



## **AGENDA**

**Town of Southern Pines Board of Adjustment Special Meeting  
C. Michael Haney Community Room  
Southern Pines Police Department  
450 W. Pennsylvania Avenue  
May 5, 2022 at 5:30 PM**

**I. Call to Order**

**II. Approval of Minutes**

**III. Public Hearing:**

A-01-22: Appeal of an Administrative Decision; Applicant: Pinehurst Surgical Clinic Realty, LLC and Koontz Jones Design PLLC, Authorized Agent

**IV. Unfinished Business**

**V. New Business**

**VI. Adjournment**

# MINUTES

**Town of Southern Pines Board of Zoning Adjustment Meeting  
C. Michael Haney Community Room  
450 W. Pennsylvania Avenue  
June 15, 2016 at 5:30 p.m.**

The Town of Southern Pines Board of Zoning Adjustment met on Wednesday, June 15, 2016 at 5:30 p.m. in the C. Michael Haney Community Room, Southern Pines Police Department, 450 W. Pennsylvania Avenue, Southern Pines, North Carolina.

Board of Adjustment members Robert Thompson, Chairman, Melton Bridgeman, Steve Kastner, Thomas Marsh and John McInerney were present.

Town staff members Bart Nuckols, Planning Director, Chris Kennedy, Senior Planner, Doug Gill, Town Attorney, and Cindy Williams, Secretary to the Board, were also present.

Chairman Robert Thompson called the meeting to order at 5:30 p.m.

## **OATH OF OFFICE:**

Chairman Thompson administered the Oath of Office to new member Steve Kastner.

## **ROLL CALL:**

The roll was called and Chairman Thompson confirmed that a quorum was present.

## **APPROVAL OF MINUTES:**

Thomas Marsh, seconded by Melton Bridgeman, made a **motion** to approve the minutes of the July 8, 2015 Board of Adjustment meeting as written.

## **Voice Call Vote:**

Thomas Marsh	yea
Steve Kastner	yea
Robert Thompson	yea
Melton Bridgeman	yea
John McInerney	yea

The **motion carried.**

## **OATH OF TESTIMONY:**

Chairman Thompson administered the Oath of Testimony to Chris Davis, who would be speaking on behalf of the petitioner, and Town staff members Bart Nuckols and Chris Kennedy.

Mr. Davis stated that he would not be represented by legal counsel.

Chairman Thompson explained the quasi-judicial hearing procedure.

## **PUBLIC HEARING:**

### **A-01-16 Request for Variance from Signage Standards; 160 Pinehurst Avenue; Petitioner, Olive Branch Properties, LLC**

On behalf of the petitioner Olive Branch Properties, LLC, owner/manager Mr. Chris Davis has submitted an application requesting a variance from the Unified Development Ordinance sign ordinance for the following sections: UDO Section 4.6.7, UDO Section 4.6.10 (A), UDO Section 4.6.10 (B), and UDO Section 4.6.7 (K) to allow the sign as proposed (see attachments) to be

permitted. The property is zoned GB (General Business). The property is identified by the following: PIN: 857115539055 (PARID: 00048571). Per the Moore County Tax records, the property owner is listed as Olive Branch Properties, LLC.

**STAFF REPORT – Planning Director Bart Nuckols:**

Mr. Nuckols provided an overview of the petition, stating that Chris Davis, on behalf of the petitioner, Olive Branch Properties, LLC, has submitted an application for a variance from the UDO sign ordinance to allow the sign shown in the petition to remain in place. The establishment is currently in noncompliance as the petitioner installed the sign without obtaining proper approval from the Town. The sign is currently installed and the petitioner is seeking a variance to allow the sign to remain in place.

The petitioner is seeking a variance due to the proximity of the establishment to the adjacent properties, claiming that the setback of the adjoining apartment building and the required vegetation creates a hardship to his business with respect to visibility.

The petitioner is seeking a variance from UDO Section 4.6.17 (K) which states:

*Awning signs shall not be located on the awning valance and shall not exceed twelve (12) square feet in area or cover more than twenty (20) percent of the awning area.*

The sign currently extends above the valance and therefore does not comply with this regulation. The document provided by the petitioner lists the square footage of the sign as being 9.06 square feet. The business frontage is listed as being ten (10) feet.

The petitioner is also requesting a variance from UDO Section 4.6.10 (B) which states:

*No wall sign may project more than twelve (12) inches from the building wall.*

The documentation provided by the petitioner lists the projection of the sign to be eighteen (18) inches.

The final variance request is also from UDO Section 4.6.10 (B) which states:

*The bottom edge of a projecting sign must be located at least eight (8) feet above the sidewalk.*

The documentation provided by the petitioner lists the height as being seven feet three inches (7'3") above the sidewalk.

Mr. Nuckols reiterated the quasi-judicial hearing process and the criteria for granting a variance, and asked the Board to review the findings of fact as they move forward with the proceedings.

Chairman Thompson asked if the Board had any questions for Town staff.

Mr. McInerney asked, with regard to the number of signs permitted, if the wall sign that is attached to the building is considered a logo emblem sign.

Mr. Nuckols responded that the wall sign Mr. McInerney was referring to is for Comfort Studio, which is a separate facility, and therefore does not impact the number of signs allowed for this establishment.

Mr. Kennedy provided clarification of the definition of a *logo emblem sign*, stating that a logo emblem sign cannot contain any text, only a logo. The Comfort Studio sign would be considered an awning sign as Town staff applies the Code. A sign could be on a valance or mounted on the wall.

Chairman Thompson asked Mr. Nuckols if a permit had been requested.

Mr. Nuckols responded that a permit is required. He said he understood that someone from the company designing the sign had indicated in an email to Town staff that he would be forwarding an application showing the proposed sign to go on the wall to see if the sign was in compliance. The Town never received an application following that communication so there is not an application for a sign permit.

Mr. Thompson asked if the normal process for requesting a variance is that an applicant applies for something, gets denied, and then applies for a variance.

Mr. Nuckols responded saying that would be the normal operating procedure for a variance in Southern Pines; that there would be an active permit application in place and the staff would make a determination to either approve or deny the application. An approval would be an authorization to proceed with the project. A denial would be communicated in writing by Town staff by letter or email stating that the application had been denied and the findings for that denial.

In this case, Town staff met with the petitioner, discussed the issue with the petitioner, advised him of his options, and the petitioner elected to proceed with the option to request a variance. Town staff would be receptive to moving forward with the variance request so the petitioner can receive an answer without the submission of a sign permit application.

Melton Bridgeman inquired about the awning classification. He stated that he understands an awning to consist of a fabric covering on a metal frame and this appears to be a metal roof.

Mr. Nuckols responded that Town staff interprets the definition of awnings to be structures also, and made of many types of materials, including fabric. There are many awnings in the downtown area that are covered with metal and other materials.

Mr. Davis addressed the Board and stated that the process of the sign being put up was an error; that he was out of town at the time, and apologized for that having been done. He said it should not have been put up without approval or a variance. The sign is up now and that is why he went in to see Town staff to ask what he should do, and he still is not sure what he should do about the sign.

Mr. Davis continued by stating that the major thing that he has trouble with, being in construction, is that, in his opinion, a roof line and an awning are two different things. The green metal roof that is on the whole structure goes up to a ridge and slopes down and then there is what he calls a fascia. He said these are terms that he understands the Town can interpret one way and as a builder he can interpret another way. The pitch of the roof – the actual metal roof - is at eighteen (18) feet at the very top and the top of his sign is at fifteen (15) feet, so he is not exceeding the height of what he perceives to be the roof. In this case, the green roof is considered an awning and he considers an awning to be something that attaches to the face of a building. Mr. Davis said he understands that he and the Town have a difference of opinion regarding this issue.

Mr. Davis stated that, as it relates to the signage that is there, it is his attempt as a business owner to draw more than five hundred (500) tenants with over 72,000 square feet of storage space to a concentrated spot to pay their fees. There is a designated office there and he went to the expense of putting a kiosk in the office that allows people to come in 24 hours a day, 7 days a week to pay their mini storage fees. He said this sign is a way for him to show where the office is located.

Mr. Davis stated that the size of the sign is 9.06 square feet and they have ten (10) feet of office frontage. He said when you look at the ratio of what they are allowed, as he understands it, they are allowed a square foot of signage for every foot of frontage. The sign is not eight (8) feet high. It is seven feet three inches (7'3") off of the sidewalk. The doorway into the office is six feet eight inches (6'8") high. If a tenant wants to come into the office they have to enter through a six foot eight inch (6'8") door without hitting their head on a sign. The ordinance says eight (8) feet and that is why he is asking for consideration in this case.

Mr. Davis said the bigger issue to him is being able to get tenants whose storage units are on the north side of Pinehurst Avenue – about half of the units are on the opposite side of the street and the other half of the units are behind the green metal roofed building - to come to one spot. Several tenants see the storage facility and do not know where to go to pay their bill because they cannot

see it. There are several people who walk into neighboring businesses asking where to pay their bill and that is what generated the signage. There is no excuse for the sign being put up without it going through a process and that was a mistake.

Mr. Davis continued that the real hardship for him is the setback that was required when his building was built. There is a set of residential apartments that sit twenty-five (25) feet forward of his building, not to mention the foliage he was required to plant, which prevents anyone from being able to see the sign if they are driving down Pinehurst Avenue from US Highway 1 toward his office. You are way past the office before even being able to see the sign. He said the apartment building is an example of spot zoning and a hardship for his business.

Mr. Davis stated that if you come to his office by way of US Highway 15-501 you can certainly see the sign because it is vertical and it is not installed flat on what he considers the fascia of the building; he is pleading for the variance because the office cannot be seen. They have storage units on both sides of the street and he wants all of their customers to be able to find them. He cannot think of any other reason for being at the meeting other than to make sure their clients can find where they are located.

Attorney Gill asked Mr. Davis to explain the variances that he is requesting, including how having the sign at eight (8) feet creates a hardship, and if Mr. Davis can correct the sign by taking it down, changing the design and mounting it eight (8) feet above the sidewalk.

Mr. Davis responded stating that there is not a reason why he cannot change the design. He said he can pull the sign down and change it but the other problem he has is not regarding the lettering but the width of the sign – even though the sign does not exceed the square footage that he is allowed - instead of being twelve (12) inches off of the face of what is considered the mansard it is eighteen (18) inches. The sign comes down and points so customers know to come into that spot. By design, he is trying to get them to see where to go. The sign was put up before he had a permit – no question. The sign at this point is seven-feet three-inches (7'3") from the sidewalk and it is eighteen (18) inches off of the building and that is why he is asking for a variance. He said he could change the sign or pull it down and make it another way but he is asking to keep the sign where it is as a variance.

Mr. Gill asked Mr. Davis if he was saying that the hardship that has been created is one of his own making because he could have put up a sign that conformed, but instead he put up a sign that did not conform and now he wants people to say it is okay.

Mr. Davis responded saying that is true, more or less. The sign sits out six (6) inches too far and is nine (9) inches too low.

Mr. Gill asked Mr. Davis if he would have found that out if he had applied for a permit.

Mr. Davis responded that he was not privy to the emails between J Signs & Graphics, who developed the sign, and Joy Richards, the Town's Code Enforcement Officer and permit issuer of signage, whom he understands is the person who issues sign permits.

Mr. Gill asked Mr. Davis if he knew he needed a sign permit. Mr. Davis responded yes.

Mr. Gill confirmed with Mr. Davis that he said one problem is that his building is set back farther than the building to the northeast.

Mr. Davis responded that he was saying that the apartments sit forward twenty-five (25) feet in front of the face of his building. He said the apartments were there before his building was built.

Mr. Gill asked Mr. Davis if he knew that he could have positioned his building at the same depth.

Mr. Davis responded that he could not at the time he was permitted to build. He said he had to have so many parking spaces and so much foliage in front of the building in order to get a building permit.

Mr. Gill asked Mr. Davis if he knew that the location of the apartment building is entirely within the regulations of the ordinance.

Mr. Davis stated that he has always looked at the apartments as spot zoning because he cannot understand how any apartments were ever approved right there in a business district.

Mr. Gill asked Mr. Davis if, as you come down Pinehurst Avenue, is it not the foliage that sticks out blocking the view and not the apartment building itself that has any impact at all on seeing his building.

Mr. Davis responded that the building sticks out twenty-five (25) feet in front of his and there is foliage that had to be planted along the border.

Mr. Gill asked Mr. Davis if it is correct that only the foliage obscures any vision of his building.

Mr. Davis replied that he has not thought of it in the way that Mr. Gill is explaining it, but the whole thing is sitting way forward of his business.

Mr. Gill questioned Mr. Davis regarding the relevance of the apartment building's location.

Mr. Davis responded that he thinks it is very relevant because you cannot see it but if you come from the other direction you can see it.

Mr. Gill asked Mr. Davis if the apartment building has anything to do with not being able to see his building.

Mr. Davis said yes, because it sits twenty-five (25) feet forward.

Mr. Gill stated that does not mean it obscures the view of his building, and questioned Mr. Davis relative to the line of sight.

Mr. Davis responded that if all of the foliage were taken down that would make it better but the building still sits twenty-five (25) feet forward of his signage.

Mr. Gill questioned the relevance of it sitting twenty-five (25) feet forward.

Mr. Davis responded that he sees it as being very relevant by people not seeing the sign.

Mr. Gill asked Mr. Davis if he could demonstrate by a drawing or something showing the respective locations if you are coming up Pinehurst Avenue.

Mr. Davis said he was sure that he could do that.

Mr. Gill asked Mr. Davis if he had the materials to do so.

Mr. Davis responded that he was not prepared to do that so he did not have the necessary materials with him.

Mr. Gill asked Mr. Davis what variances he was requesting in addition to the sign being less than eight (8) feet from the sidewalk.

Mr. Davis responded that the height of the building and his interpretation of the roofline is where they got hung up on this in the beginning. He said he sees the roofline as being the ridge, which is at eighteen (18) feet.

Mr. Gill asked Mr. Davis if it is his view that the sign can go as high into the air as he wants it to go.

Mr. Davis responded that it cannot exceed the roofline.

Mr. Gill asked Mr. Davis if the top of the roof is the ridgeline.

Mr. Davis stated that is correct.

Mr. Gill asked Mr. Davis if it his interpretation that you can go downtown to any of the three story buildings on Broad Street and put a sign up to the roofline.

Mr. Davis said he is not implying that – he is not in a three story building. He said he is trying to explain how the apartments, the foliage, and the roofline all play into the signage and his reason for wanting to do the sign.

Mr. Gill asked Mr. Davis why the roofline plays into this.

Mr. Davis responded that because initially, in trying to get a permit for this sign, they were told that they were exceeding the ridge or the roofline.

Mr. Gill asked Mr. Davis who told him that.

Mr. Davis responded that it was stated in some of the email correspondence.

Mr. Gill asked Mr. Davis if he could find that correspondence.

Mr. Davis said perhaps he needs to have the person from the sign company present. He said the main reason he did not get a permit to begin with was because they were told they were exceeding the roofline. That was that sticking point to begin with - that they were not exceeding the roofline. The ridge is at eighteen (18) feet.

Mr. Gill asked Mr. Davis if it is his view that you can have a sign that goes up as high as the ridgeline or whatever the surface of the roof is.

Mr. Davis responded that he was not saying that it can exceed that. He would not want to go up that high and that is not necessary.

Mr. Gill said that Mr. Davis' interpretation seems to be that you can go up to the ridgeline.

Mr. Davis said he could understand Mr. Gill's point and that is why he is asking for a variance for this sign. It is not being interpreted and approved because of where it is and what it is. Mr. Davis stated that the sign does not exceed the one (1) square foot per foot of frontage that is allowed.

Mr. Gill told Mr. Davis that no one is disputing that you can have a sign on the front of the building.

Mr. Davis responded saying except that you cannot see it.

Mr. Gill asked Mr. Davis to look at the drawing showing *Storage 24/7*.

Mr. Davis said he had given that drawing to the Town. The problem with that is you can't see it. It is totally blocked. You can't see it until you have passed the building. It doesn't sit up high enough to see it. He said all he is trying to do is get visibility for the business.

Mr. Gill said that right next to the storage facility's office is the *Comfort Studio*. He asked Mr. Davis if it has a sign that is on the valance or the awning or on the wall, or whatever Mr. Davis chooses to call it.

Mr. Davis replied that it is on the fascia of the building.

Mr. Gill asked if you can see that sign.

Mr. Davis responded that you can barely see the sign. He continued by saying that if he wants to get "into the weeds" about signage, on Saturdays and Sundays, he is faced with people, with no supervision by the Town, jumping up and down in mattresses on the street corners who are direct competitors. He stated that while he is trying to comply as a conservative businessperson, there is no one addressing that issue. In his opinion, that is disgraceful to the Town of Southern Pines. Mr. Davis said he understands it may be a freedom of speech issue. He apologized for even being in this situation because the sign was put up prior to approval, but he said he still contends – and

it is the reason he is asking for the variance – that the sign that is there does not exceed the square footage allowed for this business. Mr. Davis said there are so many tenants that are there and he just wants his people to know where to go to pay their bill.

Mr. Gill stated to Mr. Davis that he did not follow through on the sign he proposed but instead erected this one without a permit.

Mr. Davis responded saying you cannot see his *Comfort Studio* sign. He said they have people come into our store every day who say they could not find our *Comfort Studio* store because they could not see the sign and the same with the self-storage business.

Mr. Gill asked Mr. Davis if, in his view, the storage facility sign (pointing to the *Comfort Studio* sign) with letters at least as large stretching across the fascia, if that is what you want to call it, is less visible than the storage business sign.

Mr. Davis responded yes, when it is vertical you can see it. If you put it flat on the fascia like the *Comfort Studio* sign you cannot. From being there since 1994, people still say they cannot find them because they cannot see where they are located.

Mr. Gill said so now you have changed and are worried about people coming from the other direction.

Mr. Davis responded no, he is worried about people being able to see them from both directions. He does not have any obstructions from the Highway 15-501 side unless you are driving by there at 25 or 30 MPH. Then you cannot see the sign.

Mr. Bridgeman said there is a lot of foliage and he agrees with Mr. Davis that it is difficult to see.

Mr. Davis responded saying that is his point. There are apartments buildings that sit forward of his building and foliage that goes to the street on both sides.

Mr. Gill asked Mr. Davis if he thinks he should be able to just go ahead and do what he wants and then come in and explain why he did it.

Mr. Davis responded saying that is not what he wants; he does not think that way. He said he was not asked before the sign was installed. It was put up by J Signs & Graphics when he was not there.

Mr. Gill asked how long the sign was in place before he discovered it.

Mr. Davis responded that he discovered the sign within four (4) or five (5) days.

Mr. Gill asked if he told the sign company that he did not have a permit and ask them to take the sign down until he obtained a permit.

Mr. Davis said that there was a problem with the roofline. He said they were being told that the sign exceeded the roofline.

Mr. Gill asked Mr. Davis if he asked the sign company to take the sign down once he saw that it was up without having a permit.

Mr. Davis responded that Mr. Kennedy brought it to his attention that the sign was not in compliance, so he went into the Town office to request a variance to keep the same sign.

Mr. Gill asked Mr. Davis if it was correct that there was never an application for a permit.

Mr. Davis replied that he was told by J Signs & Graphics that there was a permit.

John McInerney asked if the Town's opinion is that the sign is above the fascia.

Mr. Kennedy said that is correct.

Mr. McNerney asked Mr. Kennedy if the other issues are that the sign is too low and sticks out too far.

Mr. Kennedy said that is correct.

Mr. McNerney stated that he thought something similar to the sign Mr. Gill had shown as an alternative might work. He said it appeared from the notes that Joy Richards thought there might be some issues with that design. Mr. McNerney asked Mr. Kennedy if he had any idea what those issues may have been.

Mr. Kennedy responded that it would be difficult to say what the issues might have been without a sign permit.

Chairman Thompson called for a brief recess.

The meeting was called back to order a short time later.

Mr. Kennedy stated that Joy Richards' email was sent at 8:29 a.m. on February 19, 2016. Jeremy White's email was sent on February 19, 2016 at 12:09 p.m. providing an alternative design and asking for Joy Richards' comments.

Mr. McNerney asked if it was correct that Joy Richards could not have given a definitive answer without a permit or specifications.

Mr. Kennedy responded stating that is correct.

Mr. Gill asked if, although it would not be an official approval, the Town would have most likely approved a permit for the picture that is pictured.

Mr. Kennedy responded yes but that Town staff would have to review the square footage and sign placement. It is difficult to make a decision without the actual application wherein the applicant specifies in writing the linear footage and type of sign being requested. One of the key concepts to permitting a sign is the application itself wherein the applicant states the exact specifications.

Chairman Thompson stated that Mr. Davis is free to cross-examine anyone if he would like.

Mr. Davis stated that the sign was put up without a permit and that was a mistake. He went to Town staff to find out where to go from there. He said he understands and respects the Town's position, but he hopes that he and the Town can find common ground.

Thomas Marsh asked if there is a marquee sign anywhere on his property.

Mr. Davis responded that they can have a marquee sign that is four (4) feet x eight (8) ft. That is what is there and that is part of the problem with the compliance in his opinion - it is very difficult for people to find their businesses and he wants to continue to operate the business.

Chairman Thompson asked if the other businesses on that street have the same problem.

Mr. Davis stated yes. He said when he applied for the variance he went to see the adjacent business owners. No one even knew the sign was there and none of them had a problem with his sign. He said he understands that the Town is doing what it is supposed to do, but he is requesting a variance for the reasons he has given.

Chairman Thompson cautioned the Board that what the neighbors think about the sign is inadmissible unless they are present to give facts that the Board can use in its deliberation.

Mr. Bridgeman asked Mr. Davis if it would give him more exposure if the sign was turned to face straight on.

Mr. Davis responded that it would not, based on the people who have come to the office in the last thirty (30) to forty-five (45) days. His customers are now finding where to go. He understands that the sign complies with regard to square footage but not with regard to its location.

Chairman Thompson asked Mr. Davis if he had another sign previously as a test to see if an equal number of people would have found the location.

Mr. Davis replied that no previous sign was installed for the storage facility but that he knows from customers coming into his *Comfort Studio* store saying they could not find his business.

Chairman Thompson asked if Mr. Davis or anyone else had any another questions.

There being none, Chairman Thompson closed the public hearing.

Mr. Gill suggested that Mr. Davis and the Town submit their findings to the Board for consideration and reconvene at a later date.

Chairman Thompson asked the Board if there was any objection.

### **ACTION OF THE BOARD:**

Chairman Thompson asked for a motion to close the public hearing and continue the meeting to the July 13, 2016 meeting of the Board of Adjustment to allow both sides to submit sample findings of fact for the Board's consideration. Steve Kastner made the **motion**, which was seconded by Melton Bridgeman.

#### Voice vote:

Thomas Marsh	yea
Steve Kastner	yea
Robert Thompson	yea
Melton Bridgeman	yea
John McInerney	nea

#### **The motion carried.**

Mr. Davis asked if he is stayed with the sign the way it is until we get to that point.

Mr. Gill replied that the sign is stayed.

Mr. Nuckols told Mr. Davis that he will not be fined during this period.

### **OTHER BUSINESS:**

#### Board Elections:

Thomas Marsh made a **motion** to nominate Robert Thompson as Chairman of the Board, which was seconded by Melton Bridgeman.

#### Voice vote:

Thomas Marsh	yea
Steve Kastner	yea
Melton Bridgeman	yea
John McInerney	yea

#### **The motion carried.**

Thomas Marsh made a **motion** to nominate John McInerney as Vice Chairman of the Board, which was seconded by Steve Kastner.

Voice vote:

Thomas Marsh	yea
Steve Kastner	yea
Robert Thompson	yea
Melton Bridgeman	yea

**The motion carried.**

Chairman Thompson entertained a motion to close the June 15, 2016 meeting of the Board of Adjustment. Thomas Marsh made the motion, which was seconded by John McInerney.

Voice vote:

Thomas Marsh	yea
Steve Kastner	yea
Robert Thompson	yea
Melton Bridgeman	yea
John McInerney	yea

**The motion carried.**

The meeting adjourned at 6:35 p.m.

Respectfully submitted:

Cindy Williams  
Secretary to the Board

## **Agenda Item**

**To:** Board of Adjustment

**From:** BJ Grieve, Planning Director

**Subject:** A-01-07: Appeal of Administrative Determination.

**Date:** May 5<sup>th</sup>, 2022

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### **I. SUMMARY OF APPEAL:**

The Morganton Park North Planned Development is a 116.7-acre commercial development located on the north side of West Morganton Road at the intersection with Brucewood Road. The development is commonly known for containing Legends Apartments, Southern Pines Elementary School, “The Pavilion” building, and most recently the new Pinehurst Surgical Clinic and Pinehurst Medical Clinic buildings. The Morganton Park North Conceptual Land Use Plan that, in part, constitutes the zoning of the development is attached to this report to help orient the Board of Adjustment.

Pinehurst Surgical Clinic Realty, LLC is one of multiple current landowners within the Morganton Park North Planned Development. On February 14, 2022 Pinehurst Surgical Clinic Realty, LLC submitted an application to amend the zoning of the entire Morganton Park North development, primarily to eliminate the requirement of connecting South Carlisle Street to Tanglewood Drive. While reviewing the completeness of Pinehurst Surgical Clinic Realty, LLC’s application to amend the CDP,<sup>1</sup> the Zoning Administrator determined on February 21, 2022 that the application was incomplete because it did not contain multiple required elements, one of which was the written consent of each landowner within the existing Planned Development. The determination requiring written consent from each landowner was made based on **UDO §2.18.3(C) and §3.5.14(F)(2)**. For the Board of Adjustment’s reference, UDO §2.18 and §3.5.14 are attached to this report.

On February 25, 2022 Mr. Paul Saathoof and Mr. Bob Koontz submitted additional materials to address completeness deficiencies. Written consent from each landowner within the 116-7-acre Morganton Park North Planned Development was not submitted, so on February 28, 2022 the application was again deemed incomplete.

On March 16, 2022 the applicant’s technical representative Mr. Bob Koontz submitted to Planning staff a letter from Mr. Thomas Van Camp to Mr. Charles Gregg dated March 10, 2022. In the letter, Mr. Van Camp states that per his interpretation of UDO §2.18.3 the application to amend the Morganton Park North CDP is not an application for the creation of a CDP and therefore does not require each landowner’s written consent. Mr. Koontz asked the Planning Director to review the letter and to allow the Morganton Park North CDP application to move forward to the Planning Board without each landowner’s written

<sup>1</sup> Town of Southern Pines Unified Development Ordinance (UDO) §2.18.4(E) and §2.6.

consent. Mr. Koontz's March 16, 2022 email to Planning staff and Mr. Van Camp's March 10, 2022 letter to Mr. Gregg are attached to this report.

On March 24, 2022, Planning staff notified Mr. Koontz via email of the following Administrative Determination:

"At this time, the Town's position remains that an application for a major design modification to amend an existing Conceptual Development Plan (CDP) is subject to the same requirements as the initial submission and therefore is an application that must be "accompanied by each landowner's written consent" per UDO §2.18.3(C). Therefore, per UDO §2.18.4(D) and (E), application PD-03-22 for "Morganton Park North CDP Amendment" remains incomplete (per our email of February 28, 2022) because each landowner's written consent has not been submitted."

Mr. Koontz was notified that per UDO §2.23 he and/or his clients may appeal the Administrative Determination. Planning staff's March 24, 2022 Administrative Determination sent via email to Mr. Koontz is attached to this report.

On March 30, 2022 Planning staff received a 37-page packet signed by Messrs. Gregg and Koontz appealing the Administrative Determination made by the Planning Director in the email of March 24, 2022. Messrs. Gregg's and Koontz's appeal packet is attached to this report.

Planning staff reviewed the appeal request for completeness,<sup>2</sup> and determined the application to be complete on April 6, 2022. A Board of Adjustment hearing was scheduled for May 5, 2022.<sup>3</sup> Planning staff prepared a written legal notice of the Board of Adjustment hearing and provided mailed, posted and internet notice as required.<sup>4</sup>

The Board of Adjustment shall now hold an evidentiary hearing and may reverse or affirm, wholly or partly, or modify the determination being appealed.<sup>5</sup> The procedures for conducting an evidentiary hearing are found in UDO §2.14.

The Board of Adjustment shall determine whether the action by the Planning Director:

- (A) Was made based on correct interpretation of the UDO and other applicable regulations; and
- (B) Reflected the correct response to the application that was approved, denied or conditionally approved.<sup>6</sup>

<sup>2</sup> UDO Exhibit 2-22

<sup>3</sup> UDO Exhibit 2-22

<sup>4</sup> UDO §2.23.3(C)

<sup>5</sup> UDO §2.23.5,

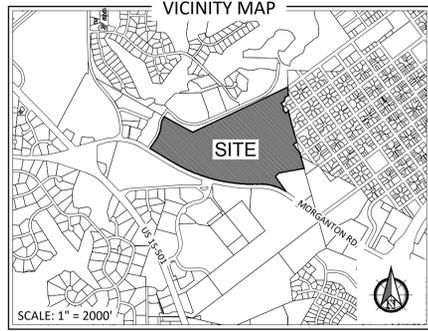
<sup>6</sup> UDO §2.23.7(A) and (B),

## II. ATTACHMENTS:

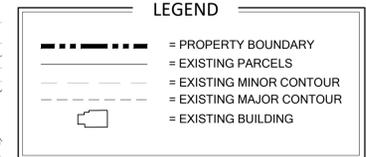
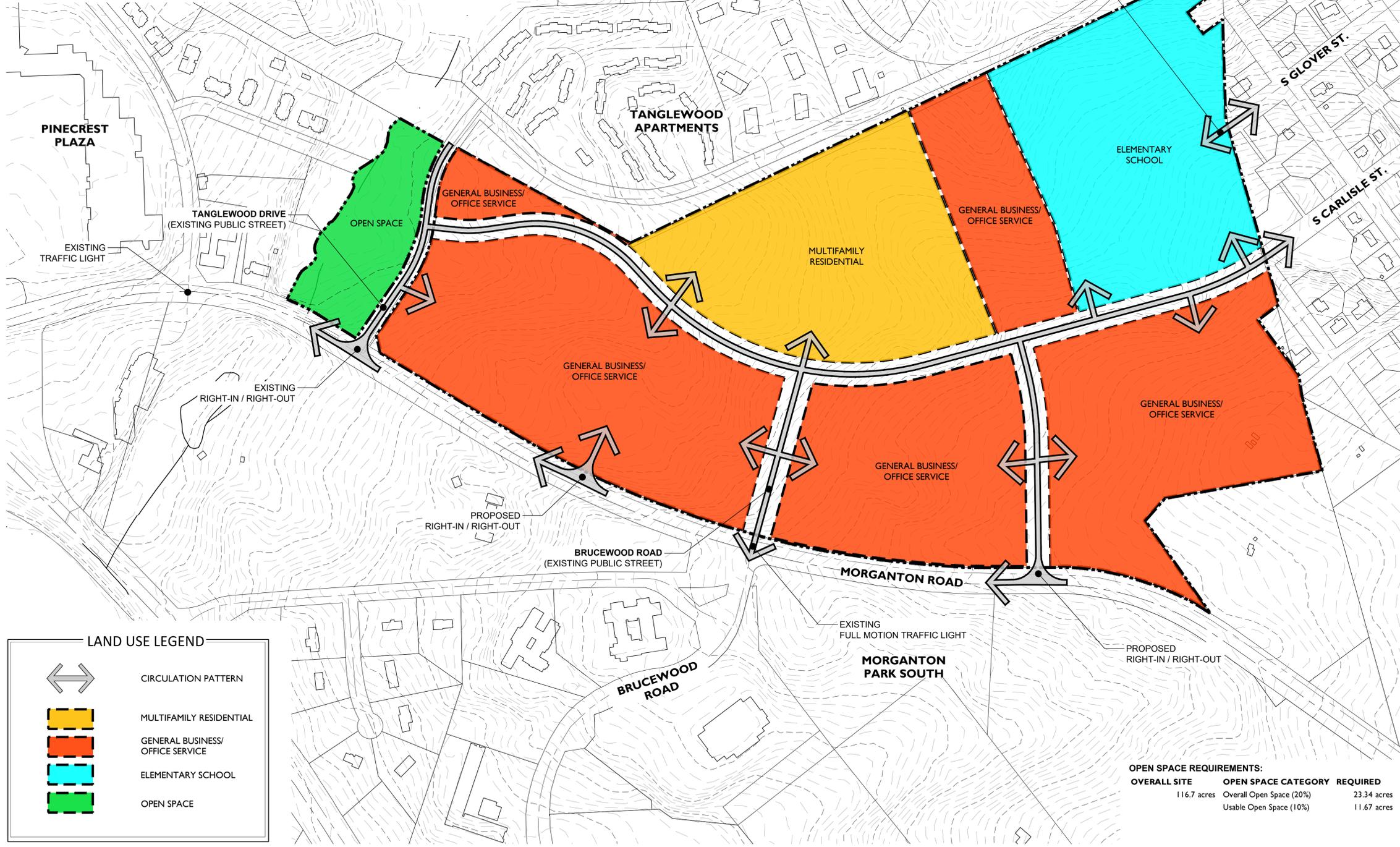
The following materials are provided as attachments to this staff report:

1. Morganton Park North Conceptual Land Use Plan (File #PD-01-18, approved May 15, 2018)
2. UDO §2.18 and §3.5.14
3. Mr. Koontz's March 16, 2022 email to Planning staff with Mr. Van Camp's March 10, 2022 letter to Mr. Charles Gregg.
4. Planning staff's March 24, 2022 Administrative Determination sent via email to Mr. Koontz
5. Messrs. Gregg's and Koontz's appeal packet.

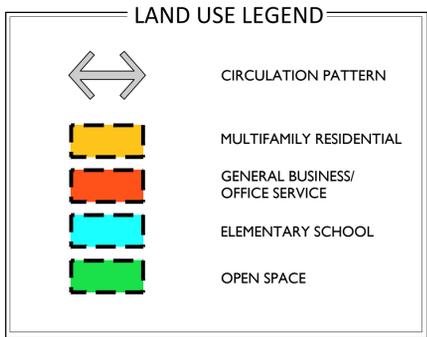
Additional documents related to this application are on file in the Town of Southern Pines Planning Office and available for public inspections during normal business hours.



\* THIS PLAN IS FOR CONCEPTUAL PURPOSES ONLY AND SUBJECT TO CHANGE. THE PROPERTY OWNER MAY MODIFY THIS PLAN, THE ILLUSTRATED USES AND ANY PHASING.



- GENERAL NOTES**
- ALL DEVELOPMENT ON THE PROPERTY WILL ADHERE TO THE USES, DIMENSIONAL STANDARDS AND REQUIREMENTS OF EITHER THE GENERAL BUSINESS (GB) OR OFFICE SERVICE (OS) ZONING CLASSIFICATIONS PER THE TOWN OF SOUTHERN PINES UDO. THESE USES MAY BE MIXED ON INDIVIDUAL PROPERTIES OR WITHIN INDIVIDUAL BUILDINGS TO PROMOTE A MIXTURE OF USES THROUGHOUT THE PROPERTY.
  - DEVELOPMENT WILL ALSO ADHERE TO THE MORGANTON ROAD OVERLAY STANDARDS AS DESCRIBED IN SECTION 3.6.6 OF THE UDO, EXCEPT FOR THE LOCATION OF THE MULTI-USE PATH ALONG MORGANTON ROAD. A WAIVER FROM SECTION 3.5.6(H)(4) WOULD BE AS FOLLOWS: A TRAIL MEASURING EIGHT (8) FEET IN WIDTH WILL BE INSTALLED ALONG THE EDGE OF MORGANTON ROAD. PHASE ONE AND TWO OF THE TRAIL HAVE BEEN CONSTRUCTED WITHIN THE RIGHT-OF-WAY OF MORGANTON ROAD AND CONNECT TO THE GREENWAY IN FRONT OF THE TOWN OWNED PARCELS NEAR HENLEY STREET. ANY REMAINING PHASES OF THE TRAIL SHALL CONNECT TO THE EXISTING TRAIL, REFLECT THE SAME TRAIL DESIGN AND BE LOCATED WITHIN THE RIGHT-OF-WAY ALONG MORGANTON ROAD PER THE PREVIOUS DEVELOPMENT AGREEMENT. THE THIRD AND FINAL SEGMENT OF THE MULTI-USE TRAIL SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS AND TIMEFRAME DESCRIBED IN THE DEVELOPMENT AGREEMENT FOR MORGANTON PARK NORTH.
  - ALL DEVELOPMENT AND BUILDING PERMITS ARE SUBJECT TO ALL LOCAL, STATE AND FEDERAL PERMITTING GUIDELINES, ARCHITECTURAL REVIEW, RULES AND REGULATIONS AND MUST BE APPROVED BY THE TOWN OF SOUTHERN PINES.
  - SMALL AREAS OF WETLANDS EXIST ON THE SITE. MOST OF THE PROPERTY'S WETLANDS WILL REMAIN UNDISTURBED, AS REQUIRED BY LAW, ANY IMPACTS MUST BE PERMITTED AND MITIGATED PER THE REQUIREMENTS OF THE ARMY CORPS OF ENGINEERS AND THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.
  - AS REQUIRED BY US FISH AND WILDLIFE, ANY POTENTIAL RED COCKADED WOODPECKER FORAGING HABITAT WILL BE MANAGED DURING THE DEVELOPMENT PROCESS AND APPROVALS OBTAINED FROM THE AGENCY IF NECESSARY.
  - THE COMMUNITY LIES OUTSIDE OF ANY PROTECTED WATERSHED DISTRICT ESTABLISHED BY NODWQ. THE PROJECT WILL COMPLY WITH ALL STATE AND LOCAL STANDARDS FOR STORM WATER MANAGEMENT. THE PROJECT WILL UTILIZE BEST MANAGEMENT PRACTICES AND ENGINEERED STORM WATER FACILITIES.
  - STORMWATER WILL BE PROVIDED IN THE EXISTING STORMWATER BASIN AND OTHER STORMWATER BASINS LOCATED ON THE PROPERTY. THE EXISTING BASIN WAS DESIGNED TO PROVIDE STORMWATER MANAGEMENT FOR A SIGNIFICANT PORTION OF THE PROPERTY. ADDITIONAL STORMWATER BASINS WILL BE ADDED AS NECESSARY TO MANAGE THE BALANCE OF THE PROPERTY. STORMWATER BASINS WILL BE PROVIDED ON THE SCHOOL SITE TO PROVIDE ADEQUATE MANAGEMENT OF THE SITE'S RUNOFF.
  - ALL ROADWAYS, MULTI-USE PATHS, SIDEWALKS AND ANY POTENTIAL TRAILS WILL BE DEDICATED TO THE TOWN OF SOUTHERN PINES.
  - OPEN SPACE WILL BE PROVIDED THROUGHOUT THE COMMUNITY AS REQUIRED BY THE TOWN'S UDO. A MINIMUM OF 20% OF THE SITE MUST BE DEDICATED TO OPEN SPACE WITH 50% OF THE OVERALL OPEN SPACE BEING USABLE OPEN SPACE AS DESCRIBED IN SECTION 3.5.14 OF THE UDO. EACH PRELIMINARY DEVELOPMENT PLAN (PDP) PREPARED FOR ANY AREA OF THE OVERALL MORGANTON PARK NORTH PROPERTY SHALL PROVIDE A TABULATION ILLUSTRATING THE OPEN SPACE BEING PROVIDED WITH THEIR PHASE, PREVIOUSLY PROVIDED OPEN SPACE FROM OTHER PHASES AND THE BALANCE OF OPEN SPACE THAT MUST BE PROVIDED IN FUTURE PHASES TO MEET THE OPEN SPACE REQUIREMENTS OF SECTION 3.5.14.
  - OPEN SPACE WITHIN THE SCHOOL AREA INCLUDING OPEN PLAY FIELDS, PLAYGROUNDS OR OTHER STUDENT RECREATION AREAS WILL BE CREDITED TOWARD USABLE OPEN SPACE REQUIREMENTS.
  - THE TOWN OF SOUTHERN PINES ARCHITECTURAL REVIEW BOARD WILL REVIEW AND APPROVE ALL NON-RESIDENTIAL BUILDING PLANS FOR COMPLIANCE WITH THE TOWN'S ARCHITECTURAL STANDARDS.
  - ALL DEVELOPMENT AND BUILDING PERMITS ARE SUBJECT TO ALL LOCAL, STATE AND FEDERAL PERMITTING GUIDELINES, ARCHITECTURAL REVIEW, RULES AND REGULATIONS.
  - LANDSCAPE STANDARDS WILL MEET OR EXCEED THE REQUIREMENTS OF THE TOWN OF SOUTHERN PINES UDO PER SECTION 3.5.14(H).
  - SCHOOLS MAY BE PERMITTED A REDUCTION IN LANDSCAPING REQUIREMENTS. THIS REDUCTION IN LANDSCAPING WILL BE ILLUSTRATED ON ANY PRELIMINARY DEVELOPMENT PLAN SUBMITTED FOR A SCHOOL AND CONSIDERED BY TOWN COUNCIL.
  - ELECTRIC, WATER, SEWER AND GAS UTILITIES ARE READILY AVAILABLE FOR THE SITE. NEW UTILITY LINES WILL BE INSTALLED PER THE POLICIES OF THE LOCAL UTILITY PROVIDERS AND THE TOWN OF SOUTHERN PINES FOR UNDERGROUND UTILITIES.
  - FROM TIME TO TIME, TEMPORARY SERVICES MAY BE REQUIRED AND SHALL BE ALLOWED AT COMMUNITY FACILITIES, TEMPORARY CONSTRUCTION OFFICES, TEMPORARY SALES CENTERS, TEMPORARY CONSTRUCTION OFFICES, AND OTHER COMMON AMENITIES SUCH AS PARKS.
  - STREET LIGHTING WILL BE DESIGNED IN CONFORMANCE WITH THE REQUIREMENTS OF SECTION 4.8 IN THE TOWN OF SOUTHERN PINES UDO.
  - SIGNAGE WILL BE DESIGNED ON A PARCEL BY PARCEL BASIS AND ADHERE THE STANDARDS PROVIDED IN SECTION 4.6 OF THE UDO. UNIFIED SIGN PLANS MAY BE PROVIDED FOR EACH OF THESE PARCELS. HOWEVER, NO OVERALL UNIFIED SIGN PLAN WILL BE PROVIDED FOR THE OVERALL PROPERTY.



**OPEN SPACE REQUIREMENTS:**

OVERALL SITE	OPEN SPACE CATEGORY	REQUIRED
116.7 acres	Overall Open Space (20%)	23.34 acres
	Usable Open Space (10%)	11.67 acres

PRELIMINARY PLANS - NOT RELEASED FOR CONSTRUCTION (FOR REVIEW ONLY)

**KOONTZJONESDesign**  
 LAND PLANNING | LANDSCAPE ARCHITECTURE  
 150 S PAGE STREET  
 SOUTHERN PINES, NC 28387  
 P: (717) 584-9867  
 W: www.koontzjonesdesign.com

**MORGANTON PARK NORTH  
 CONCEPTUAL DEVELOPMENT PLAN  
 SOUTHERN PINES, NORTH CAROLINA  
 CONCEPTUAL LAND USE PLAN**

DATE: 03.23.2018  
 DESIGNED BY: REK  
 DRAWN BY: PJS  
 CHECKED BY: REK  
 SCALE: 1" = 200'  
 PROJECT #: K01803  
 SHEET NUMBER: L-1.1

**2.18. PLANNED DEVELOPMENT**

**2.18.1. Purpose**

The purpose of this section is to establish procedures and review criteria for the establishment of Planned Development Districts (PDD) that comply with the purposes and standards established in section 3.5.14. Exempt or Minor Subdivision may be approved, but no building permits shall be issued prior to Final Development Plan approval within a PDD, except for single-family detached dwelling units on a single parcel.

*(Ord. # 1716; Ord. #1703)*

**2.18.2. Approval Process Overview**

The general approval process for the creation of a PDD involves concurrent zoning map amendments and subdivision of land. Because most PDDs involve a mix of uses and the application of flexible Development standards that deviate from the specific standards in other zoning districts, many applications will involve approval of site plans that must receive Architectural Compliance Permits. The process summarized in Exhibit 2-7 identifies the steps involved in a typical PDD creation. Actual process may vary based on the complexity of the proposed Development.

**Exhibit 2-7: Approval Process Summary**

Planned Development Process
<b>Pre-application Conference</b> (required)
<b>Neighborhood Meeting</b> (required)
<b>Conceptual Development Plan</b>
<b>Preliminary Development Plan</b> (includes Preliminary Plat, conceptual site plan and contingent zoning approval)
<b>Engineering Plans</b>
<b>Improvement Guarantees and Development Agreement</b> (optional steps contingent on the Applicant’s proposed phasing and improvements plans)
<b>Final Development Plan</b> (includes final zoning approval and may include Final Plat approval)

*(Ord. #1703; Ord. #1716)*

**2.18.3. Initiation**

- (A) **Pre-Application Conference Required.** Before any application is made, the Applicant shall schedule a pre-application conference with the Planning Director to discuss the procedures and requirements for a PDD request pursuant to these regulations.
- (B) **Application Filing.** The application shall be filed with the Planning Director, shall describe the proposed Development and shall include a complete application for the Conceptual Development Plan in accordance with Appendix A of this UDO.
- (C) **Ownership and Division of Land.** No Tract of land may be considered for a Planned Development District (PDD) unless such Tract is under single or unified ownership or control. If listed in several ownerships, the application for the creation of a PDD shall be accompanied by each landowner's written consent. The holder of a written option to purchase or a developer under contract shall be considered an owner for purposes of this section provided the landowner's (or landowners') written consent is included with the application.
- (D) **Neighborhood Meeting Required.** The Applicant is required to conduct a neighborhood information meeting in accordance with section 2.15 of this UDO. The meeting shall be conducted prior to submittal of the Conceptual Development Plan application.
- (E) **Joint Work Session (Optional).** At the developer's request, or at the recommendation of the Planning Director, a Joint Work Session of the Town Council and Planning Board may be held by the Town to provide an opportunity for the developer to present Conceptual Development Plans and respond to any initial questions that members of the Town Council and Planning Board might have regarding the proposed PDD.

*(Ord. #1703)*

**2.18.4. Conceptual Development Plan**

- (A) **Purpose.** The purposes of the Conceptual Development Plan are to demonstrate that:

**Exhibit 2-9: Timing**

Final Development Plan Timing	
<b>Completeness Review</b>	5 business days (from Application Submittal)
<b>Planning Board Public Hearing Notice</b>	25 days (from Completeness Certification)
<b>Planning Board Decision</b>	30 days (from Planning Board Public Hearing)
<b>Town Council Public Hearing</b>	30 days (from Planning Board Decision)
<b>Town Council Decision</b>	30 days (from Town Council Public Hearing)

- (1) The mix and intensity of land uses are consistent with the Comprehensive Plan;
  - (2) The general street layout is consistent with mobility needs of the Town and the proposed Development;
  - (3) The phasing plan enables each phase to be developed in a way that it creates a sustainable neighborhood that will be enhanced as each successive phase is developed; and
  - (4) The proposed arrangement of land uses and the phasing plan are compatible with surrounding neighborhoods.
- (B) **Applicability.** A Conceptual Development Plan shall be required when an Applicant is planning to develop less than the entire, contiguous land area held in common ownership in a single phase or subdivision plat. The Conceptual Development Plan shall illustrate future Development of the entire area under common ownership.
- (C) **Conceptual Development Plan Process Overview.** The approval process and typical timing for Conceptual Development Plan approval are summarized in Exhibits 2-8 and 2-9. Actual timing may vary based on the date of submittal and scheduled hearing dates.

**Exhibit 2-8: Conceptual Development Plan Approval Process Summary**

Conceptual Development Plan Process
Application, Review and Notice
Planning Board Public Hearing
Town Council Public Hearing

- (D) **Initiation.** The Conceptual Development Plan application shall be filed with the Planning Director. It may be submitted for concurrent review with Preliminary Development Plans for one or more of the planned phases of Development. The Conceptual Development Plan shall comply with the application requirements established in Appendix A. If a portion of an Applicant's landholdings is intended to remain in agricultural production for the foreseeable future, the Director may waive Conceptual Development Plan content requirements for those areas.
- (E) **Completeness.** The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of section 2.6. Upon finding that the application is complete and consulting with the TRC, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.
- (F) **Planning Board Action.** The Planning Board shall conduct a legislative hearing and advise the Town Council on whether the proposed Conceptual Development Plan is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation to the Town Council that addresses consistency with the Comprehensive Plan and other applicable criteria.
- (G) **Town Council Action.** The Town Council shall conduct a legislative hearing and approve, conditionally approve or deny the Conceptual Development

Plan following the process for Town Council Action on zoning amendments, but only those conditions approved by the Council and consented to by the petitioner in writing may be incorporated into the Conditional Zoning District.

**(H) Criteria**

- (1) The proposed PDD satisfies the criteria for a zoning map amendment established in this chapter;
- (2) The Conceptual Development Plan represents an overall Development Pattern that is consistent with the goals and policies of the Comprehensive Plan, Official Zoning Map, Capital Improvements Program, and any other applicable planning documents adopted by the Town;
- (3) The proposed Development is appropriate for the area of the Town in which it is located; and
- (4) The proposed Development will not generate the need for inefficient extensions and expansions of public facilities, utilities and services.

*(Ord. #1775)*

**(I) Effect of Approval**

- (1) Approval of a Conceptual Development Plan constitutes acceptance that the proposed type, density and intensity of land use; the classification and arrangement of streets; the proposed phasing plan; and the nature of utility service proposed are consistent with the Comprehensive Plan.
- (2) Approval of a Conceptual Development Plan shall constitute acceptance of the general land-use mix, range of Development types and intensities, street patterns, drainage patterns, Lot patterns, parks and open space, and pedestrian and bicycle trails.
- (3) Action on the Conceptual Development Plan may include approval of a Conversion Schedule providing for the substitution of certain land uses for other land uses. The Conversion Schedule shall be based on relative peak hour trip generation, peak parking demand

and other impacts affecting the function of on- and off-site infrastructure and land use compatibility.

- (4) Conceptual Development Plan approval does not ensure approval of a Preliminary Development Plan involving a substantially different concept, failing to meet specific requirements of these regulations, or failing to satisfy conditions of Conceptual Development Plan approval. Approval does not comprise any vesting of Development rights or any assurance that permits of any kind will be issued.

**(J) Denial and Appeal.** If the Town Council finds that the Conceptual Development Plan fails to meet the criteria established in the section, it shall deny the Conceptual Development Plan application. The Applicant may appeal such denial to the Superior Court.

*(Ord. #1716; Ord. #1703; Ord. #1919)*

**2.18.5. Preliminary Development Plan**

**(A) Purpose.** The purposes of the Preliminary Development Plan are to demonstrate that:

- (1) The proposed land use mix and intensity are consistent with the Comprehensive Plan, the purposes of the PDD and the approved Conceptual Development Plan, if applicable;
- (2) Proposed system of streets, trails and greenways are consistent with this UDO, as well as the mobility needs of the Town and the proposed Development;
- (3) The proposed Development is consistent with the ability to provide and maintain public facilities and services on which the Development, area and Town depend;
- (4) The proposed Development is well integrated with the protection of natural features, including Watersheds, woodlands and other natural features; and
- (5) The proposed Development Patterns and Development products are compatible with the character and vitality of the neighborhood and community.

- (B) **Applicability.** A Preliminary Development Plan is a mandatory step in the process for PDD approval and shall be required to show all contiguous land holdings and the detailed Development Patterns for the portions that are proposed to be developed. Preliminary Development Plan and Conceptual Development Plan approval are not required if the property has a valid approval of a Conceptual Master Plan and zoning under the prior PD, PUD or MU Development process.
- (C) **Preliminary Development Plan Process Overview.** The approval process and typical timing Preliminary Development Plan approval are summarized in Exhibits 2-10 and 2-11. Actual timing may vary based on the date of submittal and scheduled hearing dates.
- (D) **Initiation.** The Preliminary Development Plan application shall be filed with the Planning Director. The Preliminary Development Plan shall comply with the application requirements established in Appendix A, which combine and supplement the requirements for Zoning Map amendments and Preliminary Plat approval. The application shall include renderings illustrating the proposed Development Patterns and architectural character of Development.
- (E) **Completeness.** The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of section 2.6. Upon finding that the application has been submitted and is complete and consulting with the TRC, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.

**Exhibit 2-10: Preliminary Development Plan Approval Process Summary**

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

*(Ord. #1959)*

**Exhibit 2-11: Timing**

Preliminary Development Plan Timing	
<b>Completeness Review</b>	5 business days (from Application Submittal)
<b>Planning Board Preliminary Forum Notice</b>	25 days (from Completeness Certification)
<b>Planning Board Decision</b>	30 days (from Planning Board Preliminary Forum)
<b>Town Council Public Hearing</b>	30 days (from Planning Board Decision)
<b>Town Council Decision</b>	30 days (from Town Council Public Hearing)

*(Ord. #1959)*

- (F) **Planning Board Action.** The Planning Board shall conduct a Preliminary Forum regarding the Preliminary Development Plan.  
*(Ord. #1959)*
- (G) **Town Council Action.** The Town Council shall conduct an evidentiary hearing and approve, conditionally approve or deny the Preliminary Development Plan based on the criteria in the following paragraphs. If the application is conditionally approved, the Town Council shall obtain written consent to conditions by the landowner or permit applicant. Approval of the preliminary plat shall be subject to the approval criteria established in section 2.20.4(G).
- (H) **Criteria**
  - (1) The application demonstrates that it will achieve the purposes of the PDD and this section;
  - (2) The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;
  - (3) The proposed Development is located in an area of the Town that is appropriate; and

- (4) The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.

*(Ord. #1775)*

**(I) Effect of Approval**

- (1) Approval of a Preliminary Development Plan shall constitute approval of the specific land-use mix, which shall include the Development types and intensities and improvements to include but not limited to streets, drainage, utilities, parks and open space, and pedestrian and bicycle trails.
- (2) Action on the Preliminary Development Plan may include approval of the Preliminary Plat for subdivision of all or a portion of the proposed Planned Development. Special Use Permit approval is not required for a Preliminary Plat approved concurrently with a POD application.
- (3) If sufficient certainty and information exists during the Preliminary Development Plan phase, Applicant or the Planning Director may request Final Development Plan impact assessment requirements be considered.
- (4) If Preliminary Development Plan approval is accompanied by Preliminary Plat approval, the applicant may proceed with final plat approval pursuant to section 2.20.8.

*(Ord. #1716; Ord. #1703; Ord. #1919)*

**2.18.6. Interim Actions**

Prior to the submittal of the Final Development Plan for the PDD application, the Applicant should secure approval of Engineering Plans in accordance with section 2.20.5 and, after approval of the Engineering Plans, may initiate construction of public improvements for the PDD or coordinate with staff to enter into an improvements agreement in accordance with section 2.20.6 and/or a Development agreement in accordance with section 2.20.7.

**2.18.7. Final Development Plan**

- (A) **Purpose.** The purpose of the Final Development Plan is to demonstrate that the proposed POD is consistent with the Preliminary Development

Plan approval, purposes of the POD and other applicable requirements of the UDO. Final Development Plan approval may be accompanied by Final Plat approval for the phase of the Development being approved and may include sufficiently detailed site plans for multi-family and non-residential Development to receive Architectural Compliance Permit in conjunction with the approval.

- (B) **Applicability.** A Final Development Plan is the mandatory final step in the process for PDD approval. Final Development Plan approval is not required if the property has a valid approval of a Master Plan and zoning under the prior PD, PUD or MU Development process.
- (C) **Final Development Plan Process Overview.** No hearing is required for Final Development Plan approval unless the Applicant chooses to appeal the staff decision to the Town Council or the Applicant proposes a major design modification from the approved Preliminary Development Plan. The Applicant may attend the TRC meeting to provide information pertinent to the application.
- (D) **Initiation.** The Final Development Plan application shall be filed with the Planning Director. The Final Development Plan shall comply with the application requirements established in Appendix A, include and supplement the requirements for Final Plat approval. Restrictions, covenants, architectural standards and conceptual site plans shall be submitted in conjunction with the application. If the Applicant seeks Architectural Compliance Permit approval for any building, detailed site plans and renderings shall be submitted.
- (E) **Action by Planning Director.** The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of Section 2.6. Upon finding that the application is complete and consulting with the TRC, the Planning Director shall:
  - (1) Determine if the Final Development Plan is in compliance with the Preliminary Development Plan approval, and, upon making such determination, shall approve such plan, and:

- (a) Transmit notice to the Planning Board and Town Council of the approval of the Final Development Plan together with a copy of the Final Development Plan; and,
  - (b) Notify the applicant of the approval for the area included within the Final Development Plan.
- (2) Should the Planning Director determine that the Final Development Plan submittal is not in compliance with the Preliminary Development Plan approval or the criteria) in paragraph (F) of this section, the Planning Director shall deny the Final Development Plan submittal. If denied, the Applicant may:
- (a) Revise and resubmit such Final Development Plan;
  - (b) Elect to have the submittal forwarded to the Planning Board and Town Council for appeal; or
  - (c) If the Preliminary Development Plan constitutes a major design modification, forward the plan to the Planning Board and Town Council for a public hearing.
- (3) Following approval of the Final Development Plan, the Planning Director shall secure necessary signatures to execute the Final Development Plan.
- (F) Criteria for Final Development Plan Approval**
- (1) The application demonstrates that it will achieve the purposes of the PDD and this section;
  - (2) The Final Development Plan application is consistent with the previously approved Conceptual Development Plan and Preliminary Development Plan approvals, and conforms to all applicable provisions of this UDO;
  - (3) The Final Plat satisfies the criteria established in this chapter;
  - (4) The Application and support documents satisfy the criteria for Architectural Compliance Permit approval established in Section 2.26, if applicable.

**(G) Effect of Approval**

Approval of a Final Development Plan that includes a Final Plat approval entitles the Applicant to record the plat.

- (H) Request for Amendments to a PD Approval - Administrative Approval.**  
The Planning Director may authorize the following Minor Amendments to a Preliminary or Final Development Plan:
- (1) Deviations arising from limited technical considerations which could not reasonably be anticipated during the approval process.
  - (2) Amendments required to bring the application into compliance with adopted technical codes.
  - (3) Any other change which has no material effect on the character of the approved Preliminary or Final Development Plan, as determined by the Planning Director, such as:
    - (a) Driveway relocations;
    - (b) Facility design modifications for design, recreational or other amenities;
    - (c) Substitutions of landscaping materials within the same genus, so long as the substituted material is not of a type that is specifically prohibited per the UDO or approved PDD landscape standards;
    - (d) Realignments of internal streets prior to final plat approval as long as the realignment does not result reduce the gross area of common areas or open spaces, reduce residential lot sizes, eliminate required buffers or create street alignments that fail to conform with Town standards;
    - (e) Modifications to uses in accordance with an approved Conversion Schedule; and
    - (f) Expansions of buffers, open spaces and landscape areas.
- (I) Request for Amendments to a PD Approval. – Resubmittal and Rehearing.** Major Design Modifications to the Preliminary Development Plan shall be resubmitted for Preliminary Development Plan review and approval, and include:

- (1) Change in use, other than allowable changes specified in a Conversion Schedule that was approved during the initial PDD approval;
- (2) Designation of additional land uses;
- (3) Change in the location of permitted use(s) from what is shown on the approved Preliminary Development Plan;
- (4) An increase or decrease in project area other than surveyor base data corrections;
- (5) Decrease in Open Space;
- (6) Change in dimensional standards set forth in the Development Conditions that result in a decrease in minimum standards (e.g., reduction in minimum setbacks or reductions in street widths) or increase in maximum standards (i.e. an increase in building height and/or gross density or intensity of land uses);
- (7) Change to proposed treatment of buffering, landscaping, land uses or lot sizes along the perimeter of the PD;
- (8) Addition or reduction of driveways or access points, especially those which negatively affect connectivity or street safety; or
- (9) Other design modifications to the approved Preliminary Development Plan that the Planning Director determines to be major.

*(Ord. #1716; Ord. #1703; Ord. #1919)*

**2.19. REGULATION OF SUBDIVISIONS, GENERALLY**

**2.19.1. No Subdivision without Plat Approval:**

- (A) As provided in G.S. 160D-807, no person may subdivide land except in accordance with all of the provisions of this chapter. In particular, no person may subdivide land unless and until a Final Plat of the subdivision has been approved in accordance with the provisions of this chapter and recorded in the Moore County Registry.

- (B) As provided in G.S. 160D-803(d), the Moore County Register of Deeds may not record a plat of any subdivision within the Town's Planning Jurisdiction unless the plat has been approved in accordance with the provisions of this chapter.
- (C) The owner or proprietor of any Tract of land who desires to subdivide land (i.e., to create a "subdivision") shall submit a plat of such subdivision to the Planning Director.
- (D) Unless such subdivision was legally created prior to the adoption of this chapter or is full compliance with this UDO:
  - (1) No person shall sell or transfer ownership of any Lot or Parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the register of deeds.
  - (2) No Development approval or certificate of occupancy shall be issued for any Parcel, plat, map, or plan created prior to subdivision approval.
  - (3) No excavation of land or construction of any public or private improvements shall be commenced.

*(Ord. #1919)*

**2.19.2. Exemptions**

A subdivision plat is not required for any of the exemptions to the definition of subdivision established in Chapter 9 of this ordinance.

*(Ord. #1919)*

**2.19.3. Subdivision Classification**

Certain subdivisions shall qualify as Expedited Review Subdivisions. Major and Minor subdivisions are subject to the criteria for approval of subdivision plats unless a specific provision indicates that it does not apply to Minor Subdivisions. Different time limits are prescribed for the review and processing of Major and Minor subdivisions to reflect the level of complexity involved in review of the applications. Subdivisions shall be classified as established in this UDO.

- (A) Expedited Review Subdivisions that meet the following criteria require only a plat for recordation:

**(D) District Development Standards**

Building heights and setbacks shall conform to those of the abutting district. Required buffers shall be based on the use established in the FRR district and the abutting use or district, whichever requires the greater buffer.

**3.5.14. PD - Planned Development District**

**(A) 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 section 6.5 of this UDO. 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 be readily improved) to handle the projected traffic volumes generated by the Development. The regulations of this 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 drive 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 type, size, income and age.

*(Ord. #1714)*

**(B) Applicability**

A PD district may be established to accommodate large-scale, master-planned, mixed-use Developments that cannot be accomplished through conventional zoning districts. Development within a PD district shall occur in accordance with unique conditions and standards established during the rezoning process that may vary from those contained within other sections of the UDO. Such conditions and standards shall be applicable only to the specific Parcel of land that comprises that PD District, and shall run with the land regardless of ownership.

**(C) Procedures**

PD districts shall be established and developed in accordance with the procedures established in chapter 2 of this UDO.

**(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

## Southern Pines Unified Development Ordinance

land uses listed in the approved zoning application are permitted subject to the conditions established through the rezoning process.

### (E) **Development Patterns**

The PD district approval may establish any of the Development Patterns described in chapter 6 or accommodate alternative Development Patterns that comply with PD district standards.

### (F) **General Provisions**

#### (1) **Minimum Size and Contiguity**

The PD district shall encompass a sufficient area to accommodate the proposed mix of Uses and ensure compatibility between both internal and external land uses.

#### (2) **Ownership and Division of Land**

No Tract of land may be considered for a PD District unless such Tract is under single or unified ownership or control. If listed in several ownerships, the application for zoning shall be accompanied by each landowner's written consent. The holder of a written option to purchase or a developer under contract shall be considered an owner for purposes of this section provided the landowner's (or landowners') written consent is included with the application.

#### (3) **Relationship to the UDO**

Each proposal for Development under the PD district is anticipated to be unique. Except as provided by this section and the PD approval, PD district Development shall be subject to all of the applicable standards, procedures, and regulations in other sections of this UDO. Development Conditions approved as part of the PD District zoning application shall supersede conflicting UDO regulations, unless otherwise prohibited by law. Alternative standards may be approved for Development within the PD district if they:

- (a) Meet or exceed the general intent of the UDO standards for base zoning districts;
- (b) Are appropriate given the specific mix of uses and character of the Development; and

## Chapter 3. Zoning

- (c) Achieve a more efficient, safe or economical land use without detracting from the quality of the Development or detrimentally impacting its surrounding Development or the community as a whole.

#### (4) **Relationship to Other Regulations**

Unless otherwise specified in the PD approval, all PDs shall be subject to all local, State and Federal regulations.

### (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.
- (4) No more than fifty (50) percent of the required Open Space shall consist of ponds, lakes, and/or water quality ponds.
- (5) The site's natural features and surroundings, unique features of the subject and surrounding property shall be considered by the Town when evaluating the configuration and uses of planned Open Space. Where practical, Open Space shall be configured to provide connectivity with other Open Space, both on- and off-site, and to allow for connectivity to and the extension of the existing Greenway Trail System.

- (6) Unless dedicated to and accepted by the Town or a similar legal entity, the owner or property owners association is required to provide for the continuing maintenance of Open Space.

**(H) Landscaping, Screening, Buffers and Trees**

The standards for landscaping, screening, buffers and trees included in chapter 4 of this UDO shall apply to all Development within the PD District, with the following exceptions:

- (1) Buffer requirements apply only to the perimeter of the PD unless otherwise specified in the PD District Conditions. The minimum required buffer for each sub-area shall be based on the most intensive use authorized within the sub-area that is adjacent to the property boundary and shall meet or exceed the standards established in chapter 4 of this UDO.
- (2) Land uses internal to the PD shall be buffered in accordance with the provisions of chapter 4 unless approved as part of the PD Development Conditions.
- (3) Other deviations from landscaping, buffer, street tree and screening standards of chapter 4 shall not be allowed unless approved as a PD Development Condition.
- (4) If landscaping, buffer or other requirements are included in a platted Lot, they shall be protected by the PD's Covenants and Restrictions and shall not count as Open Space.

**(I) Common Sign Plan**

Signs within the Development shall adhere to the standards set forth in section 4.6 of this UDO or as part of the zoning application or an amendment thereto. The Applicant may submit a Unified Sign Plan that establishes more specific design standards (size, height, color, materials, illumination) and Sign locations for the project to ensure a coordinated theme across the PD District. Such Unified Sign Plan may be submitted after the approval of the zoning application and may be approved by the Planning Director as an alternate to individual Sign permits. Any Unified Sign Plan that exceeds the size or number of Signs allowed by section 4.6 shall require approval by the Planning Board pursuant to section 2.22.

**(J) Landmark Signs**

The Town Council may approve the establishment of one or more on-premises Landmark Signs as a condition of Final Development Plan approval within a PD district subject to the requirements of section 4.12.

**(K) Storm Water Control**

Storm water management shall meet or exceed the State's minimum requirements for storm water management. A common master storm water management plan may be developed for the project as a whole and may employ Best Management Practices. This neither prohibits the Development of the PD district in phases nor the phased implementation of the storm water management system.

**(L) Street Design**

- (1) Street design shall adhere to the Town's standards as set forth in chapter 4 of the UDO. The Applicant may submit alternative street design standards that vary in response to proposed function of the street, anticipated adjacent land uses, character of the neighborhood, anticipated traffic volume (subject to Town and/or NCDOT approval), hierarchy within the street network, and need for traffic calming measures. At a minimum, turn lanes shall be studied and contemplated in relation to all intersections of Arterial streets within the site and shall be considered for appropriateness as part of the Traffic Impact Analysis (TIA), which must be approved by the Town.
- (2) Streets within the PD may be private or may be dedicated to the Town of Southern Pines with the Town's consent. Dedicated streets may be maintained by the Town of Southern Pines or NCDOT according to rules of the applicable jurisdiction.

**(M) Parking and Loading**

The standards for parking and loading set forth in chapter 4 UDO shall apply to all Development within the PD, with the following exceptions:

- (1) On-street parking shall be allowed if road widths are adequate. On-street parking may consist of parallel, perpendicular, angled, reverse angle or any combination of these types of parking spaces. If provided, on-street parking may be used to reduce the on-site parking requirement by up to fifty (50) percent.

- (2) For uses having different parking requirements and occupying the same building or Parcel, the minimum number of required spaces shall be the sum total requirement of all the individual uses. For Developments or portions of Developments within the same PD District designed as a single, coordinated project having at least 50,000 square feet of Gross Floor Area, the minimum number of required spaces shall be one space for every 250 square feet of Gross Floor Area designed for nonresidential use and occupancy.
- (3) Shared parking in general accordance with chapter 4 of the UDO is allowed and encouraged in circumstances where the parking would be within 1,200 feet of each respective use. If shared parking is proposed as a means of satisfying off-street parking requirements, a shared parking analysis must be submitted to the Planning Director that clearly demonstrates the feasibility of shared parking. The study must address, at a minimum, the size and type of the proposed Development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.
- (4) There is no off-street loading requirement for a building with less than 10,000 square feet of gross building area. Otherwise, off-street loading shall comply with the requirements for off-street loading set forth in chapter 4 of the UDO.

**(N) Conversion Schedule**

The PD zoning application may include a Conversion Schedule that identifies proposed conversion rates between different types of uses within the PD District. The Conversion Schedule, if submitted, shall be provided in the Development conditions and must be approved in conjunction with the PD District zoning application. Conversions from an approved land use to an alternative land use may occur within and between Development areas as minor amendments for purposes of this section if:

- (1) The conversion from the approved use to the alternative use is consistent with the Conversion Schedule approved with the Development conditions;

- (2) The dimensional standards of the alternative use comply with the approved Development conditions and Land Use Plan for the PD District;
- (3) The maximum threshold for the PD District's permitted density, intensity or Development potential is not exceeded;
- (4) The alternative use is not anticipated to significantly increase or adversely alter offsite traffic impacts; and
- (5) The general character and mix of uses for the project are maintained.

*(Ord. # 1716)*

**(O) Additional Regulations for All PDs**

- (1) Residential uses in commercial and office buildings. A residential use may be located above a commercial or office use located on the lower Floors of the same building.
- (2) Building heights shall adhere to the limitations set forth in chapter 4 for the **RM-1** district. The Applicant may propose an alternative height that exceeds the established limits, provided the increased height does not negatively affect surrounding properties and is approved by the Town Council.
- (3) Appurtenances. A step, stoop, open porch, balcony, awnings or other appurtenance may extend up to five (5) feet into the front setback, provided such features do not impede pedestrian circulation or extend more than twenty-five (25) percent into the setback.
- (4) Utility lines. All new utilities associated with the proposed Development shall be underground.

**(P) Accessory Uses**

Accessory Uses shall comply with the standards of sections 5.2 and 5.3 unless otherwise approved as part of the PD Development Conditions.

## BJ Grieve

---

**From:** bkoontz@koontzjones.com  
**Sent:** Wednesday, March 16, 2022 3:40 PM  
**To:** BJ Grieve  
**Cc:** Reagan Parsons  
**Subject:** Completeness for Morganton North  
**Attachments:** Letter to Charles Gregg 3-10-2022.pdf

BJ,

Attached is a letter from Tom Van Camp, addressed to Charles Gregg, related to the signature requirements related to the PDD zoning and associated CDP application process. The letter serves as Tom's legal opinion of the signature requirements based on reading the ordinance and reviewing the State of NC case files related to similar issues.

We would like to submit Tom's letter and ask that you review the included information in relation to the Completeness Review for the Morganton Park North project. It is requested that the CDP application be permitted to move forward at the regularly scheduled Planning Board meeting on April 21<sup>st</sup>. Please let me know if you have any questions.

Thanks,  
Bob

Bob Koontz, PLA  
Principal

**KOONTZJONES**Design  
LAND PLANNING | LANDSCAPE ARCHITECTURE  
150 SOUTH PAGE STREET | SOUTHERN PINES, NC 28387 | P: 910-639-4058

# VAN CAMP, MEACHAM & NEWMAN, PLLC

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thomasv@vancamplaw.com

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Paralegal  
larisag@vancamplaw.com

Telephone: (910) 295-2525  
Facsimile: (910) 295-2001

March 10, 2022

VIA E-MAIL

Mr. Charles Gregg  
[cgregg@pinehurstsurgical.com](mailto:cgregg@pinehurstsurgical.com)

RE: Pinehurst Surgical Realty, LLC's Application

Dear Mr. Gregg:

At your request, I have reviewed the Southern Pines Unified Development Ordinance to determine whether or not it requires each landowner's written consent in order to modify an existing Planned Development District ("PDD") or a Conceptual Development Plan (CDP). Section 2.18 of the UDO addresses planned developments, including "the general approval process for the creation of a PDD." Section 2.18.3, intitled "Initiation," includes 5 separate and distinct procedural requirements, including 1) pre-application conference; 2) application filing; 3) ownership and division of land; 4) neighborhood meeting; and 5) joint work session (optional).

Pursuant to Section 2.18.3, which addresses the initiation of the PDD, subsection (C) states the following:

**Ownership and Division of Land.** No Tract of land may be considered for a Planned Development District (PDD) unless such Tract is under single or unified ownership or control. If listed in several ownerships, the application for the creation of a PDD shall be accompanied by each landowner's written consent. The holder of a written option to purchase or a developer under contract shall be considered an owner for the purposes of this section provided the landowner's (or landowners') written consent is included with the application. (Emphasis added)

A plain reading of subsection (C) of Section 2.18.3 dictates that the provision only applies when the Town of Southern Pines is considering the "creation of the PDD." There is no provision in Section 2.18.3, or anywhere else in the UDO, which requires a "landowner's written consent" after a PDD has already been established and a landowner seeks to modify or amend an existing CDP to relocate a future road. Moreover, Section 2.18.4, which addresses Conceptual Development Plans, does not contain a provision requiring each landowner's written consent relating to presentation, creation, or modification of the CDP. Simply stated, the UDO is

completely silent regarding the need to obtain all landowners' written consent except when a Tract of land is being considered for the creation of a PDD. In that case, the application for the creation of a PDD "shall be accompanied by each landowner's written consent."

In the absence of any requirement that a landowner's written consent be obtained in the context of an application for the modification or amendment of a CDP, the question becomes – can the Town of Southern Pines require a landowner's written consent when it is not required by the UDO. The cannons of construction, as defined by North Carolina case law, mandate that the Town cannot impose this requirement if it is not contained in the UDO.

As a general rule, ordinances governing the use of land must be strictly construed because they are a derogation of the common law. See *Jones v. Georgia-Pacific Corp.*, 15 N.C. App. 515, 190 S.E.2d 422 (1972). In the case of *Sanford v. Dandy Signs, Inc.*, court held that "everything not clearly within the scope of the language used shall be excluded from the operation of the ordinances, taking the words in their natural and ordinary meaning. (Emphasis added) *Sanford v. Dandy Signs, Inc.*, 62 N.C. App. 568, 569, 303 S.E.2d 228, 230 (1983). See also *Harrison v. Guilford County*, 218 N.C. 718, 12 S.E.2d 269 (1940). In other words, if it is not in the UDO it is excluded from its operation.

The language contained in the Southern Pines' UDO is not ambiguous. It clearly applies only to the creation of a PDD. Because a PDD already exists, that portion of the UDO does not apply to Pinehurst Surgical Realty, LLC's current application for the modification of the CDP. Moreover, even assuming the ordinance was ambiguous and could be interpreted to suggest a landowner's written consent is required, the courts of North Carolina would be "compelled to interpret these ambiguities" in a landowners' favor. *Land v. Vill. of Wesley Chapel*, 206 N.C. App. 123, 697 S.E.2d 458 (2010). See *Yancey v. Heafner*, 268 N.C. 263, 150 S.E.2d 440 (1966) (well-founded doubts as to the meaning of obscure provisions of a zoning ordinance should be resolved in favor of the free use of property); *Capricorn Equity Corp. v. Chapel Hill*, 334 N.C. 132, 431 S.E.2d 183 (1993) (restrictions on usage [must be] construed in favor of the landowner); In *Application of Rea Constr. Co.*, 272 N.C. 715, 708, 158 S.E.2d 887, 819 (1968) (an ordinance is in derogation of the right of private property and provisions therein granting exemptions or permissions are to be liberally construed in favor of freedom of use).

It is my understanding that the PDD has already been created within the Morganton Road North development. It is further my understanding that the creation of that PDD years ago did require all landowners to consent, as required by Section 2.18.3(C). Notwithstanding the fact that the Town of Southern Pines has required the application for conceptual development plans within the existing (already created) PDD to require all landowners' written consent in the past, this practice does not change the legal interpretation of the existing UDO.

Based upon my review of the UDO and the applicable case law, along with the application filed by the Pinehurst Surgical Realty, LLC, it is my opinion that Section 2.18.3(C) of the UDO does not apply because 1) the Tract of land in question is not being "considered for a plan development district" because there already is one, and 2) Pinehurst Surgical Realty, LLC's application is not "for the creation of a PDD."

Please let me know if you have any questions or comments regarding this matter.

Best regards,

VAN CAMP, MEACHAM & NEWMAN, PLLC

A handwritten signature in blue ink, appearing to read 'Thomas M. Van Camp', is written over the printed name below.

Thomas M. Van Camp

## BJ Grieve

---

**From:** BJ Grieve  
**Sent:** Thursday, March 24, 2022 12:54 PM  
**To:** 'bkoontz@koontzjones.com'  
**Cc:** Reagan Parsons; Cindy Williams  
**Subject:** RE: Completeness for Morganton North  
**Attachments:** Letter to Charles Gregg 3-10-2022.pdf

Good afternoon Bob,

Our office has reviewed and researched the attached letter of March 10, 2022 from Thomas M. Van Camp to Charles Gregg. We have conferred with our legal counsel regarding the issues raised by Mr. Van Camp.

At this time, the Town's position remains that an application for a major design modification to amend an existing Conceptual Development Plan (CDP) is subject to the same requirements as the initial submission and therefore is an application that must be "accompanied by each landowner's written consent" per UDO §2.18.3(C).

Therefore, per UDO §2.18.4(D) and (E), application PD-03-22 for "Morganton Park North CDP Amendment" remains incomplete (per our email of February 28, 2022) because each landowner's written consent has not been submitted.

Please note that you may appeal this Administrative Determination to the Board of Adjustment, pursuant to the procedure and criteria set forth in UDO §2.23. You may access the appeal application form by clicking [HERE](#).

Of course, it may be preferable to modify the application for major design modification so that all landowners would be willing to consent.

Thanks,

**BJ Grieve, AICP®, CFM®, CZO**

Planning Director  
Town of Southern Pines  
180 SW Broad Street  
Southern Pines, NC 28387  
Office: (910) 692-4003  
<http://www.southernpines.net/>

---

**From:** bkoontz@koontzjones.com <bkoontz@koontzjones.com>  
**Sent:** Wednesday, March 16, 2022 3:40 PM  
**To:** BJ Grieve <BJGrieve@southernpines.net>  
**Cc:** Reagan Parsons <Parsons@southernpines.net>  
**Subject:** Completeness for Morganton North

BJ,

Attached is a letter from Tom Van Camp, addressed to Charles Gregg, related to the signature requirements related to the PDD zoning and associated CDP application process. The letter serves as Tom's legal opinion of the signature requirements based on reading the ordinance and reviewing the State of NC case files related to similar issues.

We would like to submit Tom's letter and ask that you review the included information in relation to the Completeness Review for the Morganton Park North project. It is requested that the CDP application be permitted to move forward at the regularly scheduled Planning Board meeting on April 21<sup>st</sup>. Please let me know if you have any questions.

Thanks,  
Bob

Bob Koontz, PLA  
Principal

**KOONTZJONES**Design

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150 SOUTH PAGE STREET | SOUTHERN PINES, NC 28387 | P: 910-639-4058



## Board of Adjustment Hearing Request

### **REQUIRED APPLICATION MATERIALS:**

- \_\_\_\_\_ **Application fee** in the amount of **\$500.00**.
- \_\_\_\_\_ **Completed Application** requesting a **variance** or an **appeal of an order or determination made by an administrative official** signed by the applicant. Please do not leave anything blank and make sure all of the information provided is correct.
- \_\_\_\_\_ **List of Adjacent Property Owners:** Please list all properties that are that are within two hundred (200) feet of the outermost boundaries of the subject property (**not counting streets, railroads or other transportation corridors**). Attach additional pages if needed. No fewer than ten (10) property owners shall be notified by mail.
- \_\_\_\_\_ **Appointment of Agent**, if applicable, signed by the property owner and the agent.
- \_\_\_\_\_ **Deed** copy, if applicable, to provide proof of ownership and property boundaries.
- \_\_\_\_\_ **Purpose of request:** Please provide additional text and/or maps to demonstrate consistency with the criteria listed in **UDO §2.22.6** for variance or in **§2.23.7** for an appeal. The list of criteria for each type of request is attached.
- \_\_\_\_\_ **Electronic copy (PDF) of all application materials** submitted to [plan@southernpines.net](mailto:plan@southernpines.net).

### **REVIEW AND APPROVAL:**

1. **Staff review:** Planning staff will review the application and notify the applicant if additional materials are needed.
2. **Public hearing:** The Board of Adjustment shall conduct a public hearing and approve, conditionally approve or deny the application based on all applicable criteria. (Please refer to the **Application Processing Timeline** to determine the hearing date.) The applicant or a representative of the applicant is expected to attend all meetings and be prepared to answer questions concerning the request. The absence of the applicant or representative is sufficient grounds to warrant a deferral of action by the Board of Adjustment.
3. **Decision of the Board:** The applicant will be notified of the Board's decision in writing within thirty (30) days of the public hearing.

PLANNING DEPARTMENT  
TOWN OF SOUTHERN PINES  
801 SW SERVICE ROAD, SOUTHERN PINES, NC 28387  
[plan@southernpines.net](mailto:plan@southernpines.net) (910) 692-4003 [www.southernpines.net](http://www.southernpines.net)

1/12/22



# Variance or Appeal Application

Fee: \$500.00

Date Received: \_\_\_\_\_ Case No.: A-\_\_\_\_-\_\_\_\_

### TO THE TOWN OF SOUTHERN PINES BOARD OF ADJUSTMENT:

I, the undersigned, do hereby make application for your consideration of the following request:

- Variance (complete Section A below)
- Appeal of order or determination made by an administrative official (complete Section B below)
- Zoning Map Interpretation

### Subject Property:

Street Address: Morganton Park North CDP; North Side of Morganton Rd. between Henley St. and Felton Capel Ln.

PIN: See Attached Initial Application Parcel ID: See Attached Initial Application

Site Size: +/- 117 AC Lot Frontage: \_\_\_\_\_ Lot Depth: \_\_\_\_\_ Zoning District: PD

The property is located on the North side of Morganton Rd. (Street/Avenue) between Brucewood Rd. (Street/Avenue) and Tanglewood Dr. (Street/Avenue).

### Project Information:

Street Address: Morganton Park North CDP; North Side of Morganton Rd. between Henley St. and Felton Capel Ln.

PIN: See Attached Initial Application Parcel ID: See Attached Initial Application

Site Size: +/- 117 AC Zoning: PD

### Applicant:

Name(s): Pinehurst Surgical Clinic Realty, LLC

Email: cgregg@pinehurstsurgical.com Phone: 910-215-2646

Mailing Address: 5 First Village Dr. Pinehurst, NC 28374

### Authorized Agent, if different from Applicant:

Name(s): Koontz Jones Design

Email: bkoontz@koontzjones.com Phone: 910-684-8487

Mailing Address: 150 South Page St. Southern Pines, NC 28387

### Legal Property Owner(s), if different from Applicant:

Name(s): See attached initial application

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

1/12/22

**SECTION A – VARIANCE**

1. The requirement of the Town’s Unified Development Ordinance from which a variance is being sought is the provision of Section \_\_\_\_\_ of the Unified Development Ordinance that states as follows:

\_\_\_\_\_

2. The property that is the subject of this application fails to meet the requirements in following way:

\_\_\_\_\_

3. A written narrative addressing **UDO §2.22.6 Criteria (A) through (D)** is attached to this application.

**SECTION B – APPEAL OF ORDER OR DETERMINATION**

1. The name and title of the administrative official who made the order or determination:

Name: BJ Grieve Title: Planning Director

2. The order or determination that is the subject of this appeal: that application PD-03-22 for "Morganton Park North CDP Amendment" remains incomplete because each landowner's written consent has not been submitted.

3. Describe the manner in which you contend the order or determination was erroneous:

The UDO is silent on a signature requirement for all landowners within a PDD for amending a CDP. See attached letter further explaining applicant's position.

4. If you are not the owner of the property that was subject to the order or determination, describe the basis for concluding that you are financially harmed in a manner different from the harm suffered by the general public. \_\_\_\_\_

Date: 03/30/2022

*Charles Gregg* dotloop verified  
03/30/22 4:02 PM EDT  
6PHE-7B77-WGKK-DHSW

Applicant

*Robert Koontz* dotloop verified  
03/30/22 3:04 PM CDT  
RNBX-I6FT-QMME-URJT

Agent

### APPOINTMENT OF AGENT

The undersigned owner(s), Pinehurst Surgical Clinic Realty, LLC, hereby appoint(s) Koontz Jones Design as the exclusive agent for the purpose of making an application to the Town of Southern Pines for a **variance** or an **appeal of an order or determination made by an administrative official** as described in the attached application. The owner(s) hereby agree that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Board of Adjustment for the issuance of a **variance** on the subject property or the **appeal of an order or determination made by an administrative official**; and
4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of an application for a **variance** or an **appeal of an order or determination made by an administrative official** under the Southern Pines Unified Development Ordinance.

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

Signed this 30 day of March, 2022.

<i>Charles Gregg</i>	dotloop verified 03/30/22 4:02 PM EDT JGEC-CVYW-01WZ-2CVI
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Property Owner

\_\_\_\_\_  
Property Owner

<i>Robert Koontz</i>	dotloop verified 03/30/22 3:04 PM CDT SVR3-6EJF-KCWK-LWGI
----------------------	---

Agent

## **UDO §2.22. Variance**

### **§2.22.1. Purpose and Applicability**

The Board of Adjustment shall have the power to vary the certain UDO regulations when the Applicant demonstrates that the criteria in this section justify relief from the strict application of the regulations in this UDO. No change in permitted uses may be authorized by variance.

### **§2.22.6. Criteria**

A variance may be granted by the Board of Adjustment if it finds that:

- (A) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (B) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance.
- (C) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.
- (D) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

---

## **UDO §2.23. Appeals**

### **§2.23.1 Purpose and Applicability**

Any person, including any officer or agency of the Town, aggrieved by a final Development Approval relating to an application for Development approval by the Planning Director or other member of the Town's administration, may appeal such Development Approval to the Board of Adjustment in the manner provided in this section. Should any person be aggrieved by any decision of the Board of Adjustment, they shall have the right to appeal same to the Circuit Court of Moore County, North Carolina, in the manner prescribed by law.

### **§2.23.7. Criteria**

In evaluating an Appeal, the Board of Adjustment shall determine whether the action being appealed:

- (A) Was made based on correct interpretation of the UDO and other applicable regulations; and
- (B) Reflected the correct response to the application that was approved, denied or conditionally approved.

**Please reference UDO §2.22 and §2.23 ([www.southernpinesudo.org](http://www.southernpinesudo.org)) for additional information.**

PID 20150046  
Morganton Park Realty Site 2, LLC  
5 First Village Dr.  
Pinehurst, NC 28374

PID 20210067  
ITAC 483, LLC  
639 Executive Pl. Ste. 400  
Fayetteville, NC 28305

PID 20150044  
Morganton Park North Master Association, Inc.  
5 First Village Dr.  
Pinehurst, NC 28374

PID 20190270  
PACN Realty, LLC  
5 First Village Dr.  
Pinehurst, NC 28374

PID 20150045  
Pavilion at Morganton Park, LLC  
4140 Sharon Commons Ln.  
Southern Pines, NC 28387

PID 20190014  
S&S Partners, LLP  
195 W. Illinois Ave.  
Southern Pines, NC 28387

PID 20190271  
Morganton Park Realty, LLC  
5 First Village Dr.  
Pinehurst, NC 28374

PID 20200203  
Pinehurst Medical Group, LLC  
205 Page Rd.  
Pinehurst, NC 28374

PID 20130093  
Morganton Park, LLC  
PO Box 56607  
Atlanta, GA 56607

PID 20071162  
Plantation Investors, LLC  
P.O. Box 8000  
Pinehurst, NC 28374

PID 00038504  
Pines Cemetery Services, LLC  
PO Box 655  
Carthage, NC 28327

PID 20160262  
Pinelawn Management, LLC  
360 N. Walnut St.  
Pinebluff, NC 28373



**From:** BJ Grieve <BJGrieve@southernpines.net>  
**Sent:** Thursday, March 24, 2022 12:54 PM  
**To:** Bob Koontz <bkoontz@koontzjones.com>  
**Cc:** Reagan Parsons <Parsons@southernpines.net>; Cindy Williams <CWilliams@southernpines.net>  
**Subject:** RE: Completeness for Morganton North

Good afternoon Bob,

Our office has reviewed and researched the attached letter of March 10, 2022 from Thomas M. Van Camp to Charles Gregg. We have conferred with our legal counsel regarding the issues raised by Mr. Van Camp.

At this time, the Town's position remains that an application for a major design modification to amend an existing Conceptual Development Plan (CDP) is subject to the same requirements as the initial submission and therefore is an application that must be "accompanied by each landowner's written consent" per UDO §2.18.3(C).

Therefore, per UDO §2.18.4(D) and (E), application PD-03-22 for "Morganton Park North CDP Amendment" remains incomplete (per our email of February 28, 2022) because each landowner's written consent has not been submitted.

Please note that you may appeal this Administrative Determination to the Board of Adjustment, pursuant to the procedure and criteria set forth in UDO §2.23. You may access the appeal application form by clicking [HERE](#).

Of course, it may be preferable to modify the application for major design modification so that all landowners would be willing to consent.

Thanks,

↑  
1  
Decision being appealed

# VAN CAMP, MEACHAM & NEWMAN, PLLC

ATTORNEYS AT LAW

THOMAS M. VAN CAMP  
EDDIE H. MEACHAM  
MICHAEL J. NEWMAN  
RICHARD LEE YELVERTON III  
WHITNEY P. FOUSHEE  
KIMBERLY C. POST  
DONALD L. MCLAMB, II  
JOSEPH H. KARAM  
JOHN S. McCOOL  
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THOMAS M. VAN CAMP  
Attorney at Law  
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LARISA GREEN  
Paralegal  
larisag@vancamplaw.com

Telephone: (910) 295-2525  
Facsimile: (910) 295-2001

March 10, 2022

## VIA E-MAIL

Mr. Charles Gregg  
cgregg@pinhurstsurgical.com

RE: Pinehurst Surgical Realty, LLC's Application

Dear Mr. Gregg:

At your request, I have reviewed the Southern Pines Unified Development Ordinance to determine whether or not it requires each landowner's written consent in order to modify an existing Planned Development District ("PDD") or a Conceptual Development Plan (CDP). Section 2.18 of the UDO addresses planned developments, including "the general approval process for the creation of a PDD." Section 2.18.3, intitled "Initiation," includes 5 separate and distinct procedural requirements, including 1) pre-application conference; 2) application filing; 3) ownership and division of land; 4) neighborhood meeting; and 5) joint work session (optional).

Pursuant to Section 2.18.3, which addresses the initiation of the PDD, subsection (C) states the following:

**Ownership and Division of Land.** No Tract of land may be considered for a Planned Development District (PDD) unless such Tract is under single or unified ownership or control. If listed in several ownerships, the application for the creation of a PDD shall be accompanied by each landowner's written consent. The holder of a written option to purchase or a developer under contract shall be considered an owner for the purposes of this section provided the landowner's (or landowners') written consent is included with the application. (Emphasis added)

A plain reading of subsection (C) of Section 2.18.3 dictates that the provision only applies when the Town of Southern Pines is considering the "creation of the PDD." There is no provision in Section 2.18.3, or anywhere else in the UDO, which requires a "landowner's written consent" after a PDD has already been established and a landowner seeks to modify or amend an existing CDP to relocate a future road. Moreover, Section 2.18.4, which addresses Conceptual Development Plans, does not contain a provision requiring each landowner's written consent relating to presentation, creation, or modification of the CDP. Simply stated, the UDO is

completely silent regarding the need to obtain all landowners' written consent except when a Tract of land is being considered for the creation of a PDD. In that case, the application for the creation of a PDD "shall be accompanied by each landowner's written consent."

In the absence of any requirement that a landowner's written consent be obtained in the context of an application for the modification or amendment of a CDP, the question becomes – can the Town of Southern Pines require a landowner's written consent when it is not required by the UDO. The canons of construction, as defined by North Carolina case law, mandate that the Town cannot impose this requirement if it is not contained in the UDO.

As a general rule, ordinances governing the use of land must be strictly construed because they are a derogation of the common law. See *Jones v. Georgia-Pacific Corp.*, 15 N.C. App. 515, 190 S.E.2d 422 (1972). In the case of *Sanford v. Dandy Signs, Inc.*, court held that "everything not clearly within the scope of the language used shall be excluded from the operation of the ordinances, taking the words in their natural and ordinary meaning. (Emphasis added) *Sanford v. Dandy Signs, Inc.*, 62 N.C. App. 568, 569, 303 S.E.2d 228, 230 (1983). See also *Harrison v. Guilford County*, 218 N.C. 718, 12 S.E.2d 269 (1940). In other words, if it is not in the UDO it is excluded from its operation.

The language contained in the Southern Pines' UDO is not ambiguous. It clearly applies only to the creation of a PDD. Because a PDD already exists, that portion of the UDO does not apply to Pinehurst Surgical Realty, LLC's current application for the modification of the CDP. Moreover, even assuming the ordinance was ambiguous and could be interpreted to suggest a landowner's written consent is required, the courts of North Carolina would be "compelled to interpret these ambiguities" in a landowners' favor. *Land v. Vill. of Wesley Chapel*, 206 N.C. App. 123, 697 S.E.2d 458 (2010). See *Yancey v. Heafner*, 268 N.C. 263, 150 S.E.2d 440 (1966) (well-founded doubts as to the meaning of obscure provisions of a zoning ordinance should be resolved in favor of the free use of property); *Capricorn Equity Corp. v. Chapel Hill*, 334 N.C. 132, 431 S.E.2d 183 (1993) (restrictions on usage [must be] construed in favor of the landowner); In *Application of Rea Constr. Co.*, 272 N.C. 715, 708, 158 S.E.2d 887, 819 (1968) (an ordinance is in derogation of the right of private property and provisions therein granting exemptions or permissions are to be liberally construed in favor of freedom of use).

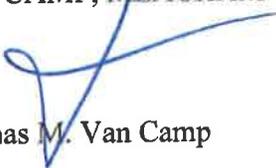
It is my understanding that the PDD has already been created within the Morganton Road North development. It is further my understanding that the creation of that PDD years ago did require all landowners to consent, as required by Section 2.18.3(C). Notwithstanding the fact that the Town of Southern Pines has required the application for conceptual development plans within the existing (already created) PDD to require all landowners' written consent in the past, this practice does not change the legal interpretation of the existing UDO.

Based upon my review of the UDO and the applicable case law, along with the application filed by the Pinehurst Surgical Realty, LLC, it is my opinion that Section 2.18.3(C) of the UDO does not apply because 1) the Tract of land in question is not being "considered for a plan development district" because there already is one, and 2) Pinehurst Surgical Realty, LLC's application is not "for the creation of a PDD."

Please let me know if you have any questions or comments regarding this matter.

Best regards,

VAN CAMP, MEACHAM & NEWMAN, PLLC

  
Thomas M. Van Camp



## Planned Development District Conceptual Development Plan

### REQUIRED APPLICATION MATERIALS:

- Application fee in the amount of \$1,800.00.
- Completed Application for a Planned Development District - Conceptual Development Plan signed by the applicant.
- Appointment of Agent, if applicable, signed by the property owner(s) and the agent.
- Deed copy to provide proof of ownership and property boundaries.
- Written narrative: It is the responsibility of the applicant to demonstrate compliance with all applicable criteria. Please address **UDO §2.18.4(H) Criteria (1) through (4)**. The list of criteria is attached.
- Additional documentation: Additional text and/or maps to demonstrate consistency with the approval criteria listed in **UDO §2.18.4(H) Criteria (1) through (4)**.
- Neighborhood meeting materials: Submit copies of graphics presented at the meeting; a copy of the sign-in sheet showing attendees; representations made by the Applicant regarding the proposed development; and a summary of public comments and responses.
- PDD Conceptual Development Plan: Four (4) full-size copies, one (1) 11" x 17" copy, and a digital copy of a scaled drawing (1" to 100') of the entire tract to be subdivided. Please refer to the **UDO Appendices** to obtain plan requirements.
- Nature of service: Planned utility services and providers.
- Drainage concept plan if applicable.
- Conceptual Transportation Plan if applicable.
- Electronic copy (PDF) of all application materials submitted to [plan@southernpines.net](mailto:plan@southernpines.net).

**PLEASE SUBMIT ONLY ONE (1) COMPLETE SET OF ALL MATERIALS.**

### REVIEW AND APPROVAL:

1. **Staff review**: Planning staff will review the application and notify the applicant if additional information or materials are needed.
2. **Public hearings**: The applicant is expected to attend a public hearing on the application before the Planning Board and before the Town Council the following month. (Please refer to the **Application Processing Timeline** to determine the hearing dates.) The Planning Board will recommend approval, conditional approval or denial to the Town Council. The Town Council will consider that recommendation, as well as evidence and testimony presented, and approve, conditionally approve or deny the request.
3. **Approval**: Please see **UDO §2.18.4(I) Effect of Approval**.

COMMUNITY DEVELOPMENT DEPARTMENT  
TOWN OF SOUTHERN PINES  
180 SW BROAD STREET  
SOUTHERN PINES, NORTH CAROLINA 28387  
[plan@southernpines.net](mailto:plan@southernpines.net) (910) 692-4003 [www.southernpines.net](http://www.southernpines.net)

7-1-19



## Planned Development District Conceptual Development Plan Application

Date Received: \_\_\_\_\_ Fee Paid: \_\_\_\_\_ Case No.: PD-\_\_\_\_-\_\_\_\_

### Project Information:

Project Name: Morganton Park North CDP

Physical address: North side of Morganton Rd between Henley St and Felton Chapel Ln

PIN: See Attached List Parcel ID: See Attached List

Site Size: +/- 117 AC Zoning: PD

### Applicant:

Name(s): Pinehurst Surgical Clinic Realty, LLC c/o Charles Gregg

Email: cgregg@pinehurstsurgical.com Phone: 910-215-2646

Mailing Address: 5 First Village Dr Pinehurst, NC 28374

### Authorized Agent, if different from Applicant:

Name(s): Koontz Jones Design c/o Robert Koontz

Email: bkoontz@koontzjones.com Phone: 910-684-8487

Mailing Address: 150 S Page Street, Southern Pines, NC 28387

### Legal Property Owner(s), if different from Applicant:

Name(s): See Attached Letters

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

7-1-19

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

I, the undersigned, do hereby make application to and petition the Planning Board and Town Council for approval of a Planned Development District – Conceptual Development Plan as required by the Town of Southern Pines Zoning Ordinance. The following information is submitted in support of this application:

The property which is the subject of this application is located on the North side of Morganton Rd (St./Ave.), between Brucewood (St./Ave.) and Tanglewood (St./Ave.). The property has a frontage of +/- 1425 feet and a depth of +/- 1100 feet.

The request is based upon **Section 2.18** of the **Town of Southern Pines Unified Development Ordinance**. The proposed use of the property is as follows: Mixed-use development

**ADJACENT PROPERTY OWNERS:**

Please list all properties that are that are within two hundred (200) feet of the outermost boundaries of the subject property. Attach additional pages if needed. No fewer than ten (10) property owners shall be notified by mail.

1. Adjacent property: See Attached List Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
2. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
3. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
4. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
5. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
6. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_

7-1-19

7. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
8. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
9. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_
10. Adjacent property: \_\_\_\_\_ Parcel ID #: \_\_\_\_\_  
Property owner(s): \_\_\_\_\_  
Mailing address: \_\_\_\_\_

Date: 2/14/2022

  
\_\_\_\_\_  
Applicant

**APPOINTMENT OF AGENT**

The undersigned owner(s), Pinehurst Surgical Clinic Realty, LLC, hereby appoint(s) Koontz Jones Design as the exclusive agent for the purpose of making an application to the Town of Southern Pines for the approval of the Planned Development District – Conceptual Development Plan described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Planning Board and Town Council for the approval of a Planned Development District – Conceptual Development Plan; and
4. to act on behalf of the property owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for a Planned Development District -Conceptual Development Plan under the Southern Pines Unified Development Ordinance.

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

Signed this 14 day of February, 2022

  
\_\_\_\_\_  
Property Owner

  
\_\_\_\_\_  
Property Owner  
\_\_\_\_\_  
Agent

**UDO §2.18 Planned Development**

**§2.18.4(H) Conceptual Development Plan Criteria**

- (1) The Conceptual Development Plan conforms to all applicable provisions of this UDO;
- (2) The Conceptual Development Plan represents an overall Development Pattern that is consistent with the goals and policies of the Comprehensive Plan, Official Zoning Map, Capital Improvements Program, and any other applicable planning documents adopted by the Town;
- (3) The proposed Development is appropriate for the area of the Town in which it is located; and
- (4) The proposed Development will not generate the need for inefficient extensions and expansions of public facilities, utilities and services.

7-1-19

## MORGANTON PARK NORTH CONCEPTUAL DEVELOPMENT PLAN NARRATIVE

The purpose of this PD – Conceptual Development Plan (CDP) application is to modify the current approved CDP (PD-01-18, approved on May 15, 2018) for the Morganton Park North property to modify the Conceptual Transportation Plan (CTP) as indicated in the plan documents on Sheet L-1.3 and other documents that reflect this change. The application allows options for construction of roadway connections west of Brucewood Road. Portions of the development, approved under the previous CDP, have been implemented, including a multi-family community, a mixed-use building and the new elementary school is well along with construction. The area is currently indicated as a PD zoning district on the Town of Southern Pines Zoning Map and designated as Traditional Mixed-Use in the Town's Comprehensive Long-Range Plan (CLRP). This application and narrative, combined with the associated plans represent the revised CDP for the Morganton Park North property.

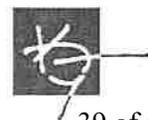
The Town's Conceptual Development Plan application form is included. Items required per Section 2.18.4, Conceptual Development Plan, of the Town's UDO are included as part of this request. The Conceptual Development Plan of this property shall include all standards and conditions included in these plans.

The proposed PD – CDP and land uses for the Morganton Park North are consistent with the Town's Comprehensive Long-Range Plan (CLRP) and promote its objectives, as did the previously approved CDP. The CLRP designates the property as Traditional Mixed-Use. This CDP encourages a variety of land uses and building types including multi-family residential, retail, public institutional (elementary school), hotel, service and office uses. The CDP results in a master planned development, and discourages disjointed, piecemeal development.

As mentioned previously, the intent of this application is to modify the approved CTP as shown of Sheet L-1.3. The applicant is seeking this modification to amend the roadway requirements for Carlisle Street west of Brucewood Road to allow for flexibility in the construction of facilities on the western portion of the Morganton Park North property as follows:

Carlisle Street west of Brucewood Road may be constructed per either of the options illustrated in this Conceptual Development Plan (CDP) application. Proposed future Preliminary Development Plan (PDP) applications will designate and provide detailed information on how Carlisle Street west of Brucewood Road will be constructed based on the proposed development plan for the property and parcel(s).

Carlisle Street will not be required to connect to Tanglewood but may be constructed to connect should a development plan utilize this connection or a Traffic Impact Analysis for the proposed site-specific development plan require this connection to be made. Should no connection to Tanglewood be made, the area remaining shall be utilized primarily for open space and/or recreation.



At a minimum, Carlisle Street west of Brucewood Road must be constructed to connect to the rear access drive for the Legends Apartments, to provide adequate emergency ingress/egress to the apartment community. The first 200' of Carlisle Street west of Brucewood must be designed as a boulevard section to match Carlisle Street east of Brucewood Road. After the first 200', the roadway may transition to a two-lane roadway constructed as a 60' right-of-way with a 27' road width from back of curb to back of curb as indicated in the "Minor Street (60' Right-of-way)" cross section shown of sheet L-1.3.

In addition, the applicant would request that consideration be given to Moore County Schools request to lower the speed limit along Carlisle Street from 35 mph to 25 mph per their authorization letter dated February 14, 2022.

It is intended that the revised CDP will conform to all sections of the UDO related to the Morganton Road area including Highway Corridor Overlay Districts and the Morganton Road Overlay District, with exceptions to the collector street cross section requested above. The plans provided with this application include the following amended documents:

- Sheet L-1.1 Conceptual Land Use Plan
- Sheet L-1.2 Concept Plan/Phasing Plan
- Sheet L-1.3 Conceptual Transportation Plan
- Written Narrative
- Conceptual Development Plan Justification
- Other associated required documents

The descriptions and conditions described within the plan documents, this narrative and the CDP justification will apply to the entire project and serve as the amended Conceptual Development Plan for the entire property. Any future PDP must follow the standards and requirements set forth in this document.

# EXHIBIT A

## Morganton Park North Conceptual Development Plan Justification

Below are listed the four (4) criteria required to approve a Conceptual Development Plan (CDP) application as described in Section 2.18.4(G) of the Town of Southern Pines UDO. Following the individual criteria is an explanation, indicated in red, describing how the project demonstrates compliance with each of these criteria.

A Conceptual Development Plan is permitted if the Applicant demonstrates that:

- (A) The proposed PDD satisfies the criteria for a zoning map amendment established in this chapter;

The property is zoned planned development (PD) on the official zoning maps with a previously approved conceptual development plan. The purpose of this CDP application is to simply modify the existing approved Conceptual Development Plan to allow for a modification to the roadway cross section standard and required improvements west of Brucewood Road. In addition, the revised CDP will conform to all sections of the UDO related to the Morganton Road area including Highway Corridor Overlay Districts and the Morganton Road Overlay District.

- (B) The Conceptual Development Plan represents an overall Development Pattern that is consistent with the goals and policies of the Comprehensive Plan, Official Zoning Map, Capital Improvements Program, and any other applicable planning documents adopted by the Town;

The CDP is consistent with the goals and policies of the UDO. The property is zoned PD on the official zoning maps. The CDP complies with the requirements of the PD district. The proposed PD – CDP and land uses for the Morganton Park North are consistent with the Town's Comprehensive Long-Range Plan (CLRP) and promote its objectives. The CLRP has designated the property as Traditional Mixed-Use. This CDP encourages a variety of land uses and building types, including multi-family residential, retail, public institutional (elementary school), hotel, service and office uses. The CDP results in a master planned development, and discourages disjointed, piecemeal development. These are all goals of the Town's Planning documents.

- (C) The proposed Development is appropriate for the area of the Town in which it is located; and

A multi-family community, mixed-use (retail and office) building, two medical buildings and elementary school have been developed on the site, adhering to the previously approved CDP. In addition, a pediatric medical building and another 60,000 sf medical building have been approved through the PDP process. The revised CDP complies with the PD zoning district, existing development and the current development pattern. The CLRP designates this property as traditional mixed-use. The CDP plans provide the development standards necessary to develop a traditional mixed-use project on the property and continue the pattern of development that is currently being implemented on the property.

- (D) The proposed Development will not generate the need for inefficient extensions and expansions of public facilities, utilities and services.

Public water and sewer utilities are readily available for the project and have already been extended to portions of the property. Roadway connections will be provided and efficiently connect adjoining neighborhoods to the properties circulation network as indicated on the Conceptual Transportation Plan. All roadways will be constructed to the standards for roadways indicated in this Conceptual Transportation Plan and dedicated to the Town.

**NEIGHBORHOOD MEETING REPORT**

DATE: March 17, 2020

PROJECT: Morganton Park North CDP

LOCATION: 150 South Page Street, Southern Pines, NC (Office of Koontz Jones Design)

SUBMITTED BY: Bob Koontz

ATTENDEES: Bob Koontz, Koontz Jones Design, PLLC

An informal Neighborhood Meeting was held on Tuesday March 17, 2020 from 4:00 pm to 6:00 pm at the office of Koontz Jones Design. This meeting is required by the Town of Southern Pines UDO for all Conceptual Development Plan (CDP) zoning requests in the Planned Development (PD) district. The property owner and project team held this meeting with the adjoining property owners to present the project and solicit feedback for the proposed CDP modification. All adjoining parcel owners within 200' of the property, as directed for neighborhood meeting notification in the PDO, were notified by letter (see attached copy of the letter) ten (10) days prior to the meeting date.

The meeting was informal in nature to allow adjoining property owners the opportunity to drop by at their convenience to review preliminary plans and ask questions of the development team. No formal presentation was provided. Drawings of the proposed CDP were provided for review by the property owners. A development team member was available to answer questions regarding the proposed CDP.

Two invited property owner's representatives of properties within the Morganton Park North CDP area took the opportunity to review the plans and discuss the project with the development team. A meeting sign-in sheet has been included showing attendees information. The CDP was presented to Mr. Birath with Moore County Schools and Mr. Washington, with Kuester Development, and discussed. The modifications to Patriot Way and Pavilion Way were discussed and reviewed. Overall, comments were positive.

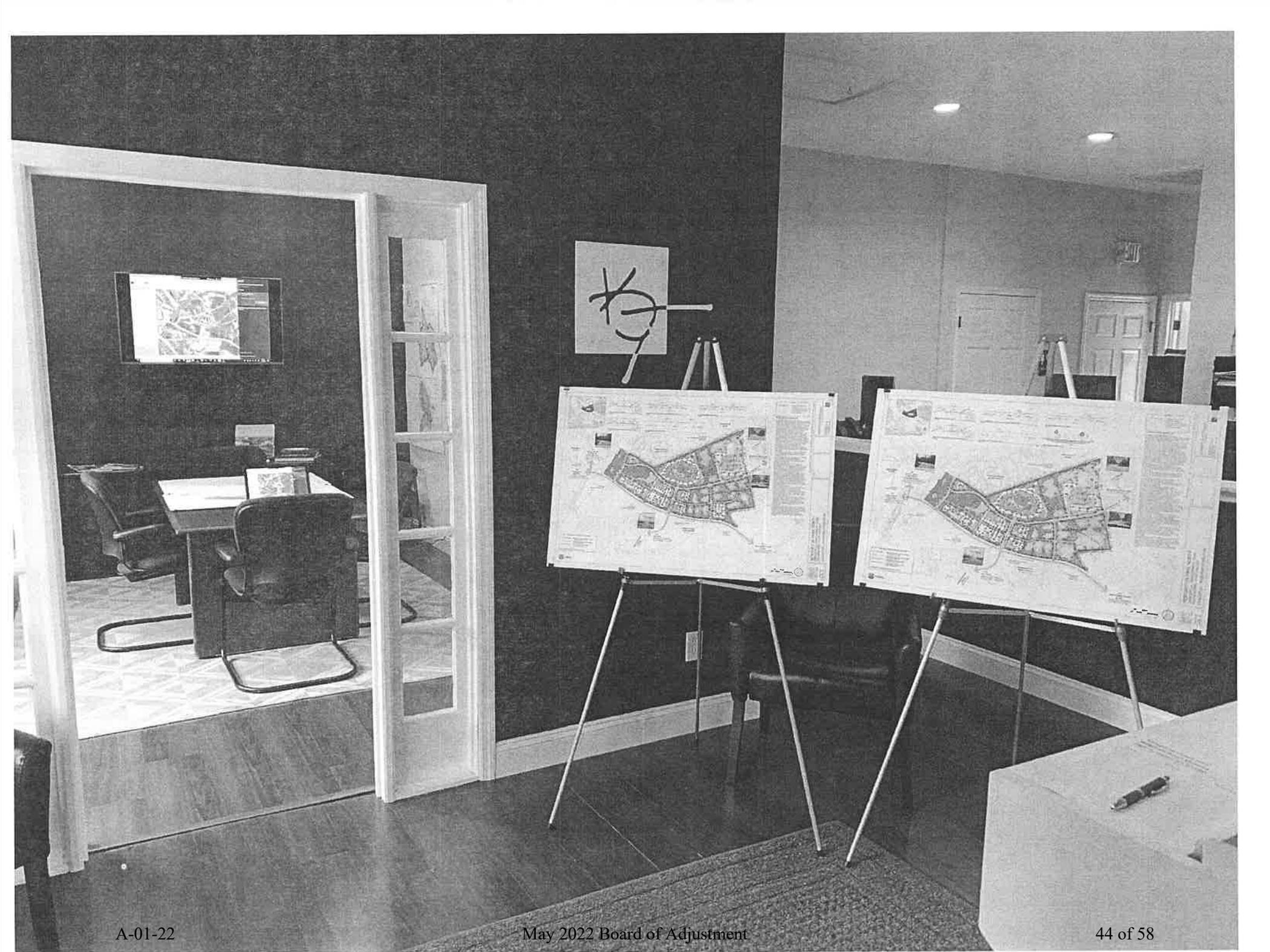


Robert Koontz, RLA

These notes reflect the author's interpretation of the events during the referenced meeting. Any additions or modifications required should be submitted to the author in writing.







March 5, 2020

Dear adjoining property owner,

A Neighborhood Meeting will be held to discuss the modification of the Conceptual Development Plan for the Morganton Park North Property. The property is currently zoned PD (Planned Development) with an approved Conceptual Development Plan and is part of the Morganton Park Development. The applicant is seeking to adjust the roadway cross section standard for a proposed road within the development. The road will connect from Morganton Road to the new Carlisle Street extension within the development.

This is not a public hearing. The purpose of this meeting is to inform neighboring property owners of the proposal and to seek comments. The drop-in meeting will be held on March 17th, 2020 between the hours of 4:00 pm and 6:00 pm at the offices of Koontz Jones Design, located at 150 South Page Street in Southern Pines. This meeting will be informal, with no scheduled presentation, so feel free to come by at your convenience during the designated hours. Conceptual plans will be made available for review and discussion with members of the project team. Anyone seeking additional information regarding this project may call (910) 639-4058.

Best Regards,



Robert Koontz, PLA





February 14, 2022

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

---

Mr. Grieve,

Moore County Board of Education gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to proposed revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for properties described below.

Parcel ID Number: 20160480  
PIN Number: 857200506765  
Deed Book: 4732, Page: 327

Parcel ID Number: 20160481  
PIN Number: 857200508257  
Deed Book: 4732, Page: 332

Parcel ID Number: 20180415  
PIN Number: 857200610018  
Deed Book: 5091, Page: 79

Owned by:

Moore County Board of Education  
PO BOX 1180  
Carthage, NC 28327

The authorization is limited to the petition of changes to the Conceptual Transportation Plan for the layout and construction of South Carlisle Street west of

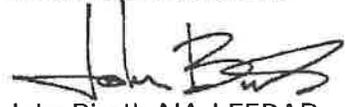
P.O. Box 1180 • Carthage, North Carolina 28327  
phone: 910-947-2976 • fax: 910-947-3011 • [www.ncmcs.org](http://www.ncmcs.org)

Brucewood Road. Furthermore, this authorization is contingent upon the petitioner including a request to reduce the speed limit on South Carlisle Street at the Southern Pines Elementary School from 35mph to 25 mph. This is consistent with the current and previous condition on South Carlisle Street at the old Southern Pines Primary School and as indicated in the Town approved Traffic Impact Analysis for the new school prepared by Kimley-Horn and Associates, Inc. dated July 26, 2018.

Please contact me with any questions or comments that you may have.

Respectfully,

Moore County Schools



John Birath AIA, LEEDAP  
Executive Officer for Operations

c: Rod Malone, Tharrington-Smith, via email

December 28, 2020

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

S & S Partners LLP gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

Parcel ID Number: 20190014  
PIN Number: 857100496541  
Deed Book: 5081, Page: 398

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Owned by:

S & S Partners LLP  
Attn: Christoph Diasio  
195 W Illinois Avenue  
Southern Pines, NC 28387

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Diasio', is written over a horizontal line. The signature is cursive and includes a small flourish at the end.

Christoph Diasio  
Partner  
S & S Partners LLP

January 20, 2022

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

Morganton Park Realty, LLC gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

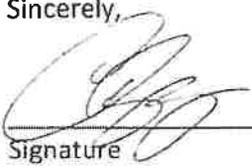
Parcel ID Number: 20190271  
PIN Number: 857100590565  
Deed Book: 5210, Page: 279

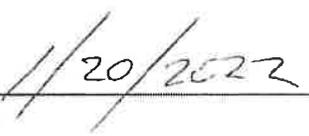
---

Owned by:

Morganton Park Realty, LLC  
Attn: Charles Gregg  
5 First Village Drive  
Pinehurst, NC 28374

Sincerely,

  
Signature

  
Print

Manager  
Morganton Park Realty, LLC

January 20, 2022

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

Pinehurst Surgical Clinic Realty, LLC gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

Parcel ID Number: 20190272  
PIN Number: 857100597408  
Deed Book: 5210, Page: 301

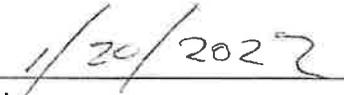
---

Owned by:

Pinehurst Surgical Clinic Realty, LLC  
Attn: Charles Gregg  
5 First Village Drive  
Pinehurst, NC 28374

Sincerely,

  
Signature

  
Print

Manager  
Pinehurst Surgical Clinic Realty, LLC

January 20, 2022

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

Morganton Park Realty, LLC gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

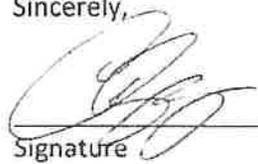
Parcel ID Number: 20190271  
PIN Number: 857100590565  
~~Deed Book: 5210, Page: 279~~

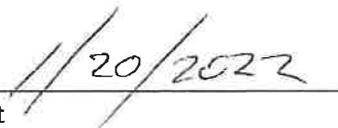
---

Owned by:

Morganton Park Realty, LLC  
Attn: Charles Gregg  
5 First Village Drive  
Pinehurst, NC 28374

Sincerely,

  
Signature

  
Print

Manager  
Morganton Park Realty, LLC

January 20, 2022

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

Pinehurst Surgical Clinic Realty, LLC gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

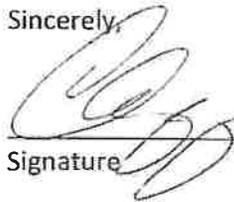
Parcel ID Number: 20190272  
PIN Number: 857100597408  
~~Deed Book: 5210, Page: 301~~

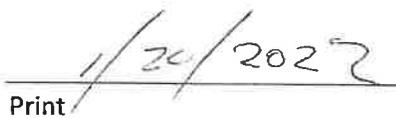
---

Owned by:

Pinehurst Surgical Clinic Realty, LLC  
Attn: Charles Gregg  
5 First Village Drive  
Pinehurst, NC 28374

Sincerely,

  
Signature

  
Print

Manager  
Pinehurst Surgical Clinic Realty, LLC

December 28, 2020

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

The Pavilion at Morganton Park, LLC gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

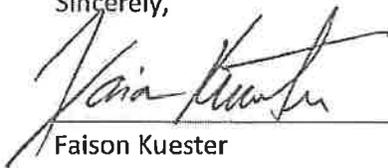
Parcel ID Number: 20150045  
PIN Number: 857100495159  
Deed Book: 4448, Page: 206

---

Owned by:

The Pavilion at Morganton Park North  
Attn: Faison Kuester  
4140 Sharon Commons Lane  
Charlotte, NC 28210

Sincerely,



---

Faison Kuester  
Managing Partner  
The Pavilion at Morganton Park North

December 28, 2020

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

Morganton Park North Master Association, Inc. gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

Parcel ID Number: 20150044  
PIN Number: 857100397998  
Deed Book: 4447, Page: 433

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Parcel ID Number: 20150043  
PIN Number: 857100492841  
Deed Book: 4447, Page: 433

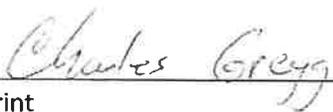
Parcel ID Number: 20190273  
PIN Number: 857100495394  
Deed Book: 5296, Page: 440

Owned by:

Morganton Park North Master Association, Inc.  
Attn: Charles Gregg  
PO Box 2000  
Pinehurst, NC 28374

Sincerely,

  
Signature

  
Print

Manager  
Morganton Park North Master Association, Inc.

December 28, 2020

BJ Grieve  
Planning Director  
Town of Southern Pines Planning Department  
180 SW Broad Street  
Southern Pines, NC 28387

Mr. Grieve,

PACN Realty, LLC gives authorization to Koontz Jones Design permitting the preparation and submission of all necessary documents related to revisions of the Conceptual Development Plan for Morganton Park North as required by the Town of Southern Pines Unified Development Ordinance for property described below.

Parcel ID Number: 20190270

PIN Number: 857100399573

Deed Book: 5210, Page: 269

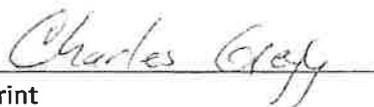
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Owned by:

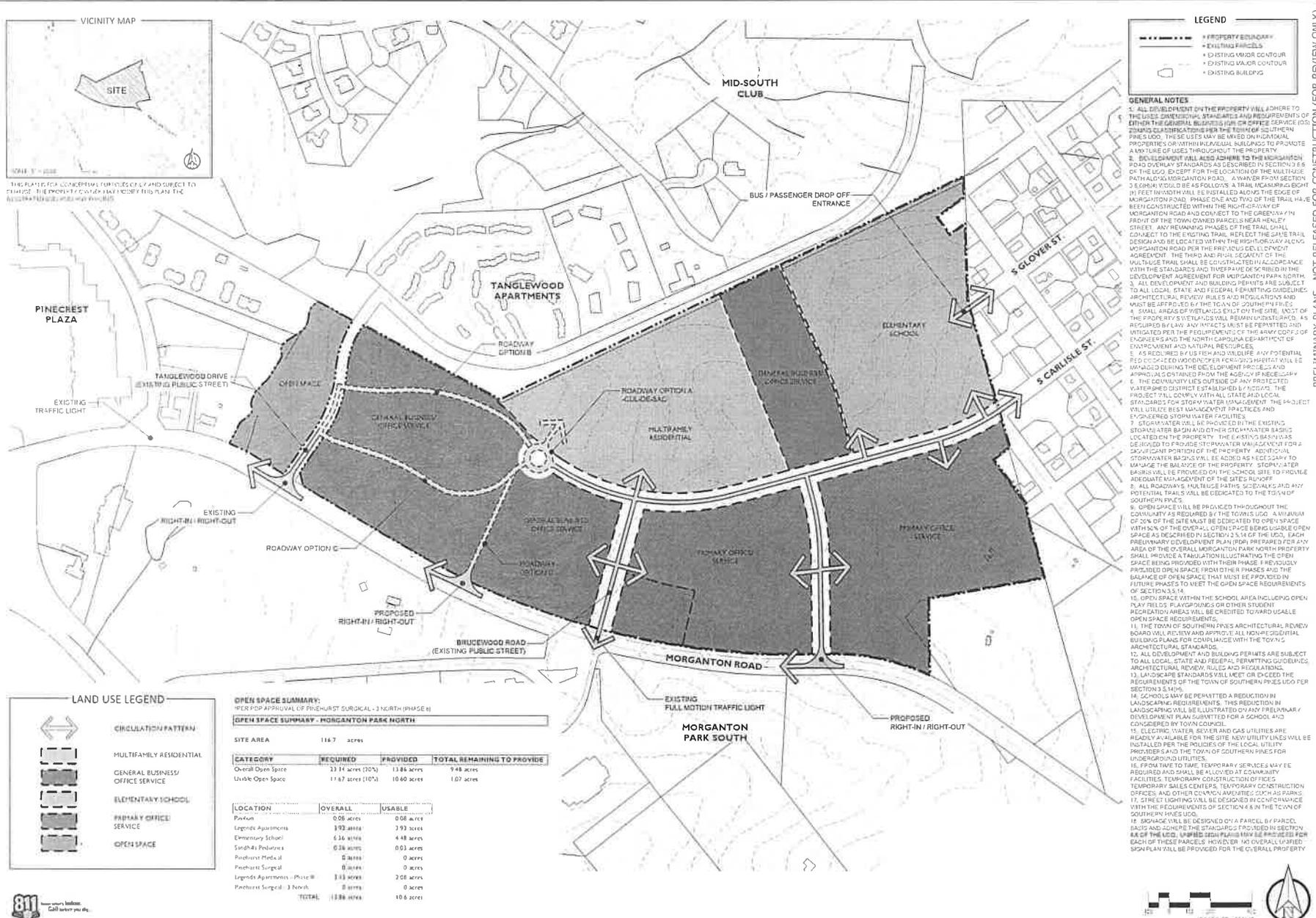
PACN Realty, LLC  
Attn: Charles Gregg  
PO Box 2000  
Pinehurst, NC 28374

Sincerely,

  
Signature

  
Print

Manager  
PACN Realty, LLC



**LEGEND**

- PROPERTY BOUNDARY
- EXISTING BUILDINGS
- EXISTING MAJOR CONTOUR
- EXISTING MAJOR CONTOUR
- EXISTING BUILDINGS

- GENERAL NOTES**
- ALL DEVELOPMENT ON THE PROPERTY WILL ADHERE TO THE LATEST DIMENSIONAL STANDARDS AND REQUIREMENTS OF EITHER THE GENERAL BUILDING PERMITS OFFICE SERVICE (GDB) OR THE SOUTHERN PINES PLANNING AND ZONING DEPARTMENT FOR THE TOWN OF SOUTHERN PINES, NC. THESE USES MAY BE MIXED ON INDIVIDUAL PROPERTIES OR WITHIN INDIVIDUAL BUILDINGS TO PROMOTE A MIXTURE OF USES THROUGHOUT THE PROPERTY.
  - DEVELOPMENT WILL ADHERE TO THE MORGANTON ROAD OVERLAY STANDARDS AS DESCRIBED IN SECTION 3.6.6 OF THE LGD. EXCEPT FOR THE LOCATION OF THE MULTISTAGE PATH ALONG MORGANTON ROAD. A WALKER FROM SECTION 3.6.6 SHALL BE AS FOLLOWS: A TRAIL, MEASURING 8-10 FEET IN WIDTH WILL BE INSTALLED ALONG THE EDGE OF MORGANTON ROAD. PHASE ONE AND TWO OF THE TRAIL SHALL BE RECONSTRUCTED WITH THE RIGHT-OF-WAY OF MORGANTON ROAD AND CONNECT TO THE GREENWAY IN FRONT OF THE TOWN OWNED PARCELS NEAR HELEY STREET. ANY REMAINING PHASES OF THE TRAIL SHALL CONNECT TO THE EXISTING TRAIL. REFLECT THE GATE TRAIL DESIGN AND BE LOCATED WITHIN THE RIGHT-OF-WAY ALONG MORGANTON ROAD PER THE PREVIOUS DEVELOPMENT AGREEMENT. THE TRAIL AND FINAL LOCATION OF THE MULTISTAGE TRAIL SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS AND THERAPEUTIC DESCRIBED IN THE DEVELOPMENT AGREEMENT FOR MORGANTON PARK NORTH.
  - ALL DEVELOPMENT AND BUILDING PERMITS ARE SUBJECT TO ALL LOCAL, STATE AND FEDERAL REQUIREMENTS. ARCHITECTURAL REVIEW RULES AND REGULATIONS AND MUST BE APPROVED BY THE TOWN OF SOUTHERN PINES.
  - SMALL AREAS OF WETLANDS EXIST ON THE SITE. MOST OF THE PROPERTY'S WETLANDS WILL REMAIN UNDISTURBED, AS REQUIRED BY LAW. ANY WETLANDS THAT ARE DISTURBED OR MITIGATED PER THE REQUIREMENTS OF THE ARMY CORPS OF ENGINEERS AND THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.
  - AS REQUIRED BY US FISH AND WILDLIFE, ANY POTENTIAL RECREATION WETLANDS OR OTHER SENSITIVE HABITAT WILL BE MANAGED DURING THE DEVELOPMENT PROCESS AND APPROVALS OBTAINED FROM THE AGENCY IF NECESSARY.
  - THE COMMUNITY LIES OUTSIDE OF ANY PRE-ESTABLISHED WATERSHED DISTRICT ESTABLISHED BY NCEM. THE PROJECT WILL COMPLY WITH ALL STATE AND LOCAL STANDARDS FOR STORM WATER MANAGEMENT. THE PROJECT WILL UTILIZE BEST MANAGEMENT PRACTICES AND ENGINEERING OF SPILLWAY FACILITIES.
  - STORM WATER WILL BE PROVIDED BY THE EXISTING STORM WATER BASIN AND OTHER STORM WATER BASINS LOCATED ON THE PROPERTY. THE EXISTING BASIN AS DESIGNED TO PROVIDE STORM WATER MANAGEMENT FOR A SPECIFIC PORTION OF THE PROPERTY. ADDITIONAL STORM WATER BASINS WILL BE ADDED AS NECESSARY TO MANAGE THE BALANCE OF THE PROPERTY. STORM WATER BASINS WILL BE PROVIDED ON THE SCHOOL SITE TO PROMOTE ADEQUATE MANAGEMENT OF THE SITES RUNOFF.
  - ALL ROADWAYS, TRAIL, BIKE PATHS, SIDEWALKS AND ANY POTENTIAL TRAILS WILL BE DEDICATED TO THE TOWN OF SOUTHERN PINES.
  - OPEN SPACE WILL BE PROVIDED THROUGHOUT THE COMMUNITY AS REQUIRED BY THE TOWN'S USE. A MINIMUM OF 20% OF THE SITE MUST BE DEDICATED TO OPEN SPACE WITH 50% OF THE OVERALL OPEN SPACE BEING USABLE OPEN SPACE AS DESCRIBED IN SECTION 2.5.4 OF THE LGD. EACH PRELIMINARY DEVELOPMENT PLAN (PDP) PREPARED FOR ANY AREA OF THE OVERALL MORGANTON PARK NORTH PROPERTY SHALL PROVIDE A TABULATION ILLUSTRATING THE OPEN SPACE BEING PROVIDED WITH THEIR PHASE. PREVIOUSLY PROVIDED OPEN SPACE FROM OTHER PHASES AND THE BALANCE OF OPEN SPACE THAT MUST BE PROVIDED IN FUTURE PHASES TO MEET THE OPEN SPACE REQUIREMENTS OF SECTION 2.5.4.
  - OPEN SPACE WITHIN THE SCHOOL AREA INCLUDING OPEN PLAY FIELDS, PLAYSPACES OR OTHER STUDENT RECREATION AREAS WILL BE CREDITED TOWARD USABLE OPEN SPACE REQUIREMENTS.
  - THE TOWN OF SOUTHERN PINES ARCHITECTURAL REVIEW BOARD WILL REVIEW AND APPROVE ALL NON-RESIDENTIAL BUILDING PLANS FOR COMPLIANCE WITH THE TOWN'S ARCHITECTURAL STANDARDS.
  - ALL DEVELOPMENT AND BUILDING PERMITS ARE SUBJECT TO ALL LOCAL, STATE AND FEDERAL REQUIREMENTS, ARCHITECTURAL REVIEW, RULES AND REGULATIONS.
  - LANDSCAPE STANDARDS WILL MEET OR EXCEED THE REQUIREMENTS OF THE TOWN OF SOUTHERN PINES PER SECTION 3.3.14.
  - SCHOOLS MAY BE PERMITTED A REDUCTION IN LANDSCAPING REQUIREMENTS. THIS REDUCTION IN LANDSCAPING WILL BE ILLUSTRATED ON ANY PRELIMINARY DEVELOPMENT PLAN SUBMITTED FOR A SCHOOL AND CONSIDERED BY TOWN COUNCIL.
  - ELECTRIC, WATER, SEWER AND GAS UTILITIES ARE READY AVAILABLE FOR THE SITE. NEW UTILITY LINES WILL BE INSTALLED PER THE POLICIES OF THE LOCAL UTILITY PROVIDERS AND THE TOWN OF SOUTHERN PINES FOR UNDERGROUND UTILITIES.
  - FROM TIME TO TIME, TEMPORARY SERVICES MAY BE REQUIRED AND SHALL BE ALLOWED AT COMMUNITY FACILITIES. TEMPORARY CONSTRUCTION OFFICES, TEMPORARY SALES CENTERS, TEMPORARY CONSTRUCTION OFFICES AND OTHER COMMUNITY SERVICES SHALL BE PROVIDED FOR EACH OF THESE PARCELS. HOWEVER, AN OVERALL LAYED-OUT SIGN PLAN SHALL BE PROVIDED FOR THE OVERALL PROPERTY.

**OPEN SPACE SUMMARY - MORGANTON PARK NORTH**

OPEN SPACE SUMMARY - MORGANTON PARK NORTH			
SITE AREA	116.7 acres		
CATEGORY	REQUIRED	PROVIDED	TOTAL REMAINING TO PROVIDE
Overall Open Space	33.14 acres (28%)	11.84 acres	9.48 acres
Usable Open Space	11.67 acres (10%)	10.80 acres	1.07 acres

LOCATION	OVERALL	USABLE
Parkway	0.08 acres	0.08 acres
Legends Apartments	1.02 acres	0.93 acres
Elementary School	6.16 acres	4.48 acres
Single-81 Pedestals	0.28 acres	0.03 acres
Pinecrest Medical	0.28 acres	0 acres
Pinecrest Surgical	0.28 acres	0 acres
Legends Apartments - Phase II	1.13 acres	2.08 acres
Pinecrest Surgical - 3 North	0 acres	0 acres
<b>TOTAL</b>	<b>12.36 acres</b>	<b>10.6 acres</b>

**LAND USE LEGEND**

- CIRCULATION PATTERN
- MULTIFAMILY RESIDENTIAL
- GENERAL BUSINESS / OFFICE SERVICE
- ELEMENTARY SCHOOL
- PRIMARY OFFICE SERVICE
- OPEN SPACE



**KOONTZ JONES Design**  
LAND PLANNING / LANDSCAPE ARCHITECTURE  
150 S. PINE STREET, SUITE 100  
SOUTHERN PINES, NC 28587  
P: (910) 744-6427  
W: www.kjdesign.com

**MORGANTON PARK NORTH**  
CONCEPTUAL DEVELOPMENT PLAN  
SOUTHERN PINES, NORTH CAROLINA  
CONCEPTUAL LAND USE PLAN

PRELIMINARY PLANS - NOT RELEASED FOR CONSTRUCTION (FOR REVIEW ONLY)

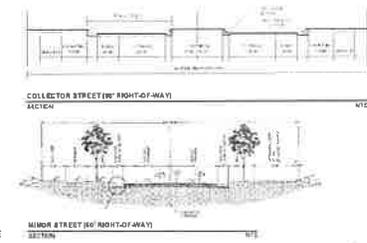
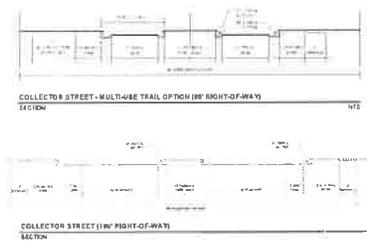
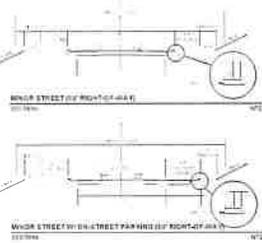
**MORGANTON PARK NORTH**  
CONCEPTUAL DEVELOPMENT PLAN  
SOUTHERN PINES, NORTH CAROLINA  
CONCEPTUAL LAND USE PLAN

811  
CALL BEFORE YOU DIG





THIS PLAN IS FOR CONCEPTUAL PURPOSES ONLY AND SUBJECT TO CHANGE. THE PROPERTY OWNER MAY MODIFY THE PLAN FOR THE REGISTERED ENGINEER'S AND ARCHITECT'S REVIEW.



**TRANSPORTATION PLAN NOTES**

1. STORMWATER MANAGEMENT FOR THE TRANSPORTATION FACILITIES AND FUTURE DEVELOPMENT WILL BE PROVIDED USING BEST MANAGEMENT PRACTICES IN RESIDENTIAL STORMWATER RETENTION FACILITIES. FACILITIES WILL BE LOCATED IN THE GENERAL LOCATION SHOWN ON THE CONCEPTUAL DEVELOPMENT PLAN, AS ILLUSTRATED ON THIS SHEET. THE DRAINAGE FLOW LINE IS SEPARATED FROM THE GENERAL LOCATION BY THE SITE DRAINAGE BASIN. STORMWATER, WEST OF THE DRAINAGE FLOW LINE, WILL FLOW TOWARD THE STORMWATER MANAGEMENT SERVICE LOCATED ON THE EAST SIDE OF THE PROPERTY. THE DRAINAGE BASIN, LOCATED ON THE NORTH-EASTERN PORTION OF THE SITE WILL FLOW TOWARD A STORMWATER SERVICE LOCATED GENERALLY IN THE AREA INDICATED ON THE PLAN. THESE LOCATIONS ARE SUBJECT TO CHANGE THROUGHOUT THE CONTROLLED DEVELOPMENT OF THE PROPERTY BASED ON DETAILED ENGINEERING PLANS. EACH INDIVIDUAL SITE MAY ALSO ELECT TO PROVIDE STORMWATER ON-SITE, DEPENDENT UPON THE SITE CONDITIONS AND OTHER DESIGN PARAMETERS. STORMWATER MUST BE MANAGED ON THE OVERALL PROPERTY TO MEET THE TYPICAL SOUTHERN PINES AND ALL STATE AND FEDERAL STANDARDS.
2. MID-SOUTH PARK NORTH IS NOT LOCATED WITHIN ANY HIGH QUALITY OR WATER SENSITIVE WATERSHED. THE LOCATION OF THE PROPOSED DEVELOPMENT WILL BE MARKED ON THE OVERALL PROPERTY TO MEET THE TYPICAL SOUTHERN PINES AND ALL STATE AND FEDERAL STANDARDS.
3. NO ENDANGERED SPECIES ARE LOCATED ON THE PROPERTY.
4. ALL ROADWAYS WILL BE CONSTRUCTED TO TYPICAL SOUTHERN PINES AND BEST PRACTICES.
5. ALL ROADWAYS WITHIN THE DEVELOPMENT WILL BE DEDICATED TO THE TYPICAL SOUTHERN PINES AND BECOME PUBLIC STREETS.
6. STREET STANDARDS WILL FOLLOW TYPICAL SOUTHERN PINES GUIDELINES CORRESPONDING WITH THE LOCATION OF BUREL LANE AND TRAILS. THE ROAD CROSS SECTION FOR MAIN COLLECTOR STREETS MAY VARY FROM THE TYPICAL SOUTHERN PINES. AS SHOWN, MULTIPLE RUTH MAY BE USED IN PLACE OF BUREL LANE IN THE ROADWAY FOR SAFETY REASONS. WITH THE CONSTRUCTION OF THE ELEMENTARY SCHOOL ON THE PROPERTY, IT IS ANTICIPATED THAT CHILDREN FROM LOCAL NEIGHBORHOODS AND THE MORGANTON PARK APARTMENT COMMUNITY WILL BE VISITING NEARBY BUS STOP LOCATIONS. IT WILL BE PREFERRED TO HAVE A CROSSING WITH THE BIRTH SEPARATED FROM NEIGHBORHOOD TRAFFIC TO ALLOW STUDENTS A SAFE PATHWAY TO SCHOOL. THIS CROSSING SECTION DOES NOT VIE WITH ANY OTHER LOCAL OR NEIGHBORHOOD TRAFFIC.
7. IN THE VICINITY OF THIS PROPERTY, THERE IS ONE OTHER APPROVED PROJECT, MORGANTON PARK SOUTH. THIS PROJECT IS TO BE LOCATED TO THE SOUTH. APPROXIMATE TRAVEL DISTANCE FROM GOOGLE MAPS IS APPROXIMATELY 1.5 MILES. THE MORGANTON PARK SOUTH PROJECT IS APPROVED BY THE SOUTHERN PINES PLANNING AND ZONING DEPARTMENT. CONSTRUCTION OF THIS APPROVED DEVELOPMENT WOULD VIOLATE THE TRAFFIC LIGHT AT BRUCEWOOD ROAD.
8. CLOVER STREET MAY BE EXTENDED AND UTILIZED BY THE SCHOOL FOR ACCESS TO BUS OR CARPOOL OFF AND CONNECT TO THE SCHOOL CIRCULATION SYSTEM.
9. OPEN SPACE WILL BE PROVIDED FOR THE OVERALL DEVELOPMENT. AS REQUIRED, A MINIMUM OF 20% OPEN SPACE WILL BE PROVIDED THROUGHOUT THE DEVELOPMENT.
10. ALL TRAVEL DISTANCES & TIMES ARE BASED FROM THE EXISTING TRAFFIC LIGHT AT BRUCEWOOD ROAD. TRAVEL DISTANCES & TIMES WERE OBTAINED FROM GOOGLE MAPS AND REFLECT TYPICAL DRIVING TIMES OBSERVED AT 6 PM. TRAVEL TIMES MAY FLUCTUATE BASED ON THE WEATHER, CONSTRUCTION, TRAFFIC ACCIDENTS AND INCREASES IN TRAFFIC DUE TO HOLIDAYS AND SPECIAL EVENTS.



PRELIMINARY PLANS - NOT RELEASED FOR CONSTRUCTION (FOR REVIEW ONLY)

**KOONTZ JONES Design**  
LANDSCAPE ARCHITECTURE  
1500 S. BIRCH STREET  
SOUTHERN PINES, NC 28587  
(919) 688-1111  
www.koontzjones.com

**MORGANTON PARK NORTH  
CONCEPTUAL DEVELOPMENT PLAN  
SOUTHERN PINES, NORTH CAROLINA  
CONCEPTUAL TRANSPORTATION PLAN**

DATE: 01/18/2022  
DESIGNER: J. K. KOONTZ  
CHECKER: J. K. KOONTZ  
PROJECT #: 2021-001  
SHEET #: 101 OF 103

**L-1.3**