



AGENDA

May 11, 2021 — 6:00 PM Town Council Virtual Business Meeting

- Attend using your computer or smartphone to watch and listen to the proceedings and to participate and provide comment when prompted: <https://attendee.gotowebinar.com/register/7814471445525004816>
- Download the GoToWebinar app on your tablet or smartphone and attend by entering Webinar ID 191-462-091 at the time of the meeting.
- Listen to audio of the proceedings using a telephone.¹ At the meeting time, dial (415) 655-0060 and then enter Audio Access Code 499-876-882.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

4. PUBLIC HEARINGS

Per GS §166A-19.24(e), written comments will be accepted for at least 24 hours after these virtual public hearings have been held.

**a. Z-01-21: Request to rezone 0.79 of an acre on West Pennsylvania Avenue from FRR to CB;
Applicant: RAB Investments, LLC**

The applicant requests to rezone a 0.79-acre parcel from Facilities Resource and Recreation Conditional District (FRR-CD) to Central Business (CB) to allow a preschool, which is a by-right use in the CB District. Council will vote on this application on May 24, 2021.

b. Public Hearing on FY 22 Budget

This is the first of two public hearings on the proposed FY 22 budget, which begins July 1, 2021. The second hearing is scheduled for Tuesday, June 8, followed by a vote by Council.

c. PD-02-21: Planned Development – Preliminary Development Plan for expansion of the Multi-family Legends Apartment Community; Applicant: Morganton Park II, LLC

The applicant requests approval of a Preliminary Development Plan in order to expand the existing multi-family development, Legends Apartments, at 500 Legends Drive. The two parcels included in this application total 8.56 acres. If approved, the overall development would total 432 units on 27.03 acres. Council will vote on this application on May 24, 2021.

¹ Participation via telephone is listen-only and lacks the full functionality of the webinar meeting format. If you wish to view presentations and/or be recognized to speak at any point during the meeting, please plan to participate online by registering in advance of the meeting using the appropriate http link provided above, or by downloading the GoToWebinar app and using the appropriate Webinar ID provided above.

5. ACTION ITEMS

a. Consider Installment Financing Contract with First Bank for the Whitehall Tract

The Town purchased a 157-acre piece of land in December 2020, known as the "Whitehall tract." The Town made a partial payment when it was acquired. Staff recommends using an installment financing contract authorized under N.C.G.S. 160A, Article 3, Section 20, for the remaining payment. Staff has negotiated an installment contract with First Bank, totaling \$900,000 for a term of three years at an interest rate of 1.91%. A public hearing was held on May 5.

b. Consider Amending Resolution No. 930

In response to Governor Cooper lifting certain restrictions related to COVID-19, with additional actions expected on June 1, staff recommends amending the Town's Resolution No. 930. Adopted June 2020, Resolution No. 930 allowed for additional temporary signage and waived certain zoning standards during the declared emergency in order to help local businesses that were facing challenges from mandated restrictions and prohibitions.

c. Consent Agenda

i. Approve Property Use Agreement with Sandhills Sandsharks

The Sandhills Sandsharks, a local 501(c)3 non-profit, offers competitive swimming and training for the Southern Pines community. Since 2018, the Sandsharks have used the Town's pool on S. Stephens Street for year-round operations. Staff has met with members of the Sandsharks' board to negotiate a renewal agreement and recommends adopting this for an additional three years.

ii. Approve Amendment to FY 21 Budget

Staff recommends amending the FY 21 budget to transfer \$ 225,340 from Fund Balance to the Open Space Fund to make a principal payment on the Whitehall tract.

iii. Approve Amendments to Capital Project Budgets

Staff recommends amending the following capital project budgets:

- 1. \$100,000 increase to the Morganton Road Water Line Replacement Project Fund to cover an unexpected increase in the current construction project.*
- 2. \$1,125,340 increase to the Open Space Project Budget to pay the existing note on the Whitehall tract in full. This funding will include \$225,340 transferred from Fund Balance and \$900,000 in financing proceeds from the installment contract with First Bank.*

iv. Approve Council Minutes

- 1. March 22, 2021 Work Session Minutes*
- 2. April 13, 2021 Business Meeting Minutes*
- 3. April 13, 2021 Closed Session Minutes*

v. Approve Resolution Authorizing the Town Manager to Enter into an Agreement with NCDOT for the NC 22/Central Drive Bridge Replacement Project

The state Department of Transportation (NCDOT) is proceeding with a bridge replacement project on NC 22/Central Drive. The project requires acquisition of some right-of-way and various easements on Town-owned property. Staff recommends executing these agreements and deeding the right-of-way for \$20,000, as negotiated with DOT.

6. PUBLIC COMMENTS

PUBLIC COMMENT PROCEDURES

The Southern Pines Town Council is committed to allowing members of the public an opportunity to offer comments and suggestions. In addition to public hearings, a special time is set aside for the purpose of receiving such comments and suggestions. All comments and suggestions addressed to the Council during the Public Comment Period shall be subject to the following procedures:

1. The Public Comment Period will be held at the end of the Council Meeting.
2. Each person choosing to speak is asked to keep their statements to a reasonable length in time in recognition that others may also wish to speak and that the Council requires time to conduct its normal business. The Chair retains the right to limit discussion as he/she deems necessary.
3. Speakers will be acknowledged by the Mayor/Chair. Speakers will address the Council from the lectern at the front of the room and begin their remarks by stating their name and address for the record.
4. Public comment is not intended to require the Council and/or staff to answer any impromptu questions. Speakers will address all comments to the entire Council as whole and not one individual member. Discussions between speakers and members of the audience will not be permitted.
5. Speakers will be courteous in their language and presentation. Matters or comments which are harmful, discriminatory or embarrassing to any citizens, official or employee of the Town shall not be allowed. Speaker must be respectful and courteous in their remarks and must refrain from personal attacks and the use of profanity.
6. Any applause will be held until the end of the Public Comment Period.
7. Speakers who have prepared written remarks or supporting documents are encouraged to leave a copy of such remarks and documents with the Clerk to the Council.
8. Speakers shall not discuss any of the following: matters which concern the candidacy of any person seeking public office, including the candidacy of the person addressing the Council; matters which are closed session matters, including but not limited to matters within the attorney-client privilege, anticipated or pending litigation, personnel, property acquisition, matters which are made confidential by law; matters which are the subject of public hearings.
9. Action on items brought up during the Public Comment Period will be at the discretion of the Council.

Agenda Item

To: Reagan Parsons, Town Manager
Via: BJ Grieve, Planning Director
From: Lauren Long, Planner I
Subject: Z-01-21: Request to rezone 0.79 of an acre on West Pennsylvania Avenue from FRR to CB; Applicant: RAB Investments, LLC by Chris Jordan, Authorized Agent
Date: May 11, 2021

I. SUMMARY OF APPLICATION REQUEST:

Mr. Chris Jordan, on behalf of RAB Investments, LLC is requesting to rezone a 0.79-acre parcel from Facilities Resource and Recreation Conditional District (FRR-CD) to Central Business (CB) to allow a preschool (LBCS Code 6110) which is a by-right use in the CB District.

II. PLANNING BOARD ACTION:

At the April 22, 2021 Regular Meeting of the Planning Board, the Board held a legislative public hearing and heard from staff as well as the applicant regarding application Z-01-21. Staff presented a review of the rezoning request and discussed consistency with the Comprehensive Long-Range Plan (CLRP) and the existing adjacent zoning districts.

Following staff's presentation, the Board asked about the parcel's location in the High-Quality Watershed. Staff confirmed that the parcel was located in a High-Quality Watershed and what the procedure for expansion of impervious would be with or without rezoning the parcel. A motion to close the public hearing was made by Kim Wade and seconded by Lem Dowdy. Diane Westbrook made a motion to adopt "Attachment A" of the staff report, addressing plan consistency, and recommended approval of Z-01-21 to the Town Council. The motion was seconded by Lem Dowdy. All motions were passed unanimously.

III. PROJECT INFORMATION:

A. PIN: 858100292700 (**PARID:** 00039620)

B. Address: 387 West Pennsylvania Avenue

B. Owner:
RAB Investments, LLC
P.O. Box 4406
Pinehurst, NC, 28374

C. Applicant/ Agent:

Chris Jordan
312 Fields Drive
Aberdeen, NC, 28315

D. Existing Zoning:

The subject parcel was rezoned to FRR-CD from CB in 2013 by RAB Investments, LLC (Z-06-12) in order to allow a primary school and secondary school as allowed uses (See Figure 1). The approved conditions for Z-06-12 are as follows:

1. The only use allowed is Elementary and Secondary School (LBCS: 6120, 6121, 6122 and 6123).
2. Drop-off and pick-up are limited to Leek Street and West New Hampshire Avenue and is not allowed on Pennsylvania Avenue.

The existing use is a public charter school, Moore Montessori, and the current tenant is vacating for another location.

E. Proposed Zoning:

Proposed zoning is CB in order to allow a pre-school (LBCS: 6110) which is a by-right use in the CB district.

F. Comprehensive Long-Range Plan Designation:

The subject parcel is designated “Commercial”. The Commercial designation is intended for land uses that are primarily non-residential and commercial in nature, although high-density residential may be incorporated into mixed-use developments within the district.

IV. STAFF REVIEW:

A. Application Review Dates:

- Application Submitted: March 12, 2021
- Application Complete: March 15, 2021
- Notice of Public Hearing:
 - Posted On-site: April 1, 2021
 - Mailed: March 30, 2021
 - Internet: March 30, 2021
 - Publication Dates: April 7, 2021 and April 14, 2021
- Planning Board Agenda Meeting: April 15, 2021
- Planning Board Public Hearing: April 22, 2021
- Notice of Public Hearing:
 - Mailed: April 21, 2021
 - Internet: April 21, 2021
 - Publication Dates: April 28, 2021 and May 5, 2021
- Town Council Agenda Meeting: May 5, 2021
- Town Council Public Hearing: May 11, 2021

B. Review Process:

Amendments to the Town of Southern Pines Official Zoning Map are reviewed pursuant to UDO §2.17. A map amendment requires a public hearing and is approved by ordinance.

C. Criteria:

When reviewing an application for a map amendment, the hearing bodies shall consider and be guided by the following criteria, as set forth in **UDO §2.17.9:**

1. **Consistency:** *Rezoning shall be consistent with the adopted Comprehensive Plan.*
2. **Adverse Impacts on Neighboring Land:** *Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. The Town finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences, such as traffic congestion, air pollution, and social alienation. Accordingly, a rezoning may promote mixed uses subject to a high degree of design control.*
3. **Suitability as Presently Zoned:** *This factor, like the others, should be weighed in relation to the other standards, and instances can exist in which the land may be rezoned to meet public need, to reflect substantially changed conditions in the neighborhood, or to effectuate important goals, objectives and policies of the Comprehensive Plan or UDO.*
4. **Health, Safety, and Welfare:** *The amending ordinance must bear a substantial relationship to the public health, safety or general welfare, or protect and preserve historical and cultural places and areas. The rezoning may be justified, however, if a substantial public need or purpose exists, even if the private owner of the Tract will also benefit.*
5. **Public Policy:** *Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with neighborhood, area, or specific plans.*
6. **Size of Tract:** *The Hearing Body shall consider the size, shape, and characteristics of the Tract in relation to the affected neighboring lands. Amendatory ordinances shall not rezone a single Lot when there have been no intervening changes or other saving characteristics. Proof that a small Tract is unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify ordinance rezoning.*
7. **Other Factors:** *The Hearing Body may consider any other factors relevant to a rezoning application under state law.*
8. **Applicant Representations:** *Except for rezoning requests submitted in accordance with the provisions herein for conditional zoning district rezonings,*

the Hearing Body shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Hearing Body shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

D. Staff Comments:

1. Planning and Zoning Review

- The subject parcel is designated commercial on the CLRP. CB zoning is a district that was designed to accommodate a wide variety of commercial uses to include retail, offices, services, and entertainment as well as living spaces that are oriented towards pedestrian traffic.
- A preschool is not a permissible use in the FRR-CD as specified under the conditions for Z-06-12. The parcel was zoned CB prior to 2013 and Moore Montessori's occupation of the building and rezoning back to CB would allow a daycare as a by-right use with similar operational characteristics and impacts as the existing primary school on the surrounding properties.
- Approximately 60% of the adjacent parcels are currently zoned CB. Reverting the subject parcel's zoning from FRR to CB would result in a more consistent distribution of uses that have been selected for the CB district based upon the compatibility of the operational characteristics and the potential impacts of each permissible use within the district.

2. Agency Comments:

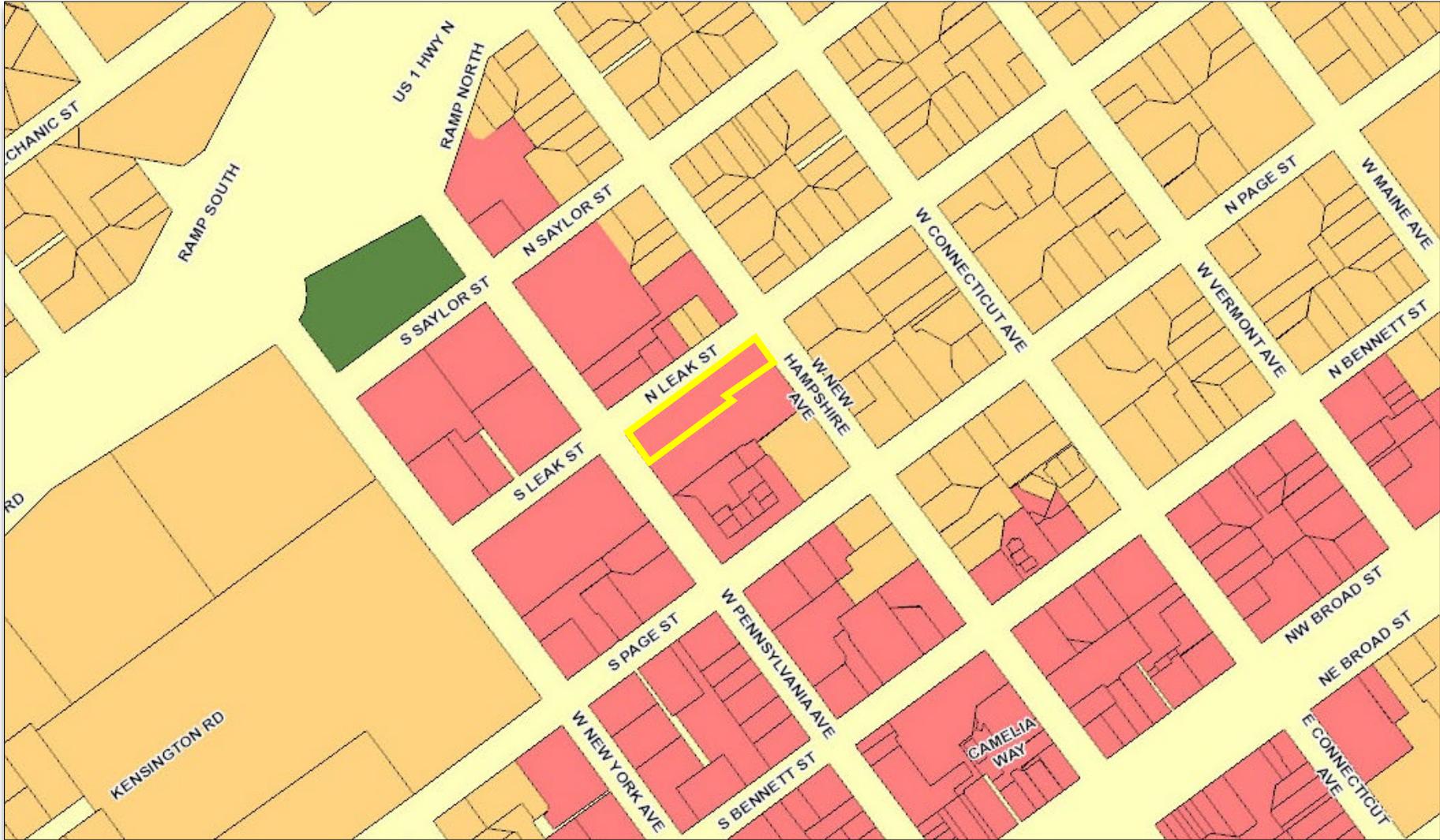
- Regional Land Use Advisory Commission (RLUAC):
 - The parcel is in an area identified as IMPORTANT to conserve on the Joint Land Use Study maps due to its location within zone designated as High Quality and Outstanding Resource Waters (HQORW) and,
 - There are no military impacts.
- North Carolina Department of Transportation (DOT):
 - Since there are no new connections to Pennsylvania, we have no comments.

Figure 1: Zoning and Vicinity Map (Subject Property Highlighted in Yellow)



- | | | | |
|--|---|---|--|
| ■ CB, Central Business | ■ FRR, Facilities Resources
Recreation | ■ OS, Office Services | ■ RM-2, Residential Single &
Multi-Family |
| ▨ CB-CD, Central Business
Conditional District | ▨ FRR-CD, Facilities Resources
Recreation Conditional District | ▨ OSCD, Office Services
Conditional District | |

Figure 2: Comprehensive Long-Range Plan (Subject Property Highlighted in Yellow)



- Parks / Open Space
- Residential / Golf
- Rural Equestrian
- Urban Reserve
- Low Density Residential
- Residential
- Commercial
- Traditional Mixed Use
- Industrial

V. ATTACHMENTS:

1. Application
2. Applicant Narrative
3. Site Plan
4. Aerial of Drop-Off and Pickup Circulation

Documents related to this application including (but not limited to), public hearing notices, agency referrals, email correspondence, etc., are on file in the Town of Southern Pines Planning Office and available upon request during normal business hours.

VI. TOWN COUNCIL ACTION:

Per G.S. §166A-19.24(e) action on this agenda item may not be taken until allowing a minimum of 24 hours following the remote public hearing for submittal of written comments. However, after closing the remote public hearing, the Town Council may still wish to discuss the rezoning request as presented in this report in order to assist staff in preparing appropriate documents for Town Council action.

Planning staff will bring this item back to the Town Council for further consideration and a decision at the May 24th, 2021 Work Session.



Zoning Map Amendment Application

Fee: \$1,500.00	Date Received: _____	Case No.: Z-____-____
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Project Information:

Street Address: 387 W. PENNSYLVANIA AVE.

PIN: 858100292700 Parcel ID: 00039620

Site Size: .79 Zoning: FRR

Applicant:

Name(s): RAB INVESTMENTS, LLC

Email: CJ@OCONNORCONC.COM Phone: 910 944 0600

Mailing Address: P.O. Box 4406, PINEHURST, NC 28374

Authorized Agent, if different from Applicant:

Name(s): CHRIS JORDAN

Email: CJ@OCONNORCONC.COM Phone: 910 315 7052

Mailing Address: 312 FIELDS DR. ABERDEEN, NC 28315

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

Name(s): _____

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 to grant a zoning map amendment 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 W. Pennsylvania (St./Ave.), between N. LEAK (St./Ave.) and N. PAGE (St./Ave.). The property has a frontage of 92.32 feet and a depth of 401.72 feet.

The zoning map amendment sought is based upon Section(s) 3.7 of the **Town of Southern Pines Unified Development Ordinance**. The proposed use of the property is as follows:

SEE REASON FOR PROPOSED CHANGE NARRATIVE

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: 385 W. PENNSYLVANIA AVE Parcel ID #: 00039823
Property owner(s): UNITED TELEPHONE COMPANY
Mailing address: 100 CENTURY LINK DR. MONROE, LA 71203
2. Adjacent property: 405 W. PENNSYLVANIA AVE Parcel ID #: 00034581
Property owner(s): JONATHAN FARRELL FOSTER
Mailing address: 5188 LOBELIA RD. VASS, NC 28394
3. Adjacent property: 130 LEAK ST Parcel ID #: 00034927
Property owner(s): DONNA INGRAM CAW, RODNEY M. INGRAM, CRAIG D INGRAM
Mailing address: 232 MCTAVISH LANE, WINSTON SALEM, NC 27103
4. Adjacent property: 140 N LEAK ST Parcel ID #: 00034588
Property owner(s): GREGORY & IOLA HRS HILL
Mailing address: 3607 IRELAND DR. APT B. HOPE MILLS, NC 28348
5. Adjacent property: 155 N LEAK ST Parcel ID #: 00032596
Property owner(s): TIELIANG ZHANG, MING ZHANG
Mailing address: 211 PLANTATION DR. SOUTHERN PINES NC 28387
6. Adjacent property: 160 N. LEAK ST Parcel ID #: 00032597
Property owner(s): TIELIANG ZHANG, MING ZHANG.
Mailing address: 211 PLANTATION DR. SOUTHERN PINES, NC 28387

7. Adjacent property: 425 W PENNSYLVANIA AVE Parcel ID #: 0003 2142
 Property owner(s): BOLES FAMILY LLC
 Mailing address: 425 W PENNSYLVANIA AVE. SOUTHERN PINES, NC 28387
8. Adjacent property: 201 W. LEAK ST Parcel ID #: 0003 4053
 Property owner(s): TIELIANG ZHANG, MING ZHANG
 Mailing address: 211 PLANTATION DR. SOUTHERN PINES NC 28387.
9. Adjacent property: 345 W. NEW HAMPSHIRE AVE Parcel ID #: 00030830
 Property owner(s): KEVIN JOSEPH SCHRODT
 Mailing address: 345 W. NEW HAMPSHIRE AVE. SOUTHERN PINES NC 28387
10. Adjacent property: 390 W PENNSYLVANIA AVE Parcel ID #: 00033668
 Property owner(s): MARKET ST. PROPERTIES LLC
 Mailing address: P.O. Box 305 PINELAKE, NC 28370

Date: 3-8-2021

 MANAGER
 Applicant

Zoning Map Amendment
Reasons for Proposed Change

Property: 387 W Pennsylvania Ave, Southern Pines, NC 28387

Owner: RAB Investments, LLC

Agent: Chris Jordan – Manager RAB Investments, LLC

Reason For request:

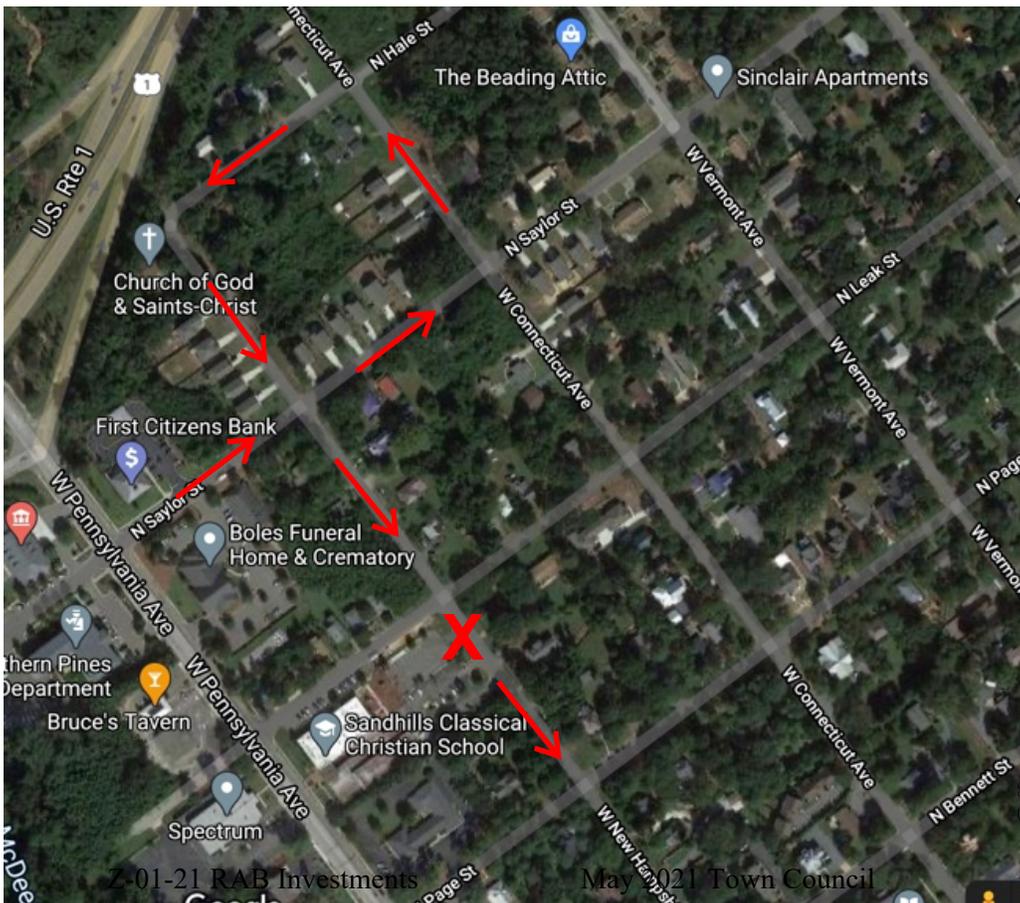
Property, 387 W Pennsylvania Ave., is currently zoned FRR. Property was rezoned from CB to FRR in 2012 (Z-06-12) to allow a school to use the facility. The current school, Moore Montessori, is moving to a larger facility and a new pre-school is scheduled to locate in the building. Pre-schools are currently not allowed in FRR zoning. We are requesting the property return to CB zoning which allows Pre-schools.

Surrounding commercial properties are zoned CB

MOORE MONTESSORI CURRENT PLAYGROUND (PARKING LOT USED AS PLAYGROUND)



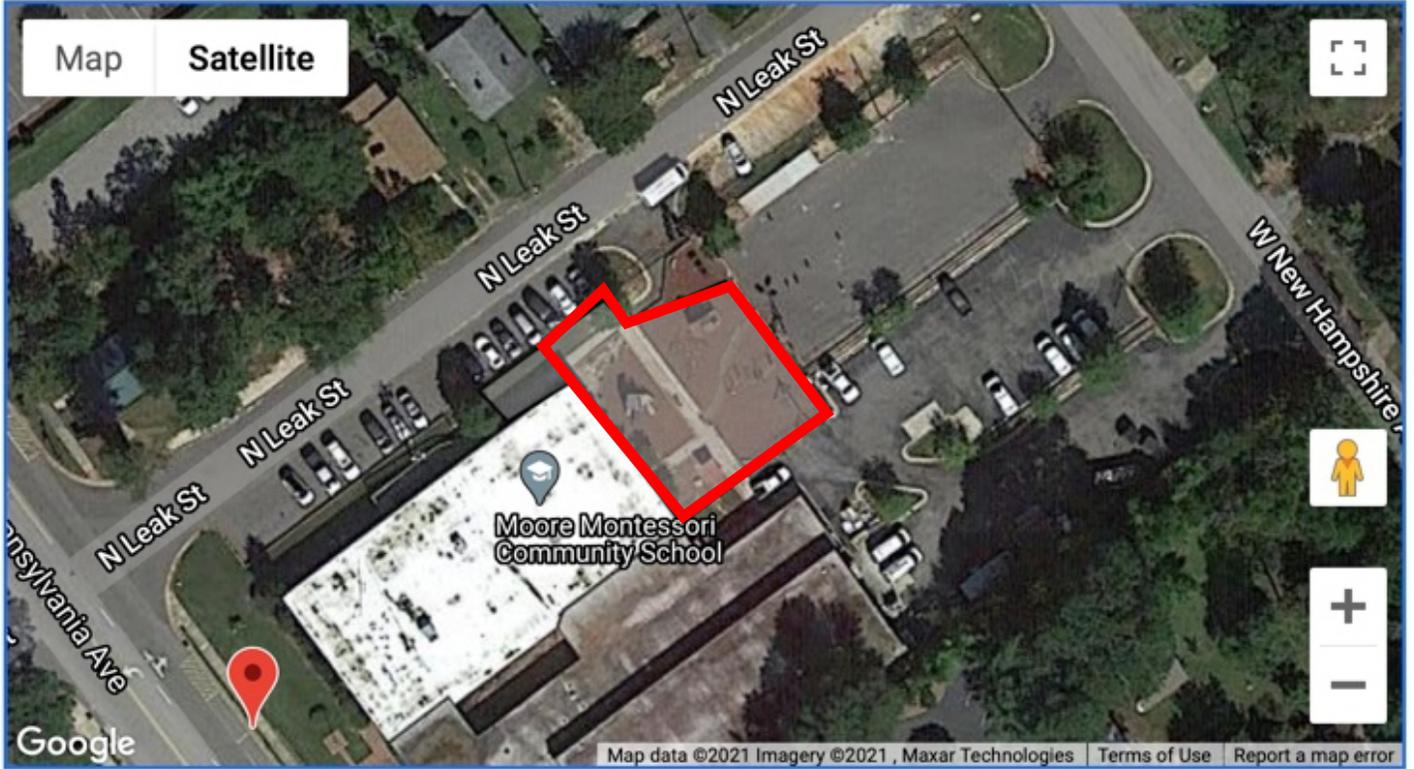
MOORE MONTESSORI CURRENT PICK/UP & DROP/OFF FLOW



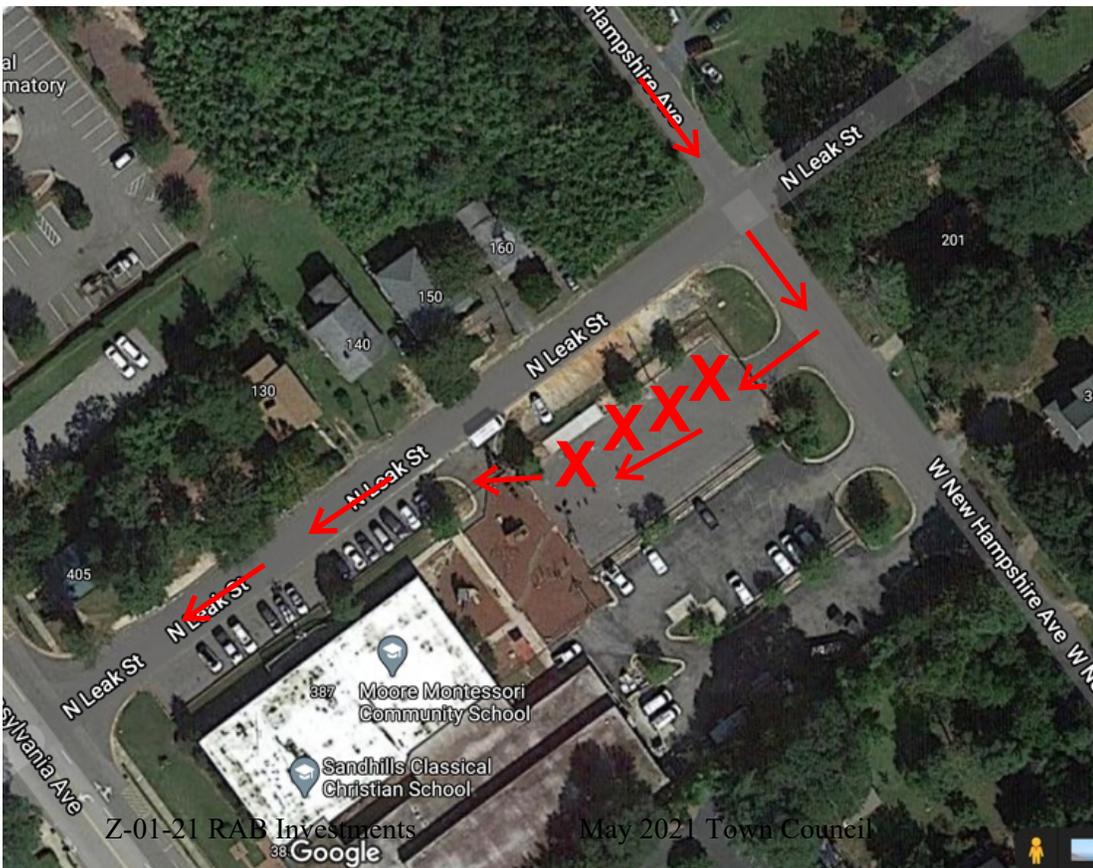
LITTLE PINES ACADEMY (PROPOSED) PARKING LOT - REOPEN 2ND EXIT TO N LEAK STREET PLAYGROUND - FENCE EXISTING MULCH AREA

Area 641 meters², 6897 feet² 0.16 acres 0.000 miles² 0.001 km²

Perimeter 109 meters , 359 feet 0.068 miles 0.109 km



PROPOSED LITTLE PINES ACADEMY PICK/UP & DROP/OFF FLOW



Agenda Item

To: Reagan Parsons, Town Manager

From: Suzy Russell, Planner II

Subject: PD-02-21: Planned Development - Preliminary Development Plan for expansion of the Multi-family Legends Apartment Community; Applicant: Morganton Park II, LLC; Watson Caviness; Authorized Agent: Bob Koontz of Koontz Jones Design PLLC

Date: May 11, 2021

I. SUMMARY OF APPLICATION REQUEST:

Mr. Bob Koontz has submitted an application for a Planned Development - Preliminary Development Plan pursuant to Section 2.18.5 of the Town of Southern Pines Unified Development Ordinance (UDO) proposing to expand the existing multi-family development approved under MRD-01-12 and CU-05-12 for Legends Apartments. This portion of the development is to be developed on two (2) parcels, Parcel 1 and 3, which flanks the existing Legends community, for a total of 8.56 acres. Parcel 1 is located within the Morganton Park North Development at the end of Patriot Boulevard situated next to the Southern Pines Elementary School, which lies to the East of Parcel 1, on South Carlisle Street and Parcel 3 is located on the Carlisle Street extension next to the existing Legends Apartment community, which lies to the East of Parcel 3. The subject parcels are zoned PD (Planned Development) and they are identified as PIN: 857200502304 (PARID: 20190146) and per the Moore County tax records, the property owners are listed as Robert W VanCamp Trustee for Parcel 1 and PIN: 857100392796 (PARID: 20150046) and per Moore County tax records, the property owners are listed as Robert W & Julie M VanCamp Trustee.

II. PLANNING BOARD ACTION:

At the April 22, 2021 Regular Meeting of the Planning Board, the Planning Board held a public hearing and followed the rules for a legislative public hearing per UDO §2.5.2 which states that when the Planning Board serves as a recommending body for an action requiring a quasi-judicial hearing by the Town Council, the Board may follow the rules for a legislative hearing to gather broader public testimony. Planning staff, Ms. Suzy Russell, presented a review of the Preliminary Development Plan application. Ms. Russell reviewed the application for compliance with the Comprehensive Long Range Plan, the Conceptual Development Plan, and the applicable sections of the Unified Development Ordinance.

Following staff's comments, the applicant's agent, Mr. Bob Koontz presented the case for approval of the Preliminary Development Plan. The Planning Board followed with questions for Mr. Koontz. Mr. Koontz offered explanation regarding the height of the

existing Legends apartment community and how the height of the proposed Legends apartments are compatible with the character and vitality of the neighborhood and community. Mr. Koontz stated that the buildings will have elevators and described how the subject property has a dramatic slope stating that the first building from Carlisle will be more than a story lower than the road. Mr. Koontz gave explanation concerning future open space requirements and described parking arrangement and that the current garages at the existing Legends apartment community will remain and that there will be an additional 4 added with this portion of development. Mr. Cooper Carter asked for further explanation of the TIA and why it was not detailed with this application, to which Mr. Koontz explained that it will be contemplated and Mr. Fluitt, who has done all of the TIA's will have all the information he needs to provide an appropriate TIA. Mr. Carter stated that he is concerned because the four new developments that are currently built or underway are going to add thousands of cars to this area. Diane Westbrook asked who maintains the gravel road and Mr. Koontz stated that it is supposed to be maintained through the POA and that the Legends apartment community is responsible. Mr. Carter stated that there will be a 50% increase in units and there are no playgrounds or play areas for children proposed and Mr. Koontz responded that there is an existing pool and a large playground as well as a clubhouse that the entire community will have access to. Mr. Carter asked what the current demographics were to which Mr. Koontz responded that it ranges to families with children to retirees and everything in-between.

After closing the public hearing a motion was made by Mr. Lem Dowdy to adopt Amended Attachment A of the staff report as findings of fact, with changes to the language under the second finding of fact as found on the "Amended Attachment A" which also contains the applicants amendments to the application that were made at the Planning Board Regular Meeting on April 22, 2021. The applicant's amended statements are as follows:

- The applicant will apply for a sign permit for a multi-family development entrance sign under UDO § 4.6.12.
- The applicant will provide the required setbacks as required in UDO § 4.10.8

Along with this motion was a motion to recommend to the Town Council that the application for a Preliminary Development Plan PD-02-21 be approved with the amended application statements and was seconded by Ms. Kim Wade and was approved 5-2 by the Planning Board. Planning Board members Mr. Andy Bleggi and Mr. Ben Greene abstained from the vote because they were not present for the entirety of the meeting.

Please find the Amended Finding of Facts as adopted by the Planning Board under Attachment "Amended Attachment A" in this report.

III. PROJECT INFORMATION:

A. Property Owner & Applicant Information:

- i. Property Owners:**
Robert & Julie VanCamp Trustees
2 Regional Circle
Pinehurst, NC 28374

- ii. **Applicant**
Morganton Park II, LLC
Watson Caviness
639 Executive Place
Suite 400
Southern Pines, NC 28387
- iii. **Authorized Agent:**
Koontz Jones Design, PLLC
Robert Koontz
150 S Page Street
Southern Pines, NC 28387

B. Property Information:

- i. **Street Address:**
500 Legends Drive
Southern Pines, NC 28387
- ii. **Size of Property:**
Previous file MRD-0-12 Legends Apartment Community #1 Total Size of Parcel 2: 18.47 acres
Legends Apartment Community # 2 Total Size of Parcel 1 and Parcel 3: 8.56 acres
Total Project Acreage: 27.03 acres

- iii. **Existing Infrastructure:**
The 8.56 acre portion of property being proposed for development as a multi-family apartment community (hereafter referred to as subject property) is located on the northern area of the undeveloped section of Morganton Park North. (See Figure 1: Vicinity Map below). Parcel 1 will tie into the existing Legends parking lot and the applicant will create one (1) additional ingress/egress point on S Carlisle Street.

The subject property has access to existing public water and sewer facilities on S Carlisle Street and within the existing multi-family community. Existing access, water and sewer facility locations are shown below (see Figure 2: Existing Infrastructure below).

- iv. **Property Zoning and CLRP Classification:**
The current zoning of the subject property is PD (Planned Development). Adjoining properties are a mixture of zoning classifications, including FRR (Facilities, Resource and Recreation), GB (General Business) and the same PD (Planned Development) classification as the subject property (see Figure 3: Zoning Map below). The Town of Southern Pines' Comprehensive Long Range Plan (CLRP) designates this property as Traditional Mixed-Use.

C. Planned Development History & Current Project Description:

i. Planned Development History:

The subject property is part of the 116.7-acre nine (9) phased Morganton Park North Conceptual Development Plan (CDP) that was amended from the original CDP (MRD-01-14 approved on July 24, 2014) and approved by the Town of Southern Pines on May 15, 2018 (PD-01-18). The proposed multi-family community is the seventh phase of the Morganton Park North CDP. Phase 1 included “The Legends at Morganton Park,” approved under MRD-01-12 and CU-05-12, apartment complex development, Phase 2 included “The Pavilion” mixed-use building at the intersection of West Morganton Road and Brucewood Road, Phase 3 included the new Southern Pines Elementary School, Phase 4 included the Sandhills Pediatrics medical office building, Phase 5 included the Pinehurst Medical development and Phase 6 was the Pinehurst Surgical development.

The applicant is referring to this PD as the second phase of Legends apartment community, however this is not a second phase of the original approvals MRD-01-12 and CU-05-12 files. The prior development did not contain a phasing plan and therefore this portion of the Legends apartment community is a standalone PDP. The applicant attempts to combine certain requirements that were approved in the first development with this submittal. Again, this is not allowed and would have to come through as an amendment to the MRD-01-12 and CU-05-12 files, which it is not.

ii. Current Project Description:

The proposed expansion of the Legends apartment community would be developed as three buildings each having 48 dwelling units, for a total of 144 du. UDO § 4.5 establishes the required parking spaces to total 269 with 278 provided, and the required bicycle parking comes to a total of 14 bike spaces per exhibit 4-6. The applicant does not show bicycle parking but will be required to provide them which will be required at TRC site plan review.

The buildings will require separate review for compliance with the Town’s architectural standards for multi-family buildings and the site must undergo detailed site plan review for compliance with all Town development standards prior to construction.

Figure 1: Vicinity Map (Subject Properties Outlined in Red)

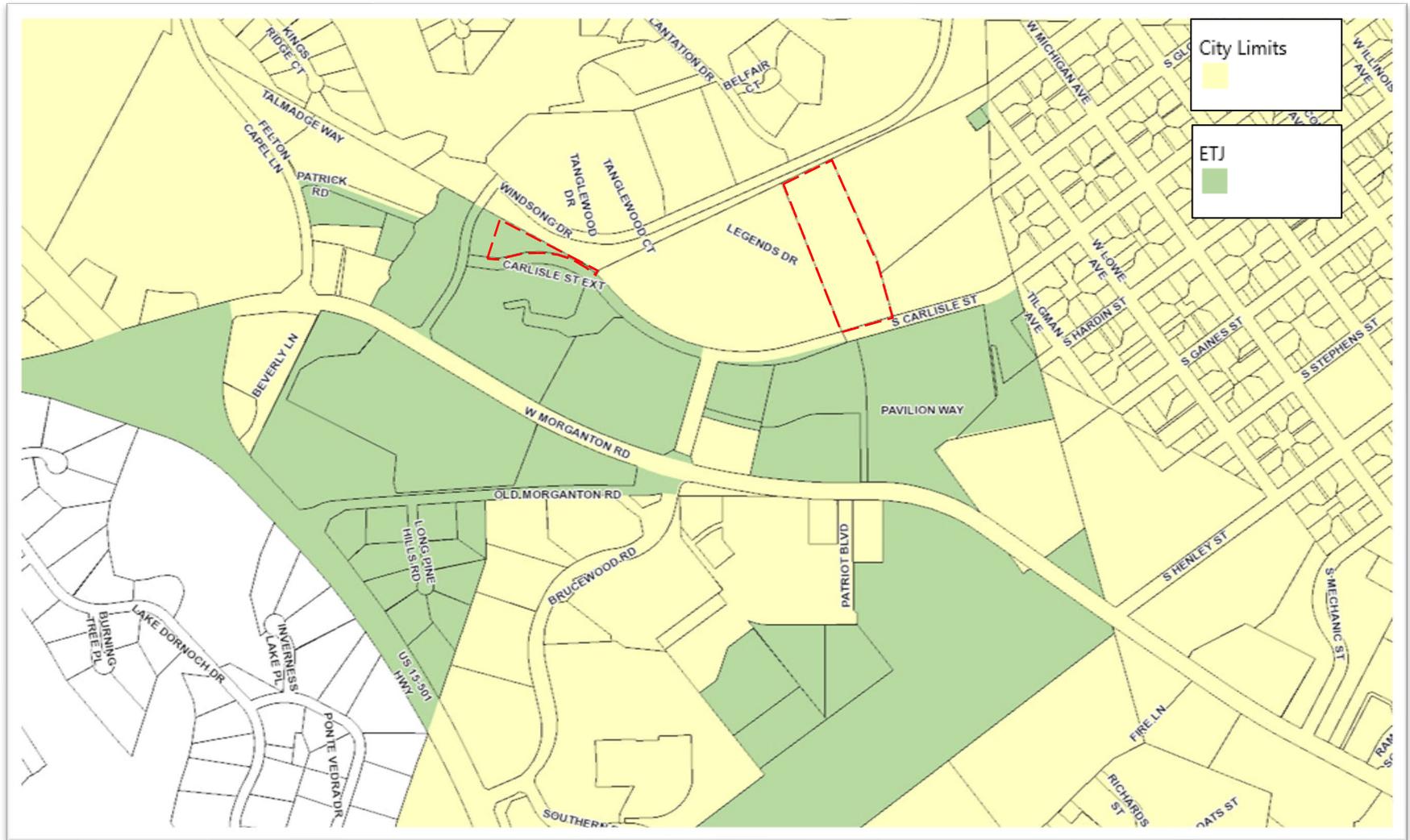


Figure 2: Existing Infrastructure (Subject Property Outlined in Yellow)

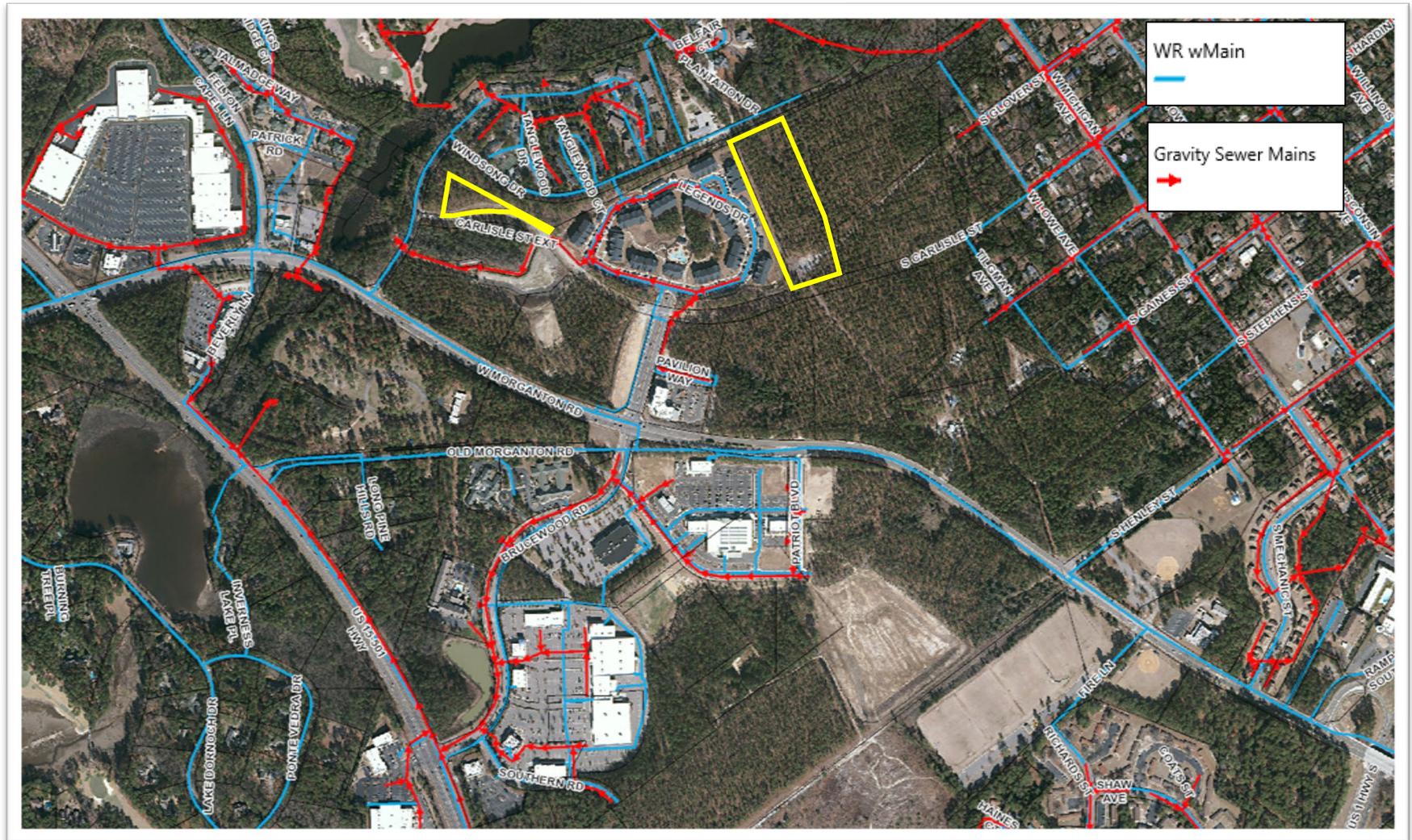
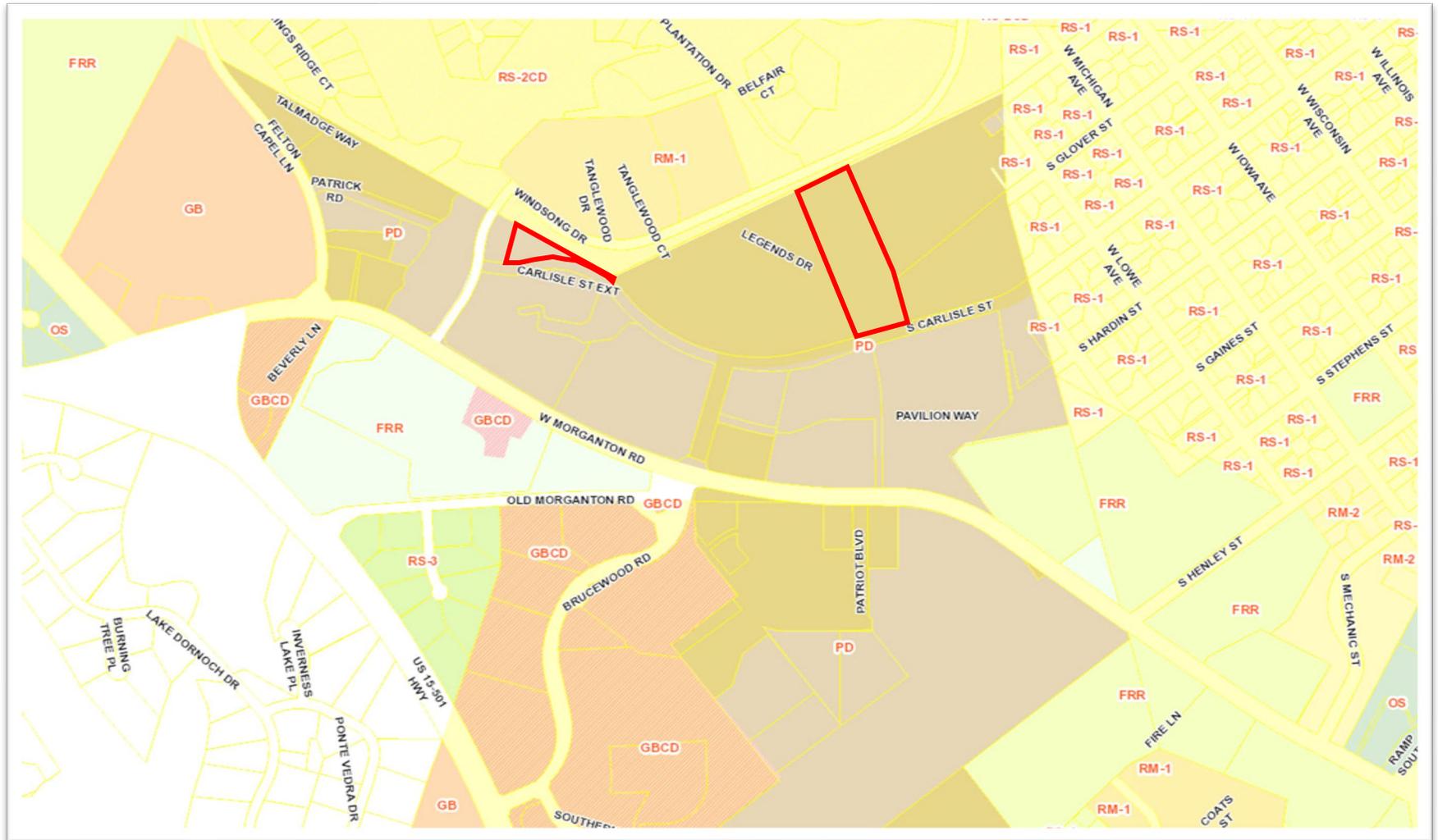


Figure 3: Zoning Map (Subject Property Outlined in Red)



IV. STAFF REVIEW:

A. Application Review Dates & Associated Postings:

- Preliminary Development Plan Application Submitted: March 16, 2021
- Application Incomplete: March 18, 2021
- Application Complete: April 01, 2021
- Notice of Planning Board Public Hearing:
 - Posted On-site: April 01, 2021
 - Mailed: April 01, 2021
 - Internet: April 01, 2021
- Planning Board Agenda Meeting: April 15, 2021
- Planning Board Public Hearing: April 22, 2021
- Notice of Town Council Public Hearing:
 - Posted On-site: April 01, 2021 (Remains on-site from PB)
 - Mailed: April 21, 2021
 - Internet: April 27, 2021
- Town Council Agenda Meeting: May 5, 2021
- Town Council Public Hearing: May 11, 2021

B. Process of Review:

The procedures for review and approval of a Planned Development (PD) District, per UDO § 2.18 where a three-step process of Conceptual Development Plan, Preliminary Development Plan and Final Development Plan are required to complete a Planned Development (PD) District.

C. Criteria for Review:

The criteria for review and approval of the second step in the process, Preliminary Development Plan, are as follows:

Preliminary Development Plan - UDO § 2.18.5(H):

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.*

PD-Planned Development District – UDO § 3.5.14 (A-P):

MRO-Morganton Road Overlay District - UDO § 3.6.6 (A-K):

Multi-Family Development Standards - UDO § 4.10.8 (A-F):

D. Staff Comments:

i. Request to combine prior approval with this application:

- The applicant is proposing to utilize the approved amenities for the existing Legends apartment community. The amenities approved include a clubhouse with fitness center, business center, theater room, pool area, fire pit, outdoor seating areas, and children’s play area. The applicant requests to remove the existing dog park to accommodate additional parking areas and provide a new dog walk area around the stormwater area presented with this PDP. The applicant has stated they will also provide a new outdoor seating and fire pit area with this PDP. Residents across the entire Legends community would have access to all amenities.
 - The request to combine the first development approval with this proposed development approval in order to allow for the utilization of the existing Legends apartment community site prior to the combination of all three lots would be evaluated under standard UDO § 1.5 which states that the UDO is intended to be administered with the flexibility to respond to unique circumstances of individual properties in ways that best achieve its purposes. UDO § 2.11 states that Town Council may approve exemption from the requirements of the UDO provided that it makes findings based on the evidence presented, in this case, (A) (1) *the exemption is in the public interest and is not contrary to health, safety and welfare considerations.* Also, UDO § 2.18.2 acknowledges that most PD’s involve flexible development standards that deviate from the specific standards in other zoning districts.

ii. Consistency evaluation with the Conceptual Development Plan for Morganton Park North:

- The applicant has stated that the PDP before you utilizes the standards set forth with the previous approval, which again, is not applicable because the applicant is not amending the prior approval. The application must meet the current UDO standards. Deviations from the UDO have been evaluated below. The applicant also states that this PDP meets the approved CDP, PD-01-18.
- The applicant stated at the Regular Planning Board Meeting that the remaining Carlisle Street extension will be developed as the remainder of the lots are developed. Also, at TRC on April 20, 2021 the Town Engineer and Town Fire Marshal stated that they are okay with the existing path remaining and that the path is for emergency vehicles only. Please see the approved street layout plan below:



- Please note the approved street layout above as approved in the CDP. With the CDP a Conceptual Transportation Plan (CTP) was submitted showing access to the project, internal circulation, street cross-sections and classification of internal roadways. All internal roadways are planned to be designed and built by the developer and offered for dedication to the Town of Southern Pines. Deviations from Town street standards are presented in General Note #6 on the CTP (Sheet L-1.3) in the approved CDP PD-01-18.
- Land uses and bulk and dimensional standards within the development are restricted to those set forth in GB – General Business or OS – Office Services zoning classifications. The applicant stated at the Planning Board Regular meeting they will utilize the OS zoning district for the multi-family land use because it is allowed in the OS zoning district but not the GB zoning district.

iii. Consistency evaluation with the Unified Development Ordinance (UDO) and the Morganton Park North Conceptual Development Plan (CDP):

- Per UDO 3.5.14 (O) (2) building heights shall adhere to the limitations set forth in Chapter 4 for the RM-1 district, which is 40'. The applicant is requesting the building height of 45' on the plan sheets submitted, but requested 50' for a total of four (4) stories in the written narrative.
 - Per UDO 3.5.14 (O) (2) 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 Town Council.
- UDO § 3.6.6 (K) (1) requires that the maximum residential density is 16 dwelling units per acre. Parcel 1 is 7.51 acres and allows for 120 du. The applicant is requesting 144 du which is an overage of 24 du. The total

acreage for all three parcels is 27.03 acres and at 16 du/acre the whole community would be allowed 432 du, which is what the applicant is proposing.

- UDO § 2.18.2 allows the applicant to request from Town Council flexible development standards that deviate from the specific standards.
- UDO § 3.6.6 (K) (2) requires no more than 35% of the 115 acres north of Morganton Road be developed for residential uses for a total of 40.25 acres. This application for the second portion of Legends Apartment Community brings the residential total acreage to 27.03 acres.
- UDO § 4.10.8 (B) that applies to multi-family development requires buildings be set back a minimum of 10' and a maximum of 15' from sidewalks, public walkways or street right of way. The applicant amended his application at the Regular Planning Board meeting to include a statement that they will meet UDO § 4.10.8 (B).
- UDO § 4.10.8 (F) (6) that applies to multi-family development requires well-equipped and challenging play areas for school age children, with places to sit and a space for ball games, within a five (5) minute walk from each du. The applicant stated at the Planning Board Regular Meeting that the original Legends apartment community contains an abundance of amenities that the proposed Legends apartment community would have full access to.
- The applicant is requesting to place a subdivision sign at the entrance from Carlisle Street. Multi-family development entrance sign requirements are found in UDO § 4.6.12. The applicant amended his application at the Planning Board Regular meeting to include they will apply for a multi-family development entrance sign permit and will need to provide the following information:
 - At any entrance to a residential subdivision or multi-family development, there may be either one double faced identification sign not to exceed 32 square feet in size or two single faced identification signs not to exceed 32 square feet per face. Such signs must be of a monument style and shall not exceed six feet in height. Is there currently a monument identification sign? Is it double sided? What size is it?
- The applicants have submitted a TIA that is consistent with the requirements of UDO §4.12 (attached to this memo below) Please see under Agency Comments that the Town Engineer could not review the TIA as submitted because of the limited detail provided.

The AM and PM peak hour turning movement counts were obtained from the revised Pinehurst Medical Morganton Park North Medical Office Building TIA. Please see below for highlighted information from the TIA study:

Land Use Code	Land Use	Intensity		Daily		AM Peak Hour		PM Peak Hour	
				In	Out	In	Out	In	Out
221	Multifamily Housing (Mid-Rise) – Existing	288	d.u.	1,054	1,054	25	72	74	78
221	Multifamily Housing (Mid-Rise) – Proposed	432	d.u.	1,581	1,581	37	107	110	70
Net Increase: Net New External Trips				527	527	12	35	36	22

Table 1 shows that the additional 144 apartments units are anticipated to increase overall site traffic generation by approximately 1,054 trips on a typical weekday, 47 trips during the AM peak hour, and 58 trips during the PM peak hour.

- The applicants have addressed the availability of water and sewer services to serve the proposed multi-family community, and have stated water and sewer utilities are readily available for the project and are located in Carlisle Street and the adjacent property.
- The applicants have stated there are no endangered species located on this property. The applicants have not submitted letters from NC Fish and Wildlife.
- Site plan review and approval pursuant to UDO §2.48 will be required prior to the approval of a building permit for the subject property.
- Final Development Plans pursuant to UDO §2.18.7 will be required to demonstrate compliance with the Preliminary Development Plan.

iv. General Comments:

- The public hearing for this request will be evidentiary in format and will follow the procedures set forth in UDO §2.14.

E. Outside Agency Comments:

- A request for comments was emailed to agencies on March 25, 2020. Agencies notified include Town of Southern Pines Streets, Utilities, Fire, Recreation and Parks, and Engineering departments, the Regional Land Use Advisory Commission (RLUAC) and the North Carolina Department of Transportation (NCDOT).
- On April 1, 2021 the Town of Southern Pines Fire Marshal, Mr. Ken Skipper, provided the comment: *no comments at this time.*
- On April 13, 2021 the Town of Southern Pines Engineer, Mr. James Michel, provided the comment: *Given the limited detail provided at this stage, a review for conformance with the Town’s Engineering and Construction Standards has not been performed. A detail review will occur during the site plan review process. Any issues identified during the site plan review*

will not be considered as approved based on approval of the PD, and will be required to be corrected. Corrections for compliance with the engineering standards that affect the original PD approval will have to be addressed through the appropriate process.

- Comment was received from RLUAC and is attached.
- Comment was not received from the United States Fish & Wildlife Service (USFWS).
- Comment was not received from NCDOT.

V. ATTACHMENTS:

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

1. Preliminary Development Plan Application
2. List of Adjoiners
3. Agent Authorization Form
4. Preliminary Development Plan Narrative
5. Preliminary Development Plan Justification
6. Preliminary Development Plan Site Plan
7. RLUAC Courtesy Review
8. Revised Kimley Horn TIA Report (pages 1-5)
9. Morganton Park North Land Plan & CTP (approved May 15, 2018)
10. Planning Board Amended Finding of Fact

Additional documents related to this application including (but not limited to) property deeds, Authorization of Agent forms, email correspondence, deeds, CDP PD-01-18, TIA full report, meeting minutes and adjacent property notification records are on file in the Town of Southern Pines Planning Office and available for public inspections during normal business hours.

VI. TOWN COUNCIL ACTION:

Per G.S. §166A-19.24(e) action on this agenda item may not be taken until allowing a minimum of 24 hours following the remote public hearing for submittal of written comments. However, after closing the remote public hearing, the Town Council may still wish to discuss the Preliminary Development Plan application as presented in this report and at the public hearing in order to assist staff in preparing appropriate documents for Town Council action.

Planning staff will bring this item back to the Town Council for further consideration and a decision at the May 24th, 2021 Work Session.



Planned Development District Preliminary Development Plan Application

Fee: \$ _____	Date Received: _____	Case No.: PD-____-____
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Project Information:

Project Name: Legends Apartments - Phase 2

Physical Address: 500 Legends Drive, Southern Pines, NC 28387

PIN: 857200502304, 857100392796, 857200405185 Parcel ID: 20190146, 20150046, 20130093

Site Size: 27.03 Zoning: PD

Applicant:

Name(s): Morganton Park II, LLC c/o Watson Caviness

Email: watson@cavinessandcates.com Phone: 910.460.5985

Mailing Address: 639 Executive Place, Suite 400, Fayetteville, NC 28305

Authorized Agent, if different from Applicant:

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

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): Robert and Julie Van Camp, Trustees

Email: thomasv@vancampplaw.com Phone: 910.295.2525

Mailing Address: 2 Regional Circle, Pinehurst, NC 28374

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 – Preliminary 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 Carlisle Street (St./Ave.), between Brucewood Road (St./Ave.) and W. Lowe Avenue (St./Ave.). The property has a frontage of +/- 308 feet and a depth of +/- 945 feet.

The request is based upon **Section 2.18.5** of the **Town of Southern Pines Unified Development Ordinance**. The proposed use of the property is as follows:
Multi-family Apartments

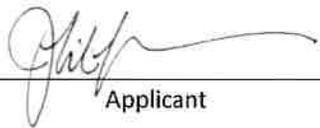
ADJACENT PROPERTY OWNERS:

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 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. 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: 3/15/21



Applicant

Parcel ID	PIN	Deed Book	Deed Page	Owner's Name	Owner's Name 2	Mailing Address	Mailing Address cont.	City	STATE	Zip Code
00038504	857100297376	5145	249	PINES CEMETERY SERVICES LLC		PO BOX 655		CARTHAGE	NC	28327
00039526	857218307758	490	865	TANGLEWOOD ASSOCIATES		C/O ORIX REAL ESTATE CAPITAL LLC	1717 MAIN ST SUITE 900	DALLAS	TX	75201
20020140	857218206431	1915	329	MCNEILL MORGANTON, INC		PO BOX 396		ABERDEEN	NC	28315
20020459	857217203555	896	76	MCNEILL GROUP, THE		PO BOX 396		ABERDEEN	NC	28315
20040157	857200428061	2535	405	MID TAL GOLF, LLC		48 TALAMORE DR		SOUTHERN PINES	NC	28388
20050390	857218206971	4929	451	WHITE, JUSTIN	DUROCHER, CHARLOTTE	PO BOX 2711		SOUTHERN PINES	NC	28388
20071162	857200614867	2069	533	PLANTATION INVESTORS, LLC	ATTN: LAURA LANG	P O BOX 8000		PINEHURST	NC	28374-8000
20130093	857200405185	4192	583	MORGANTON PARK, LLC		PO BOX 56607		ATLANTA	GA	30343
20150043	857100492841	4447	433	MORGANTON PARK NORTH	MASTER ASSOCIATION, INC	PO BOX 1389		PINEHURST	NC	28370
20150046	857100392796	4504	322	VAN CAMP, ROBERT W & JULIE M	TRUSTEES	1001 OPPENHEIMER DR	APT 201	LOS ALAMOS	NM	87544
20160262	857100293068	4677	329	PINELAWN MANAGEMENT, LLC		360 N WALUNT STREET		PINEBLUFF	NC	28373
20190270	857100399573	5210	269	PACN REALTY LLC		205 PAGE ROAD		PINEHURST	NC	28374
99000500	857217204136	3028	34	SC BLACK ANGUS REALTY, LLC		C/O HEATHER IRRIZARRY	186 SEVEN FARMS DR STE F 396	DANIEL ISLAND	SC	29492
99000584	857217203855	1568	471	CRESTON COMMONS, LLC	C/O CME	PO BOX 2185		RALEIGH	NC	27602-2185
00037588	857100597998	4504	322	VAN CAMP, ROBERT W & JULIE M TRUSTEES	VAN CAMP, THOMAS M TRUSTEE	PO BOX 1389		PINEHURST	NC	28370
00039528	857218403921	529	67	TANGLEWOOD II ASSOCIATES		C/O ORIX REAL ESTATE CAPITAL LLC	1717 MAIN STREET SUITE 900	DALLAS	TX	75201
20040158	857218416012	2535	405	MID TAL GOLF, LLC		48 TALAMORE DR		SOUTHERN PINES	NC	28388
20190014	857100496541	5081	398	S & S PARTNERS LLP		195 W ILLINOIS AVE		SOUTHERN PINES	NC	28387-5808
20190146	857200502304	1589	80	VAN CAMP, ROBERT W TRUSTEE	VAN CAMP, JULIE M TRUSTEE	PO BOX 1389		PINEHURST	NC	28370
20190271	857100590565	5210	279	MORGANTON PARK REALTY LLC		5 FIRST VILLAGE DRIVE		PINEHURST	NC	28374
20190272	857100597408	5210	301	PINEHURST SURGICAL CLINIC	REALTY LLC	5 FIRST VILLAGE DIRVE		PINEHURST	NC	28374
20160480	857200506765	4732	327	MOORE COUNTY NORTH CAROLINA	BOARD OF EDUCATION	PO BOX 1180		CARTHAGE	NC	28327

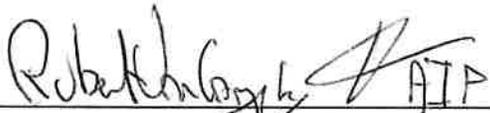
APPOINTMENT OF AGENT

The undersigned owner(s), Robert Van Camp, 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 – Preliminary 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 Town Council for the approval of a Planned Development District – Preliminary 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 -Preliminary 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 15 day of March, 2021.



Property Owner

Property Owner


Agent

1-12-21

APPOINTMENT OF AGENT

The undersigned owner(s), Morganton Park II, 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 – Preliminary 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:

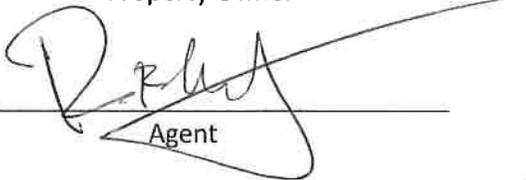
1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Town Council for the approval of a Planned Development District – Preliminary 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 -Preliminary 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 15 day of March, 2021.



Property Owner

Property Owner


Agent

LEGENDS APARTMENTS – PHASE 2 PRELIMINARY DEVELOPMENT PLAN NARRATIVE

The purpose of this PD – Preliminary Development Plan (PDP) application is to fully describe the proposed new phase of development for the existing Legends at Morganton Park multi-family development. Legends Phase 2 meets the standards of the Morganton Park North Property Conceptual Development Plan (CDP). As stated in the Town of Southern Pines Unified Development Ordinance (UDO) in Section 2.18.5(A), the PDP is intended to show, with greater detail, the proposed portion of development and illustrate how “proposed land use mix and intensity are consistent with the Comprehensive Plan, the purposes of the PDD and the approved Conceptual Development Plan”. The following narrative will provide information related to the submitted plans and provide details of the proposed apartment community expansion. This narrative will describe how the PDP meets the criteria set forth in Section 2.18.5(A). The apartment community is consistent with the PD zoning district, CDP and the Town’s Comprehensive Long-Range Plan (CLRP). The property is indicated as Traditional Mixed-Use in the Town’s CLRP.

All plans incorporate the existing apartment community and overall development calculations for impervious surface, open space and density take in to account the existing development and the expanded area. The apartment community, as described in this PDP application, is intended to include the second phase of development for the Legends at Morganton Park property and includes 144 multi-family residential apartments. Morganton Park Phase 1 is currently 288 units. Phase 2 will bring the overall total to 432 multi-family residential units. This development conforms with the standards of the original multi-family development and the standards of the current Unified Development Ordinance (UDO), with one exception to building height, which will be described in the architectural character section of this exhibit. Tabulations for the overall Legends at Morganton Park development and this specific phase are provided on sheet L-1.1 of the submission documents indicating conformance to the development program and open space requirements as described in the overall Morganton Park North CDP. Following is a description of the individual phase and overall design elements of the PDP.

Overall Community

Walkability

Walkability is an important component of the proposed neighborhood. Concrete sidewalks are provided throughout the community to provide convenient access to apartment buildings and amenities. An interconnected network of walkways and sidewalks provide access throughout the community. Phase 2 will tie into the existing sidewalk and walkway system throughout the community. All units in the new phase are connected through pedestrian pathways to the open spaces, clubhouse, children’s play area, and other amenity areas throughout the property. A pedestrian spine has been developed within the plan to connect all units from the new phase through the courtyard open spaces to the clubhouse and other on-site amenities.

Amenities

Amenities for Phase 1 will be utilized by the residents of Phase 2. These amenities include a clubhouse with fitness center, business center, and theater room, pool area, fire pit, outdoor seating areas, and children's play area. Construction of Phase 2 will remove an existing dog park to accommodate additional parking area, however, a new dog walk area will be provided in Phase 2 around the stormwater area. In addition, a new amenity area will be provided for the residents that will include outdoor seating and a fire pit. Residents in both Phase 1 and Phase 2 will have access to all community amenities.

Lighting

All lighting on the property will follow Section 4.5.6 of the CDP and Section 4.8 of the UDO. Lighting levels in parking areas and throughout the community will be provided to meet the UDO standards for safety. All light will be projected downward in order to limit any light spilling onto adjacent properties.

Endangered Species

There are no endangered species located on this property.

Utilities and Stormwater Management

Water and sewer utilities are readily available for the project and have been developed in previous phases of Morganton Park North development and the existing multi-family community. Water and sewer utilities are located in Carlisle Street and the adjacent property, which have been designed to accommodate this development. Stormwater management facilities will be provided on the property to accommodate the proposed development and constructed to meet Town of Southern Pines development standards. Previous development of the property contemplated development of this parcel and utilities have been constructed to adequately accommodate the project.

Vehicular Circulation and Parking

Access to the property will be provided through an entrance on Carlisle Street. Parking and roadway areas will also connect to the existing parking areas in Phase 1 of the development. This connection will allow for adequate service, circulation, and emergency access to the property.

Parking areas will be designed and landscaped per Town of Southern Pines Unified Development Ordinance standards in Section 4.3.

Architectural Character

A modification to the building height limitation is requested for the proposed project. The current ordinance and zoning limits buildings on this property to 35' in height. Due to the site grading conditions and understanding that the lower floor

of the building(s) will be significantly below the level of Carlisle Street (minimum of 15' up to 25' for the closest building, we would request the permitted building height be increased to a 50' maximum for the buildings to allow for a four (4) story apartment building to use the land as efficiently as possible. These buildings will include elevators that can be utilized by residents.

At such time as engineering drawings and/or Final Development Plans are submitted for the project or any construction begins, architectural elevations will be submitted as required for all commercial, multi-family, and office buildings for review by the Town of Southern Pines Architectural Review Board.

Landscaping

Landscaping will be provided as required by the Town of Southern Pines UDO in Section 4.3. This will include tree islands, parking lot landscaping, and buffer plantings.

Signage

One additional subdivision sign will be provided at the new entrance from Carlisle Street. This sign will follow the standards of Section 4.6 of the UDO.

Open Space

Required open space for Morganton Park North is 20%. Open space is not required for each individual parcel within Morganton Park North, however, both phases of the Legends Apartments will include more than 20% open space. These tabulations and an updated 'running' tabulation for the overall Morganton Park North property have been provided on Sheet L.1.1 of the submission set.

The descriptions and conditions described above will apply to the entire project as indicated in the Preliminary Development Plan documents. Phase 1 of the development will remain in place as developed except for the road connection and additional parking area that is being created. Phase 2 of the development will utilize the standards set forth with the previous development and the proposed plan utilizes the CDP's development standards to implement the next phase of development within the Morganton Park North property. This phase of development meets the standards of the Morganton Park North CDP as approved on May 15, 2018.

In summary, the proposed PD – PDP is consistent with the Town's Comprehensive Long-Range Plan (CLRP) and promotes its objectives. The CLRP designates the property as Mixed-Use. This PDP contains an additional phase of the Legends and Morganton Park Apartments within the overall mixed-use development, similar in scale and size of the existing Morganton Park North. The approved CDP describes a master planned mixed-use development. The proposed PDP is the commencement of the next phase of development for Morganton Park North.

EXHIBIT B

**Legends Apartments – Phase 2
Preliminary Development Plan Justification**

Below are listed the four (4) criteria required to approve a Preliminary Development Plan (PDP) application as described in Section 2.18.5(H) of the Town of Southern Pines Unified Development Ordinance (UDO). Following the individual criteria is an explanation, indicated in red, describing how the project demonstrates compliance with each of these criteria.

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

(1) The application demonstrates that it will achieve the purposes of the PDD and this section;

This application will expand an existing multi-family development within the Morganton Park North property. Morganton Park North is a mixed-use development with an approved Conceptual Development Plan (CDP) for the overall property area. Legends Phase 2 will continue the mixed-use nature of the overall property and provide additional residential development near the elementary school, medical offices, and retail/commercial properties. This expansion of the mixed-use achieves the purpose of the PDD and Section 2.18.5 of the UDO.

(2) The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;

The PDP conforms to all standards set forth in the Conceptual Development Plan (CDP) and the standards set forth in the UDO except for a request to increase the building height as explained in the Exhibit A - Narrative. This proposed development is an extension of a previously approved multi-family development, which was permitted in the Morganton Park North Planned Development District and is part of the approved CDP. The plans included with the approved CDP demonstrates the overall compliance with the UDO and this PDP follows the standards of the CDP. The PD District, Comprehensive Long-Range Plan (CLRP) and the CDP all encourage a mixed-use development that reflects the standards of the existing area, surrounding the phase of development described in the PDP. The PDP submitted meets these goals.

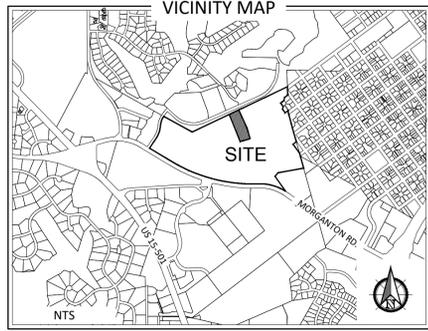
(3) The proposed Development is located in an area of the Town that is appropriate; and

The proposed PDP incorporates an existing multi-family development and expands the overall community. Plans are consistent with the CDP, surrounding community and the Morganton Park North mixed-use development which includes a mixed-use building (office, medical office, retail and restaurant), medical office buildings, multi-family apartment community and an elementary school. The CLRP, which takes in to account surrounding land uses, designates this property as mixed-use. The continued development of the existing multi-family community included in the PDP is consistent with the surrounding land uses and appropriate for this area. With the development standards set forth in the UDO and CDP, the PDP will be compatible with the surrounding neighborhoods and land uses as this is an extension of an existing use within Morganton Park.

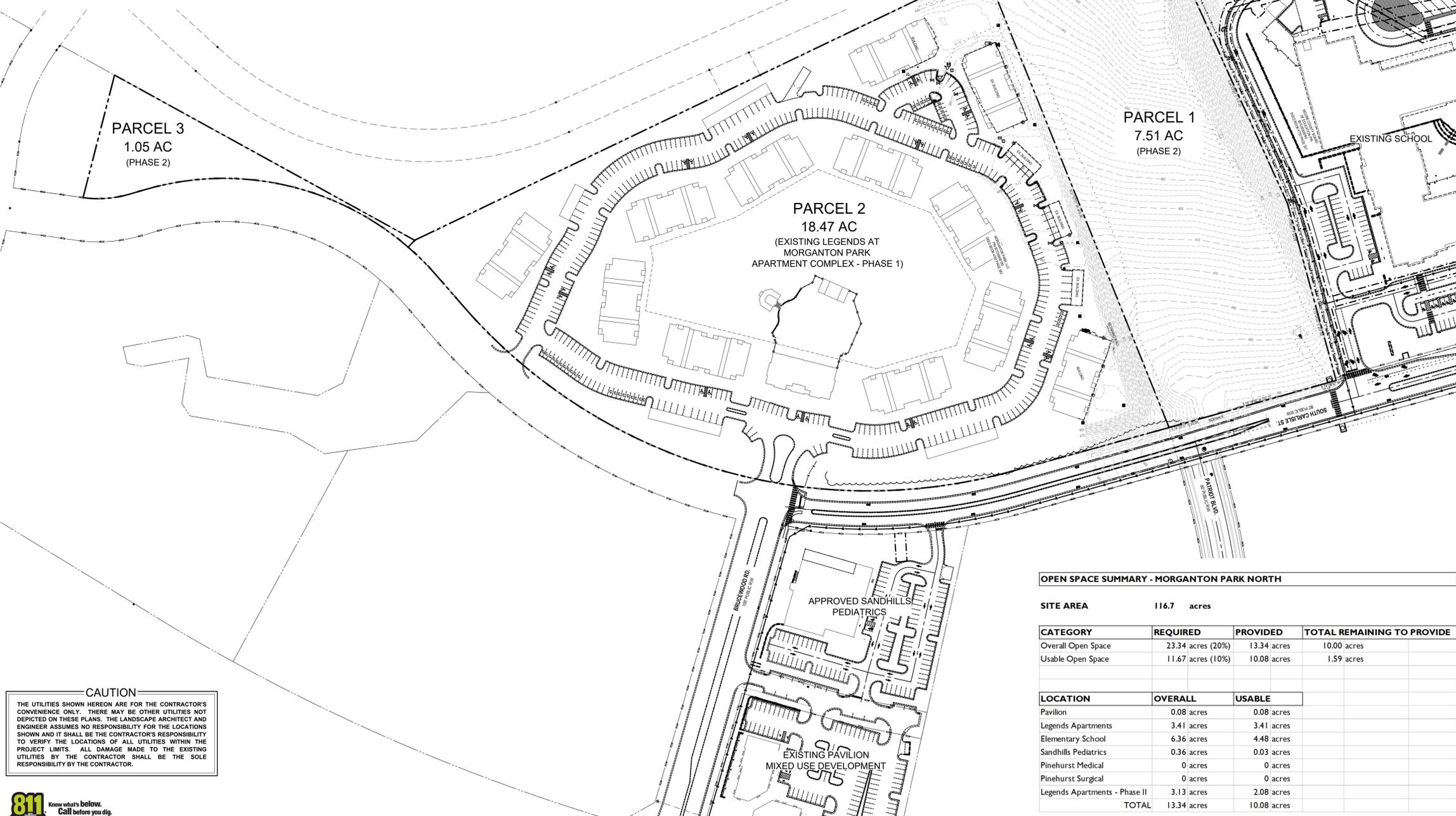
(4) The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities, and services

EXHIBIT B

Water and sewer utilities are readily available for the project and have been developed in previous phases of Morganton Park North development and the existing multi-family community. Water and sewer utilities are located in Carlisle Street and the adjacent property, which have been designed to accommodate this development. Stormwater management facilities will be provided on the property to accommodate the proposed development and constructed to meet Town of Southern Pines development standards. Previous development of the property contemplated development of this parcel and utilities have been constructed to adequately accommodate the project.



- GENERAL NOTES:**
1. ALL STREETS AND PARKING AREAS WILL REMAIN PRIVATE STREETS. STREETS WILL BE MAINTAINED BY THE DEVELOPER.
 2. LANDSCAPE STANDARDS FOR PHASE II WILL MEET OR EXCEED THE REQUIREMENTS OF THE TOWN OF SOUTHERN PINES UDO PER SECTION 3.5.14(H).
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 4. ALL STREETS AND PARKING AREAS WILL HAVE CONCRETE CURB AND GUTTER PER TOWN OF SOUTHERN PINES STANDARDS.
 5. OPEN SPACE WILL BE PRIVATELY OWNED AND MAINTAINED.



LEGEND

- PROPERTY BOUNDARY
- - - EXISTING MINOR CONTOUR
- - - EXISTING MAJOR CONTOUR
- - - EXISTING STORM DRAINAGE
- - - EXISTING STORM DRAIN INLET
- - - EXISTING SEWER LINE
- - - EXISTING WATER LINE
- PROPOSED DRAINAGE FLOW

FLOODPLAIN DATA

THIS PROPERTY IS LOCATED IN FLOOD ZONE 'X' (AREAS OF MINIMAL FLOODING)

THE LOCATION OF THE 100-YEAR FLOODPLAIN PER NFIP FIRM COMMUNITY PANEL(S) NO: 8571, 8572 MAP(S): 3710857100J, 3710857200J DATE: OCTOBER 17, 2006

ZONING INFORMATION

EXISTING ZONING CLASSIFICATION:
PD - CONCEPTUAL DEVELOPMENT PLAN

REQUIRED SETBACKS:
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SIDE INTERIOR: NO MINIMUM
REAR: NO MINIMUM

MAX. BUILDING HEIGHT (PROPOSED): 45'

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PARCEL ID: 20190146; PIN: 857200502304

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PARCEL ID: 20130093; PIN: 857200405185

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LOS ALAMOS, NM 87544
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APPLICANT:
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639 EXECUTIVE PLACE, SUITE 400
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TOTAL: ±27.03

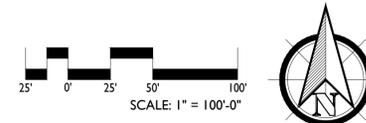
OPEN SPACE SUMMARY - MORGANTON PARK NORTH

SITE AREA 116.7 acres			
CATEGORY	REQUIRED	PROVIDED	TOTAL REMAINING TO PROVIDE
Overall Open Space	23.34 acres (20%)	13.34 acres	10.00 acres
Usable Open Space	11.67 acres (10%)	10.08 acres	1.59 acres

LOCATION	OVERALL	USABLE
Pavilion	0.08 acres	0.08 acres
Legends Apartments	3.41 acres	3.41 acres
Elementary School	6.36 acres	4.48 acres
Sandhills Pediatrics	0.36 acres	0.03 acres
Pinehurst Medical	0 acres	0 acres
Pinehurst Surgical	0 acres	0 acres
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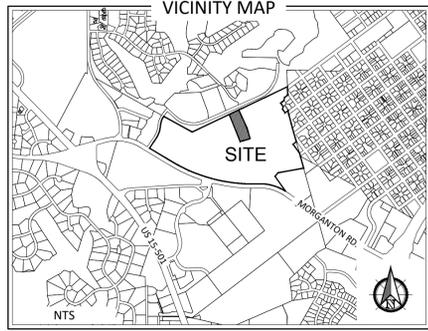
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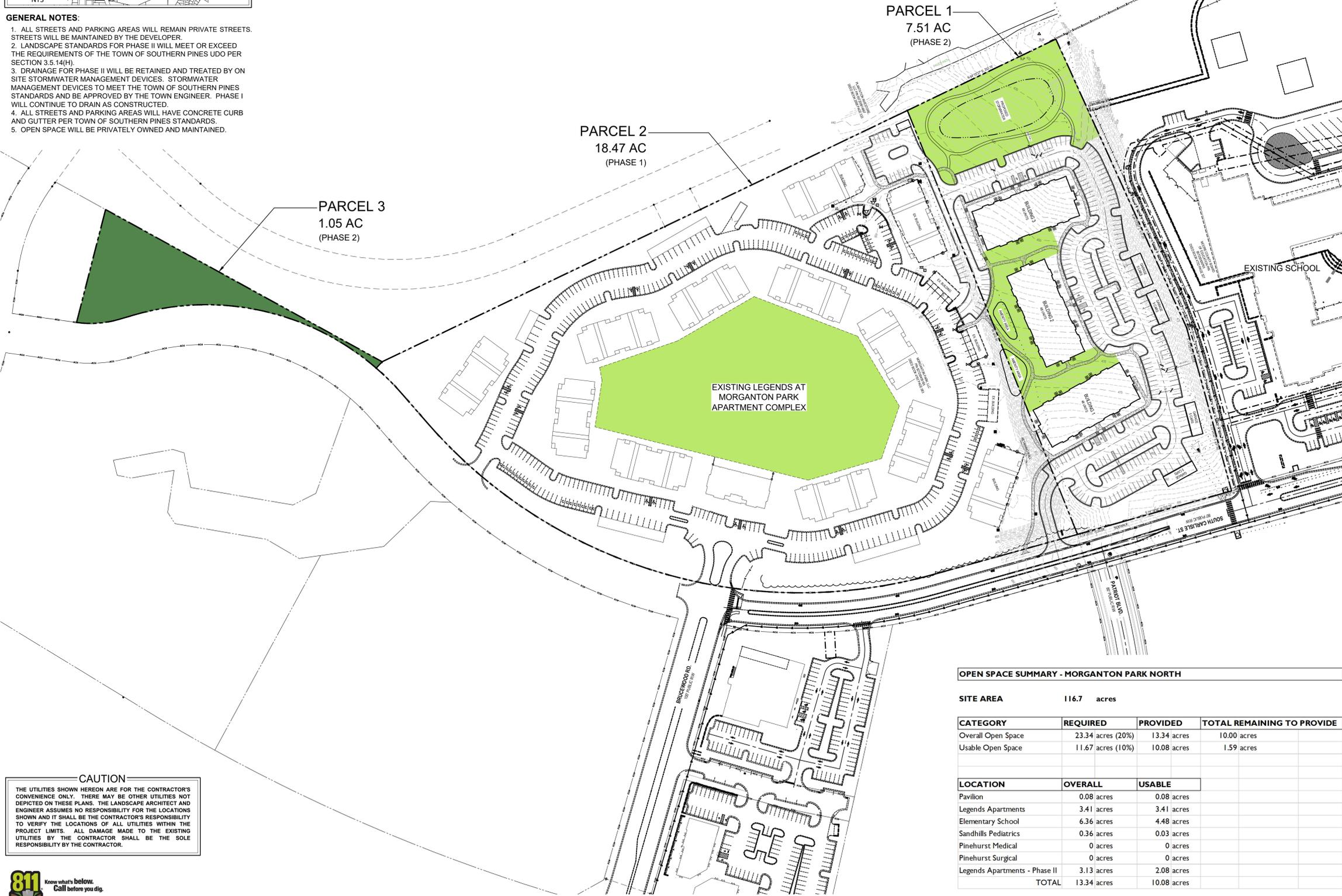
REVISIONS:

LEGENDS - PHASE II
PRELIMINARY DEVELOPMENT PLAN
 SOUTHERN PINES, NORTH CAROLINA
EXISTING CONDITIONS

DATE: 03.15.2021
 DESIGNED BY: REK
 DRAWN BY: PJS
 CHECKED BY: REK
 SCALE: 1" = 50'
 PROJECT #: K1D21011
 SHEET NUMBER:
L-1.0



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- = PROPOSED OPEN SPACE
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THE LOCATION OF THE 100-YEAR FLOODPLAIN PER NFIP FIRM COMMUNITY PANEL(S) NO: 8571, 8572
 MAP(S): 3710857100J, 3710857200J
 DATE: OCTOBER 17, 2006

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 REAR: NO MINIMUM

MAX. BUILDING HEIGHT (PROPOSED): 45'

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 TOTAL: ±27.03

TOTAL IMPERVIOUS SURFACE:
 PHASE 1: ±9.67 AC
 PHASE 2: ±3.81 AC
 TOTAL: ±13.48 AC (49.9%)

TOTAL UNITS:
 PHASE 1: 288 MULTI-FAMILY RESIDENTIAL UNITS
 PHASE 2: 144 MULTI-FAMILY RESIDENTIAL UNITS
 TOTAL: 432 UNITS (16 DU/AC)

REQUIRED PARKING:

PHASE 1:
 APARTMENTS (288 TOTAL UNITS)
 -1 BEDROOM UNITS (88) 1 SPACE/UNIT = 88
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 -3 BEDROOM UNITS (40) 2 SPACES/UNIT = 80
 -1 VISITOR SPACE PER EVERY 5 UNITS = 58
 = 546 SPACES REQUIRED

PHASE 2:
 APARTMENTS (144 TOTAL UNITS)
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PROVIDED PARKING:

PHASE 1 (EXISTING):
 558 TOTAL SPACES (503 SURFACE / 55 GARAGE)

PHASE 2:
 278 TOTAL SPACES (258 SURFACE / 20 GARAGE)

OPEN SPACE:
 PHASE 1: 3.41 AC (USEABLE)
 PHASE 2: 2.08 AC (USEABLE)
 1.05 AC (OTHER)
 TOTAL: 6.54 AC (24.19%)

OPEN SPACE SUMMARY - MORGANTON PARK NORTH

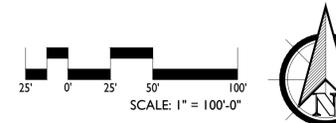
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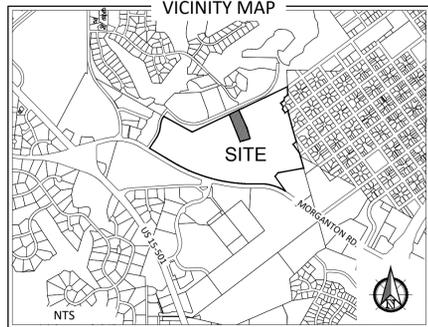
REVISIONS:

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**LEGENDS - PHASE II
 PRELIMINARY DEVELOPMENT PLAN
 SOUTHERN PINES, NORTH CAROLINA
 SITE PLAN**

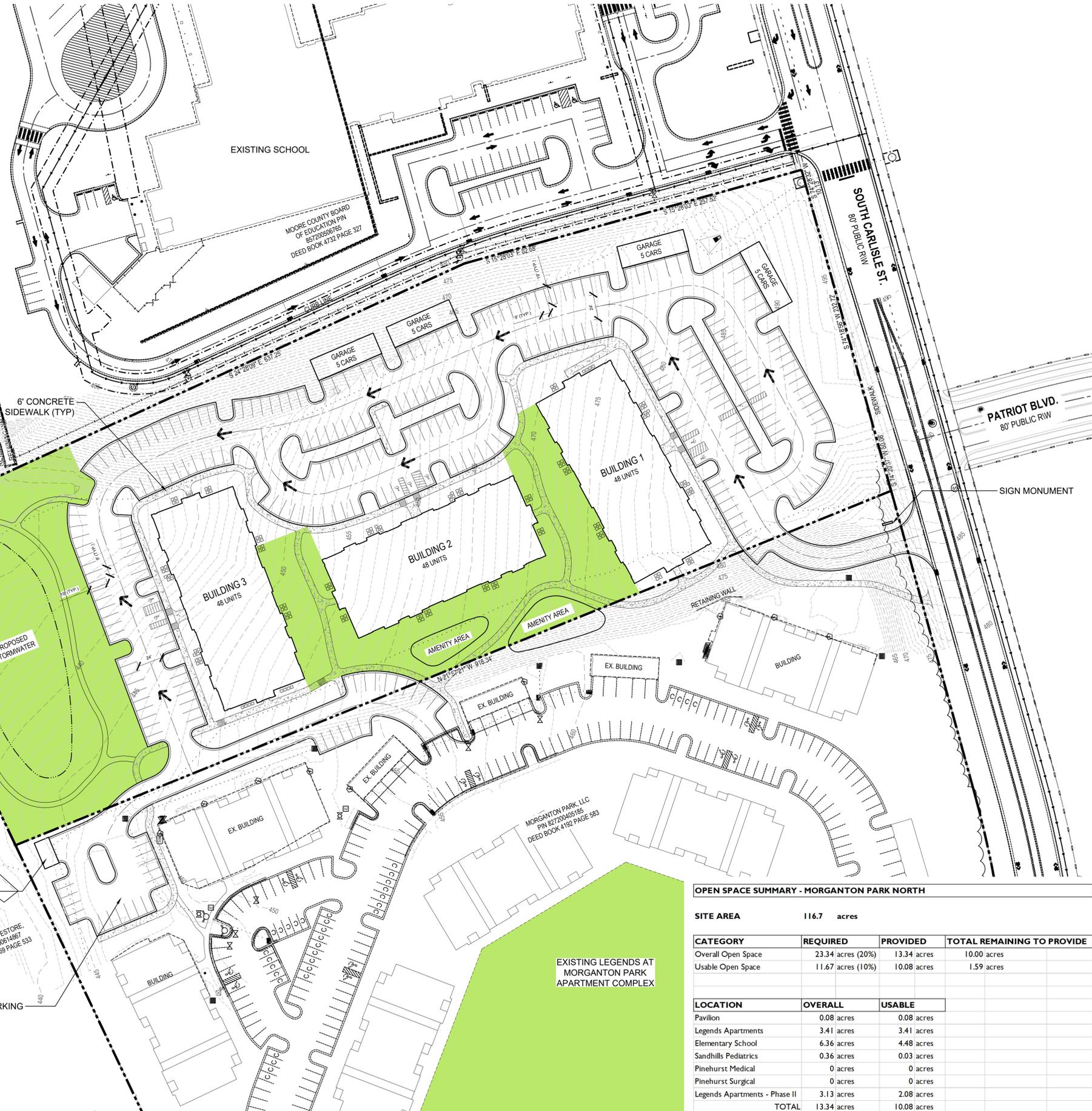
DATE: 03.15.2021
 DESIGNED BY: REK
 DRAWN BY: PJS
 CHECKED BY: REK
 SCALE: 1" = 50'
 PROJECT #: K1D21011
 SHEET NUMBER#: **L-1.1**



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OPEN SPACE:

PHASE 1 (EXISTING):
 TOTAL USABLE: 3.41 AC
 TOTAL AREA: 3.41 AC

PHASE 2:
 TOTAL USABLE: 2.08 AC
 TOTAL AREA: 3.13 AC

OPEN SPACE SUMMARY - MORGANTON PARK NORTH

SITE AREA 116.7 acres			
CATEGORY	REQUIRED	PROVIDED	TOTAL REMAINING TO PROVIDE
Overall Open Space	23.34 acres (20%)	13.34 acres	10.00 acres
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REVISIONS:

LEGENDS - PHASE II
PRELIMINARY DEVELOPMENT PLAN
 SOUTHERN PINES, NORTH CAROLINA
SITE PLAN ENLARGEMENT

DATE: 03.15.2021
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 DRAWN BY: PJS
 CHECKED BY: REK
 SCALE: 1" = 50'
 PROJECT #: K1D21011
 SHEET NUMBER:
L-1.2



TOWN OF SOUTHERN PINES / COURTESY REVIEW

PD-02-21: Planned Development District - Preliminary Development Plan for Phase Two of the Legends at Morganton Park Planned Development
Pin#s: 857200502304, 857100392796, and 857200405185

April 5 2021

Following an examination of the materials provided for the courtesy review by the RLUAC staff and Board of Directors, and recognizing that our findings are non-binding on the Town of Southern Pines, the RLUAC Board of Directors finds that:

- The case involves properties that are neither identified as critical nor important to conserve on the Joint Land Use Study maps, and
- They contain no identified military impacts.

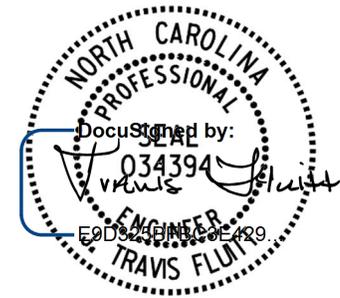
Thank you for allowing RLUAC to review this case.

John K. McNeill, Chairman

Pete Campbell, Executive Director

March 31, 2021 (*Revised April 6, 2021*)

Mr. Bob Koontz
Koontz Jones Design
150 South Page Street
Southern Pines, NC 28387



RE: *Legends Apartments Expansion, Southern Pines, NC – Traffic Impact Analysis*

Dear Mr. Koontz,

Kimley-Horn has revised the Traffic Impact Analysis (original study dated March 31, 2021) for the proposed expansion of the Legends Apartments at Morganton Park development located north of Carlisle Street at Brucewood Road in Southern Pines, NC based on comments provided by Town of Southern Pines staff. The existing development currently includes 288 apartments with access on Carlisle Street. The proposed expansion will add 144 units for a total of 432 dwelling units and provide an additional right-in/right-out driveway on Carlisle Street between Brucewood Road and Patriot Way. The proposed expansion has an anticipated build-out year of 2022.

This report presents trip generation, distribution, traffic analyses, and recommendations for transportation improvements required to meet anticipated traffic demands in conjunction with the proposed development in the projected (2022) build-out year and the projected (2031) ten-year horizon condition per the Town’s UDO. The site location is shown on **Figure 1**, while **Figure 2** shows the proposed site plan. The existing roadway laneage at the study intersections is shown on **Figure 3**.

Existing and Background Traffic

AM and PM peak hour turning movement counts performed on February 11, 2020 were obtained from the *Revised Pinehurst Medical Morganton Park North Medical Office Building TIA* (Kimley-Horn, March 2020) for the following intersections:

- Morganton Road at Brucewood Road
- Brucewood Road at Pavilion Way

As those turning movement counts are more than one year old, a 2% growth rate was applied for one year up to the existing study year 2021. No growth was applied to traffic volumes north of Morganton Road as approved development traffic is expected to account for those traffic increases.

Based on historic daily traffic volumes in the area and to be consistent with other TIA’s performed in the area, an annual growth factor of 2% was applied to existing volumes for the 2022 study year scenarios, and an annual growth factor of 1% was applied to 2022 volumes to the 2031 study year scenarios.

Traffic from the Morganton Park Elementary School, Sandhills Pediatrics, and Pinehurst Medical sites were also included in this analysis as background traffic. Morganton Park Elementary School is now open but was not open when the 2020 traffic counts were performed. Site traffic volumes for those developments were obtained from the *Revised Pinehurst Medical Morganton Park North Medical Office*

Building TIA. Traffic diversions due to the extension of Carlisle Street from W. Lowe Avenue to Brucewood Road for both school and non-school traffic were also obtained from that study.

Existing and projected (2022) background peak hour traffic volumes, which include historic growth traffic, approved development traffic, and Carlisle Street/Morganton Park Elementary School traffic diversions, are shown on **Figures 4** and **5**. Projected (2031) background traffic volumes are shown on **Figures 6** and **7**.

Trip Generation

The peak hour trip generation potential of the additional units was determined using the traffic generation data published in the *ITE Trip Generation Handbook* (Institute of Transportation Engineers, Tenth Edition, 2017), while daily trip generation was based on data in “Exhibit 4-20” of the Town’s UDO. These calculations were based on the net increase in trips between the existing and proposed conditions, and Table 1 summarizes the estimated traffic generation potential for the site.

Land Use Code	Land Use	Intensity		Daily		AM Peak Hour		PM Peak Hour	
				In	Out	In	Out	In	Out
221	Multifamily Housing (Mid-Rise) – Existing	288	d.u.	1,054	1,054	25	72	74	78
221	Multifamily Housing (Mid-Rise) – Proposed	432	d.u.	1,581	1,581	37	107	110	70
Net Increase: Net New External Trips				527	527	12	35	36	22

Table 1 shows that the additional 144 apartments units are anticipated to increase overall site traffic generation by approximately 1,054 trips on a typical weekday, 47 trips during the AM peak hour, and 58 trips during the PM peak hour.

Trip Distribution and Assignment

The new site trips were assigned to the surrounding roadway network according to the distribution below. The directional distribution and assignment were based on existing and projected travel patterns in the area.

- 35% to/from the west along Morganton Road
- 30% to/from the south on Brucewood Road
- 25% to/from the east along Morganton Road
- 10% to/from the east on Carlisle Street Extension

The site traffic distribution and percent assignment are shown on **Figure 8**.

The attached **Figures 9** and **10** show the projected (2022) site and build-out traffic volumes at the study intersections for the AM and PM peak hours, respectively. **Figures 11** and **12** show the projected (2031) site and build-out traffic volumes at the study intersections for the AM and PM peak hours, respectively.

Capacity Analysis

Capacity analyses were performed using Synchro Version 10 software. Existing signal timings were obtained from previous studies in the area. Existing peak hour factors (PHF) were used for the existing traffic condition at existing study intersections. For all future AM peak hour conditions, a weighted PHF was used for all movements carrying projected Morganton Park Elementary School project traffic, with a PHF of 0.50 used for school-generated traffic volumes and existing PHF values used for non-school volumes. Synchro intersection level-of-service (LOS) reports are attached. The LOS for the study intersections are summarized in [Table 2](#).

Table 2 Level-of-Service Summary		
Condition	AM Peak Hour LOS (Delay)	PM Peak Hour LOS (Delay)
Morganton Road at Brucewood Road (Signalized)		
Existing (2021) Traffic	B (11.2)	B (15.2)
Background (2022) Traffic	B (19.8)	B (18.3)
Build-out (2022) Traffic	B (19.9)	B (19.5)
Background (2031) Traffic	C (20.8)	C (20.1)
Build-out (2031) Traffic	C (21.0)	B (20.2)
Brucewood Road at Pavilion Way (Unsignalized)		
Existing (2021) Traffic	WB – A (9.1) SBL – A (7.4)	WB – A (9.6) SBL – A (7.5)
Background (2022) Traffic	WB – B (13.2) SBL – A (8.0)	WB – B (12.4) SBL – A (7.7)
Build-out (2022) Traffic	WB – B (13.8) SBL – A (8.0)	WB – B (13.1) SBL – A (7.8)
Background (2031) Traffic	WB – B (13.2) SBL – A (8.0)	WB – B (12.4) SBL – A (7.7)
Build-out (2031) Traffic	WB – B (13.8) SBL – A (8.0)	WB – B (13.1) SBL – A (7.8)
Brucewood Road at Carlisle Street Extension (Unsignalized)		
Background (2022) Traffic	WB – B (12.1) SBL – A (7.5)	WB – A (9.8) SBL – A (7.5)
Build-out (2022) Traffic	WB – B (12.7) SBL – A (7.5)	WB – B (10.2) SBL – A (7.6)
Background (2031) Traffic	WB – B (12.1) SBL – A (7.5)	WB – A (9.8) SBL – A (7.5)
Build-out (2031) Traffic	WB – B (12.7) SBL – A (7.5)	WB – B (10.2) SBL – A (7.6)

Table 2 Level-of-Service Summary (cont.)		
Condition	AM Peak Hour LOS (Delay)	PM Peak Hour LOS (Delay)
Morganton Road at Patriot Way (Unsignalized)		
Background (2022) Traffic	SB – B (11.5)	SB – B (12.8)
Build-out (2022) Traffic	SB – B (11.5)	SB – B (12.8)
Background (2031) Traffic	SB – B (11.9)	SB – B (13.4)
Build-out (2031) Traffic	SB – B (11.9)	SB – B (13.4)
Carlisle Street Extension at Patriot Way (Unsignalized)		
Background (2022) Traffic	NB – B (10.2) WBL – A (7.5)	NB – A (8.7) WBL – A (7.3)
Build-out (2022) Traffic	NB – B (10.3) WBL – A (7.5)	NB – A (8.7) WBL – A (7.3)
Background (2031) Traffic	NB – B (10.2) WBL – A (7.5)	NB – A (8.7) WBL – A (7.3)
Build-out (2031) Traffic	NB – B (10.3) WBL – A (7.5)	NB – A (8.7) WBL – A (7.3)
Pavilion Way at Patriot Way (Unsignalized)		
Background (2022) Traffic	EB – B (11.6) WB – B (11.2) NBL – A (7.3) SBL – A (7.8)	EB – A (9.3) WB – A (9.9) NBL – A (7.2) SBL – A (7.3)
Build-out (2022) Traffic	EB – B (11.5) WB – B (11.2) NBL – A (7.3) SBL – A (7.8)	EB – A (9.3) WB – A (9.9) NBL – A (7.2) SBL – A (7.3)
Background (2031) Traffic	EB – B (11.6) WB – B (11.2) NBL – A (7.3) SBL – A (7.8)	EB – A (9.3) WB – A (9.9) NBL – A (7.2) SBL – A (7.3)
Build-out (2031) Traffic	EB – B (11.5) WB – B (11.2) NBL – A (7.3) SBL – A (7.8)	EB – A (9.3) WB – A (9.9) NBL – A (7.2) SBL – A (7.3)
Carlisle Street Extension at East Site Driveway (Unsignalized)		
Build-out (2022) Traffic	SB – A (9.8)	SB – A (8.6)
Build-out (2031) Traffic	SB – A (9.8)	SB – A (8.6)

The following roadway improvements are proposed to be constructed/implemented as part of other projects in the study area. Note that some of these improvements are already in place but were assumed to only be included in future conditions based on the timing of the turning movement counts:

Morganton Road at Brucewood Road (NCDOT):

- Traffic signal modifications as part of Morganton Road resurfacing project
 - Convert the eastbound and westbound left turns to Dallas Permitted+Protected
 - Convert the westbound right to a Permitted Overlap phase

S. Carlisle Street Extension (Morganton Park Elementary School):

- Extend S. Carlisle Street from Lowe Avenue to Brucewood Road

Morganton Road at Patriot Way (Pinehurst Medical):

- Construct an exclusive westbound right-turn lane on Morganton Road with 150 feet of storage and appropriate tapers
- Construct Patriot Way as a right-in/right-out with one ingress and one egress lane

Carlisle Street Extension at Patriot Way (Pinehurst Medical):

- Construct Patriot Way with one ingress and one egress lane

With the committed improvements in place, all study intersections are expected to operate at an acceptable LOS in the projected 2021 and 2030 build-out traffic conditions, and only minor increases in intersection delay (typically less than 1 second) are anticipated with the addition of project traffic.

It should be noted that Synchro outputs and SimTraffic simulations show the potential for queues for the southbound left-turn movement on Brucewood Road at Morganton Road to extend beyond the available storage in the AM peak hour in the background and build-out scenarios. However, these spillbacks are short in duration are expected to be resolved with signal timings modifications as development occurs.

The future roadway laneage including background roadway improvements and recommended laneage is shown on **Figure 13**.

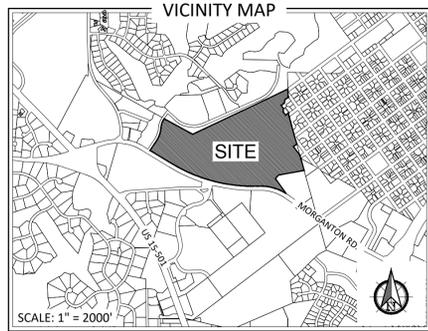
Should you have any questions or comments, please do not hesitate to contact me at (919) 653-2948 or travis.fluitt@kimley-horn.com.

Sincerely,

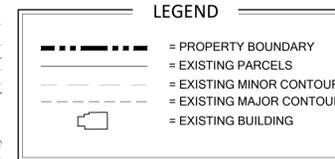
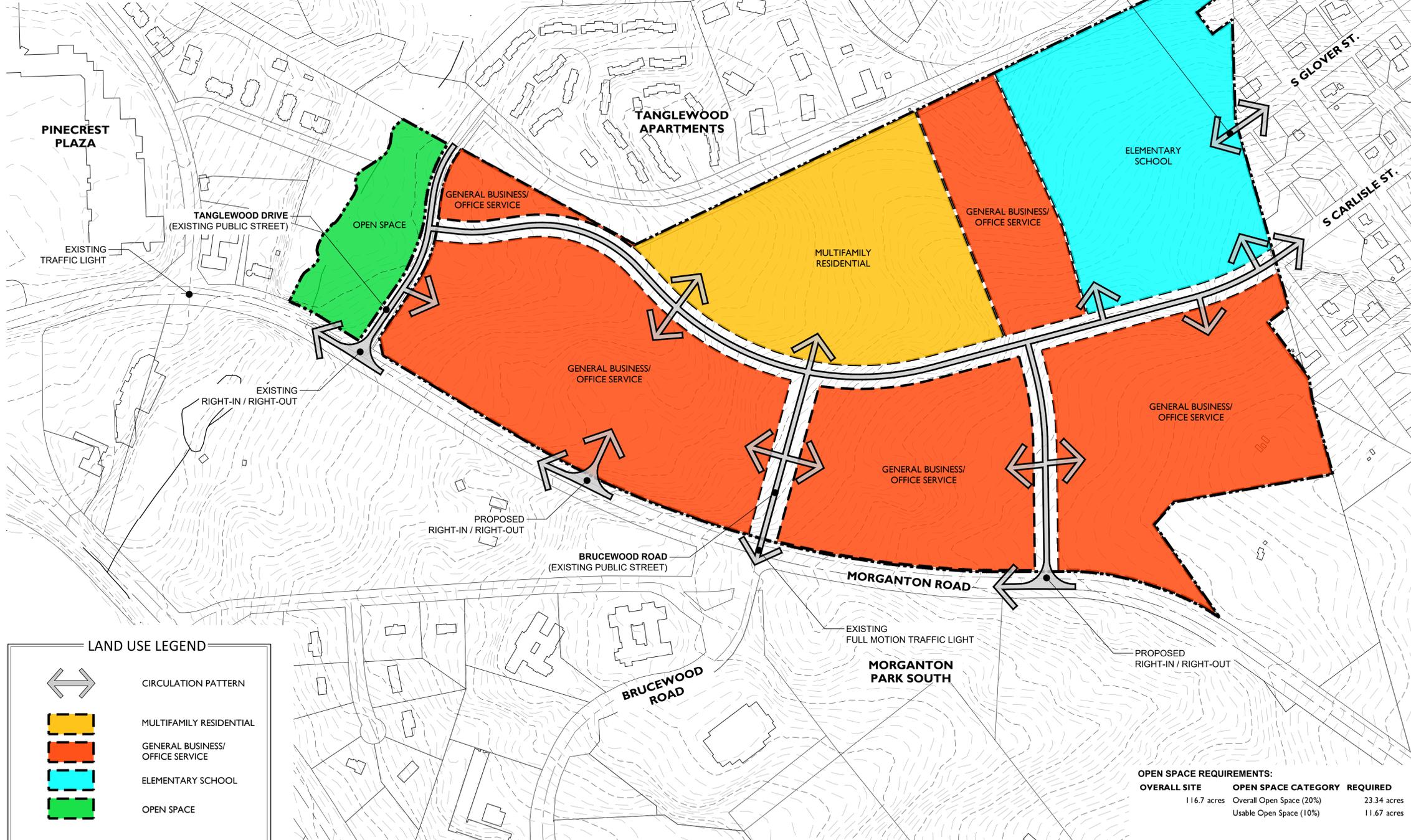


Travis Fluitt, P.E.
Senior Project Manager

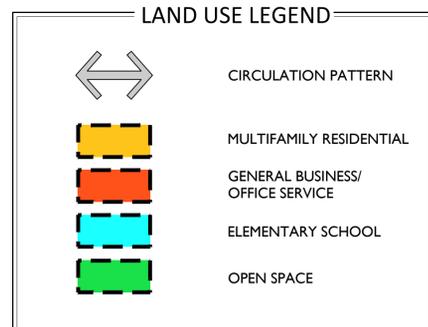
Attachments: Figures 1-13, Traffic Count Data, Approved Development and Traffic Diversion Volumes, Trip Generation Calculations, Volume Development Worksheets, Synchro LOS Reports, Signal Plans and Timing Data



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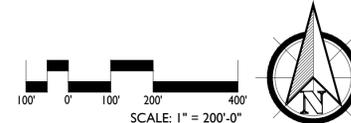


- GENERAL NOTES**
1. ALL DEVELOPMENT ON THE PROPERTY WILL ADHERE TO THE USES, DIMENSIONAL STANDARDS AND REQUIREMENTS OF EITHER THE GENERAL BUSINESS (GB) OR OFFICE SERVICE (OS) ZONING CLASSIFICATIONS PER THE TOWN OF SOUTHERN PINES UDO. THESE USES MAY BE MIXED ON INDIVIDUAL PROPERTIES OR WITHIN INDIVIDUAL BUILDINGS TO PROMOTE A MIXTURE OF USES THROUGHOUT THE PROPERTY.
 2. 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.
 3. 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.
 4. 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.
 5. 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.
 6. THE COMMUNITY LIES OUTSIDE OF ANY PROTECTED WATERSHED DISTRICT ESTABLISHED BY NODDWO. 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.
 7. 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.
 8. ALL ROADWAYS, MULTI-USE PATHS, SIDEWALKS AND ANY POTENTIAL TRAILS WILL BE DEDICATED TO THE TOWN OF SOUTHERN PINES.
 9. 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.
 10. OPEN SPACE WITHIN THE SCHOOL AREA INCLUDING OPEN PLAY FIELDS, PLAYGROUNDS OR OTHER STUDENT RECREATION AREAS WILL BE CREDITED TOWARD USABLE OPEN SPACE REQUIREMENTS.
 11. 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.
 12. ALL DEVELOPMENT AND BUILDING PERMITS ARE SUBJECT TO ALL LOCAL, STATE AND FEDERAL PERMITTING GUIDELINES, ARCHITECTURAL REVIEW, RULES AND REGULATIONS.
 13. LANDSCAPE STANDARDS WILL MEET OR EXCEED THE REQUIREMENTS OF THE TOWN OF SOUTHERN PINES UDO PER SECTION 3.5.14(H).
 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.
 15. 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.
 16. 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.
 17. STREET LIGHTING WILL BE DESIGNED IN CONFORMANCE WITH THE REQUIREMENTS OF SECTION 4.8 IN THE TOWN OF SOUTHERN PINES UDO.
 18. 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



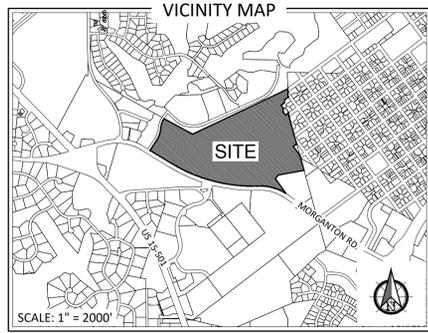
PRELIMINARY PLANS - NOT RELEASED FOR CONSTRUCTION (FOR REVIEW ONLY)

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 150 S PAGE STREET
 SOUTHERN PINES, NC 28387
 P: (910) 684-9867
 W: www.koontzjonesdesign.com

REVISIONS:

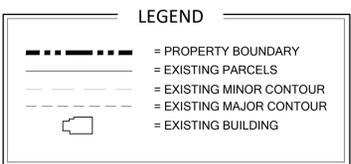
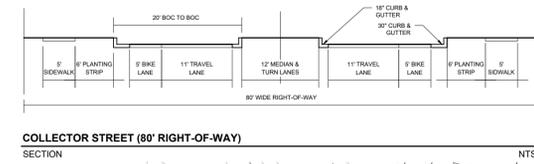
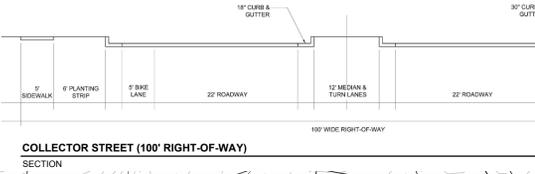
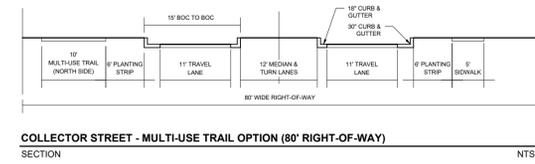
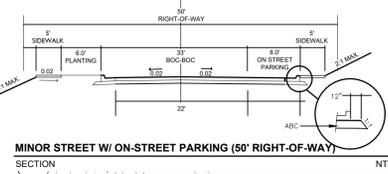
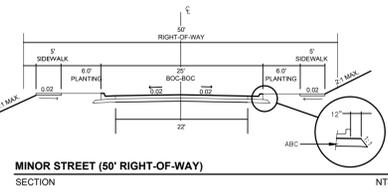
**MORGANTON PARK NORTH
 CONCEPTUAL DEVELOPMENT PLAN
 SOUTHERN PINES, NORTH CAROLINA
 CONCEPTUAL LAND USE PLAN**

DATE: 03.23.2018
 DESIGNED BY: REK
 DRAWN BY: PJS
 CHECKED BY: REK
 SCALE: 1" = 200'
 PROJECT #: KDI1803
 SHEET NUMBER: L-1.1



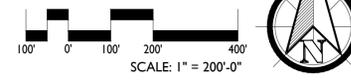
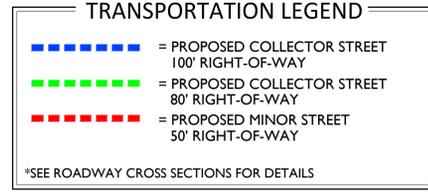
SCALE: 1" = 2000'

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



TRANSPORTATION PLAN NOTES

1. STORMWATER MANAGEMENT FOR THE TRANSPORTATION FACILITIES AND FUTURE DEVELOPMENT WILL BE PROVIDED USING BEST MANAGEMENT PRACTICES, IN REGIONAL STORMWATER DETENTION FACILITIES. FACILITIES WILL BE LOCATED IN THE GENERAL LOCATIONS SHOWN ON THE CONCEPTUAL DEVELOPMENT PLAN. AS ILLUSTRATED ON THIS SHEET, THE DRAINAGE FLOW LINE DESIGNATES THE GENERAL LOCATION DIVIDING THE SITE DRAINAGE BASINS. STORMWATER, WEST OF THE DRAINAGE FLOW LINE, WILL FLOW TOWARD THE STORMWATER MANAGEMENT DEVICE LOCATED ON THE WEST SIDE OF THE PROPERTY. THE DRAINAGE BASIN LOCATED ON THE NORTHEASTERN PORTION OF THE SITE WILL FLOW TOWARD A STORMWATER DEVICE LOCATED GENERALLY IN THE AREA INDICATED ON THE PLAN. THESE LOCATIONS ARE SUBJECT TO CHANGE THROUGHOUT THE CONTINUED DEVELOPMENT OF THE PROPERTY BASED ON DETAILED ENGINEERING PLANS. EACH INDIVIDUAL SITE MAY ALSO ELECT TO PROVIDE STORMWATER ON-SITE DEPENDING UPON THE SITE CONDITIONS AND ENGINEERING STANDARDS. STORMWATER MUST BE MAINTAINED ON THE OVERALL PROPERTY TO MEET THE TOWN OF SOUTHERN PINES AND ALL STATE AND FEDERAL STANDARDS.
2. MORGANTON PARK NORTH IS NOT LOCATED WITHIN ANY HIGH-QUALITY OR WATER SUPPLY WATERSHED.
3. NO ENDANGERED SPECIES ARE LOCATED ON THE PROPERTY.
4. ALL ROADWAYS WILL BE CONSTRUCTED TO TOWN OF SOUTHERN PINES AND NCDOT STANDARDS.
5. ALL ROADWAYS WITHIN THE DEVELOPMENT WILL BE DEDICATED TO THE TOWN OF SOUTHERN PINES AND BECOME PUBLIC STREETS.
6. STREET STANDARDS WILL FOLLOW TOWN OF SOUTHERN PINES GUIDELINES EXCEPT WITH THE LOCATION OF BIKE LANES AND TRAILS. THE ROAD CROSS SECTION FOR SUB-COLLECTOR STREETS MAY DEVIATE FROM THE TOWN STANDARD. AN ASPHALT MULTI-USE PATH MAY BE USED IN LIEU OF BIKE LANES 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 WALKING AND/OR BIKING TO SCHOOL. IT WOULD BE PREFERABLE TO HAVE A WIDENED MULTI-USE PATH, SEPARATED FROM VEHICULAR TRAFFIC TO ALLOW STUDENTS A SAFE PATHWAY TO SCHOOL. THIS CROSS SECTION WAS ALSO USED ALONG OLD MORGANTON ROAD IN MORGAN PARK ON THE SOUTH SIDE OF MORGANTON ROAD.
7. IN THE VICINITY OF THIS PROPERTY THERE IS ONE OTHER APPROVED PROJECT. MORGANTON PARK SOUTH PHASE II (ADJACENT TO LOWE'S FOOD) HAS BEEN APPROVED. THE MORGANTON ROAD MEDIAN PREVENTS DIRECT CONNECTION TO ROADWAYS IN THE MORGANTON PARK SOUTH SHOPPING CENTER. CONNECTION TO THIS APPROVED DEVELOPMENT WOULD UTILIZE THE TRAFFIC LIGHT AT BRUCEWOOD ROAD.
8. GLOVER STREET MAY BE EXTENDED AND UTILIZED BY THE SCHOOL, FOR ACCESS TO BUS OR CAR DROP-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 TIME, WEATHER, CONSTRUCTION, TRAFFIC ACCIDENTS, AND INCREASES IN TRAFFIC DUE TO HOLIDAYS AND SPECIAL EVENTS.



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

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LAND PLANNING | LANDSCAPE ARCHITECTURE

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P: (910) 684-6867
W: www.koontzjonesdesign.com

REVISIONS:

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

DATE: 05.11.2018
DESIGNED BY: REK
DRAWN BY: PJS
CHECKED BY: REK
SCALE: 1" = 200'
PROJECT #: KDJ1803
SHEET NUMBER: #

L-1.3

AMENDED ATTACHMENT “A”
Draft Planning Board Findings of Fact
Preliminary Development Plan Application PD-02-21

Finding of Fact #1:

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

Finding of Fact #2:

The Planning Board finds that the application complies with UDO §2.18.5(H) Criteria for a Preliminary Development Plan, Criteria 1-4, in that:

1. The application demonstrates that it will achieve the purposes of the PDD and this section;

The Planning Board finds that the Preliminary Development Plan (PDP) for a multi-family community that has been submitted as Phase 7 of the Morganton Park North Conceptual Development Plan (CDP) will achieve the purposes of the PD-Planned Development zoning district with the appropriate modifications related to approving deviations from building height, building density increase, building setback requirements, and signage requirements and as PD-02-21 was amended by applicant.

2. The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;

The Planning Board finds that the proposed PDP is generally consistent with the approved PD-01-18 file, plans and “General Notes” that are set forth in the approved Morganton Park North CDP. The proposed PDP is also generally consistent with the Unified Development Ordinance. However, in order to be approved, deviations that the applicant has not addressed must be evaluated. The deviations that the applicant needs to address are: the applicant is proposing a 50’ building height, that once all three (3) parcels are combined, the applicant will meet density requirements, not to provide play areas for school aged children and signage that cannot be determined if it meets the standards of the UDO. The Planning Board finds that each of the deviation requests for a 50’ building height, and not requiring play areas for school aged children meet the respective criteria for approval of a deviation, and therefore the Planning Board recommends approval of these deviation requests. The developer shall be relieved of the requirement to provide the Carlisle Street extension and sidewalks as the path that exists currently is adequate, as stated by the Town Engineer and Fire Marshal at the April 20, 2021 TRC Meeting. The applicant shall provide the required setbacks as required in UDO § 4.10.8 and will apply for a sign permit for a multi-family development entrance sign in accordance with UDO §

4.6.12 and meet the UDO § 4.10.8 setback requirements as the applicant amended in the application at the PB Regular meeting April 22, 2021.

3. **The proposed Development is located in an area of the Town that is appropriate; and**

The Planning Board finds that the proposed PDP is located in an appropriate area of Town because the proposed multi-family community is served by existing public utilities, is accessed by an existing Town roadway. The proposed addition of multi-family residences will provide easy access to shopping and employment centers. Furthermore, development of the site will not remove critical wildlife habitat or add impervious surface in a High Quality Watershed.

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

The Planning board finds that the proposed PDP includes efficient extensions of public facilities, utilities and services because sewer and water facilities exist near the proposed lots and the development is to be accessed by existing Town roadways. Most municipal public services are presently provided to adjoining land uses so the proposed multi-family community is not creating a new location of public service delivery demand.

**A RESOLUTION APPROVING FINANCING TERMS FOR THE
PRINCIPAL OWED ON THE "WHITEHALL TRACT"**

WHEREAS, the Town of Southern Pines, North Carolina (the "Town") purchased a 157.5-acre property on December 15, 2020, commonly known as the "Whitehall tract," and located at 490 Pee Dee Road;

WHEREAS, at closing, the Town made a partial payment of \$250,000 toward the total purchase price of \$1,647,300, with the balance of the principal (the "Principal") financed by the Seller;

WHEREAS, the terms of the Note require the principal to be paid in full by May 31, 2022 plus interest accrued at 3.25% and allow the Note to be prepaid in whole or in part at any time without penalty; and

WHEREAS, the Finance Director has now presented a proposal for the financing of the principal and a public hearing was held on May 5, 2021.

NOW, BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Principal with First Bank, in accordance with the proposal dated April 26, 2021. The amount financed shall not exceed \$900,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.91%, and the financing term shall not exceed three (3) years from closing.
2. The Finance Director is hereby authorized to use the proceeds from financing as well as cash on hand to pay the Note in full and satisfy all terms of said Note.
3. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Principal as contemplated by the proposal and this resolution.
4. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
5. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately upon adoption this 11th day of May, 2021.

I certify that this resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of May 11th, 2021 as shown in the minutes of the Town Council for that date.

By: _____
Elizabeth Robertson, Deputy Town Clerk

By: _____
Carol R. Haney, Mayor

Agenda Item

To: Reagan Parsons, Town Manager

From: BJ Grieve, Planning Director

Subject: Resolution to Amend to Resolution #930, “A Resolution Authorizing Specific Business Operations During North Carolina COVID-19 Response: Phase 2.”

Date: May 11th, 2021

I. SUMMARY:

On June 3rd, 2020 the Southern Pines Town Council passed Resolution #930 entitled “A Resolution Authorizing Specific Business Operations During North Carolina COVID-19 Response: Phase 2 Within The Town of Southern Pines.” The purpose of the resolution was to waive certain zoning standards during a declared emergency¹ in order to help local businesses that were facing unprecedented challenges related to mandated COVID-19 restrictions and prohibitions. The resolution waived zoning standards related to the location and operation of food trucks, the use of temporary signage, the design of curbside take-away and outdoor dining functions and restrictions on Home Occupations. The Resolution originally expired at the end of North Carolina COVID-19: Phase 2.

On October 7th, 2020 after Governor Roy Cooper signed Executive Order #169 and North Carolina’s moved into Phase 3 of the statewide COVID-19 response, the Town Council approved an extension of Resolution #930 through the end of Phase 3. While North Carolina remains in Phase 3 of the statewide COVID-19 response, many restrictions have eased since October, 2020 in what the state refers to as a “dimmer switch approach” to the lifting of restrictions.

The temporary emergency waiver of zoning standards related to the location and operation of food trucks, the design of curbside take-away and outdoor dining functions and restrictions on Home Occupations continues to help the community during Phase 3 and planning staff have not observed or experienced significant deleterious effects resulting from the temporary waiving of these standards. However, the waiving of zoning standards related to temporary signage has created confusion about applicable regulations, potential safety hazards due to signs encroaching in roadway rights of way, increased litter due to unmaintained temporary signs, and overall negative aesthetic impacts to the community. Planning staff is observing increased numbers of vinyl banners, feather flag banners, inflatables and temporary yard signs as businesses compete with neighboring businesses for the public’s attention. It is planning staff’s professional opinion that the benefits to the community of allowing temporary “We’re Still Open” signs are now being outweighed by

¹ Per UDO §8.5.1.

the confusion, potential safety hazards, litter and negative aesthetic impacts resulting from the misunderstanding of a COVID-19 sign exemption.

At the April 26th, 2021 Town Council Work Session, planning staff brought this to the attention of Town Council. Members of Council discussed the importance of temporary waivers pertaining to the location and operation of food trucks, the design of curbside take-away and outdoor dining functions and restrictions on Home Occupations to the community, and the desire to ensure that plenty of time is granted in the future to gradually rollback these waivers when Phase 3 ends. However, Town Council also indicated an understanding of the challenges created by the temporary waiver of zoning standards related to temporary signage and expressed a willingness to end that particular waiver for the reasons described herein.

Therefore, staff has prepared a resolution for the Town Council's consideration to amend two sections of Resolution 930:

1. Amend Section 3 such that the expiration of Resolution 930 is now 30 days after the end of North Carolina COVID-19: Phase 3 to allow for time for ample notification and a gradual return to normal code enforcement operations, and
2. Amend Resolution 930 to rescind only Section 8 pertaining to the waiving of zoning standards for temporary signage, effective 15 days after passage.

Planning staff feels that these two amendments to Resolution 930 will adequately address the topics of discussion from the April 26th, 2021 Work Session.

II. ATTACHMENTS:

1. DRAFT Resolution Amending Resolution 930.
2. Resolution 930.

III. TOWN COUNCIL ACTION:

Planning staff is requesting the Town Council adopt the attached Resolution Amending Resolution #930. If the Town Council wishes to approve the attached resolution, the following motion may be made:

I move to approve the resolution as drafted by planning staff to amend Section 3 of Resolution 930 to extend the temporary waivers of zoning standards related to the location and operation of food trucks, the design of curbside take-away and outdoor dining operations and the restrictions on Home Occupations through 30 days after the end of North Carolina COVID-19: Phase 3, but to rescind Section 8 of Resolution 930 pertaining to the temporary waiver of zoning standards for temporary signs for the reasons stated by planning staff, effective 15 days from today.

**A RESOLUTION AMENDING
TOWN OF SOUTHERN PINES RESOLUTION 930**

WHEREAS, on June 3rd, 2020 the Town of Southern Pines approved Resolution 930 entitled “A Resolution Authorizing Specific Business Operations During North Carolina COVID-19 Response: Phase 2 Within the Town of Southern Pines” and per Section 3, the resolution was effective through the end of North Carolina COVID-19: Phase 2; and

WHEREAS, when on September 30th, 2020 the signing of Executive Order 169 moved North Carolina into Phase 3 effective October 2nd, 2020, the Town Council did, on October 7, 2020 approve an extension of Resolution 930 through the end of Phase 3.

WHEREAS, during this time, the temporary emergency waivers of zoning standards granted in Resolution 930 related to the location and operation of food trucks, the design of curbside take-away and outdoor dining functions and restrictions on Home Occupations have been generally beneficial to the community and have not been found to create undue zoning code enforcement problems or public costs; but

WHEREAS, during this time, the temporary emergency waiver of zoning standards granted in Resolution 930 related to temporary signage has created confusion about applicable sign regulations, potential safety hazards due to temporary signs encroaching into roadway rights of way, increased litter due to unmaintained temporary signs and overall negative aesthetic impacts to the community.

WHEREAS, on April 29th, 2021 Executive Order 209 was signed by Governor Roy Cooper further extending the Phase 3 gradual lifting of restrictions through at least June 1, 2021; and

WHEREAS, at such time as Phase 3 does end, the Town Council wishes to allow time for those temporary waivers of zoning standards that have been found to be beneficial to the community to end gradually with ample advance notice, and for town staff to resume normal code enforcement operations in a gradual manner.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southern Pines, North Carolina, in a regular meeting assembled this 11th day of May, 2021, as follows:

- That Resolution 930 is hereby amended such that the expiration as set forth in Section 3 is now 30 days after the end of North Carolina COVID-19: Phase 3, unless further amended, replaced or repealed prior to by Town Council; and
- That Resolution 930 is further hereby amended such that Section 8 granting a temporary emergency waiver of zoning standards related to temporary signs is rescinded, effective 15 days after passage.

Adopted this, the 11th day of May, 2021.

SEAL

Carol R. Haney, Mayor

ATTEST:

Elizabeth Robertson, Deputy Town Clerk

**A RESOLUTION AUTHORIZING SPECIFIC BUSINESS OPERATIONS DURING
NORTH CAROLINA COVID-19 RESPONSE: PHASE 2
WITHIN THE TOWN OF SOUTHERN PINES**

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the Governor of the State of North Carolina has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, and 138-140; and

WHEREAS, the Governor of the State of North Carolina identified three individual phases for the response and protective action to address the COVID-19 pandemic.

WHEREAS, on May 20, 2020, the Governor of the State of North Carolina issued Executive Order No. 141 which declared a State of Emergency to coordinate the State's response and protective actions to address the COVID-19 pandemic as part of its move into Phase 2.

WHEREAS, the risk of contracting and transmitting COVID-19 is higher in settings that are indoors, where air does not circulate freely and where people are less likely to maintain social distancing by staying six (6) feet apart; and

WHEREAS, the risk of contracting and transmitting COVID-19 is higher in settings where people are stationary and in close contact for long periods of time; and

WHEREAS, the risk of contracting and transmitting COVID-19 is higher in gatherings of larger groups of people because these gatherings offer more opportunity for person-to-person contact with someone infected with COVID-19; and

WHEREAS, to lower the risk of contracting and transmitting COVID-19, the Governor of the State of North Carolina imposed restrictions on businesses that limit the number of contacts between people, particularly in settings that are indoors, involve people being stationary and in close contact for long periods of time, or are part of mass gatherings; and

WHEREAS, certain types of businesses by their very nature present greater risks of the spread of COVID-19 because of the nature of the activity, the way that people have traditionally acted and interacted with each other in that space, and the duration that patrons stay in the establishment; and

WHEREAS, all business, including retail and food service, are critical to the long-term success of Southern Pines; and

WHEREAS, food service and food availability remain an important component of North Carolina's response to the COVID-19 pandemic, such that food service providers, including restaurants and other dine-in facilities are encouraged to open to the extent practicable to safely provide food and nutrition to people in North Carolina; and

WHEREAS, reopening restaurants for on-premises or adjacent premises dining in a safe, strategic manner should ameliorate the adverse economic effects on workers, farms, and businesses involved in the sale of food through the restaurant supply chain, prevent the waste of food, and reduce stress on the supply chain for grocery stores, thereby lowering grocery prices for consumers; and

WHEREAS, UDO Section 8.5.1 grants the Town Council the authority to waive standards within this UDO during local emergencies declared by federal, state, or local officials; and

WHEREAS, the North Carolina COVID-19: Phase 2 limits business and restaurant capacities to no more than 50%, Southern Pines recognizes the need to accommodate patrons outdoors; and

WHEREAS the Southern Pines Town Council recognizes that the 50% indoor capacity creates excess parking demand and that outdoor parking lots and facilities may be used to accommodate patrons; and

WHEREAS, Southern Pines recognizes that many restaurants or businesses have shifted their daily operations to curbside pickup or mobile options or are in need of outdoor operations; and

WHEREAS, Southern Pines wishes to accommodate these altered operations during the COVID-19 pandemic with alternative requirements for temporary mobile food vendors, signs, and outdoor dining; and

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southern Pines, North Carolina, in a regular meeting assembled this 3rd day of June, 2020, as follows:

SECTION 1.

All entities and individuals within the Town of Southern Pines are expected to comply with North Carolina Gubernatorial Executive Orders pre-dating and post adoption of this resolution. This resolution in no way, shape, form, or manner supersedes any directive of the Governor of the State of North Carolina.

SECTION 2.

Pursuant to and as an extension of the State of Emergency Declaration for the Town of Southern Pines for the COVID-19 pandemic dated March 17, 2020, the standards of the UDO and the Town Code of Ordinances shall remain in effect in their entirety with the following exceptions and deviations as listed herein. The terms and conditions of the March 17, 2020 State of Emergency Declaration for the Town of Southern Pines for the COVID-19 pandemic remain in effect until rescinded.

SECTION 3.

This resolution is effective at 6:00pm on June 3, 2020. This resolution shall remain in effect through the entirety of the North Carolina COVID-19: Phase 2 and shall automatically expire at the end of North Carolina COVID-19: Phase 2 unless repealed, replaced, or rescinded prior to by the Town Council.

SECTION 4.

An order rescinding the State of Emergency Declaration for the Town of Southern Pines for the COVID-19 pandemic will automatically rescind and thereby expire any provisions listed herein.

SECTION 5.

Any continued infringement of the standards of the UDO or Code of Ordinances after the expiration of the North Carolina COVID-19: Phase 2 by continuing any operations solely permitted under this resolution shall be subject to immediate civil penalty upon the expiration.

SECTION 6.

The Town Council may wish to extend these locally adopted Phase 2 standards or create new standards for North Carolina COVID-19: Phase 3 or for any specified time period as it deems appropriate.

SECTION 7.

Food Trucks, Food Trailers and Food Carts shall adhere to all standards set forth under UDO Section 5.9 subject to the following:

- All mobile food vendors may operate in any commercial district to include GB, NB, I and OS. Reference UDO Section 5.9.1(A).
- No permit from the Town nor any permit fee payable to the Town for Food Trucks, Food Trailers and Food Carts is required.
- Multiple mobile food vendors may operate on the same parcel at the same time as another mobile food vendor. Reference UDO Section 5.9.1(B)(3).
- All mobile food vendors may be located within 100' of any eating establishment or outdoor dining area. Reference UDO Section 5.9.1(B)(4).
- All mobile food vendors may occupy parking spaces required for minimum parking requirements of the principal use, excluding handicap accessible parking. Reference UDO Section 5.9.1(B)(7).
- Mobile food vendors who do not hold an approved Town of Southern Pines zoning permit for a Food Truck, Food Trailer or Food Cart may operate without the need of a permit. All mobile food vendors shall be prepared to present upon inspection a food vending permit from Moore County Environmental Health Department, a North Carolina Sales and Use Certificate for collecting and paying the proper sales taxes, and a means for the disposal of grease within an approved grease disposal facility and a letter from the property owner granting consent to the food vendor with hours of operation, days of operation and a site plan depicting the agreed upon placement of the vendor on private property. If any of the required materials are revoked or not available upon inspection, the operation shall cease and desist and may be subject to civil penalty. Reference UDO Section 5.9.2(E).

SECTION 8.

All signs shall adhere to all standards set forth under UDO Section 4.6 subject to the following:

- In addition to approved existing signage, all commercial entities may be permitted one temporary (1) banner or window decal sign, not to exceed thirty-two (32) square feet in display area, and two (2) temporary freestanding signs, not to exceed six (6) square feet in display area each. UDO specified timeframes for placement are superseded by this resolution and these signs shall be permitted throughout COVID-19 Phase 2. All signs shall be located on premises. These temporary signs shall not require a sign permit. Reference UDO Section 4.6.16.

SECTION 9.

Any curbside take-away operations may be permitted in any commercial zoning district to include CB, GB, NB, I and OS and shall not be considered or subject to the standards drive-through facilities. Reference UDO Section 5.8.

SECTION 10.

Any citizen or resident working from home or remotely at a residence due to COVID-19 shall not be considered to be operating as a Home Occupation. However, all performance standards for Home Occupations set forth in UDO Section 5.10.2 shall be in effect for those working from home or remotely at a residence. Reference UDO Section 5.10.

SECTION 11.

Business activities may include outdoor dining operations for restaurants. No permit or permit fee is required and outdoor dining operations for restaurants are subject to the following:

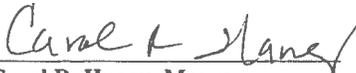
- Private Property: Outdoor dining operations for restaurants in commercial zoning districts to include CB, GB, and NB may occupy up to 50% of the required minimum parking spaces located on private property, must be completely contained to the private property and shall not interfere with any pedestrian movement along public sidewalks. Outdoor dining operations may operate between the hours of 7:00am – 10:00pm. Outdoor dining operations shall keep all areas clean and dispose of trash in private receptacles only. Outdoor dining operations shall delineate seating areas separate from parking areas with barriers, ropes or similar device. The allowance of outdoor dining operations is subject to and does not supersede any County or State requirement related to the serving of food or alcoholic beverages. Any outdoor dining furniture shall be temporary and not subject to Historic District guidelines. Reference UDO Section 5.13.
- Public Streets and Sidewalks: Outdoor dining operations for restaurants may be allowed along Town maintained public streets and sidewalks in the CB and NB zoning districts. Outdoor dining shall not interfere with any pedestrian movement along public sidewalks and shall meet the furniture placement requirements set forth in Code of Ordinance Section 100.42. Outdoor dining operations may operate between the hours of 7:00am – 10:00pm. Outdoor dining operations shall keep all areas clean and dispose of trash in private receptacles only. Any outdoor dining furniture shall be temporary and not subject to Historic District guidelines. All tables, chairs, and the like must be promptly removed from the sidewalk at the end of each business day, unless they are secured overnight by consolidating all pieces of furniture in one location and locking them together by cable or chain. Furniture shall not be affixed to the sidewalk, signpost, or trees. Personal liability insurance naming the Town of Southern Pines as an additional insured in the amount of no less than \$1,000,000 under the policy of business is required and shall be presented upon inspection. Reference Code of Ordinance Sections 93.04(F) and 100.42.

SECTION 12.

In the event of interpretative ambiguity or definitional guidance, the codified standards of the UDO and the Code of Ordinances are to prevail. No operations conducted utilizing any of the exception standards listed herein shall be grounds for establishing a vested right or a legal non-conforming situation.

Adopted this the 3rd day of June, 2020.

SEAL


 Carol R. Haney, Mayor

ATTEST:

 Peggy K. Smith, Town Clerk

NORTH CAROLINA
MOORE COUNTY

PROPERTY USE AGREEMENT

THIS AGREEMENT is entered into this 11th day of May, 2021, between THE TOWN OF SOUTHERN PINES, an incorporated municipality, a body corporate and politic in Moore County, North Carolina (hereinafter referred to as the “Town”), and SANDHILLS SANDSHARKS SWIM TEAM (hereinafter referred to as the “Team”). The agreement is for the Team’s use of the Town’s swimming pool and related facilities, as part of Pool Park at 735 S. Stephens Street. These facilities, which consist of a pool, bathhouse, and pump house shall collectively be known as the “Pool.” The Recreation and Parks Director is hereinafter referred to as the “Director.”

This agreement provides for the Team’s year-round use of the Pool for swim-related purposes and the Town’s use in the summer months to provide public access. The Town and the Team wish to cooperate in the continued joint operation of the pool, in accordance with the following terms:

1. Ownership: The Town owns the Pool, which includes the swimming pool, bathhouse, pumps and pump house, and their appurtenances. The Town does not own any of the improvements installed by or purchased by the Team.
2. Length of Agreement: The term for which the Team may use and occupy the Pool shall be three [3] years from the date of this agreement, subject to the requirements of law and this agreement, ending on May 10, 2024. The parties may extend these terms by mutual consent.
3. Seasons and Scheduling:
 - a. For the purposes of this agreement, there shall be two seasons of use for the Pool: “summer season” and “off-season.” Summer season begins on the Saturday sixteen [16] days prior to Memorial Day and ends on the Saturday before the first day of classes for Moore County Schools. The remainder of the year is off-season.”
 - b. Except as provided in (c), below, the Team has exclusive use of the pool for Team activities during the off-season, but may allow other uses only with the express written consent of the Town.
 - c. During the off-season the Town may use the Pool for Town-sponsored activities when it has requested the uses at least fifteen [15] days ahead of the activity and the Team has not reasonably refused the request within five [5] days of the request

d. During the summer season, the Team may use the Pool for team activities on a schedule approved by the Director. The Team must submit a proposed schedule to the Director by March 1 of each year and must accommodate reasonable opening of the Pool for public use at least six [6] hours a day, Monday through Saturday, and accommodate the ability of Town personnel to perform scheduled maintenance as well as opening and closing duties that ensure the safety and cleanliness of the Pool. The Team may use the pool according to that schedule unless the Director has reasonably disapproved that schedule within fifteen [15] days of its receipt. Exhibit A represents the application of this provision to the schedule for the summer season of 2021.

4. Responsibility for Essential Functions: During the “off season,” the Team will provide and bear the costs for all services, supplies, materials, and labor necessary to keep the facility in a clean, safe, sanitary, and well-maintained condition. The Team must also be responsible for correcting any deficiencies in maintenance or violations of fire or building codes within thirty [30] days of notice from the Director or any code official. These responsibilities must be addressed regardless of whether they are caused by the Team’s use of the Pool.

- a. Should the Team fail to maintain the pool in a satisfactory condition or address any deficiencies as noted above, the Town may undertake the necessary corrective work and bill the Team the costs thereof plus a 10% administrative fee.
- b. Exhibit B outlines the required maintenance responsibilities for each party during the two seasons. The parties must review and update the exhibit annually.

5. Insurance, Liability, and Loss of Use:

- a. The Town may provide casualty insurance for the pool and invoice the Team the portion of the premium that is attributable to Team’s occupancy and/or the presence of improvements provided by the Team. The Team must remit payment to the Town within thirty [30] days of the invoice date.
- b. If the Pool is damaged by fire, natural disaster, other casualty, act of God, or deterioration and the cost of remediation is so great that Town decides not to repair or rebuild, the Town may terminate this agreement. Upon written notice of termination, the Team must vacate the Pool.
 - i. Should the Town receive insurance proceeds for a casualty loss at the Pool, the Town must transmit to the Team the portion of the proceeds that covers the Team’s

improvements. The portion attributable to the Team's improvements is determined by the insurance adjuster.

- ii. The Town is not insuring against any loss or damage to the Team's improvements when said loss or damage is only to the improvements.
 - iii. The Town is not financially responsible for the Team's loss of income and/or increased expenses for operating elsewhere in the event of fire, natural disaster, other casualty, act of God, deterioration to the Pool, and/or federal, state, or local restrictions that impact the operation of the Pool.
- c. The Team must indemnify the Town against any third party claims by reason of the Team's use or occupancy of the Pool. The Team must secure and maintain, at its own expense, public liability insurance in an amount of not less than one million dollars [\$1,000,000] in respect to bodily injury, disease, illness, death, or property damage suffered by any one person or entity and/or arising out of any one accident. The Team must list the Town as an additional insured on said policy(ies) and provide a certificate(s) of insurance to the Town confirming these minimum coverages. Should the Team make changes associated with its insurance policy(ies), it must provide the Town written notice and updated certificates of insurance within thirty [30] days of said change.

6. Expenses:

- a. Utilities and supplies: Utilities covered under this section include water, gas, electricity, and any utilities required by code. Supplies covered under this section include customary, routine supplies such as chemicals, filters, baskets, and the like.
 - i. During the "off-season," the Team must pay one hundred percent [100%] of all expenses for utilities and supplies.
 - ii. During the "summer season," the Team and Town must each pay fifty percent [50%] of the expenses for utilities and supplies.
 - iii. Each party must invoice the other for their portion of the expenses as described herein. Payment must be remitted within thirty [30] days of the invoice date.
- b. Operating Expenses: The Team must pay one hundred percent [100%] of the expenses for its operations, including programs, staff, and similar. Should the Team offer specialized training

for water safety and lifeguard certification, the Team must provide these to Town personnel at a twenty-five percent [25%] reduction of regular fees charged to the public.

- c. Capital Expenses: Each party must pay fifty percent [50%] of capital expenses that are required to keep the swimming pool and pump house operating properly and/or for code compliance. Capital expenses covered under this section include pumps, pipes, pool resurfacing, fencing, and the like. The Town will coordinate and pay for this work and invoice the Team for its required contribution.

7. Policies:

- a. The Team may establish policies for the use of the facility, or portions of the facility, during its occupancy so long as those policies are consistent with federal, state, and local laws, ordinances, and regulations.
- b. The policies adopted by the Team, as referred to above, may include controlling or denying access to the facility during its sole use.

8. Improvements to the Pool

- a. If the Team wishes to construct capital improvements to the pool and/or surrounding deck or facilities, install equipment, erect signage, or the like, the Team must submit a written request to the Director. If the Director does not within thirty [30] days review and provide a response of denial or request for modifications or further review, then the request is deemed granted.
- b. The Team must pay one hundred percent [100%] of the costs for any improvements, which includes purchase, installation, maintenance, and removal or rehabilitation in the event of deterioration or safety concerns.
- c. During the summer season, the Team must carry out all maintenance and installation efforts for its equipment and improvements during the Team's scheduled times and days, without interfering with public access to the Pool.
- d. The Team must remove any equipment or improvements at the Pool which are not compatible with Town's customary use of the Pool during the summer season. The Team must bear one hundred percent [100%] of the expenses for this work, to include removing, storing, and re-installing.
- e. The Team must provide in Exhibit C of this agreement an inventory of everything which it has purchased and/or installed at the Pool. Said Exhibit must include a description of each item, an

estimated date of purchase/installation, the cost of purchase or construction, and the estimated useful lifespan. The Team must review and update the Exhibit at least annually or at the point when an improvement is added or removed to the Pool by the Team.

9. Appeals to Decisions and Termination of Agreement:

- a. The Director shall have the authority to review issues of discretion and make decisions as described in this agreement. Should the Team wish to appeal any of the Director’s decisions surrounding this agreement, the Team must submit a written appeal to the Town Manager within ten [10] days.
- b. This agreement will be declared null and void if either party violate any of the provisions.
- c. Either party may terminate this agreement upon providing written notice of sixty [60] days.
- d. The Team, upon termination of this lease, may remove all improvements, equipment, etc. as described in Exhibit C so long as they may be removed without damage to the Pool. All expenses of such removal must be paid by the Team and must be completed by the time this agreement terminates.

10. Effective May 11, 2021, this agreement supersedes all previous agreements between the two parties.

11. This agreement constitutes the entire understanding between the parties and must not be modified except in writing signed by both parties. This agreement is binding on the parties hereto, their heirs, and permitted assigns.

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

By: _____ Date _____

Lindley A. Fleury, Team Board President, SANDHILLS SANDSHARKS SWIM TEAM

By: _____ Date _____

Carol A. Haney, Mayor, THE TOWN OF SOUTHERN PINES

ATTEST:

By: _____

Elizabeth Robertson, Deputy Town Clerk

Exhibit A: Summer Schedule
to be updated annually

MAY 15, 2021 THROUGH AUGUST 7, 2021

TOSP = Town of Southern Pines

SS = Sandhills Sandsharks

	First Session - SS	Second Session - TOSP	Third Session - SS
MONDAYS	5:30 am - noon	11:30 am - 7:30 pm	6:30 pm – 10:00 pm
TUESDAYS	5:30 am - noon	11:30 am – 5:30 pm	5:00 pm – 10:00 pm
WEDNESDAYS	10:00 am – noon	9:00 am - 7:30 pm	6:30 pm – 10:00 pm
THURSDAYS	5:30 am - noon	11:30 am - 7:30 pm	6:30 pm – 10:00 pm
FRIDAYS	5:30 am - noon	11:30 am - 7:30 pm	6:30 pm – 10:00 pm
SATURDAYS	7:30 am – 11:30 am	11:30 am - 7:30 pm	6:30 pm – 10:00 pm
SUNDAYS	7:30 am – 12:00 pm	CLOSED	12:00 pm – 8:00 pm

- **The pool shall be open to the public and under the management of TOSP staff during the following schedule:**
 - Mondays: 12:30 pm – 6:30 pm
 - Tuesdays: 12:30 pm – 4:30 pm
 - Wednesdays: 12:30 pm – 6:30 pm
 - Thursdays: 12:30 pm – 6:30 pm
 - Fridays: 12:30 pm – 6:30 pm
 - Saturdays: 12:30 pm – 6:30 pm
 - Sundays: closed

- The above schedule represents some overlap between the two parties’ sessions in order to offer the Sandsharks maximum flexibility for scheduling lessons, swim meets, and similar. The purpose of this overlap is to provide each party access to the pool area to complete the tasks that are necessary to transition the pool and facility between the users of the two groups, such as: addressing water chemistry needs; cleaning bathrooms, pool deck, and other common areas; emptying trash cans; swapping out dive blocks, flags, ropes, ladders, and similar.

- The pool shall be closed to both groups on Wednesday mornings from 9:00 until noon to allow TOSP to perform exterior maintenance.

- While routine maintenance and repairs can typically occur with minimal or no impact to the public’s access to the facility, both parties acknowledge that it may be necessary to close the pool for an extended time to complete more significant repairs. In this situation, every attempt will be made to schedule non-emergency work on Sundays (1st priority), Wednesdays (2nd priority) or Fridays (3rd priority) to minimize cancellations to the Sandsharks’ activities and weekend closures for the TOSP community.

Exhibit B: Assignments for Essential Functions
TOSP = Town of Southern Pines SS = Sandhills Sandsharks

MAINTENANCE RESPONSIBILTIES, AS NEEDED	Summer[^]	Off Season[^]
Maintain a clean and sanitary pool: conduct required chemical checks every two hours when in use; address all water chemistry imbalances; backwash filters; empty skimmer baskets; skim pool surfaces.	Both*	SS
Vacuum pool.	SS	SS
Maintain a safe and clean pool deck: inspect safety equipment for proper placement and in date; remove any hazardous materials or objects; keep deck organized and clear of debris; maintain a washing schedule for all pool decks and deck furniture.	TOSP	SS
Inspect all equipment and similar (railings, ropes, pumps, tiling, pipework, ladders, etc.) to ensure safe working order.	Both*	SS
Maintain a functional and organized pump room environment: filters are backwashed; pump filter baskets are clear; chlorine pumps are functional and lines are clean; chemical controllers are calibrated and functioning; pump room is kept clear of debris.	SS	SS
Chemicals and other routine operations materials (filters, baskets, etc.) are stocked and available in their labeled area.	SS	SS
Maintain grass areas, both inside and outside the pool fence – mow, weed eat, trim, and blow, as needed.	TOSP	SS
Functions are supervised/directed by an individual with a current Certified Pool Operators (CPO) license.	Both*	SS
Payment for routine expenses/utilities, such as chemicals, water, gas, phone, and electricity.	SS – 50% TOSP – 50%	SS – 100%
RESPONSIBILTIES DURING OPEN HOURS	Summer[^]	Off Season[^]
Bathrooms and other common areas are inspected hourly and cleaned, as needed.	Both*	SS
Trash cans are checked hourly and emptied into the rolling carts, as needed.	Both*	SS
END OF DAY RESPONSIBILTIES⁺	Summer[^]	Off Season[^]
Security checks – all gates and doors to pump room and chemical room are closed and locked.	Both*	SS
Bathrooms and other common areas thoroughly cleaned and sanitized on the days the pool is in operation.	TOSP	SS
Trash rolling carts are moved outside the fence for pickup by TOSP (on the days the pool is in operation).	Both*	SS
SANDSHARKS END OF MORNING RESPONSIBILTIES (ON SUMMER DAYS THE POOL IS OPEN TO THE PUBLIC)		
All swimmers/parents need to exit the water and fenced area by noon.		
Complete a quick clean of the bathrooms, removing all swimmers' items and any trash/toilet paper on the floors. Empty bathroom trash cans into rolling carts, if needed.		
Re-install pool ladders.		
Remove flags/stands, starting blocks, and other Sandsharks equipment from the pool/deck and place in storage.		

[^]“Summer season” shall be defined from the day the pool opens to the public (typically Memorial Day weekend) through the end of summer operations and closure to the public in August. “Off season” shall be defined as the period from when the pool closes to the public at the end of the summer until the day it opens to the public (typically Memorial Day weekend).

*During the summer season, each party will have responsibility for these tasks during the hours/shifts they have primary oversight. Opening duties shall be performed by the Sandsharks, unless they are not using the pool in the mornings due to travel or similar.

⁺End of day responsibilities shall be performed by the party who last uses the pool each day.

Exhibit C: Sandhills Sandsharks Inventory*Current as of May 5, 2021*

Item	Purchase Date	Purchase Price
Dome	4/24/18	\$54,345.00
Blower for the dome	4/24/18	\$3,242.29
Pool vacuum	6/6/18	\$2,171.72
Starting blocks	7/3/18	\$10,168.21
3 clocks (2 red, 1 blue)	7/3/18	\$800.00
Heater for the bathrooms	7/23/18	\$11,742.50
Heater for the pump house	7/23/18	\$18,571.30
Pool blankets	7/23/18	\$5,347.53
3 storage containers + equipment in containers	Various	Various
Dry erase boards	Various	Various
Fold up table and chairs	Various	Various
Medicine balls and dry land equipment	Various	Various

**AN ORDINANCE
AMENDING THE 2020/2021 FISCAL YEAR BUDGET**

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 11th day of May, 2021 that the Operating Budget for the Fiscal Year 2020/2021 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
General Fund	Transfer to – Open Space Fund	10-670-4100	\$ 225,340	
General Fund	Fund Balance Appropriations	10-397-1000	\$ 225,340	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of May 11, 2021 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Deputy Town Clerk

**AN ORDINANCE AMENDING THE
WATER & SEWER IMPROVEMENTS CAPITAL PROJECT FUND**

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

Section 1: The project authorized is for the purpose of funding improvements to the water and sewer distribution and collection system.

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

Section 3: The following amount is appropriated for the project:

Transfer Out – East Morganton Road Water Replacement	<u>\$ 100,000</u>
Total Additional Project Appropriation	<u>\$ 100,000</u>

Section 4: The following appropriation is reduced for this project:

Construction Improvements – Water	<u>\$ 100,000</u>
Total Appropriation Reduction	<u>\$ 100,000</u>

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

Section 6: This amended ordinance becomes effective May 11, 2021.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of May 11, 2021 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Deputy Town Clerk

**AN ORDINANCE AMENDING THE EAST
MORGANTON ROAD WATER LINE REPLACEMENT PROJECT FUND**

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

Section 1: The project authorized is to establish a fund for the purpose of replacing an existing 6" water line with a 12" water line along East Morganton Road.

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

Section 3: The following additional amount is appropriated for the project:

Construction	<u>\$ 100,000</u>
Total Additional Project Appropriation	<u>\$ 100,000</u>

Section 4: The following additional revenue is anticipated to be available for this project:

Transfer In – Water & Sewer Improvements Construction Water	<u>\$ 100,000</u>
Total Additional Project Revenues	<u>\$ 100,000</u>

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

Section 6: This amended ordinance becomes effective May 11, 2021.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of May 11, 2021 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Deputy Town Clerk

**AN ORDINANCE AMENDING
THE OPEN SPACE PROJECT BUDGET**

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

Section 1: The project authorized is for the purpose of acquisition, renovation and/or construction of open space.

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

Section 3: The following additional amount is appropriated for the project:

Land	<u>\$ 1,125,340</u>
Total Additional Project Appropriation	<u>\$ 1,125,340</u>

Section 4: The following additional revenue is anticipated to be available for this project:

Financing Proceeds	\$ 900,000
Transfer In – General Fund	\$ 225,340
Total Additional Project Revenues	<u>\$ 1,125,340</u>

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

Section 6: This amended ordinance becomes effective May 11, 2021.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of May 11, 2021 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Deputy Town Clerk

MINUTES
Regular Business Meeting of the Southern Pines Town Council
April 13, 2021, 6:00 PM Virtual Meeting

1. CALL TO ORDER

Mayor Haney welcomed everyone to the meeting.

2. PLEDGE OF ALLEGIANCE

3. TOWN MANAGER'S COMMENTS

Town Manager Parsons noted that the Town has published the details for the webinar for the April 26, 2021 Council work session. He stated a decision is pending on whether meetings will transition to in-person or remain virtual as of May 2021 and will be announced soon.

Town Manager Parsons reviewed the agenda. He requested that the Council add a resolution to the consent agenda to allow for the appointment of a Deputy Town Clerk in the event the Town Clerk is unavailable. He stated that Town Attorney Doug Gill and Assistant Town Manager Jessica Roth had prepared the necessary resolution.

Upon motion by Councilmember Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the motion was approved to update the consent agenda.

4. PUBLIC HEARING

Per GS §166A-19.24(e) no action may be taken until at least 24 hours after a remote public hearing to allow for additional written comments. Council action on the following item will be included on the April 26, 2021 agenda.

A. RA-01-21: Request for the Town of Southern Pines to vacate a section of right-of-way for W. Massachusetts Avenue and S. Glover Street

Mr. John Birath, on behalf of Moore County Schools Board of Education, is requesting abandonment of a section of an eighty-foot unimproved right-of-way, 1,270-linear-feet, for West Massachusetts Avenue and South Glover Street bounded by West Indiana Avenue, West New York Avenue, and South Carlisle Street.

Upon motion by Mayor Pro Tem Murphy, seconded by Councilmember Saulnier and carried unanimously 5-0, the public hearing was opened.

Planner Lauren Long presented a report of the item.

Public Hearing comments:

- Phyllis Carol Wall asked for clarification on the definition of abandonment in this issue.
- Richard Dowdy asked if the property was being abandoned due to lack of upkeep or in order to add to the school's property
 - o Town Manager Parsons clarified that the town does not intend to construct a public road and, through this abandonment, is giving up its authority to do so.

- John Birath spoke on behalf of the school board and provided further details
- Lynn Thompson asked for clarification about servicing sewer lines.
 - o Town Manager Parsons clarified that there will still be a utility easement.

Upon motion by Councilmember Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the public hearing was closed.

5. ACTION ITEMS

A. Consider Ordinance Decreasing Speed Limits on Talamore Drive and Highland View Drive to 25 MPH

The Talamore Westside HOA has submitted a petition requesting a reduction in the speed limit on Highland View Drive and Talamore Drive from 35 MPH to 25 MPH. The petition includes signatures from over 75% of the residences.

Upon motion by Councilmember Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the ordinance was approved.

B. Consider Resolution Exempting the DFI Phase 2 Study from G.S. §143-64.31

This proposed resolution will exempt the contracts related to design services for the DFI Phase 2 study from G.S. §143-64.31, which requires solicitation and evaluation of firms to be based on qualifications and without regard to fee.

Upon motion by Councilmember Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the ordinance was approved.

C. Consent Agenda

Upon motion by Councilmember Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the Consent Agenda was approved as follows:

i. Approve Council Minutes

1. February 22, 2021 Work Session
2. March 3, 2021 Agenda Meeting
3. March 9, 2021 Regular Business Meeting

ii. Approve Amendments to the FY 2020-2021 Budget

DEPARTMENT	LINE ITEM	CODE	INCREASE	DECREASE
Legislation	Special Appropriations	10-410-6300	\$27,685	--
General Fund	Fund Balance Appropriations	10-397-1000	\$27,685	--
General Fund	Misc. Revenue	10-335-0000	\$4,352	--
Fire	Equipment Maintenance	10-530-1600	\$4,352	--

iii. Approve Resolution to Appoint a Deputy Town Clerk

6. PUBLIC COMMENTS

Mr. Rich – spoke regarding the 4/7/21 Budget Retreat:

- Many West Southern Pines residents are living on \$800 - \$1000 a month and are concerned about the proposed increase to water rates in conjunction with increased garbage fees.
 - o Town Manager Parsons clarified that there were a number of years the water rates did not increase which has put the Town in a position of needing to consider increases.
 - o Town Manager Parsons also shared that the cost for the garbage contract is increasing and that while the Town is passing along a portion of that increase, the Town is still paying over 50% of the contract.
- With regards to the Community Development Specialist Position, Mr. Rich asked how the Town intends to ensure applicants represent a diverse group of people who understand West Southern Pines. He added that he would like to see the town diversify its staff as a whole.
 - o Town Manager Parsons answered that recruitment ads are sent out to multiple sources, including outlets that are reviewed by professionals with the necessary qualifications.
- Mr. Rich closed by stating that coming out of the pandemic, the Town should consider marginalized citizens who need these essential services and their ability to pay for proposed increases.

Laura Douglas submitted an online question and asked who will pay for BLET (Basic Law Enforcement Training)?

- Town Manager Parsons answered that the Town will sponsor a qualified candidate.

7. CLOSED SESSION AS PERMITTED IN N.C.G.S. § 143-318.11

Upon motion by Councilman Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, Council retired to closed session at 6:34 pm.

Council re-entered Open Session at 7:25 pm.

Upon motion by Councilman Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the meeting was adjourned at 7:26 pm.

Respectfully Submitted,

Elizabeth Robertson
Deputy Town Clerk

MINUTES

Virtual Worksession Town of Southern Pines Monday March 22, 2021, 3:00 pm

Call to Order

Absent: None

Mayor Haney welcomed everyone to the meeting and reviewed the agenda.

Town Manager Parsons provided an update on meeting log-in information procedures. Mr. Parsons explained the GoToWebinar was inadvertently scheduled for 6:00 pm but has been corrected to the 3:00 pm starting time. All other notices for this meeting were listed correctly for 3:00 pm.

ACTION ITEMS

1. Consider Interlocal Agreement and Mutual Aid Agreement with Village of Pinehurst for Building Inspection Services

Staff recommends entering into an interlocal agreement with the Village of Pinehurst which will allow each municipality to provide mutual building inspection service to each other on a continuous as needed basis.

Town Manager Parsons gave a brief overview of the item. Mr. Parsons stated this agreement is consistent with other agreements that have previously been approved, allowing Moore County, Aberdeen, and Southern Pines to provide mutual aid for inspections, as needed.

Upon motion by Councilmember Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the Interlocal Agreement and Mutual Aid Agreement with the Village of Pinehurst of Pinehurst for Building Inspection Services was approved as follows:

Mayor Haney – Aye
Mayor Pro Tem Murphy – Aye
Councilmember Lancaster – Aye
Councilmember Pate – Aye
Councilmember Saulnier - Aye

2. Consider PD-01-21: A Four Phased Planned Development District Conceptual Development Plan to accommodate the development of mixed land uses; 175 Yadkin Road; Applicant: Rickhouse Properties, LLC; Brad and Jessica Halling

A public hearing was held on this item on March 9, 2021.

Town Manager Parsons provided a brief overview of the item.

Councilmember Saulnier stated he moves that after considering criteria (A) for a zoning map amendment found in UDO §2.17.9:

1. The requested Conceptual Development Plan is found to be consistent with the Comprehensive Long Range Plan and the Town Council adopts the Resolution that is included as Attachment "A" to the March 22nd Work Session agenda item for a decision on PD-01-21; This motion was seconded by Mayor Pro Tem Murphy and carried unanimously 5-0 as follows:

Mayor Haney – Aye
Mayor Pro Tem Murphy – Aye
Councilmember Lancaster – Aye
Councilmember Pate – Aye
Councilmember Saulnier – Aye

Councilmember Saulnier stated he moves that after considering criteria (B-H), as applicable, for a zoning map amendment found in UDO §2.17.9:

1. The requested Conceptual Development Plan PD-01-21 is found to comply with criteria B-H for a Zoning Map Amendment as submitted; This motion was seconded by Mayor Pro Tem Murphy and carried unanimously 5-0 as follows:

Mayor Haney – Aye
 Mayor Pro Tem Murphy – Aye
 Councilmember Lancaster – Aye
 Councilmember Pate – Aye
 Councilmember Saulnier - Aye

Councilmember Saulnier stated he moves that after considering criteria (1-4), as applicable, for a Planned Development Conceptual Development Plan found in UDO §2.18.4 (H):

1. The requested Conceptual Development Plan is found to be consistent with criteria 1-4 for a Conceptual Development Plan with the imposition of two (2) conditions of approval; This motion was seconded by Mayor Pro Tem Murphy and carried unanimously 5-0 as follows:

Mayor Haney – Aye
 Mayor Pro Tem Murphy – Aye
 Councilmember Lancaster – Aye
 Councilmember Pate – Aye
 Councilmember Saulnier - Aye

Councilmember Saulnier stated therefore, I move to:

1. Approve PD-01-21 with the following conditions;
 - Allow a 50' building height for the distillation still roof column.
 - This approval does not include parking space requirement details. Parking space requirement details will be provided from the applicant with their Preliminary Development Plan submission.

This motion was seconded by Mayor Pro Tem Murphy and carried unanimously 5-0 as follows:

Mayor Haney – Aye
 Mayor Pro Tem Murphy – Aye
 Councilmember Lancaster – Aye
 Councilmember Pate – Aye
 Councilmember Saulnier - Aye

3. Consider Ordinances to Amend the Building Renovation Fund Project Budget
Staff recommends some changes to the capital budget for the Public Works Annex project.

Councilmember Saulnier moved to approve the Ordinances to Amend the Building Renovation Fund Project Budget to staff some changes to the capital budget for the Public Works Annex project as presented in the staff memo. This motion was seconded by Mayor Pro Tem Murphy and carried unanimously 5-0 as follows:

Mayor Haney – Aye
 Mayor Pro Tem Murphy – Aye
 Councilmember Lancaster – Aye
 Councilmember Pate – Aye
 Councilmember Saulnier – Aye

4. Consider Amendments to FY 20-21 Budget
Staff recommends the following amendments to the budget:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
Public Works Admin	Salaries & Wages	10-565-0200		\$ 31,050.00
Public Works Admin	Auto Operating	10-565-3100		\$ 4,000.00
Administration	Salaries & Wages	10-420-0200	\$ 31,050.00	
Administration	Auto Operating	10-420-3100	\$ 4,000.00	
General Fund	Transfer to – Open Space Fund	10-670-4100	\$ 293,922.00	
General Fund	Fund Balance Appropriations	10-397-1000	\$ 293,922.00	

General Fund	Transfer to – CP Building Renovation Fund	10-670-4000	\$100,000.00
General Fund	PW Admin – Salaries	10-565-0200	\$45,000.00
General Fund	PW Admin – Fica	10-565-0500	\$ 5,000.00
General Fund	PW Admin – Group Insurance	10-565-0600	\$ 6,000.00
General Fund	PW Admin – Retirement	10-565-0700	\$ 7,000.00
General Fund	PW Admin – Deferred Comp	10-565-0800	\$ 3,000.00
General Fund	PW Admin – Training & Travel	10-565-1400	\$11,000.00
General Fund	PW Admin – Contractual Services	10-565-4500	\$13,000.00
General Fund	PW Admin – Professional Services	10-565-4600	\$ 8,000.00
General Fund	PW Admin – Dues & Subscriptions	10-565-5300	\$ 2,000.00

Councilmember Saulnier motioned to adopt the amendments recommended by as presented. This motion was seconded by Mayor Pro Tem Murphy and carried unanimously 5-0 as follows:

Mayor Haney – Aye
Mayor Pro Tem Murphy – Aye
Councilmember Lancaster – Aye
Councilmember Pate – Aye
Councilmember Saulnier - Aye

COUNCIL UPDATES AND DISCUSSION

5. Speed Reduction Petition for Talamore Dr. and Highland View Dr.

On behalf of the Talamore Westside HOA, Vice President Tony Maramarco has submitted a petition to Council, requesting a reduction in the speed limit on Highland View Drive and Talamore Drive from 35 MPH to 25 MPH. The petition includes 108 signatures, representing over 75% of the residences.

Mayor Haney stated the petitioner is currently in travel and could not be available for public comment.

Town Manager Parsons provided an overview of the item with updates and stated the Town Clerk is in receipt of the signed petition and other submitted paperwork.

Mayor Haney stated the petitions submitted to the Town demonstrates public concern and she supports further consideration of reducing the current speed limit from 35 mph to 25 mph as requested.

Councilmember Saulnier inquired about past traffic and speed studies in this area.

Town Manager Parsons summarized the most recent traffic study and recommendations from the police department.

General discussion ensued regarding the streets and current traffic issues in that area.

Council directed staff to prepare a resolution to lower the current speed limit of 35 mph to 25 mph and include the resolution for Council consideration on the April 13, 2021 business meeting agenda.

Town Manager Parsons discussed the technical issues that Ms. Sarah Jane Harmon encountered during the GoTo Webinar for the March 16, 2021 Regular Business Meeting. Staff reviewed Ms. Harmon's concerns and concluded that by only dialing into the meeting via phone and not joining the web link, Ms. Harmon was in a "listen only" status, which did not allow meeting organizers to recognize her during the public comments portion of the agenda. Staff has provided further instructions on notices for upcoming meetings advising attendees that the web links must be utilized in order to fully participate, including the ability to provide comments. Mr. stated that staff planned to meet with Ms. Harmon to discuss the comments she had planned to share in the GoToWebinar. Mr. Parsons also reminded everyone of the April 7, 2021 Agenda Meeting and Annual Budget Retreat to be held April 7th beginning at 8:30 a.m. via GoToWebinar.

No public comments were voiced.

Upon motion by Councilmember Saulnier, seconded by Mayor Pro Tem Murphy and carried unanimously 5-0, the meeting was adjourned as follows:

Mayor Haney – Aye
Mayor Pro Tem Murphy – Aye
Councilmember Lancaster – Aye
Councilmember Pate – Aye
Councilmember Saulnier - Aye

There being no further business the meeting adjourned at 3:28 pm.

As so incorporated to these minutes of March 22, 2021 are exact copies as so recorded in the ordinance and resolution books of the Town of Southern Pines as fully set out in the minutes.

Peggy K. Smith, Town Clerk

MEMORANDUM

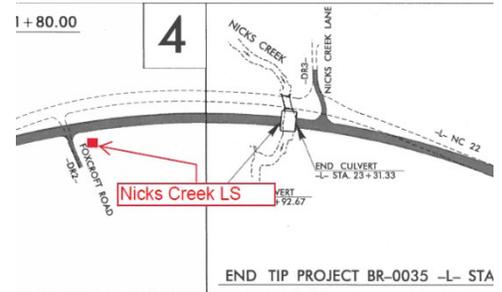
To: Reagan Parsons, Town Manager

From: James Michel, PE, MBA, Town Engineer/Assistant Public Works Director

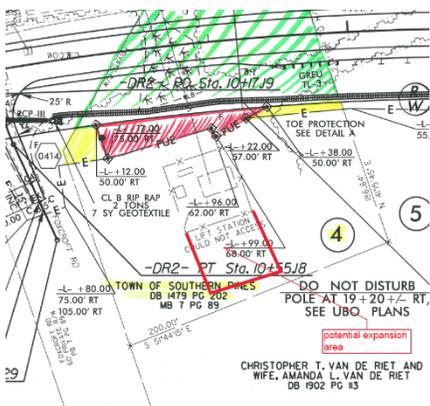
Re: NCDOT Project: NC 22/Central Drive

Date: May 6, 2021

The North Carolina Department of Transportation (NCDOT) will be completing a project along NC 22/Central Drive to replace the bridge over Nicks Creek. The new box culvert will be constructed adjacent to the existing structure and NC22 will be realigned to accommodate the new culvert (see image at right). This realignment will provide the added benefits of improving the curve radius and sight distances in the area.



The proposed roadway realignment requires the relocation of existing utilities and ancillary facilities which are currently located in the right-of-way (ROW). As a result, NCDOT must acquire additional ROW in addition to permanent utility easements (PUE) along the project corridor, which impacts the property where the Town's Nick's Creek Sewer Lift Station is located. I do not anticipate that the new ROW or PUE will impact the Town's ability to expand the lift station in the future. Any expansion would occur below the lift station, which is on the opposite side of the station, away from the road (see image at left).



NCDOT has requested that the Town deed the land for the additional ROW in addition to executing the PUE and two temporary construction easements. Staff has negotiated a sum of \$20,000 from NCDOT for this acquisition. Staff requests that Council approve a resolution at the May 11, 2021 Council meeting authorizing staff to execute the necessary agreements.

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO CONVEY LAND AND EXECUTE AGREEMENTS WITH THE NORTH CAROLINA DOT FOR THE BRIDGE REPLACEMENT PROJECT ON NC 22

WHEREAS, the North Carolina Department of Transportation will be completing a project along NC 22 to replace the bridge over Nicks Creek;

WHEREAS, the proposed design requires realignment of the existing roadway and relocation of existing utilities and ancillary facilities; and

WHEREAS, construction of the proposed design requires acquisition of right-of-way and execution of easements on property owned by the Town of Southern Pines, Parcel Identification Number (PIN) 857402771019.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Southern Pines delegates to the Town Manager the authority to 1) convey the land to the North Carolina Department of Transportation necessary for right-of-way acquisition in exchange for the sum of \$20,000.00 and 2) execute any permanent and/or temporary easements necessary for the construction of this project.

This ____ day of _____, 2021.

Carol R. Haney, Mayor

ATTEST:

Elizabeth Robertson,
Deputy Town Clerk

Revenue Stamps \$ 40.00

DEED FOR HIGHWAY RIGHT OF WAY

THIS INSTRUMENT DRAWN BY Joi J. Rivers CHECKED BY William B. Scholl

The hereinafter described property Does Does not include the primary residence of the Grantor

RETURN TO: Division R/W Agent, NCDOT
293 Olmsted Blvd, Suite 11A
Pinehurst, NC 28374

NORTH CAROLINA
COUNTY OF Moore
TAX PARCEL 857402771019

TIP/PARCEL NUMBER: BR-0035 004
WBS ELEMENT: 49073.2.1
ROUTE: NC Hwy 22

THIS FEE SIMPLE DEED, made and entered into this the _____ day of _____ 20 21
by and between TOWN OF SOUTHERN PINES
125 SE Broad Street
Southern Pines, NC 28387

hereinafter referred to as GRANTORS, and the Department of Transportation, an agency of the State of North Carolina, 1546 Mail Service Center, Raleigh, NC 27611, hereinafter referred to as the Department;

WITNESSETH

That the GRANTORS, for themselves, their heirs, successors, and assigns, for and in consideration of the sum of \$ 20,000.00 agreed to be paid by the DEPARTMENT to the GRANTORS, do hereby give, grant and convey unto the DEPARTMENT, its successors and assigns, in FEE SIMPLE that certain property located in McNeill Township, Moore County, North Carolina, which is particularly described as follows:

Point of beginning being N 65°47'56.7" E, 50.567 feet from -L- Sta 20+00 thence to a point on a bearing of S 41°15'44.9" W 80.670 feet thence along a curve 96.637 feet and having a radius of 1409.514 feet. The chord of said curve being on a bearing of S 34°33'24.1" E, a distance of 96.618 feet thence along a curve 18.618 feet and having a radius of 1090.637 feet. The chord of said curve being on a bearing of S 37°0'35.4" E, a distance of 18.618 feet thence to a point on a bearing of N 89°52'44.9" E 97.883 feet thence along a curve 190.430 feet and having a radius of 2050.000 feet. The chord of said curve being on a bearing of N 35°33'16.5" W, a distance of 190.362 feet returning to the point and place of beginning.

IN ADDITION, and for the aforesated consideration, the GRANTORS further hereby convey to the DEPARTMENT, its successors and assigns the following described areas and interests:

Permanent Utility Easement described as follows:

Point of beginning being S 50°18'17.1" E, 192.300 feet from -L- Sta 20+00 thence to a point on a bearing of N 41°16'20.5" E 25.466 feet thence to a point on a bearing of N 46°15'10.5" W 77.516 feet thence to a point on a bearing of N 28°40'2.1" E 6.667 feet thence to a point on a bearing of N 61°22'0.1" W 24.879 feet thence to a point on a bearing of N 58°46'18.2" W 17.092 feet thence along a curve 123.000 feet and having a radius of 2050.000 feet. The chord of said curve being on a bearing of S 36°5'43.2" E, a distance of 122.982 feet returning to the point and place of beginning.

Said Permanent Utility easement in perpetuity is for the installation and maintenance of utilities, and for all purposes for which the DEPARTMENT is authorized by law to subject same. The Department and its agents or assigns shall have the right to construct and maintain in a proper manner in, upon and through said premises a utility line or lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said utility lines, all trees and other obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress. It is understood and agreed that the Department shall have the right to construct and maintain the cut and/or fill slopes in the above-described Permanent Utility Easement area(s). It is further understood and agreed that Permanent Utility Easement shall be used by the Department for additional working area during the above described project. The underlying fee owner shall have the right to continue to use the Permanent Utility Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

Temporary Construction Easement Area One described as follows:

Point of beginning being N 65°47'56.7" E, 50.567 feet from -L- Sta 20+00 thence along a curve 53.064 feet and having a radius of 2050.000 feet. The chord of said curve being on a bearing of S 33°38'5.8" E, a distance of 53.062 feet thence to a point on a bearing of S 58°46'18.2" E 17.092 feet thence to a point on a bearing of N 35°15'28.1" W 69.987 feet thence to a point on a bearing of S 41°15'44.9" W 5.467 feet returning to the point and place of beginning.

Temporary Construction Easement Area Two described as follows:

Point of beginning being S 49°27'20.4" E, 206.360 feet from -L- Sta 20+00 thence to a point on a bearing of N 89°52'44.9" E 19.166 feet thence to a point on a bearing of N 41°15'40.9" E 10.160 feet thence to a point on a bearing of N 38°10'57.2" W 28.982 feet thence to a point on a bearing of S 41°16'20.5" W 25.466 feet thence along a curve 14.367 feet and having a radius of 2050.000 feet. The chord of said curve being on a bearing of S 38°0'53.9" E, a distance of 14.367 feet returning to the point and place of beginning.

It is understood and agreed that the Department shall have the right to construct and maintain the cut and/or fill slopes in the above described temporary easement area(s) until such time that the property owners alter the adjacent lands in such a manner that the cut and/or fill slopes are no longer needed for the lateral support of the roadway. Any additional construction areas lying beyond the cut and/or fill slopes and extending beyond the right of way limits and beyond any permanent easement areas will terminate upon completion and acceptance of the project. The underlying fee owner shall have the right to continue to use the Temporary Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

SPECIAL PROVISIONS. This deed is subject to the following provisions only:
NONE.

The property hereinabove described was acquired by the GRANTORS by instrument(s) recorded in the Moore County Registry in Deed Book 1479 Page 202 .

The final right of way plans showing the above described right of way are to be certified and recorded in the Office of the Register of Deeds for said County pursuant to N.C.G.S. 136-19.4, reference to which plans is hereby made for purposes of further description and for greater certainty.

The Grantors acknowledge that the project plans for Project # 49073.2.1 have been made available to them. The Grantors further acknowledge that the consideration stated herein is full and just compensation pursuant to Article 9, Chapter 136 of the North Carolina General Statutes for the acquisition of the said interests and areas by the Department of Transportation and for any and all damages to the value of their remaining property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of Department of Transportation Project # 49073.2.1 , Moore County, and for the past and future use of said areas by the Department of Transportation, its successors and assigns for all purposes for which the said Department is authorized by law to subject the same.

COUNTY: Moore WBS ELEMENT: 49073.2.1 TIP/PARCEL NO.: BR-0035 004

TO HAVE AND TO HOLD the aforesaid premises and all privileges and appurtenances thereunto belonging to the DEPARTMENT, its successors and assigns in FEE SIMPLE, or by easement as indicated, for the past, present and future use thereof and for all purposes which the said Department is authorized by law to subject the same.

And the GRANTORS covenant with the DEPARTMENT, that the GRANTORS are seized of the premises in fee simple, have the right to convey the same in fee simple, or by easement as indicated, that the title thereto is marketable and free and clear of all encumbrances, and that the GRANTORS will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is hereby conveyed subject to the following exceptions:

Restrictive covenants and easements of record, government regulations, and the lien of property taxes for the current year.

IN WITNESS WHEREOF, GRANTOR, pursuant to a resolution dated _____, has caused this instrument to be signed in its corporate name by its Town Manager, its corporate seal hereto affixed, and attested by its Deputy Town Clerk, by order of the Town of Southern Pines Town Council, this the day and year first above written

This instrument does not transfer the herein described interests unless and until this document is accepted by an authorized agent of the Department of Transportation.

TOWN OF SOUTHERN PINES

BY: _____
Reagan Parsons, Town Manager of Town of Southern Pines

ATTEST: _____
Elizabeth Robertson, Deputy Town Clerk of Town of Southern Pines

ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION BY: _____

(Official Seal)	North Carolina, _____ County I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that <u>ELIZABETH ROBERTSON</u> personally came before me and acknowledged that she is the DEPUTY CLERK of the TOWN OF SOUTHERN PINES, and that by authority duly given, the foregoing instrument was signed in its name by its TOWN MANAGER of THE TOWN OF SOUTHERN PINES, sealed with its corporate seal, and attested by <u>ELIZABETH ROBERTSON</u> as its DEPUTY TOWN CLERK. Witness my hand and official seal this the _____ day of _____, 20 <u>21</u> .
	_____ Notary Public My commission expires: _____