 of the Moore County Registry and being described as follows:

BEGINNING at an existing iron pipe, said iron pipe being located in the southern right-of-way of Long Street and being further described as being S 88°01'06" E 145.30 feet from the southeast quadrant of Long Street and Short Road in the town of Southern Pines, N.C. Thence from said beginning point and with the southern right-of-way of Long Street S 88°01'06" E 128.59 feet to a existing iron pipe; thence leaving said right-of-way S 05°36'30" W 135.65 feet to a existing iron pipe; thence S 88°40'25" E 36.06 feet to a existing iron pipe; thence S 02°02'28" W 65.05 feet to a existing concrete monument in the northern right-of-way of Blue Lane; thence with the northern right-of-way of Blue Lane N 87°59'07" W 124.80 feet to a existing iron pipe; thence leaving said right-of-way N 01°59'22" E 118.44 feet to a existing iron pipe; thence N 87°58'43" W 29.76 feet to a existing iron rod; thence N 00°57'30" E 81.50 feet to the beginning and being all of Tract B, containing 0.43 acres as shown on Plat Cabinet 15, Slide 178 of the Moore County Registry.

Note:

Above bearings are in reference to Plat Cabinet 15, Slide 178 of the Moore County Registry.

P.O. Box 938 – Vass, NC 28394 – (910)245-2980

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: Property Along Murray Hill Road & Short Street – Proposed Rezoning from PD to GB



Agenda Item

To: Reagan Parsons, Town Manager
Via: Chris Kennedy, Community Development Director
From: Bart Nuckols, Planning Director
Subject: Z-04-16; Request to Rezone Property from PD to GB; 00048374; Petitioner, Tammy Lyne
Date: October 11, 2016

Z-04-16; Request to Rezone Property from PD to GB; 00048374; Petitioner, Tammy Lyne

On behalf of property owner, the petitioner Ms. Tammy Lyne is requesting to rezone property from PD (Planned Development) to GB (General Business). The subject property is comprised of 0.687 acres. The subject property is identified by the following: PIN: 857110458250 (PARID: 00048734). Per the Moore County GIS records, the property owner(s) are listed as Douglass W. Donnell.

Planning Board Recommendation:

At the September 22, 2016 Regular Meeting of the Planning Board, the Board held a legislative public hearing and received comments on the application from those in attendance regarding the application Z-04-16. After closing the public hearing and further discussion amongst the board members, the Board voted unanimously (6-0) to recommend that the proposed amendment to the ordinance is not consistent with the Comprehensive Long Range Plan map as the property is designated as residential and the proposed use is commercial, the Board found that the request is compatible with the goals and objectives of the Comprehensive Long Range Plan and other adopted land development documents. The Planning Board then voted unanimously (6-0) to recommend approval of Z-04-16 with no conditions.

Analysis:

The subject property is identified as “Residential” in the *Comprehensive Long Range Plan Future Land Use Map*. Per the *Comprehensive Long Range Plan 2015-16 Update*:

- **Residential:** This designation encompasses the majority of Southern Pines’ residential land, providing for single-family and attached housing at development densities ranging from one unit per acre in areas that are less intensively developed to up to twelve units per acre in places that are clearly more urban. Elementary schools, civic uses, parks, and neighborhood scale commercial services may be authorized through the rezoning process without amending the Future Land Use Map.

Staff Comments:

- The subject property is comprised of 0.687 acres along Murray Hill Road and Short Street.
 - The subject property is located within the corporate limits of the Town of Southern Pines.
- The petitioner is seeking to rezone the property from PD to GB.
- The adjoining properties are zoned PD to the North, GB to the West and the South, and RM-1 to the East.
- The subject property is identified as “Residential” in the *Comprehensive Long Range Plan* Future Land Use Map. The request for a rezoning to GB is incompatible with the “residential” designation of the CLRP Map.
- Per UDO Section 3.5.14:
 - Purpose: The PD district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational development, and where consistent with the future land use map, light manufacturing and assembly uses that comply with the employment center development patterns in UDO Section 6.5. This district is intended to allow mixed-use developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can readily be improved) to handle the projected traffic volumes generated by the development. The regulations of the PD district are intended to:
 1. Encourage planned, large-tract development, including service, office, commercial, residential, public or private recreational development or light industrial uses;
 2. Exclude heavy commercial and heavy industrial land uses;
 3. Encourage development in areas located on major thoroughfares and collector streets;
 4. Encourage vehicular access from service drives and other local streets;
 5. Provide performance standards to help ensure compatible land uses;
 6. Encourage common or shared parking;
 7. Promote creativity and innovation in the design that leads to more appropriate relationships between land uses and features;
 8. Facilitate clustering of development thereby increasing the amount of saved land;
 9. Foster development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;
 10. Improve connectivity within and between developments to promote mobility and enhance walkability;
 11. Integrate public spaces and amenities to promote community gatherings and activities;
 12. Establish coordinated land plan and consistent treatment of common design elements;
 13. Provide the flexibility to respond to market conditions over longer

projected development periods due to the scale of such developments; and,
14. If residential land uses are proposed, provide a variety of lot sizes and dwelling types to expand the spectrum of housing choices for households of various types, sizes, incomes, and ages.

- Per UDO Section 3.5.9:
 - A. Purpose: The GB district is designed to accommodate highway-oriented retail, commercial service businesses and in some limited cases light manufacturing, which generally have as their market area the entire Town and surrounding area. The major objectives of this district are to:
 1. Encourage planned commercial, light manufacturing conducted within buildings and office parks;
 2. Discourage small lot development on major highways;
 3. Encourage vehicular access from service drives and other local commercial streets rather than directly from arterial streets; and,
 4. Provide a location for major shopping facilities and land uses requiring large outdoor spaces.
- 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.*

Attachments:

- RLUAC Response (Not available at this time)
 - Planning Board 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. The proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans; in that...

Or

2. The proposed amendment is not consistent with the documents that constitute the officially adopted land development plan or other applicable plans, in that...

I move to:

1. Approve Z-04-16;
2. Deny Z-0416; OR
3. Approve Z-04-16 with the following additional conditions...

Agenda Item

To: Planning Board

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: Z-04-16; Request to Rezone Property from PD to GB; 00048374; Petitioner, Tammy Lyne

Date: September 22, 2016

Z-04-16; Request to Rezone Property from PD to GB; 00048374; Petitioner, Tammy Lyne

On behalf of property owner, the petitioner Ms. Tammy Lyne is requesting to rezone property from PD (Planned Development) to GB (General Business). The subject property is comprised of 0.687 acres. The subject property is identified by the following: PIN: 857110458250 (PARID: 00048734). Per the Moore County GIS records, the property owner(s) are listed as Douglass W. Donnell.

Analysis:

The subject property is identified as “Residential” in the *Comprehensive Long Range Plan* Future Land Use Map. Per the *Comprehensive Long Range Plan 2015-16 Update*:

- **Residential:** This designation encompasses the majority of Southern Pines’ residential land, providing for single-family and attached housing at development densities ranging from one unit per acre in areas that are less intensively developed to up to twelve units per acre in places that are clearly more urban. Elementary schools, civic uses, parks, and neighborhood scale commercial services may be authorized through the rezoning process without amending the Future Land Use Map.

Staff Comments:

- The subject property is comprised of 0.687 acres along Murray Hill Road and Short Street.
 - The subject property is located within the corporate limits of the Town of Southern Pines.
- The petitioner is seeking to rezone the property from PD to GB.
- The adjoining properties are zoned PD to the North, GB to the West and the South, and RM-1 to the East.
- The subject property is identified as “Residential” in the *Comprehensive Long Range Plan* Future Land Use Map. The request for a rezoning to GB is incompatible with the “residential” designation of the CLRP Map.

- Per UDO Section 3.5.14:
 - Purpose: The PD district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational development, and where consistent with the future land use map, light manufacturing and assembly uses that comply with the employment center development patterns in UDO Section 6.5. This district is intended to allow mixed-use developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can readily be improved) to handle the projected traffic volumes generated by the development. The regulations of the PD district are intended to:
 15. Encourage planned, large-tract development, including service, office, commercial, residential, public or private recreational development or light industrial uses;
 16. Exclude heavy commercial and heavy industrial land uses;
 17. Encourage development in areas located on major thoroughfares and collector streets;
 18. Encourage vehicular access from service drives and other local streets;
 19. Provide performance standards to help ensure compatible land uses;
 20. Encourage common or shared parking;
 21. Promote creativity and innovation in the design that leads to more appropriate relationships between land uses and features;
 22. Facilitate clustering of development thereby increasing the amount of saved land;
 23. Foster development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;
 24. Improve connectivity within and between developments to promote mobility and enhance walkability;
 25. Integrate public spaces and amenities to promote community gatherings and activities;
 26. Establish coordinated land plan and consistent treatment of common design elements;
 27. Provide the flexibility to respond to market conditions over longer projected development periods due to the scale of such developments; and,
 28. If residential land uses are proposed, provide a variety of lot sizes and dwelling types to expand the spectrum of housing choices for households of various types, sizes, incomes, and ages.
- Per UDO Section 3.5.9:
 - B. Purpose: The GB district is designed to accommodate highway-oriented retail, commercial service businesses and in some limited cases light manufacturing, which generally have as their market area the entire Town and surrounding area. The major objectives of this district are to:
 5. Encourage planned commercial, light manufacturing conducted within buildings and office parks;
 6. Discourage small lot development on major highways;

- 7. Encourage vehicular access from service drives and other local commercial streets rather than directly from arterial streets; and,
- 8. Provide a location for major shopping facilities and land uses requiring large outdoor spaces.
- 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*;
 - H. Within thirty (30) days of the Planning Board recommendation, the application shall be submitted to the Council to review at a legislative public hearing.
 - I. 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.
 - J. 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.
 - K. 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.
 - L. 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.
 - M. 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.
 - N. 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:

2.17.10 *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.

- I. *Consistency.* Rezoning shall be consistent with the adopted Comprehensive Plan.
- J. *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.*

- K. *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.*
- L. *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.*
- M. *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.*
- N. *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.*
- O. *Other Factors. The Hearing Body may consider any other factors relevant to a rezoning application under state law.*
- P. *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.*

Attachments:

- GIS Location
 - Application Materials
 - Criteria Narrative
 - Metes and Bounds
 - Future Land Use Map
-

Planning Board Action:

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 that we advise that:

1. The proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans; in that...
2. The proposed amendment is not consistent with the documents that constitute the officially adopted land development plan or other applicable plans, in that...

I move to recommend to the Town Council:

1. The approval of Z-04-16;
2. The denial of Z-04-16;
3. The approval of Z-04-16 with the following additional conditions...

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).

Z-04-16 Request to Rezone from PD to GB

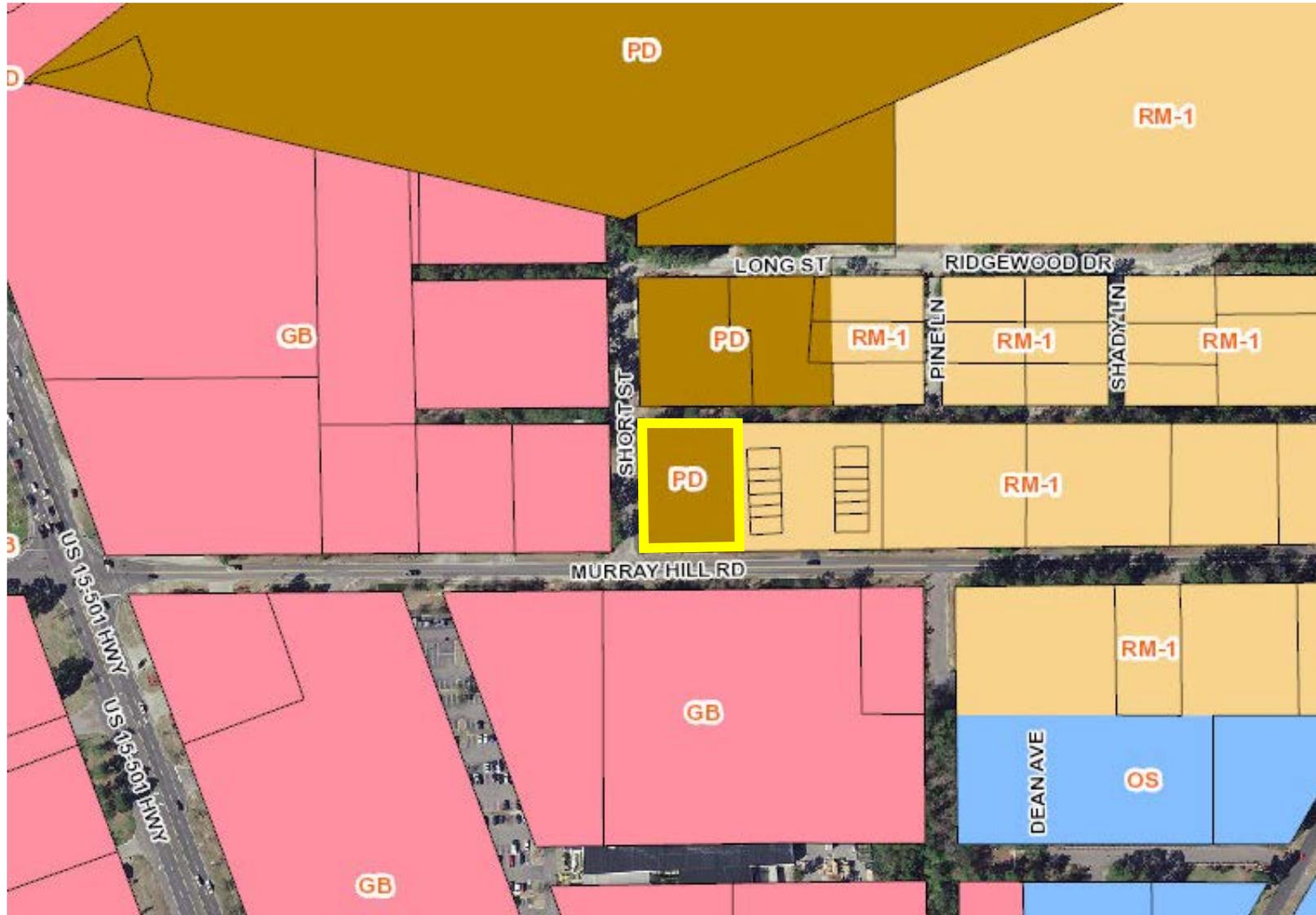
PIN: 857110458250 (PARID:00048734)



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Z-04-16 Request to Rezone from PD to GB

PIN: 857110458250 (PARID:00048734)



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Z-04-16 Request to Rezone from PD to GB

PIN: 857110458250 (PARID:00048734)



To the Planning Board and Town Council of Southern Pines, North Carolina:

I, the undersigned, do hereby make a petition to change the zoning map of the Town of Southern Pines as herein requested:

1. The property is located on the Right side of Murray Hill Rd (St., Ave., Dr., Ct.) between Short St. (St., Ave., Dr., Ct.) and Richards St (St., Ave., Dr., Ct.). The address is 295 Murray Hill Rd and is identified as PIN Number 00048734 and LRK 857110458250. It has a frontage of 150 feet and an average depth of 200 feet containing .69 acres.
2. It is desired and requested that the foregoing property be rezoned from Mixed Use - PD District to General Business District for the following purpose: To achieve the highest and best use of the property
3. A metes and bounds description must be attached to this application.
4. List all individuals, firms or corporations owning property within 200 feet of the rezoning petition and within 200 feet of all other property contiguously owned by the property owner/petitioner or all pieces of land that were part of the property requesting rezoning or at least the ten (10) closest properties prior to the requested rezoning, and the property across the street from the property sought to be rezoned. It is required to furnish PIN and LRK numbers for each property, owner's name and address.

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

Petitioner's Name (Please Print or Type) Tammy O Lyne
 Petitioner's Signature Tammy O Lyne
 Mailing Address 195 Short St.
Southern Pines, NC 28387
 Phone Number () (910)692-5552 Email tammy@tammylyne.com

Property Owner (Please Print or Type) Douglas Donnell
 Mailing Address 11354 Links Dr.
Reston, VA 20190
 Phone Number () (703)867-7035 Email nebraska72@yahoo.com

RECEIVED
 AUG 24 2016
 BY: C. Williams

1. Property owners' name: Nancy S. Martin
Mailing Address: 1600 Hoffman Rd.
Jackson Springs, NC 27281

000656683
LRK #: _____
Adjacent Property Address: 345 Murray Hill Rd
Southern Pines, NC 28387

2. Property owners' name: Glen-Moore INC
Mailing Address: 711 E. Broad Ave.
Rockingham, NC 28379

00049795
LRK #: _____
Adjacent Property Address: _____

3. Property owners' name: Claude F Smith Jr Family
Mailing Address: 1305 E Broad Ave STE 36
Rockingham, NC 28379

00047496
LRK #: _____
Adjacent Property Address: _____

4. Property owners' name: Culture Club, LLC
Mailing Address: PO Box 4393
Pinehurst, NC 28374

00048142
LRK #: _____
Adjacent Property Address: 0 Long St
Southern Pines, NC 28387

5. Property owners' name: Overton Body Shop
 Mailing Address: 110 Sandy Ave.
Southern Pines, NC 28387
 LRK #: 00048412
 Adjacent Property Address: 200 Short St.
Southern Pines, NC 28387
6. Property owners' name: Murray Hill Housing Partnership
 Mailing Address: PO BOX 26405
Greensboro, NC 27404
 LRK #: 857115544890
 Adjacent Property Address: _____
7. Property owners' name: Carolyn Covington
 Mailing Address: 140 Pine Ln
Southern Pines, NC 28387
 LRK #: 857111551345
 Adjacent Property Address: _____
8. Property owners' name: Patricia Hankins
 Mailing Address: 3522 Lincoln Ln
Gastonia, NC 28056
 LRK #: 857100551433
 Adjacent Property Address: _____
9. Property owners' name: Naomi Rose
 Mailing Address: 265 Murray Hill Rd
Southern Pines, NC 28387

857111552261
LRK #: _____

Adjacent Property Address: _____

10. Property owners' name: Murray Hill Investments, INC _____

Mailing Address: 6010 Payton Dr _____

Rougemont, NC 27572 _____

857110455201
LRK #: _____

Adjacent Property Address: _____

Please note that if you have more than (10) ten adjacent property owners, use another sheet for additional names, if necessary. Please include a stamped envelope addressed to each adjacent property owner with the following return address: Town of Southern Pines, Attn: Planning Department, 180 SW Broad Street, Southern Pines, NC 28387

Adjacent Property Owners

PIN:857110458250
 PARID:00048734
 NAME:DONNELL, DOUGLASS W
 ADDRESS:11354 LINKS DR
 CITY:RESTON
 STATE:VA
 ZIP:20190

PIN:857110458453
 PARID:00052928
 NAME:CULTURE CLUB, LLC
 ADDRESS:PO BOX 4393
 CITY:PINEHURST
 STATE:NC
 ZIP:28374

PIN:8571100459493
 PARID:00052929
 NAME:CULTURE CLUB, LLC
 ADDRESS:PO BOX 4393
 CITY:PINEHURST
 STATE:NC
 ZIP:28374

PIN:857111550240
 PARID:00049795
 NAME:GLEN-MOORE INC
 ADDRESS:711 E BROAD AVE
 CITY:ROCKINGHAM
 STATE:NC
 ZIP:28379-0816

PIN:857110459275
 PARID:00049800
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857110459272
 PARID:00049796
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857110459270
 PARID:00049797
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857110459178
 PARID:00049798
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857110459177
 PARID:00049799
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857110459174
 PARID:00049801
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857111551205
 PARID:00049802
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857111551203
 PARID:00049803
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857111551201
 PARID:00049804
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857111551109
 PARID:00049805
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857111551107
 PARID:00049806
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857111551105
 PARID:00049807
 NAME:ROBINSON, CRAIG F &
 NAME2:CRAWFORD, MARY ANN
 TRUSTEES
 ADDRESS:39 GRAND VIEW LN
 CITY:BELLINGHAM
 STATE:WA
 ZIP:98229

PIN:857100551530
PARID:00046421
NAME:HANKINS, PATRICIA B
NAME2:GARNER, DEBRA LYNN
& TANT, TERESA GAIL
ADDRESS:3522 LINCOLN LANE
CITY:GASTONIA
STATE:NC
ZIP:28056

PIN:857100551433
PARID:00050403
NAME:HANKINS, PATRICIA B
NAME2:GARNER, DEBRA LYNN
& TANT, TERESA GAIL
ADDRESS:3522 LINCOLN LANE
CITY:GASTONIA
STATE:NC
ZIP:28056

PIN:857111551346
PARID:00053099
NAME:COVINGTON, CAROLYN T
ADDRESS:140 PINE LN
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857110456250
PARID:00055683
NAME:MARTIN, NANCY S &
SLATE, JAMES D JR &
NAME2:CHARLES D & TRENT J &
DAWSON, JENNIFER S
ADDRESS:1600 HOFFMAN RD
CITY:JACKSON SPRINGS
STATE:NC
ZIP:27281

PIN:857110455473
PARID:00048142
NAME:OVERTON BODY SHOP
ADDRESS:110 SANDY AVE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857110455201
PARID:00053716
NAME:MURRAY HILL
INVESTMENTS, INC
ADDRESS:6010 PAYTON DR
CITY:ROUGEMONT
STATE:NC
ZIP:27572-7368

PIN:857114446845
PARID:00047498
NAME:SMITH, CLAUDE F JR
FAMILY
NAME2:LIMITED PARTNERSHIP
#4
ADDRESS:1305 E BROAD AVE
STE 36
CITY:ROCKINGHAM
STATE:NC
ZIP:28379

PIN:857115540740
PARID:00047496
NAME:SMITH, CLAUDE F JR
FAMILY
NAME2:LIMITED PARTNERSHIP
#4
ADDRESS:1305 E BROAD AVE
STE 36
CITY:ROCKINGHAM
STATE:NC
ZIP:28379

PIN:857115541974
PARID:00052894
NAME:TUNSTALL, WILLIAM M &
WANDA S
ADDRESS:1316 MCCASKILL RD
CITY:CARTHAGE
STATE:NC
ZIP:28327

2.17.9 Criteria for Zoning Map Amendments

Z-04-16

A. Consistency. *Rezoning shall be consistent with the adopted Comprehensive Plan.*

The subject property is located on Murray Hill Rd. and Short St. in Southern Pines, and is compatible with contiguous parcels. The subject parcel is located in direct proximity to parcels currently zoned for General Business. Existing businesses contiguous to the subject parcel include, and are not limited to, The Oil Changer, Lowe's Home Improvement, Star 102.5 Radio Station, Kick Back Jack's, Chick-Fil-A, and the Kangaroo Gas Station located less than 800 ft. to the west of the subject. The request is consistent with neighboring properties to the North, South, and West. With the ever present external forces that drive the market in which we reside a rezoning to GB would allow for the highest and best use of the subject property while promoting sustained economic opportunity for the community.

Provided within the Comprehensive Long Range Plan (CLRP) are objectives for supporting the projected 1% annual growth rate of the county. Encompassed within these objectives are outlines for how to produce safe commuter connectivity routes to relieve congestion and provide alternate vehicular, pedestrian, and bicycle traffic.

As the access management project, which initiates at the intersection of US 1 and 15-501 and extends to Brucewood Rd unfolds, it is recognized that an extension of Short St. to Brucewood Rd. may relieve significant congestion serving in a connector street capacity. The request for rezoning to GB of the subject parcel complies with P-9 of the CLRP by enhancing the safety and function of collector streets.

Goal G-4 of the CLRP states, "Protect and enhance the civic vitality, function, stability and character of Southern Pines commercial and residential neighborhoods." As noted in the preceding paragraphs, the request to rezone the subject parcel from PD to GB is compatible with existing GB zoning of contiguous properties. Prescribed setbacks of 20' (UDO Exhibit 4-3 – Minimum Zoning Widths) for RM-1 zoning that abuts GB zoned parcels protects residents within that zoning district.

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.*

Requesting the zoning map amendment from PD to GB is compatible with the surrounding neighborhood. The petitioner does not feel that granting its request to rezone the parcel will hinder, or jeopardize, any of the surrounding parcels.

C. Suitability as Presently Zoned. *The hearing body shall consider the suitability or unsuitability of the tract as it is currently zoned.*

For consideration; the current PD zoning requires setbacks and buffers that create a hardship for maximizing the highest and best use of the subject parcel. Given the lot size of .69 acres, these prescribed setbacks limit the square footage of usable space. In addition; under prescribed requirements of the UDO set forth by PD zoning, 20% of the subject parcel is to be devoted to “open space.” Combined requirements of setbacks, open space, and intent under PD zoning creates a hardship for maximizing the use of the parcel. The subject parcel is not large enough to accommodate setbacks, open space requirements, and a mix of planned uses.

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 area. 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.*

Adopting GB zoning on the subject property will in no way alter public health, safety, or welfare. The current use of the subject property will remain the same. In meeting the requirements for health, safety, and welfare it is important to note that there is little variation between PD and GB statutes.

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 the neighborhood, area, or specific plans.*

The requested change is compatible with the surrounding neighborhood, and fits symmetrically with growth of contiguous properties.

Petitioner cites policy P-15 A of the CLRP – “Favor infill development in areas with access to public facilities over development on the perimeter that requires extension of public facilities.” The subject parcel is served by public facilities and has GB zoning in direct proximity. The request is consistent and compatible with contiguous development, and should bear no burden on existing public systems.

- F. Size of Tract.** *The Hearing Body shall consider the size, shape, and characteristics of the Tract in relation to the neighboring affected 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.*

Rezoning from PD to GB will allow for the highest and best use of the subject property. Total acreage of the parcel is .69 acres. The required setbacks under PD zoning significantly reduce the amount of usable area. The following criteria, referenced from the UDO, further highlights the hardship created from the restrictive size of the subject parcel.

PD – 3.5.14. PD - Planned Development District

(1) Encourage planned, large-tract Development, including service, office, commercial, residential, public or private recreational Development or light industrial uses;
Facilitate clustering of Development thereby increasing the amount of saved land;

(9) Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;

(D) Land Use Mix

Each PD district approval shall identify the authorized land uses, which may include a mix of residential, retail, office, recreational or light industrial uses. The type and location of any and all uses within the PD District must be demonstrated to be appropriate for the project area and surrounding area. All land uses listed in the approved zoning application are permitted subject to the conditions established through the rezoning process.

(G) Open Space

Unless otherwise authorized for a specific Development Pattern established in chapter 5, the following Open Space requirements apply within a PD district:

(1) Not less than twenty (20) percent of the gross land area of the PD shall be devoted to Open Space.

(2) Not less than fifty (50) percent of the required Open Space (ten (10) percent of gross land area) shall be Usable Open Space as defined in this UDO.

(3) The remaining Open Space may be comprised of, but is not limited to, any combination of the following: natural areas, wetlands, trails, boardwalks, parks, ball fields, equestrian fields or tracks, golf courses (not including clubhouse or other vertical structures), buffers (outside of a platted Lot), any water bodies including ponds and lakes, and/or innovative and accessible water quality ponds that are designed as an amenity.

G. Other Factors. *The Hearing Body may consider any other factors relevant to a rezoning application under state law.*

With demands placed on municipalities as the market continues to grow and diversify, a rezoning to General Business will allow for the highest and best use of the subject parcel while remaining in harmony with the surrounding neighborhood. The Comprehensive Long Range Plan considers future land use a seminal value governed by consistent vision, goals, and policies. Recognizing this vision, and the dynamic forces affecting the evolution of our town, a reclassification to General Business on the subject property will remain consistent with zoning standards set forth by the adopted Comprehensive Long Range Plan.

The applicant recognizes that RM-1 zoning abuts to the subject parcel. Through submission of the application it is acknowledged, and accepted, that buffers are set at 20' (UDO Exhibit 4-3 - Minimum Buffer Widths) to support public health, safety, and welfare.

To note; applicant recognizes that GB zoning is more restrictive in nature, giving less ability to negotiate standards than PD zoning.

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.*

The request is not applicable as the request is not for a conditional use or conditional district rezoning.

Matthew A. Callahan, P.L.S.
Land Surveying

August 23, 2016

Culture Club, LLC

Being all of Lot 9 as shown on a plat entitled Longview and recorded in Map Book 3, Page 70 of the Moore County Registry and being described as follows:

BEGINNING at a corner, said corner being located in the southeast quadrant of Short Street and Blue Lane in the town of Southern Pines, N.C. Running thence from said beginning corner and with the southern right-of-way of Blue Lane, S 88°51'00" E 150.00 feet to a corner; thence leaving Blue Lane, S 01°09'00" W 200.00 feet to a corner in the northern right-of-way of Murray Hill Road; thence with the northern right-of-way of Murray Hill Road N 88°51'00" W 150.00 to a corner in the eastern right-of-way of Short Street; thence with the eastern right-of-way of Short Street N 01°09'00" E 200.00 feet to the beginning and being all of Lot 9, containing 0.69 acres as shown on Map Book 3, Page 70 of the Moore County Registry.

Note:

Above bearings are in reference to Map Book 3, Page 70 of the Moore County Registry.

P.O. Box 938 – Vass, NC 28394 – (910)245-2980

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: Property Along Murray Hill Road & Short Street – Proposed Rezoning from PD to GB



Agenda Item

To: Reagan Parsons, Town Manager

From: Chris Kennedy, Community Development Director

Subject: CU-06-16 Conditional Use Permit: Major Modification to CU-01-11 for a Daycare; Tyler’s Ridge; Petitioner, Building Blocks Early Education Centers

Date: October 11, 2016

CU-06-16 Conditional Use Permit: Major Modification to CU-01-11 for a Daycare; Tyler’s Ridge; Petitioner, Building Blocks Early Education Centers

On behalf of the petitioner, Building Blocks Early Education Centers, Mr. Perry Melton has submitted a request for a major amendment to Conditional Use Permit CU-01-11. The approval of 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. Melton 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 subject property is comprised of 1.48 acres with the entirety of the subject property located within the corporate limits of the Town of Southern Pines. The subject 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.

Planning Board Recommendation:

At the September 22, 2016 Regular Meeting of the Planning Board, the Planning Board held a quasi-judicial public hearing and heard evidence from those in attendance regarding the application CU-06-16. The Planning Board voted on a recommendation for Conditional Use Permit application CU-06-16 for a Major Modification to CU-01-11.

The Board voted on two findings of fact for the application before voting on whether to recommend approval or denial of the Conditional Use Permit application. The Board unanimously voted (6-0) to recommend that as a finding of fact the application is complete and the facts submitted were relevant to the case. Then, the Board unanimously voted (6-0) to recommend that as a finding of fact the application complies with Section 2.21.7 Criteria for a Conditional Use Permit, Criteria A-F. Next, the Board unanimously voted (6-0) to recommend that the proposed Conditional Use Permit Application is consistent with those documents that constitute the officially adopted land development plan and other applicable plans in that the project is consistent with the adopted CLRP Map and other goals and objectives of the CLRP. The Planning Board unanimously voted (6-0) to recommend approval of CU-06-16 with two conditions.

1. The petitioner shall provide written verification that the subject properties lie outside of the Moore County Airport Clear Zone. The written verification can be submitted to staff prior to the Town Council public hearing or to the Town Clerk if submitted at the Town Council Public Hearing for CU-06-16.
2. All applicable previous conditions applied to the approval of CU-01-11 remain in place with any approval of CU-06-16.

The Planning Board also wanted to relay a general comment to the Town Council that the Planning Board's recommendation on the proposed Major Modification presumes that the subject properties (Tyler's Ridge Lots 3-5) are to be considered separate from the previously approved Tyler's Ridge Commercial Area allocations with respect to allowable impervious surface, parking space maximums, and commercial space square footage.

Analysis:

The subject property is identified as "Traditional Mixed-Use" in the *Comprehensive Long Range Plan* Future Land Use Map. Per the ***Comprehensive Long Range Plan 2015-16 Update***:

- **Traditional Mixed-Use:** The Traditional Mixed-Use category applies to those larger, mostly undeveloped parcels well-suited to mixing residential and non-residential uses in a manner similar to that found in downtown Southern Pines. This designation applies to the Morganton Road area and to the Pine Needles area, identifying these as likely spots for mixed-use including an interconnected street network as found in traditional town development. No specific development intensity is implied by this designation. It simply indicates that such areas will be built to urban levels, will incorporate a variety of uses and will have a street network accommodating modes of travel beyond the automobile.

Staff Comments:

- The subject properties comprise approximately 1.48 acres included in the Tyler's Ridge development.
- The subject property is currently zoned PD (Planned Development).
- The neighboring properties are zoned PD (Planned Development) and FRR (Facilities, Resources, Recreation).
- 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.
- 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 applicant has submitted an application for the 5/70 Exemption under Watershed Protection Permit application WP-03-16.
- RLUAC (Regional Land Use Advisory Commission) and the US Fish & Wildlife Service will provide comments prior to the Town Council public hearing.
- 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 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:

- Watershed Protection Permit (WP-03-16)
- RLUAC Response (Not available at this time)
- Written Decision of the Planning Board
- Planning Board Memo and Packet

Town Council Actions:

To either approve or deny a *Conditional Use Permit* application, the Town Council must make findings of fact and conclusions to the applicable standards. The Town Council shall first vote on whether the application is complete and whether the facts presented are relevant to the case. The Town Council shall then vote on whether the application complies with the criteria as set forth in Section 2.21.7 Criteria for a Conditional Use Permit, Criteria A-F. The Town Council may choose one of the following motions or any alternative they wish:

Finding of Fact #1

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

Or

- 2) I move that as a finding of fact the application is incomplete and/or that the facts submitted are not relevant to the case, in that...

Finding of Fact #2

- 1) I move that as a finding of fact the application complies with Section 2.21.7 Criteria for a Conditional Use Permit, Criteria A-F, in that...

Or

- 2) I 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...

The Town Council shall vote on whether the proposed *Conditional Use Permit* application is consistent with the *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. The proposed *Conditional Use Application* is consistent with those documents that constitute the officially adopted land development plan and other applicable plans; in that...

OR

2. The proposed *Conditional Use Application* is not consistent with the documents that constitute the officially adopted land development plan or other applicable plans, in that ...

I move to:

1. Approve CU-06-16
2. Deny CU-06-16; OR
3. Approve CU-06-16 with the following additional conditions...

**APPLICATION FOR THE
TOWN OF SOUTHERN PINES TOWN COUNCIL
WATERSHED PROTECTION PERMIT**



Date Received: _____

Case: WP- 03 - 16

TO THE TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES, NORTH CAROLINA:

I, the undersigned, do hereby make application for a Watershed Protection Permit of the property as described below, to the Town of Southern Pines Town Council:

1. **Name of Project:** Daycare Center
2. **Project Street Address:** SW corner of Olivetree Ln and Moonseed Ln
85730096508, 857300967690 20110241, 0110242
3. **PIN #** 85730969695 **LRK** 0035939
4. **Watershed:** Little River Intake #2
5. **Type of Commercial Building (i.e. retail, office, etc.):** Daycare center

I certify that all information furnished in this application is accurate and in compliance with the Watershed Protection Overlay standards of the Town of Southern Pines.

Name of Petitioner: Perry Melton
Please Print

Signature: 

Mailing Address of Petitioner: 351 Waggoner Dr. Ste 329 Fayetteville, NC. 28303-4608
Please Print

E-Mail of Petitioner: pmelton@bbeec.com
Please Print

Phone Number of Petitioner: 910-703-8714 910-476-1260 (Cell)
(Area Code)

Name of legal owner of Property Owner
(If different from Petitioner) James B. O'Malley
Please Print

Mailing Address of legal Property Owner
(If different from Petitioner) 5710 S. 108th St. Hales Corners, WI. 53130
Please Print

Phone number of legal Property Owner
(If different from Petitioner) 414-425-5700
(Area Code)

Form updated June 1, 2016

TOWN OF SOUTHERN PINES

REGULAR BUSINESS MEETING OF THE PLANNING BOARD

September 22, 2016

7:00 pm

Douglass Community Center
1185 W. Pennsylvania Avenue

DECISION OF THE BOARD

Petitioner: Building Blocks Early Education Centers

Case Number: CU-06-16

The meeting was called to order with six (6) members present and the Chairman declared that a quorum was present. The petitioner, Building Blocks Early Education Centers appeared before the Board through its agent, Mr. Perry Melton. The property owner, Mr. James O'Malley also spoke in favor of the request. The oath was administered to the witnesses prior to their testimony.

Matter at Issue:

CU-06-16 Conditional Use Permit: Major Modification to CU-01-11 for a Daycare; Tyler's Ridge; Petitioner, Building Blocks Early Education Centers

On behalf of the petitioner, Building Blocks Early Education Centers, Mr. Perry Melton has submitted a request for a major amendment to Conditional Use Permit CU-01-11. The approval of 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. Melton 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 subject property is comprised of 1.48 acres with the entirety of the subject property located within the corporate limits of the Town of Southern Pines. The subject 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.

Mr. James O'Malley, presented the case for the approval of Conditional Use Permit CU-06-16. Mr. O'Malley provided an overview of the current request and provided historical context of the previous approval for CU-01-11 and addressed the questions from the Planning Board and the public present at the public hearing. Mr. O'Malley submitted into evidence a written narrative

describing the application's consistency with the UDO criteria for a Conditional Use Permit as set forth in UDO Section 2.21.7.

Mr. Perry Melton, provided an overview of the business, Building Blocks Early Education Centers, intended for the site and the subject of the Major Modification request. Mr. Melton addressed the questions from the Planning Board and the public present at the public hearing with respect to his daycare operations in the region and the proposal for the current site.

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

Findings of Fact:

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

Finding of Fact #1

- 1) **I 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.

Finding of Fact #2

- 1) **I move that as a finding of fact the application complies 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 Board finds that the proposed conditional use complies with all applicable zoning district regulations and supplemental use regulations to allow for the approval of a Major Modification to the existing Conditional Use Permit to permit the removal of the three (3) single-family lots in favor of a daycare. The petitioner has demonstrated this compliance in testimony provided but the Board also recognizes that many details will also be subject to staff review during site plan approvals, construction, and inspections should the project proceed forward. The existing Conditional Use Permit in effect on the property, CU-01-11, was approved under a Conditional Use Permit application for a Planned Residential Development (PRD) with a commercial area attached to the PRD development. Conditional Use Permit CU-01-11 was approved under the previous version of the Unified Development

Ordinance (UDO) that was replaced in October 2013 with the current version; the current UDO no longer includes a PRD pattern for development, therefore the requirement for the single-family homes would no longer be required for this development if it were to apply for the same approval under the current UDO. The Major Modification requested under CU-06-16 is consistent with the current UDO standards.

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 Board finds that the proposed conditional use provides greater conformance to the neighborhood, if approved, in comparison to the previously approved land use of three (3) single-family lots. The adjacent properties are comprised of a commercial center in the Tyler's Ridge Business Park, the Tyler's Ridge Apartments multi-family development, a single-family residence on a PD zoned parcel, and undeveloped/garden property owned by Sandhills Community College. The previous Conditional Use Permit approval, CU-01-11, implemented a number of buffers from the single-family residence and the community college owned property and those buffers remain in place with this request. Furthermore, the Tyler's Ridge Business Park and the Tyler's Ridge Apartments are owned by the same property owner as this request so the Board contends that the proposed use will not injure the use or the enjoyment of property in the immediate vicinity for the purposes already permitted. The project will also adhere to dimensional standards and restrictions including heights, setbacks, landscaping, buffers and the like set forth in the UDO to protect the use and enjoyment of adjacent property.

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

The Board finds that the required public facilities required, including public water and sewer utilities as well as streets, are readily available for the project due to current improvements to the overall development with the construction of the Tyler's Ridge Business Park and the Tyler's Ridge Apartments multi-family development; the responsibility of any new improvements required and any associated costs with such improvements will be borne by the developer.

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 Board finds that the proposed conditional use will not impede the orderly development or improvement of the surrounding property for uses permitted within their respective zoning districts or substantially diminish or impair the property values of within the neighborhood. The proposed use is in greater conformance to the neighborhood, if approved, in comparison to the previously approved land use of three (3) single-family lots. Additionally, the "neighborhood" is predominantly comprised of the Tyler's Ridge Development so the compatibility with the proposed use is enhanced with the approval of the Major Modification and should not create any development impediments. The adjacent properties are comprised of a commercial center in the Tyler's Ridge Business Park, the Tyler's Ridge Apartments multi-family development, a single-family residence on a PD zoned parcel, and

undeveloped/garden property owned by Sandhills Community College. The approval of CU-01-11 implemented a number of buffers from the single-family residence and the community college owned property and those buffers remain in place with this request. Furthermore, the Tyler's Ridge Business Park and the Tyler's Ridge Apartments are owned by the same property owner as this request so the Board contends that the proposed use will not impede further development or diminish property values as the result of which would affect the subject property owner as well. The project will tap onto and/or help extend public utilities and streets which will allow for more readily available improvements for future development. The project will comply with previous conditions set forth in the approval of CU-01-11 and current UDO regulations relative to dimensional standards and restrictions including heights, setbacks, landscaping, buffers and the like set forth in the UDO. In summation, the proposed Major Modification should not impede the orderly development or improvement of the surrounding property for uses permitted within their respective zoning districts or substantially diminish or impair the property values of 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;

The Board finds that the proposed project will comply with the previously approved Conditional Use Permit, CU-01-11, (except as modified under the current request) and with UDO and CLRP standards. The approval of CU-01-11 was based, just like all approved applications that come before the Board, on its promotion of the public health, safety, and general welfare. The CLRP and the UDO are also documents that seek to advance the public health, safety, and general welfare of the public with policies, standards and restrictions and are documents adopted to promote these premises. The Board contends that the Major Modification as proposed and the testimony submitted did not provide any evidence to suggest that the establishment, maintenance, or operation of a daycare in lieu of three (3) single-family dwelling units would be detrimental to or endanger the public health, safety, comfort, or general welfare of the surrounding neighborhood and the public at large.

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 Board finds that the proposed Major Modification and the project included therein establishes a land use that better fits the context of the surrounding neighborhood and this area of Southern Pines than the construction of three (3) single-family lots. The provision of a daycare facility within this mixed-use development reduces the potential impact of vehicular traffic of residents and consumers of the nearby apartments, homes, commercial centers, and schools including the community college and the O'Neal school as the residents and consumers can find child care in close proximity to these other destinations. Development, in general, may create externalities that some may perceive as an adverse impact, however, in comparison to the approved single-family lots the impact is negligible with the construction of a daycare. The Board contends that the Major Modification as proposed and the testimony submitted provides the necessary evidence to suggest that the public interest involved with the modification to a daycare in lieu of three (3) single-family dwelling units outweighs any individual interests that may be adversely affected.

The Planning Board then voted on whether the proposed *Conditional Use Permit* is consistent with the adopted *Comprehensive Long Range Plan* and any other applicable officially adopted plan.

By a vote of 6-0, the Planning Board voted to recommend to the Town Council that the proposed *Conditional Use Permit Application* is consistent with those documents that constitute the officially adopted land development plan and other applicable plans in that the request is consistent with the Official Future Land Use Map of the Comprehensive Long Range Plan as well as other goals and objectives within the Comprehensive Long Range Plan.

By a vote of 6-0, the Planning Board voted to recommend to the Town Council the approval of the *Conditional Use Permit* application CU-06-16 as a Major Modification to the approved Conditional Use Permit CU-01-11 with the following conditions:

1. The petitioner shall provide written verification that the subject properties lie outside of the Moore County Airport Clear Zone. The written verification can be submitted to staff prior to the Town Council public hearing or to the Town Clerk if submitted at the Town Council Public Hearing for CU-06-16.
2. All applicable previous conditions applied to the approval of CU-01-11 remain in place with any approval of CU-06-16.

The Planning Board also wished to extend a comment to the Town Council that the Planning Board's recommendation on the proposed Major Modification presumes that the subject properties (Tyler's Ridge Lots 3-5) are to be considered separate from the previously approved Tyler's Ridge Commercial Area allocations with respect to allowable impervious surface, parking space maximums, and commercial space square footage.

Decision of the Board:

The requests under application CU-06-16 for Conditional Use Permit Approval for a Major Modification to the approved Conditional Use Permit CU-01-11 were recommended for approval to the Town Council with the following conditions.

1. The petitioner shall provide written verification that the subject properties lie outside of the Moore County Airport Clear Zone. The written verification can be submitted to staff prior to the Town Council public hearing or to the Town Clerk if submitted at the Town Council Public Hearing for CU-06-16.
2. All applicable previous conditions applied to the approval of CU-01-11 remain in place with any approval of CU-06-16.

This is the 22nd day of September, 2016.

FOR THE PLANNING BOARD:

John McLaughlin, Chairman

cc: Douglas Gill, Esq.
Southern Pines Planning Department
Southern Pines Town Council
David McNeill, Mayor
Southern Pines Town Clerk
Reagan Parsons, Town Manager
Brittany Paschal, Vice Chairman
Jim Curlee
William O. Ross
Bill Pate
Kristen Obst
Larry Harward

Building Blocks Early Education Centers
Tyler's Ridge Business Park, LLC

Agenda Item

To: Planning Board

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: CU-06-16 Conditional Use Permit: Major Modification to CU-01-11 for a Daycare; Tyler’s Ridge; Petitioner, Building Blocks Early Education Centers

Date: September 22, 2016

CU-06-16 Conditional Use Permit: Major Modification to CU-01-11 for a Daycare; Tyler’s Ridge; Petitioner, Building Blocks Early Education Centers

On behalf of the petitioner, Building Blocks Early Education Centers, Mr. Perry Melton has submitted a request for a major amendment to Conditional Use Permit CU-01-11. The approval of 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. Melton 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 subject property is comprised of 1.48 acres with the entirety of the subject property located within the corporate limits of the Town of Southern Pines. The subject 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.

Analysis:

The subject property is identified as “Traditional Mixed-Use” in the *Comprehensive Long Range Plan* Future Land Use Map. Per the *Comprehensive Long Range Plan 2015-16 Update*:

- **Traditional Mixed-Use:** The Traditional Mixed-Use category applies to those larger, mostly undeveloped parcels well-suited to mixing residential and non-residential uses in a manner similar to that found in downtown Southern Pines. This designation applies to the Morganton Road area and to the Pine Needles area, identifying these as likely spots for mixed-use including an interconnected street network as found in traditional town development. No specific development intensity is implied by this designation. It simply indicates that such areas will be built to urban levels, will incorporate a variety of uses and will have a street network accommodating modes of travel beyond the automobile.

Staff Comments:

- The subject properties comprise approximately 1.48 acres included in the Tyler's Ridge development.
- The subject property is currently zoned PD (Planned Development).
- The neighboring properties are zoned PD (Planned Development) and FRR (Facilities, Resources, Recreation).
- 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.
- 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 applicant has submitted an application for the 5/70 Exemption under Watershed Protection Permit application WP-03-16.
- RLUAC (Regional Land Use Advisory Commission) and the US Fish & Wildlife Service will provide comments prior to the Town Council public hearing.
- Per UDO Section 2.21.13 Conditional Use Permit Amendments are subject to the following standards:
 - D. 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.
 - E. 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:
 - 5.No previous minor modification has been granted pursuant to this section;
 - 6.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;
 - 7.Nothing in the currently valid CUP precludes or otherwise limits such amendment; and,
 - 8.The proposal conforms to the UDO and is in keeping with the spirit and intent of any adopted comprehensive plan.
 - F. 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 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:

- (G) *The proposed conditional use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations;*
- (H) *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;*
- (I) *Adequate public facilities shall be provided as set forth herein;*

- (J) *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;*
- (K) *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,*
- (L) *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 Location
 - Application Materials
 - Criteria Narratives
 - Vicinity Map
 - Proposed Recombination Plat
 - Proposed Site Plan
 - Future Land Use Map
-

Planning Board Action:

To either approve or deny a *Conditional Use Permit* application, the Planning Board must make findings of fact and conclusions to the applicable standards. The Planning Board shall first vote on whether the application is complete and whether the facts presented are relevant to the case. The Planning Board shall then vote on whether the application complies with the criteria as set forth in Section 2.21.7 Criteria for a Conditional Use Permit, Criteria A-F. The Planning Board may choose one of the following motions for recommendations or any alternative they wish:

Finding of Fact #1

- 1) I move to recommend that as a finding of fact that the application is complete and that the facts submitted are relevant to the case, in that...

Or

- 2) I move to recommend that as a finding of fact the application is incomplete and/or that the facts submitted are not relevant to the case, in that...

Finding of Fact #2

- 1) I move to recommend that as a finding of fact the application complies with Section 2.21.7 Criteria for a Conditional Use Permit, Criteria A-F, in that...

Or

- 2) I move to recommend 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...

The Planning Board shall vote on whether the proposed *Conditional Use Permit* 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 that we advise that:

- 1) The proposed *Conditional Use Permit Application* is consistent with those documents that constitute the officially adopted land development plan and other applicable plans; in that...

or

- 2) The proposed *Conditional Use Permit Application* is not consistent with those documents that constitute the officially adopted land development plan or other applicable plans, in that...

I move to recommend to the Town Council:

1. The approval of CU-06-16;
2. The denial of CU-06-16; OR
3. The approval of CU-06-16 with the following additional conditions...

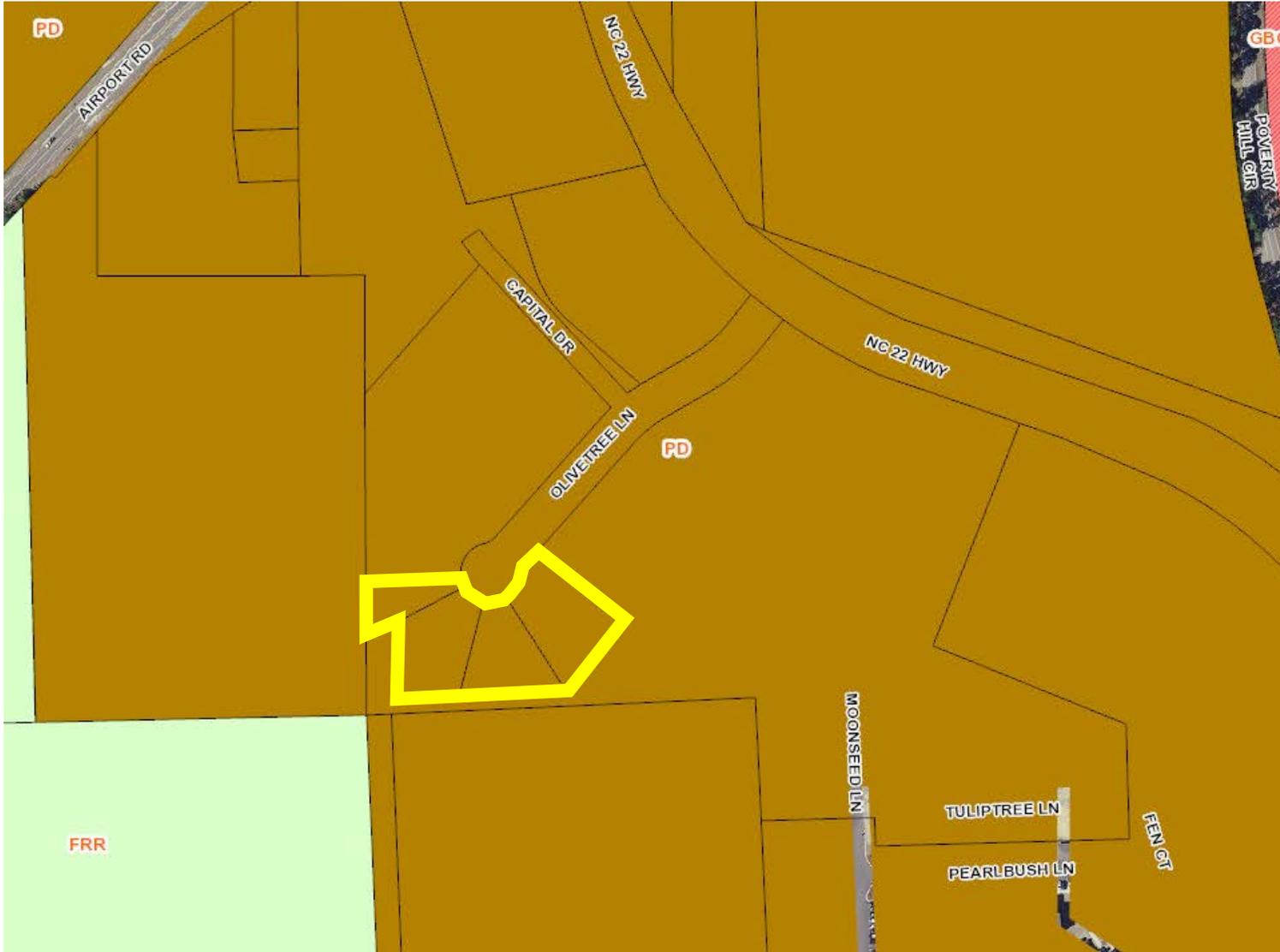
CU-06-16 Tyler's Ridge (Vicinity and Corporate Limits Map) Request for Major Amendment to CU-01-11

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CU-06-16 Tyler's Ridge (Zoning Map) Request for Major Amendment to CU-01-11

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CU-06-16 Tyler's Ridge (Zoning with Aerials Map) Request for Major Amendment to CU-01-11

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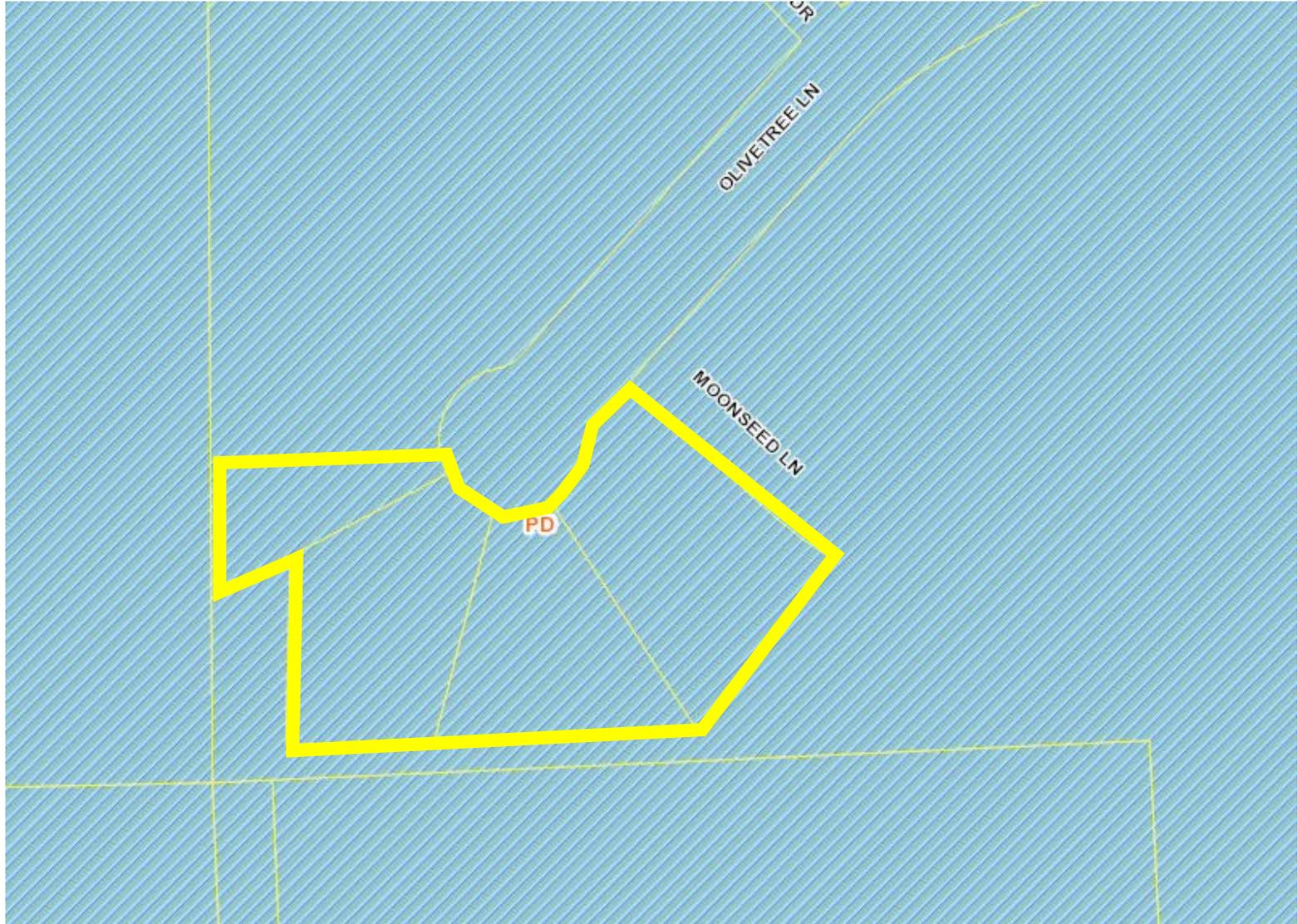
CU-06-16 Tyler's Ridge Request for Major Amendment to CU-01-11

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CU-06-16 Tyler's Ridge (Watershed Map) Request for Major Amendment to CU-01-11

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CU-06-16

Date Received: 8/22/16

**Application for Conditional Use Permit
Town of Southern Pines**

To the Planning Board and Town Council:

I, the undersigned, do hereby make application to and petition the Planning board and town Council to grant a Conditional Use Permit as required in the zoning Ordinance. In support of this application, the following facts are shown:

The property sought for Conditional Use is located on the South side of Olivetree LN (Street/Avenue), between Moonseed Ln (Street Avenue) and Olivetree Ln (Street/ Avenue. The address is _____, also known as LRK # 20110241, 20110242, 0035939 and PIN # 857300969508, 857300967690, 85730969695. It has a frontage of 150 feet and a depth of 190 feet, containing 1.48 acres.

The Conditional Use sought is based on Section(s) 2.21.13 Conditional Use Permit of the Town of Southern Pines Unified Development Ordinance. The property in question is located in a PD zoning district and is proposed for the following use: Land Use-Daycare-LBCS code 6562

The following are all individuals, firms or corporations owning property 200 feet adjacent to both sides and rear, as well as the property across the street/highway from the property described above or at least the 10 nearest property owners. Please see Town Staff for details on how to compute the required adjacent property list.

List of Adjacent Properties

- Property owners' name: Tylers Ridge Phase II LLC
Mailing Address: 5715 S. 108th St.
Hales Corners, WI. 53130
LRK #: 0003577
Adjacent Property Address: 500 Moonseed LN
Carthage, NC. 28327
- Property owners' name: Sandhills Community College
Mailing Address: 3395 Airport Rd.
Pinehurst, NC. 28374

LRK #: 00033106

Adjacent Property Address: 3395 Airport Road
Pinehurst, NC. 28374

3. Property owners' name: Donald & Short Betsy Frye-Phibbs, Clara Mae Frye

Mailing Address: 12691 Third Branch Court
Chesterfield, VA. 22832

LRK #: 00033603

Adjacent Property Address: 3141 Airport Rd
Carthage, NC. 28327

4. Property owners' name: Southern Pines Ace Land Company, LLC

Mailing Address: 26 Goldenrod Drive
Carthage, NC. 28327

LRK #: 20150296

Adjacent Property Address: 215 Capital Dr.
Carthage, NC. 28327

5. Property owners' name: _____

Mailing Address: _____

LRK #: _____

Adjacent Property Address: _____

6. Property owners' name: _____

Mailing Address: _____

LRK #: _____

Adjacent Property Address: _____

7. Property owners' name: _____

Mailing Address: _____

LRK #: _____

Adjacent Property Address: _____

8. Property owners' name: _____

Mailing Address: _____

LRK #: _____

Adjacent Property Address: _____

9. Property owners' name: _____

Mailing Address: _____

LRK #: _____

Adjacent Property Address: _____

10. Property owners' name: _____

Mailing Address: _____

LRK #: _____

Adjacent Property Address: _____

Please note that if you have more than (10) ten adjacent property owners, please use additional sheets, if necessary. Please include a stamped envelope addressed to each adjacent property owner with the following return address: Town of Southern Pines, Attn: Planning Department, 180 SW Broad Street, Southern Pines, NC 28387

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

Petitioner Signature: 
Petitioner's Name: Perry S. Melton

Petitioner's Mailing Address: **Please Print**
351 Wanoner Dr. Ste 329
Fayetteville, NC. 28303-4608

Petitioner's email pmelton@bbeec.com
Petitioner's Phone # 910-703-8714
Cell# 910-476-1260

Property owner's signature: James B. O'Malley Digitally signed by James B. O'Malley
DN: cn=James B. O'Malley, o=City of Fayetteville, ou=City of Fayetteville, email=jomalley@wiselfstorage.com, c=US
Date: 2016.09.06 08:45:53 -0500
Property owner's signature: _____

Property owner's Mailing Address: **Please Print**
Tyler's Ridge Buisness Park LLC
5715 S. 108th St.
Hales Corners, WI. 53130
Property owner's email jomalley@wiselfstorage.com
Property owner's Phone # _____
Cell # 414-573-0855

THE PETITIONER OR A REPRESENTATIVE OF THE PETITIONER IS EXPECTED TO ATTEND ALL MEETINGS TO BE AVAILABLE TO ANSWER QUESTIONS CONCERNING THE REQUEST.

Adjacent Property Owners

PIN:857300967690
PARID:20110242
NAME:TYLER'S RIDGE BUSINESS
PARK, LLC
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:857300969508
PARID:20110241
NAME:TYLER'S RIDGE BUSINESS
PARK, LLC
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:857300969695
PARID:00035939
NAME:TYLER'S RIDGE BUSINESS
PARK, LLC
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:858300064627
PARID:00035777
NAME:TYLER'S RIDGE PHASE II,
LLC
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:858309060116
PARID:00033106
NAME:SANDHILLS COMMUNITY
COLLEGE
NAME2:BOARD OF TRUSTEES
ADDRESS:3395 AIRPORT RD
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857312967113
PARID:10001650
NAME:SANDHILLS COMMUNITY
COLLEGE
NAME2:BOARD OF TRUSTEES
ADDRESS:3395 AIRPORT RD
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857312859168
PARID:00991683
NAME:MOORE COUNTY
COMMUNITY COLLEGE
NAME2:BOARD OF TRUSTEES
ADDRESS:2200 AIRPORT RD
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857300968934
PARID:20150296
NAME:SOUTHERN PINES ACE
LAND
NAME2:COMPANY, LLC
ADDRESS:26 GOLDENROD
DRIVE
CITY:CARTHAGE
STATE:NC
ZIP:28327

PIN:858300071202
PARID:20110244
NAME:TYLER'S RIDGE BUSINESS
PARK, LLC
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:857300977318
PARID:20110243
NAME:TYLER'S RIDGE BUSINESS
PARK, LLC
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:857300979522
PARID:20110245
NAME:TYLER'S RIDGE BUSINESS
PARK, LLC
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:857300963887
PARID:00033603
NAME:FRYE, DONALD & SHORT,
BETSY FRYE &
NAME2:PHIBBS, CLARA MAE
FRYE
ADDRESS:12671 THIRD BRANCH
COURT
CITY:CHESTERFIELD
STATE:VA
ZIP:23832

PIN:857300973377
PARID:20120310
NAME:FRYE, JAMES FLOYD &
SARAH H
ADDRESS:3139 AIRPORT ROAD
CITY:CARTHAGE
STATE:NC
ZIP:28327

PIN:857312975402
PARID:00033605
NAME:FRYE, FLOYD
ADDRESS:3139 AIRPORT RD
CITY:CARTHAGE
STATE:NC
ZIP:28327-9524

PIN:857308975509
PARID:00033604
NAME:FRYE, FLOYD
ADDRESS:3139 AIRPORT RD
CITY:CARTHAGE
STATE:NC
ZIP:28327-9524

PIN:857300976723
PARID:00032134
NAME:COUNTY OF MOORE
ADDRESS:PO BOX 905
CITY:CARTHAGE
STATE:NC
ZIP:28327

PIN:857308977773
PARID:00039999
NAME:COUNTY OF MOORE
ADDRESS:PO BOX 905
CITY:CARTHAGE
STATE:NC
ZIP:28327

PIN:858300075920
PARID:00039998
NAME:COUNTY OF MOORE
ADDRESS:PO BOX 905
CITY:CARTHAGE
STATE:NC
ZIP:28327

PIN:858300071652
PARID:20110225
NAME:O'MALLEY, JAMES B
TRUSTEE &
NAME2:O'MALLEY, SHELLEY J
TRUSTEE
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:858305072651
PARID:98000811
NAME:COUNTY OF MOORE
ADDRESS:PO BOX 905
CITY:CARTHAGE
STATE:NC
ZIP:28327

PIN:858309077445
PARID:00032996
NAME:COUNTY OF MOORE
ADDRESS:PO BOX 905
CITY:CARTHAGE
STATE:NC
ZIP:28327

PIN:858300078028
PARID:20110224
NAME:O'MALLEY, JAMES B
TRUSTEE &
NAME2:O'MALLEY, SHELLEY J
TRUSTEE
ADDRESS:5715 S 108TH ST
CITY:HALES CORNERS
STATE:WI
ZIP:53130

PIN:858300264784
PARID:00037592
NAME:PINEHURST AREA REALTY,
INC
ADDRESS:PO BOX 1511
CITY:PINEHURST
STATE:NC
ZIP:28370

PIN:858309262021
PARID:00037593
NAME:PINEHURST AREA REALTY,
INC
ADDRESS:PO BOX 1511
CITY:PINEHURST
STATE:NC
ZIP:28370

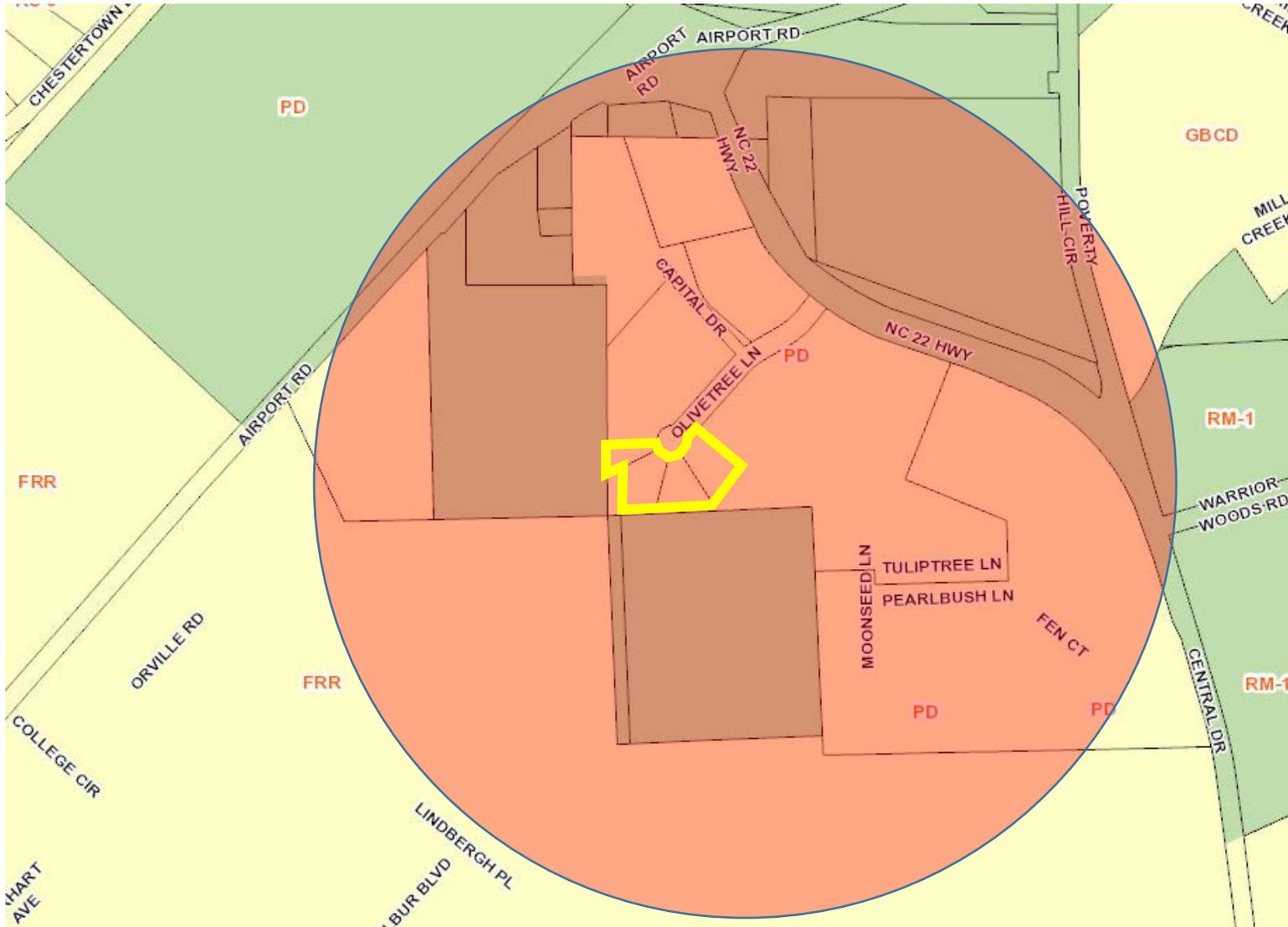
PIN:858300176636
PARID:20070989
NAME:MILL CREEK PARTNERS,
LLC
ADDRESS:PO BOX 1511
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857308878977
PARID:00038510
NAME:SANDHILLS COMMUNITY
COLLEGE
ADDRESS:3395 AIRPORT RD
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857312868871
PARID:00037050
NAME:SANDHILLS COMMUNITY
COLLEGE
NAME2:BOARD OF TRUSTEES
ADDRESS:3395 AIRPORT RD
CITY:PINEHURST
STATE:NC
ZIP:28374

CU-06-16 Tyler's Ridge (Adjacent Property Owners Map) Request for Major Amendment to CU-01-11

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Narrative for a CUP Amendment

CUP History

I would like to demonstrate why I am asking for an amendment to the existing Conditional Use Permit established under the old UDO and why the Proposed Amended Conditional Use Permit complies with all of the regulations of the new UDO applicable to the zoning district use regulations and outlined as modifying reasons in Section 2.21.7(A-F).

(A) The existing CUP was created prior to the new UDO being adopted and at the time, the old UDO required the 3 single family lots as part of the CUP approval. However, the new adopted UDO does not require any single family lots as part of a CUP approval or an amended CUP.

(B) As it is now, the 3 single family lots are not harmonious with the character of the neighborhood located immediately adjacent to commercial development. The use and enjoyment of the 3 single family residents would constantly be at odds with commercial deliveries to ACE Hardware's loading dock area which faces directly at their homes. However, the location of the 3 single family lots is ideal for a daycare being at the end of a cul-de-sac street and not in a high traffic location as appose to a location near the front of the commercial area where small children are being picked up and dropped off with the potential of cars flying by.

(C) The existing public facilities such as the roads and utilities are already available.

(D) The proposed daycare use will 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. In fact, the daycare is an extension to the already existing educational uses surrounding the property such as the O'Neal School, SCC and the future new high school. In contrast, the original CUP approved 3 single family lots, would in fact have on going issues, complaining about noise, lights and traffic diminishing the use of the other commercial businesses and impairing the property value of the single family homes.

(E) The location of the daycare on the 3 single family lots is a safe environment for the kids not only when being dropped off and picked up away from drive thru traffic but the whole daycare business is concern with the public health, safety, comfort and general welfare of the parents and especially the kids. The outside play areas are fenced in and video cameras record all activities inside and outside. The existing CUP, with 3 single family lots put the family members at potential risk of vandalism, thief, inattentive drivers, and the adjacent businesses have the potential of causing an attractive nuisance that attract kids and cause potential harm.

(F) The public interest and welfare of a well-run daycare which is open only on weekdays and until 6pm will be a benefit to the community and should not adversely affect any establishment or existing neighboring property owner.

Below is a little bio of who Building Block Day Care is and how they plan to be as a new business in Southern Pines.

Introduction

We would like to take this opportunity to introduce you to Building Blocks Early Education Centers. We are early childhood development centers with a focus on Christian values. It is our priority to make families feel at home in our centers.

Building Blocks Early Education Center (BBEEC) provides child care as well as child development for children ages six weeks to twelve years. The first years of a child's life are the most important for his/her development. We solidly support and believe the science proving the first three years of life being the most crucial for brain development for humans. Therefore; we have developed a program that specializes in early brain development for children. This program includes the specific design of our facilities, the manipulatives (specialized toys and learning tools) used by the children, the curriculum, and our staff education.

Our classrooms are equipped with age-appropriate manipulatives to help children learn developmental milestones. BBEEC's curriculum includes learning centers including: art, science, blocks and writing, both large and small group time, and outdoor activities.

All teachers are first aid and CPR certified and receive twenty hours of continuing education each year beyond state requirements. We complete criminal background checks on all staff members before they join our team. Each classroom has a video security camera that is visible to administration. Our hours of operation are 5:30 AM to 6:00 PM Monday through Friday.

Quality

BBEEC has developed a reputation of quality. All centers are NAEYC accredited, which is the highest accreditation nationally in childcare. Our Cameron center has a four star rating, while the Hoke and Cumberland centers have five star ratings. We have been voted by People's Choice Awards (Fayetteville Observer) the best child care in the area for the past two years. We currently serve private pay and NACCRA (military subsidy), and are one of the largest providers nationally. We provide NC Pre-K, being one of the largest providers in Cumberland County. We serve DSS in all three counties including: Hoke Harnett, and Cumberland. Our center participates in the Federal Food Program. All meals are routinely evaluated to meet the requirements of the USDA. Breakfast, lunch, and an afternoon snack are provided for all children in attendance

Mission

The primary mission of Building Blocks Early Education Centers is to provide a loving and nurturing Christian environment that enhances the development of the "whole" child. Our development center is a home away from home for every participating child. We want to assist working parents with affordable childcare while helping them feel at ease with the daily separation from their children. Our educational programs will enable each child to develop a positive, Christian attitude toward learning and developing

responsibility, self-discipline, and self-esteem. Our vision is to see children who:

- feel loved by their teachers and peers
- have a high self-esteem
- know that Jesus loves them and died for them
- are developing in their recognition of the world around them
- are eager to learn
- are happy and well-adjusted
- share their love of Jesus with their friends and communities
- are academically prepared to enter Kindergarten

History

BBEEC was founded in 2005 and opened its doors in July of 2006 in Hoke County. We opened our second center in January of 2007 in Cameron, NC and our third in 2009 in Hope Mills, NC. We have since expanded with new construction in Cameron by adding space for 50 children. In Raeford, we have twice expanded our facilities with the addition of a 50 space after school care facility and most recently, a 1.5-million-dollar addition for 100 new children. These additions have made the Hoke center by far the largest child care facility in the county. The center consists of three buildings on a seven-acre campus licensed for 392 children. Perry Melton started the company from its beginning stages. He personally designed the building and has been the CEO since 2007. He is currently the owner operator and still operating as CEO. Barbra Schneider is the head of compliance and regulation and has 29 years of Early Childhood experience. She has also been a NAEYC accessor for many years. She has a very active role working directly with Mr. Melton and each of the three locations.

Mr. Melton currently serves on the Board of Directors at the Cumberland County Partnership for Children. He serves on their executive board, finance committee, and is the chair of their main fund raising event, the annual Soiree. He aggressively works with our legislators county and statewide to promote sound and responsible child care laws. He is an active member of NCLCCA. If you speak with anyone who has worked with Mr. Melton or our organization, you will find BBEEC are leaders within the industry and are constantly striving to improve and innovate using the latest research on early childhood development.

The bottom line is not our top priority. Being healthy financially is important and has its place to remain consistent and stable. However, quality and service is our top priority.

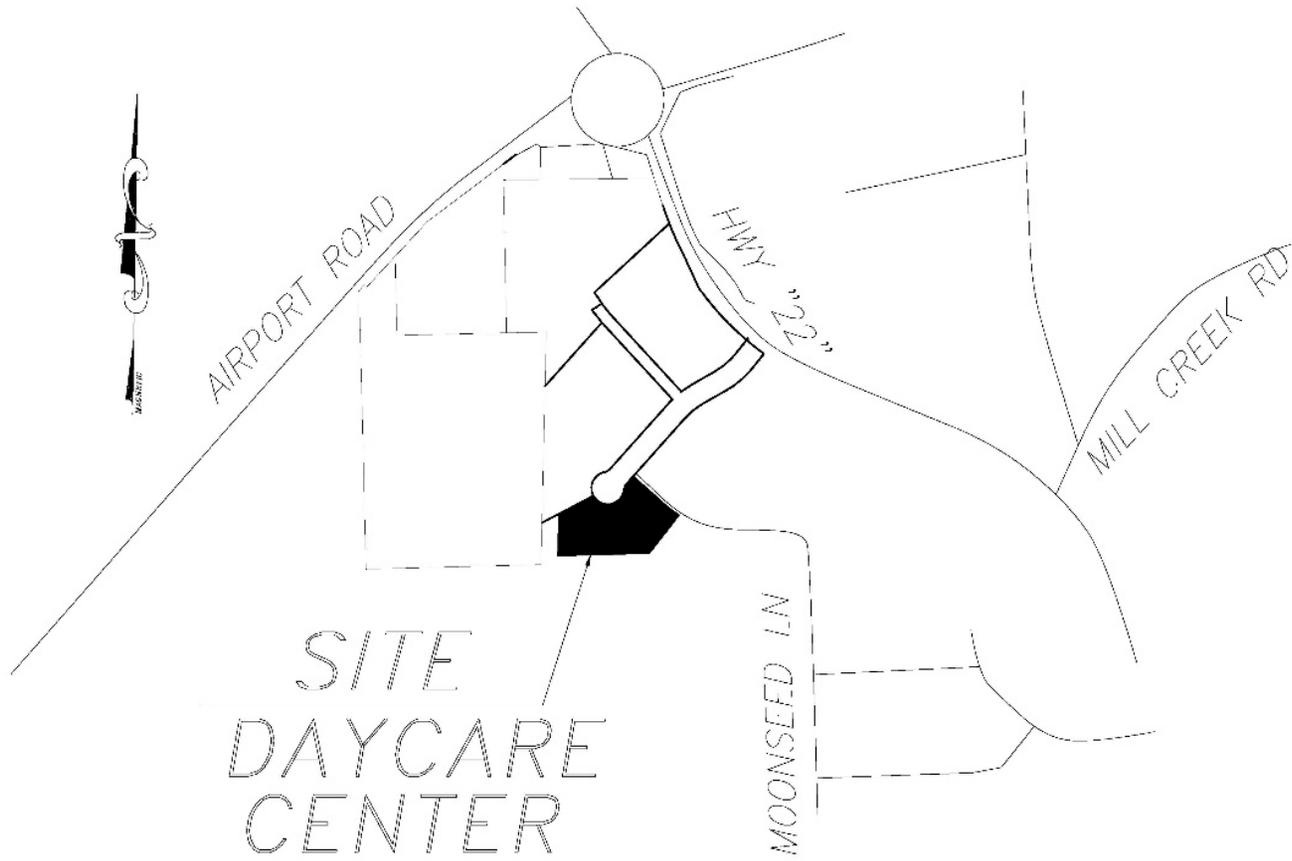
Facilities

BBEEC is a leader in design and originality in child care facilities. BBEEC is one of the only child care companies in North Carolina with a courtyard interior playground for two year olds and below. BBEEC built a 2,500 square foot playground in the middle of the building. It has pour and play rubber surfacing and artificial turf grass for safety and cleanliness for the small ones that like to crawl on the ground. This greatly reduces the chance of insect bites, choking by picking up mulch or other small items, and provides

zero exposure to the outside public. With security being such an issue in today's world, especially for military families with heightened concerns, this is a unique feature not found anywhere else. We also have indoor gyms and splash pads for our children. These types of features are only found in the highest market areas, such as Cary, North Carolina located outside of the Raleigh area. All centers have large lobbies and keypad entries to enter the classroom area. All classrooms are monitored by camera and all of the buildings have sprinkler systems.

Summary

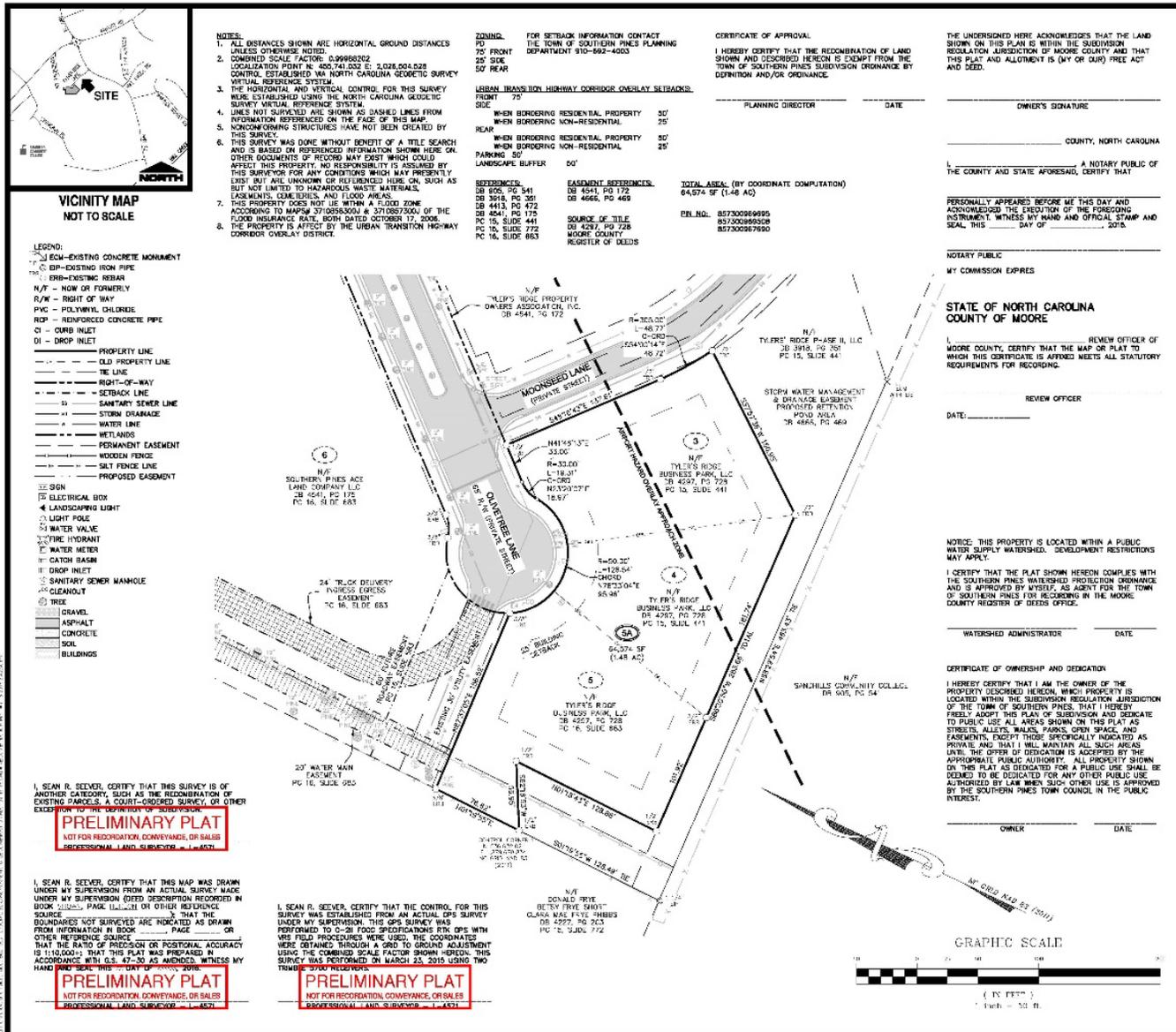
We believe that we have a great company and would make a fine addition to the area. We are a top of the line provider that believes in serving all areas of the community and has demonstrated great success with our model in the local economy and demographic region. We have been striving and working to find a location for the last four years and have been working closely with Mr. Jim O'Malley. He has been patient and extremely helpful with us and with the timing of this expansion. Please feel free to contact Perry Melton if you have any further questions.



*SITE
DAYCARE
CENTER*

*VICINITY MAP
SCALE 1" = 200'*

Proposed Recombination Plat



PROJECT NAME: RECOMBINATION SURVEY OF LOTS 3 & 4 OF TYLER'S RIDGE PC 15, SLIDE 41 AND LOT 5 OF TYLER'S RIDGE PC 16, SLIDE 683

TAX ID#: 85730096985
85730096508
85730096760

CLIENT: OLIVETREE LANE
MCNEILL TOWNSHIP
TOWN OF SOUTHERN PINES
MOORE COUNTY
NORTH CAROLINA

PROJECT INFORMATION:

SURVEYED BY:	JASON
DRAWN BY:	SEAN
CHECKED BY:	JIMMY
PROJECT NUMBER:	1018

DRAWING SCALE: HORIZONTAL: 1"=50'

DATE SURVEYED: DECEMBER 15, 2015

SHEET NUMBER: 1 OF 1





Recorded CU-01-11 Document

**Town of Southern Pines
CONDITIONAL USE PERMIT**

On the dates as listed below, the Town Council of the Town of Southern pines met and held a public hearing to consider, and met to act upon, the following application:

- Applicant:** James B. O'Malley
- Property Location:** Located on the west side of NC 22 between Airport Road and Aiken Road and across from Warrior Woods Road with Parcel Identifier Numbers (PIN) 858300064803, 858309064200, 858309057907, 858309151960 and 858309154859 on approximately 46.12 Acres.
- File Number:** CU-01-11
- Proposed Use of Property:** *PRD-Planned Residential Development (Single-family, Multifamily Apartments) and Neighborhood Commercial* development of 8 lots with 5 Parcel Identification Numbers (PIN) zoned Planned Development (PD).
- Meeting Dates:** Public Hearing on application: Planning Board: June 23, 2011
Town Council: July 12, 2011
- Final action on application Town Council: July 25, 2011

Having heard all the evidence and arguments presented at the hearing and having considered other relevant factors, the Town Council found that the application is complete, complies with all the applicable requirements to the Town of Southern Pines Unified Development Ordinance and, the evidence having failed to establish any disqualifying conditions under sub-section 54(d) of the Unified Development Ordinance, the Conditional Use Permit to make use of the above-described property for the purpose stated was approved and issued, subject to all applicable provisions of the Unified Development Ordinance.

THIS CONDITIONAL USE PERMIT MUST BE RECORDED AND PROOF OF RECORDATION PROVIDED TO THE TOWN OF SOUTHERN PINES BEFORE ISSUANCE OF PERMITS.

The following conditions will apply to this Conditional Use Permit:

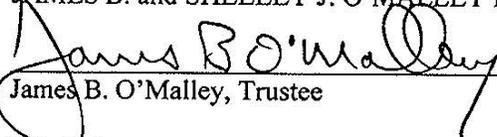
1. The following conditions, with the agreement of the applicant, apply to this conditional use permit:

- Include, with the initial construction, a five feet in height creosote wooden fence, four board rails with a welded wire mesh attached to the back side, similar to the type of fence found at The Moss Foundation and other horse pastures around Youngs Road. This fence shall be constructed along the entire common boundary with Mrs. Frye's property and the project area, approximately 1,000 l.f. The fence will be offset sufficiently from the property to install requested plantings.
 - Public water and sewer lines will be extended to the Frye property line directly across from the Tyler's Village Court cul-de-sac. In addition, the water main line will terminate with a hydrant at the property line as well.
 - Cable television will be extended to Mrs. Ester Frye's house when cable is being installed to service any of the single family homes or the commercial retailers.
 - The double row of evergreen plants will be extended along commercially zoned common property line with the Ester Frye property. These plants will be of the same type and size to be installed along the Sandhills community College and be planted in place of the buffer plants shown on the drawings.
 - The contract for dumpster and delivery services will provide that the services are not to occur between the hours of 9:00 p.m. and 7 a.m. for as long as Mrs. Frye resides at the residence.
2. The following uses are excluded: Use 1.540 Hotels, Motels and Similar Businesses or Institutions providing overnight accommodation, Use 8.20 Bars, Night Clubs, Use 6.12 Movie Theaters; and
 3. The northern three lots (6, 7, and 8) are allocated a 5/70 allocation with the maximum amount up to 12 acres and the planned residential development shall be developed using the low-density option with a maximum of 24% built upon area with storm-water controls.

The undersigned owners of the above-described property acknowledge the receipt and issuance of the Conditional Use Permit.

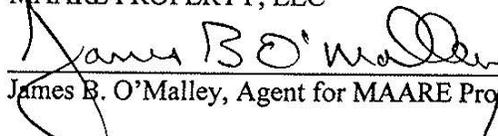
JAMES B. and SHELLEY J. O'MALLEY REV. TRUST u/a 10/16/97

By:


James B. O'Malley, Trustee

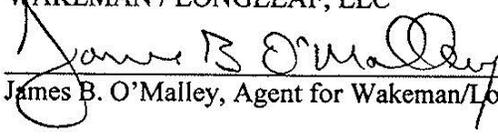
MAARE PROPERTY, LLC

By:


James B. O'Malley, Agent for MAARE Property, LLC

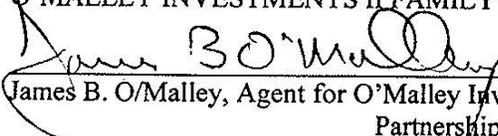
WAKEMAN / LONGLEAF, LLC

By:


James B. O'Malley, Agent for Wakeman/Longleaf, LLC

O'MALLEY INVESTMENTS II FAMILY PARTNERSHIP

By:


James B. O'Malley, Agent for O'Malley Investments II Family Partnership

When recording show owners as James B. and Shelley J. O'Malley Rev. Trust u/a 10/16/97, MAARE Property, LLC, Wakeman/Longleaf, LLC and O'Malley Investments II Family Limited Partnership.

STATE OF NORTH CAROLINA

COUNTY OF MOORE

I certify that the following person personally appeared before me this date, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

James B. O'Malley, Trustee of the JAMES B. and SHELLEY J. O'MALLEY REV. TRUST u/a October 16, 1997, JAMES B. and SHELLEY J. O'MALLEY REVOCABLE TRUST.

Date: 9-6-2011

Susan Windley
Notary Public
Susan Windley
Printed name of Notary Public

{Official Seal}

My Commission Expires: 4-27-2014

STATE OF NORTH CAROLINA

COUNTY OF MOORE

I, Susan Windley, a Notary Public for said County and State, do hereby certify that James B. O'Malley, Agent for MAARE PROPERTY, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and seal this 6 day of September, 2011.

Susan Windley
Notary Public
Susan Windley
Printed name of Notary Public

{Official Seal}

My Commission Expires: 4-27-2014

STATE OF NORTH CAROLINA

COUNTY OF MOORE

I, Susa Windley, a Notary Public for said County and State, do hereby certify that James B. O'Malley, Agent for WAKEMAN / LONGLEAF, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and seal this 6 day of September, 2011.

Date: 9-6-2011

Susa Windley
Notary Public
Susa Windley
Printed name of Notary Public

{Official Seal}

My Commission Expires: 4-27-2011

STATE OF NORTH CAROLINA

COUNTY OF MOORE

I, Susa Windley, a Notary Public for said County and State, do hereby certify that James B. O'Malley, Agent for O'MALLEY INVESTMENTS II FAMILY LIMITED PARTNERSHIP personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the partnership.

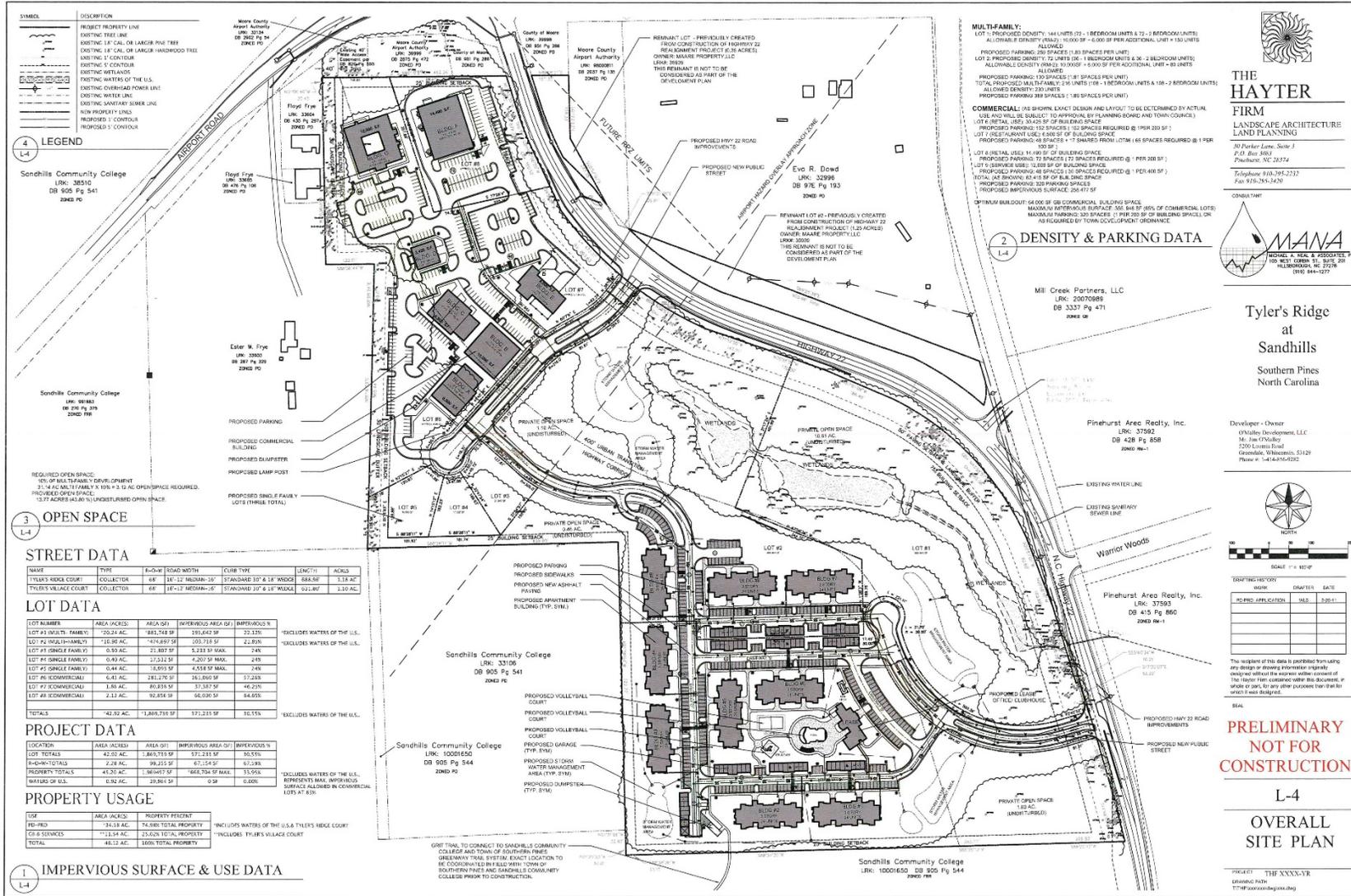
Witness my hand and official stamp or seal, this 6 day of September, 2011.

Susa Windley
Notary Public
Susa Windley
Printed name of Notary Public

{Official Seal}

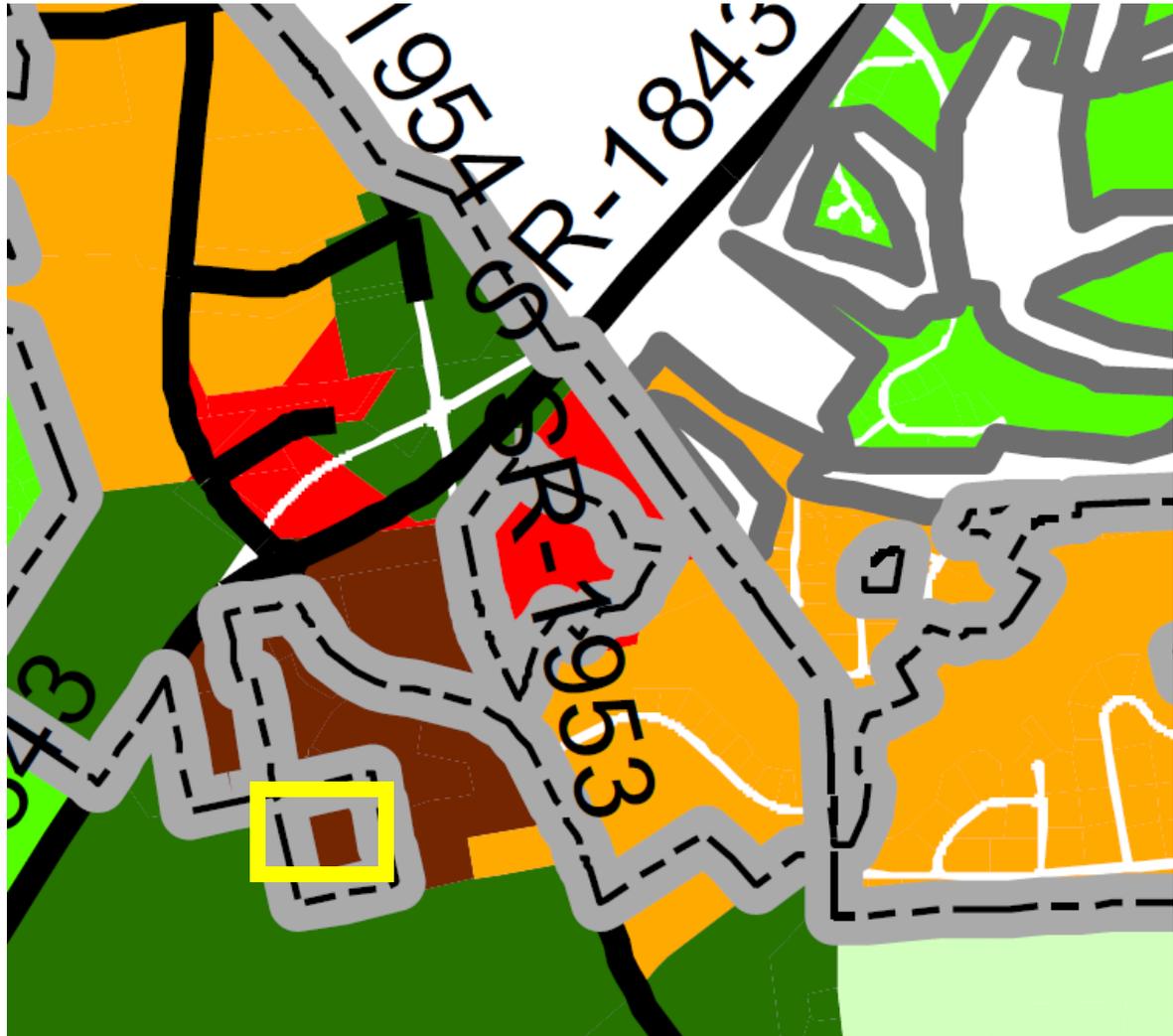
My Commission Expires: 4-27-2011

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



Future Land Use Map: CU-06-16

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).



 = 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

APPENDIX A: RATES, FEES AND CHARGES

1. Schedule of rates fees and charges.

§ 1. SCHEDULE OF RATES, FEES AND CHARGES.

(A) **Water Rates.** The rates will be reviewed annually and adjusted as necessary via an ordinance amendment.

(1) Minimum charge.

WATER SERVICE FEES (NO VOLUME)	MINIMUM CHARGE	
<i>Meter Size (Inches)</i>	<i>In Town</i>	<i>Out of Town</i>
¾"	\$10.93	\$21.86
1"	\$17.94	\$35.88
1½"	\$37.92	\$75.84
2"	\$65.91	\$131.82
3"	\$145.9 5	\$291.90
4"	\$257.9 2	\$515.84
6"	\$578.0 1	\$1,156.02
8"	\$1,026. 10	\$2,052.20
Cost per 1,000 gallons	\$3.18	\$6.36

(2) Bulk water rate calculations.

(a) *Contract amount.* The contract amount will be for any quantity equal to or greater than 50,000 gallons per day.

(b) *Minimum take or pay.* The customer must take or pay for the annual minimum stated in the contract.

(c) *Usage over contract amount.* The customer may use an amount greater than the contract amount when capacity is available, and the customer has obtained prior permission from the town.

(d) *Annual adjustment to contract amount.* The contract provisions may be modified or altered by mutual written agreement of the parties.

(e) *Flat rate charge.* The contract will provide for a flat rate charge, based on per 1,000 gallons purchased, with a minimum total payout.

(f) *Rate adjustments.* The town will adjust the rate, same percentage, per 1,000 gallons sold to the purchaser as it does to its regular, in-town, paying customers. The rate charge shall become effective in the July billing each year.

(B) These charges will be reviewed annually and adjusted as necessary via an ordinance amendment.

(1) For sewer service, the charge per 1,000 gallons of water provided by the Town to a customer are as follows:

(a) To property within the Town limits	\$5.24
(b) To property outside the Town limits	\$10.48
(c) To public entities that operate sewer systems for the public	As provided by written agreement between the Town and the other entity

(2) The Town may waive sewerage charge for:

(a) Water customers who are not connected to a public sewer system; or

(b) Water customers who use water provided by the Town for purposes that do not result in discharge to a public sewer system, if the customer provides a separate meter for such water to which standard water rates apply, including minimum and connection fees.

(3) Sewer service for well water customers utilizing well water, but desiring sewerage service, must allow the Town to furnish and install, at the property owner's expense, a meter and appurtenances on the well at actual cost for materials, labor and equipment, plus 30%. Unrestricted access will be afforded Town employees to inspect. Charges for services are as follows:

<i>SEWER RATES (NO VOLUME)</i>	<i>MINIMUM CHARGE</i>	
	<i>In Town</i>	<i>Out of Town</i>
<i>Meter Size</i>		
¾"	\$4.48	\$8.96
1"	\$5.84	\$11.68
1½"	\$9.64	\$19.28
2"	\$15.00	\$30.00
3"	\$30.26	\$60.52
4"	\$50.60	\$103.20
6"	\$112.68	\$225.36
8"	\$198.16	\$396.32
Cost per 1,000 gallons	\$5.24	\$10.48

(C) Connection Charges (Tap Fees). These fees are subject to increase automatically on October 1 each year, proportional to the annual average increase in the Consumer Price Index for all urban consumers (CPI-U), U.S. city average, detailed expenditure category, for water and sewerage maintenance. In all cases, the Town will furnish the meter.

<i>TAP FEES</i>		
<i>SEWER</i>		
	<i>In Town</i>	<i>Out of Town</i>
4" Connection	\$1,411	\$1,737
6" Connection	\$1,737	\$2,171
Materials/Labor Furnished	\$109	\$272

<i>TAP FEES</i>		
<i>WATER</i>		
	<i>In Town</i>	<i>Out of Town</i>
¾" Water Tap	\$1,411	\$1,737
¾" Split Service	\$651	\$814
¾" Meter Only (preset)	\$217	\$380
1" Meter Tap	\$1,629	\$2,063
1" Meter Only (preset)	\$326	\$488

1½" Meter Tap	\$2,442	\$3,093
1½" Meter Only (preset)	\$542	\$651
2" Meter Tap	\$2,768	\$3,365
2" Meter Only (preset)	\$651	\$814

(D) Additional Connection Charges. These charges will be reviewed annually and adjusted as necessary via an ordinance amendment.

(1) In addition to the above, a separate charge will be made for cuts to pavement where necessary. These charges will be as follows:

In-Town	\$350
Out-of-Town	\$500

(2) Charges for water connections and sewer connections for sizes larger than the above or non-standard connections will be at actual cost of materials, labor, overhead, equipment, engineering and all other costs, or the cost of contracting the work to others, plus 20% in-Town or 40% out-of-Town. Billing for other services, such as moving meters, water extensions, sewer connections, and the like, will be per the above, with an advance deposit as required by the Director of Public Services. Charges for equipment will be for total time at the job site, whether operating or not. Rates shall be as follows:

<i>Equipment</i>	<i>Charge Per Hour</i>
Pick-up truck	\$10
1 ton truck	\$35
Dump truck	\$35
Backhoe with operator	\$75
Skid steer loader with operator	\$50
Motor grader with operator	\$150
Street sweeper with operator	\$150
Jet rodder with operator	\$150
Tractor with attachments with operator	\$50
Air compressor	\$15
Power rodder	\$15
Hand rodder	\$5
Dewatering pump	\$15
Asphalt roller	\$15
Concrete mixer	\$40
Chain saw	\$10
Pipe saw	\$15
Floor saw	\$25
Tamp	\$10
Trench roller	\$25
Wet tap	\$25 (per use)

<i>Miscellaneous</i>	<i>Charges</i>
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Turn-on charge water only (In addition to connection charges, \$25 fee will not be charged on account set-up for new taps only)	\$25
Special meter readings (See § 50.013 (B))	\$15
Turn-on (service charge for discontinued service)	\$20/\$60 after hours
Turn-off	(no charge)
Late charge	\$6
Bad check/draft handling fee	\$25
Violation of grease trap requirement	Cost of grease trap plus \$100 per billing period
Verification of Meter Accuracy (See § 50.026)	
	Charges
¾" and 1" meter	\$30
Meters greater than 1" in diameter	Cost of test

A fee in lieu of assessment will be charged to any lot for which an assessment has not been levied, and which connects to a sanitary sewer line assessed or otherwise installed by the Town, as follows:

In-Town	\$1,400 plus in-Town connection charge
Out-of-Town	\$1,800 plus out-of-Town connection charge

(E) Impact Fees. These fees are subject to increase automatically on October 1 each year, proportional to the annual average increase in the Consumer Price Index for all urban consumers (CPI-U), U.S. city average, detailed expenditure category, for water and sewerage maintenance, are based on water meter size and are as follows:

WATER METER SIZE	Water Impact Fee	Sewer Impact Fee - 4"	Sewer Impact Fee - 6"
¾"	\$1,556	\$2,073	\$6,133
1"	\$2,502	\$3,335	\$9,866
1½"	\$5,477	\$7,302	\$21,599
2"	\$8,588	\$11,448	\$33,865
3"	\$16,028	\$21,365	\$63,198
4"	\$32,462	\$43,272	\$127,996
6"	\$74,393	\$99,166	\$293,324
8"	\$128,498	\$171,288	\$506,650

(F) Deposit for water and sewer service.

Meter	In-Town	Out-of-Town
¾" and 1" meter water only	\$35	\$70
¾" and 1" meter water and sewer	\$60	\$120
All meters larger than 1"	\$300	\$300

(G) Town maintenance of septic system. Town participation in cost of septic system installation shall be \$400.

(1989 Code, Ch. 50, App.) (Ord. passed 3-13-1984; Am. Ord. passed 12-11-1990; Am. Ord. 242, passed 6-28-1991; Am. Ord. 262, passed 11-12-1991; Am. Ord. passed 1-12-1993; Am. Ord. passed 2-9-1993; Am. Ord. 512, passed 11-8-1994; Am. Ord. 910, passed 4-10-2001; Am. Ord. 939, passed 4-9-2002; Am. Ord. 952, passed 6-11-2002; Am. Ord. 1211, passed 6-13-2006; Am. Ord. 1256, passed 6-12-2007; Am. Ord. 1293, passed 6-10-2008; Am. Ord. 1334, passed 6-9-2009; Am. Ord. 1372, passed 4-13-2010; Am. Ord. 1379, passed 6-8-2010; Am. Ord. 1508, passed 6-11-2013; Am. Ord. 1579, passed 7-27-2015; Am. Ord. 1584, passed 9-28-2015; Am. Ord. 1598, passed 3-8-2016; Am. Ord. 1621, passed 6-14-2016)