



## AGENDA

Monday, May 24, 2021

Town Council Work Session: Virtual Meeting

3:00 PM

- 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/6487614897985526032>
- Download the GoToWebinar app on your tablet or smartphone and attend by entering Webinar ID 544-741-531 at the time of the meeting.
- Listen to audio of the proceedings using a telephone.<sup>1</sup> At the meeting time, dial (415) 930-5321
- then use Audio Access Code 307-170-416.

### 1. CALL TO ORDER

### 2. TOWN MANAGER'S COMMENTS

### 3. ACTION ITEMS

- 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. Per GS §166A-19.24(e), a virtual hearing was held on May 11 and written comments were accepted after the hearing.*

### 4. COUNCIL UPDATES AND DISCUSSION

- a. **206 Ridgeview Road Sewer Extension**

*Property owner, David Furie, requests a waiver from the Code of Ordinances Section § 50.059 requiring a mandatory connection to the Town's sewer system.*

- b. **N.C.G.S. Chapter 160D Revisions to UDO**

*The North Carolina legislature adopted Chapter 160D of the general statutes in 2019, which consolidated statutes for local government development regulations into a single chapter. Local governments are mandated to adopt necessary amendments to conform local ordinances to this new law by July 1. Staff will discuss the more substantive updates to the Town's ordinances. A public hearing is scheduled for June 8.*

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<sup>1</sup> 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.

**c. FY 22 Budget Update**

*The first public hearing was held on May 11, with the final public hearing and vote scheduled for June 8. Staff will provide a current update.*

**d. The Carolina Water System**

*Staff recommends that Council analyze the merits of consolidating the water systems for The Carolina, currently served by both Moore County and the Town of Southern Pines, to a single system served by the Town.*

**e. Warrior Woods Lake**

*Town Manager Parsons will discuss remediation efforts that are needed for the lake in Warrior Woods following a discharge from the Town's sewer lift station.*

**f. Proposed Right-of-Way Abandonment**

*Town Manager Parsons will provide details on a proposed right-of-way abandonment that staff recommends Council consider.*

**g. American Rescue Plan Update**

*Town Manager Parsons will highlight the rules recently released by the U.S. Treasury pertaining to the funding the Town will receive.*

**5. PUBLIC HEARINGS: JUNE 8, 2021**

*The following items are currently proceeding through the Planning Board for future consideration by Council.*

**a. N.C.G.S. Chapter 160D Revisions to UDO**

**b. PD-03-21 American Whiskey Co. PDP**

**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.

# MEMO

**TO:** Town Council  
**FROM:** Reagan  
**Date:** 05-21-2021

**RE:** Work Session 05 24 2021

Regarding a number of items for discussion at Monday's Work Session:

**Proposed FY 21-22 Budget update:** *There have been no changes to the proposed FY 21-22 Budget that have any effect on either the Available Fund Balance (General Fund) or Retained Earnings (Enterprise Fund.)* Adjustments have been made to address typos, the planned transfer of System Development Fees to Water and Sewer Capital Project Funds, and the "splitting out" of some funds that were previously being placed in the "Recreation Improvement" CPF into a new and separate "Reservoir Park Dam" CPF.

**Discussion regarding Warrior Woods Lake:** Town Council may recall that during the past two fiscal years, during the Budget Hearings, individuals residing along the lake in Warrior Woods had addressed the Town Council about the possibility of a "clean-up" and introduction of non-reproducing carp to the lake in a effort to keep it clear of algae and undesired plant growth. The request was being made of the Town as a result of the belief or perception that a number of wastewater spills and overflows through the years had contributed to the growth. The request presented a number of challenges, beginning with the fact that the lake is private (and isn't even incorporated to the Town) and that it could not be established that the sewer incidents were in fact a cause or direct contributor to the situation in the lake. Ultimately, with the completion of the Warrior Woods Phase I project that addressed immediate issues, staff was asked to look further into the possibility of assisting with a project.

I worked with Attorney Gill to develop an agreement with the lake owners/developers that we believe achieves the desires of the homeowners (clean-up) while protecting the Town's interest and insuring no long-term liability for continued efforts in the event a clean-up and introduction of carp (or any other effort) doesn't prove to be successful. Mr. Jack Kramer has pursued estimates for initial introduction of an EPA approved herbicide followed by Carp introduction totaling a little over \$16,100. It should be noted that the Town, via the agreement, does not dictate (nor guarantee the efficacy of) the approach to clean-up. We only offer funding to see that an effort is made.

If Council still wishes to pursue an agreement or "settlement" of this matter, I will have a Resolution drawn up for June authorizing my office to enter into agreement with the Lake owners to finally put this issue behind us.

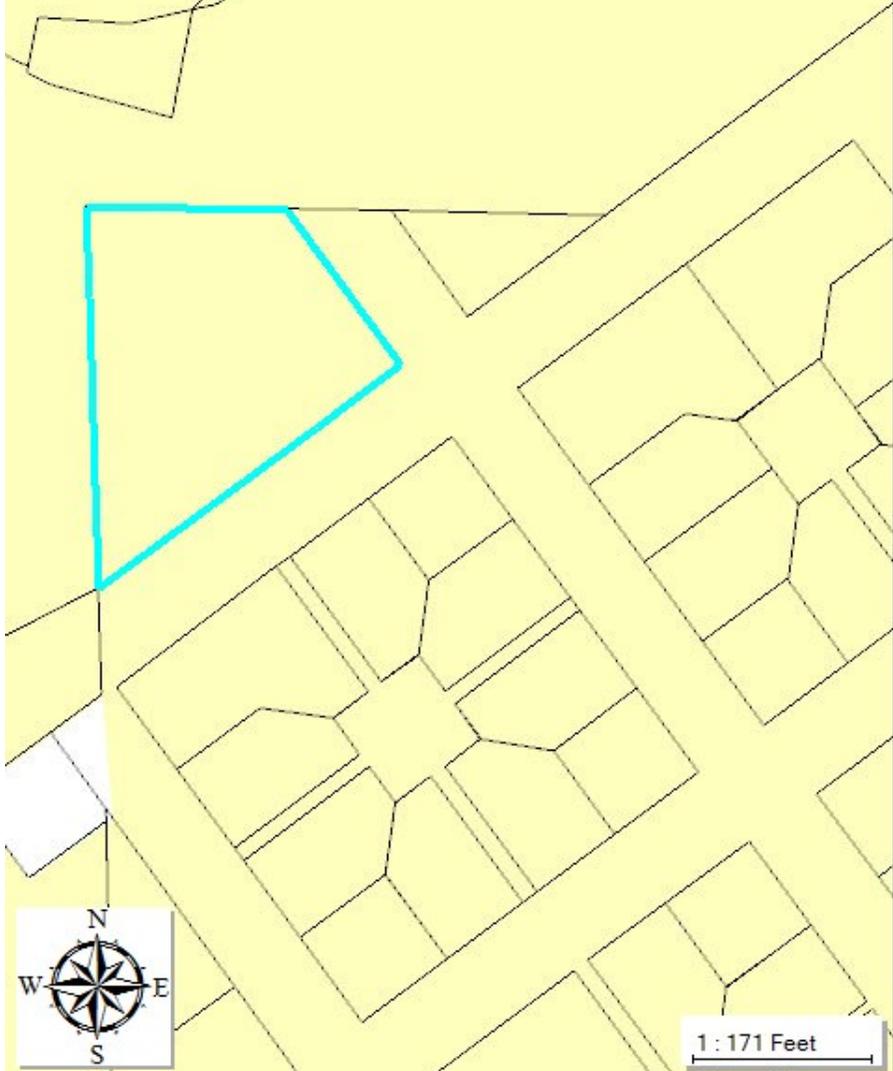
**Discussion regarding proposed abandonment of Right of Way:** Council will recall that as part of approval of a Development within the Mid-South neighborhood, there was a requirement that the developer provide an emergency access to the neighborhood. The most obvious place for a siren activated gate would be to place it at the end of the unimproved right of way for W. Michigan Ave. Staff has worked with representatives of the developer toward a design that will not only meet the Town's access needs, but will also benefit the First Missionary Baptist Church that is located immediately adjacent to this unopened right of way and has for years used it as a parking area for the church. Rather than requiring improvement of the entire right of way that would dead-end into a fence and sit immediately outside the doors to the church, the proposal is to develop simply a drive while also providing nine "improved" (paved)" parking spaces for the church along the emergency easement. The Town would abandon the right of way (allowing the church to claim the land), and the developer would maintain the paved easement into the future...essentially creating a win-win-win.

Mayor Pro-Tem Murphy facilitated a meeting with representatives of the church and they will be taking information back to their membership. Initial discussion was very positive. If Council has no issue with the abandonment and overall approach, staff will proceed with the legal requirements toward eventual abandonment while awaiting final word and feedback from the Church.

**American Rescue Plan update:** I have placed this item on the Agenda for the purpose of both a general update and to discuss with Council two potential "programs" that I would seek authority or general feedback to further explore the possibility of as part of our eventual plans with these Federal dollars.



Parcels  
City Limits



1 : 171 Feet



Parcels

## Work Session Agenda Item

**To:** Reagan Parsons, Town Manager  
**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  
**Date:** May 24, 2021

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### I. TOWN COUNCIL PUBLIC HEARING:

A legislative public hearing was held at the May 11, 2021 Regular Meeting of the Town Council. Per G.S. §166A-19.24(e) no action was taken on this item to allow for a 24-hour period following the remote public hearing for the submission of written comments. As no submission of written comments has been made, action can now be taken on this request.

### II. SUMMARY OF APPLICATION REQUEST:

Mr. Chris Jordan, on behalf of RAB Investments, LLC, is requesting to rezone a 0.79 acre parcel from FRR (Facilities Resource and Recreation) to CB (Central Business). The subject parcel is identified as Moore County PIN 858100292700 (PARID 00039620) and is owned by RAB Investments, LLC.

### III. ATTACHMENTS:

1. Resolution to adopt a Statement of Plan Consistency (DRAFT)
2. Z-01-21 Ordinance Amending the Adopted Zoning Map (DRAFT)

### IV. TOWN COUNCIL ACTION:

*To either approve or deny a proposed zoning map amendment, the Town Council shall first determine whether the proposed zoning map amendment is consistent with the Comprehensive Long-Range Plan. Next Town Council shall also make a determination if the proposed zoning map amendment is reasonable based upon the criteria for a Map Amendment as outlined in § 2.17.9 of the Unified Development Ordinance (UDO) and any other factors deemed appropriate by the Council as applicable under state law.*

**I move** that after considering the consistency of the proposed map amendment with the Comprehensive Long-Range Plan and Criteria A for a zoning map amendment found in UDO §2.17.9 that:

1. The requested Zoning Map Amendment for 387 West Pennsylvania Avenue from FRR-CD to CB is found to be **consistent** with the Comprehensive Long-Range Plan and the Town Council adopts the resolution of plan consistency, as drafted by staff, that is included as Attachment “A” in the staff memorandum for Z-01-21;
2. The requested Zoning Map Amendment for 387 West Pennsylvania Avenue from FRR-CD to CB is found to be **consistent** with the Comprehensive Long-Range Plan and the Town Council adopts the resolution of plan consistency, as drafted by

staff, that is included as Attachment “A” in the staff memorandum for Z-01-21 **with the following edits;**

3. The requested Zoning Map Amendment for 387 West Pennsylvania Avenue from FRR-CD to CB is **not consistent** with the Comprehensive Long-Range Plan **for the following reasons...**;

**I move** that after considering Criteria B-H for a zoning map amendment found in UDO §2.17.9:

1. The requested Zoning Map Amendment for 387 West Pennsylvania Avenue from FRR-CD to CB **complies with the criteria** and is a reasonable request.
2. The requested Zoning Map Amendment for 387 West Pennsylvania Avenue from FRR-CD to CB **does not comply with the criteria for the following reasons (...)** **and is not a reasonable request.**

*Finally, the Town Council shall vote to approve or deny the proposed zoning map amendment. The Town Council may wish to make one of the following motions for recommendations, or any alternative they wish:*

**And, therefore, I move to:**

1. Approve of Z-01-21;
2. Deny Z-01-21;
3. (Take other action...)



**TOWN COUNCIL RESOLUTION TO ADOPT A STATEMENT  
OF CONSISTENCY FOR A ZONING MAP AMENDMENT  
Z-01-21**

**WHEREAS**, Section 160D-605 of the North Carolina General Statutes specifies that the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan when adopting or rejecting a zoning map amendment; and

**WHEREAS**, Section 160D-605 of the North Carolina General Statutes also requires that a statement of reasonableness of the proposed rezoning be approved when adopting or rejecting any petition for a zoning map amendment; and

**WHEREAS**, changes to the adopted zoning map shall be considered upon the merits of the proposed change promoting the public’s health, safety, and general welfare, it’s negligible impact on neighboring property values, the tract’s suitability as presently zoned, as well as by its dimensions and topographical characteristics among other factors applicable under state law; and

**WHEREAS**, the Town Council conducted a public hearing on May 11, 2021 for Zoning Map Amendment petition: Z-01-21; and

**NOW, THEREFORE BE IT RESOLVED** that Town Council finds that the requested Map Amendment Z-01-21 from Facilities Resource and Recreation-Conditional District (FRR-CD) to Central Business (CB) is consistent with the Comprehensive Long-Range Plan (CLRP) in that: the subject property is designated “Commercial” by the CLRP and the CB District is a commercial district. Furthermore, a majority of the adjacent tracts are presently zoned CB and all future uses permissible in the CB District on the subject property have been evaluated as compatible with other permissible uses within the same district with respect to their operational characteristics and intensity of use. Finally, the adjacent districts that are not presently zoned CB are zoned Residential Single and Multi-Family (RM-2) and Office Services (OS), both of which have been designed to allow higher intensity residential and service-oriented uses that are less characteristically impacted by high intensity commercial uses.

**ADOPTED** this the \_\_\_ day of May, 2021.

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Carol Haney,  
Mayor of the Town of Southern Pines

**ATTEST:**

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Beth Robertson,  
Deputy Town Clerk

**AN ORDINANCE AMENDING THE ZONING MAP  
OF THE TOWN OF SOUTHERN PINES**

**THAT WHEREAS**, after notice being duly given according to law, a public hearing was held before the Town of Southern Pines Town Council, at its regular meeting held via interactive webinar on May 11, 2021 at 6:00 PM for the purpose of considering and passing an ordinance amending the Zoning Map of the Town of Southern Pines, North Carolina; and

**WHEREAS**, after completion of said public hearing and upon consideration of the reasonableness of the request, compliance with the criteria for a zoning map amendment found in Unified Development Ordinance (UDO) § 2.17.9, as well as consistency with the adopted Comprehensive Long-Range Plan, the Town Council of Southern Pines approved the petition Z-01-21 to amend the Zoning Map of the Town of Southern Pines;

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Town of Southern Pines Town Council, assembled at Work Session on the 24<sup>th</sup> day of May, 2021:

**Section 1.** That the Zoning Map of the Town of Southern Pines, on file in the office of the Town Clerk, be amended to reflect that the following parcel described shall be zoned Central Business (CB) and not Facilities Resource and Recreation - Conditional District (FRR-CD). The subject property is described as follows:

Beginning at an existing concrete monument, said monument located at the intersection of the southeast right-of-way line of Pennsylvania Avenue; thence from the beginning point with the right-of-way of Leak Street, north 53° 15' 00" east 401.72 feet to an iron pipe at the intersection of the southeast right-of-way line of Leak Street and the southeast right-of-way line of New Hampshire Avenue; thence within the right-of-way line of New Hampshire Avenue, south 36° 45' 00" east 74.39 feet to an iron pipe; thence leaving New Hampshire Avenue, south 53° 31' 22" west 147.67 feet to a corner in a concrete curb; thence 36° 45' 00" east 18.82 feet to a corner in a concrete curb; thence south 53° 17' 35" west 254.12 feet to an iron pipe on the northeast right-of-way line of Pennsylvania Avenue; thence with the right-of-way line Pennsylvania Avenue, north 36° 42' 17" west 92.32 feet to the beginning, and containing 0.79 acres, more or less, and being a portion of lots 13 through 20 and a portion of a 16-foot alley in Block K and 6 as recorded in Map Book 1, Section 2, Page 70, in the Moore County Registry

**Section 2.** That this Ordinance shall be and shall remain in full force and effect from the date of its adoption until amended otherwise.

Adopted this \_\_\_\_ day of May, 2020.

ATTEST:

TOWN OF SOUTHERN PINES

\_\_\_\_\_  
Beth Robertson,  
Deputy Town Clerk

\_\_\_\_\_  
Carol Haney,  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas R. Gill,  
Town Attorney

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on May 24, 2021 as shown in the Minutes of the Town Council meeting for that date.

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Beth Robertson,  
Deputy Town Clerk

**COUNTY OF MOORE  
STATE OF NORTH CAROLINA**

**I swear that this is a true and accurate copy of an Ordinance amending the Zoning Map of the Town of Southern Pines adopted on May 24, 2021 (Z-01-21).**

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**Beth Roberston,  
Deputy Town Clerk**

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**Date**

# MEMORANDUM

**To:** Reagan Parsons, Town Manager

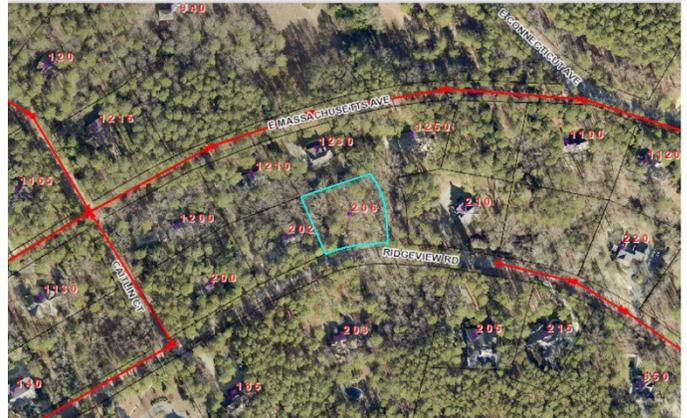
**From:** James Michel, PE, MBA, Town Engineer/Assistant Public Works Director

**Re:** 206 Ridgeview Road: Request for Exemption from Mandatory Sewer Connection

**Date:** May 18, 2021

## **BACKGROUND**

Mr. David Furie owns the undeveloped lot at 206 Ridgeview Road (highlighted in blue). The lot does not currently have direct access to a Town sewer line, but is about 280 feet from an existing sewer main. Mr. Furie plans to sell the subject parcel and it is the purchaser's intention to construct a home. Per the Town's Code of Ordinances, the development of this lot requires a connection to the Town's sewer system. Mr. Furie requests a waiver from the following Town code, which would permit the installation of an onsite septic system in-lieu of the mandatory connection:



*Southern Pines Code of Ordinances § 50.059 MANDATORY CONNECTIONS. C(1) The only circumstances that a qualifying structure is not required to be connected to the town's sewer system is if it is in a residential zoning district: and (1) It is not in a subdivision and no point on its lot is within 300 feet of a gravity connection pipe; development of the parcel requires that a sewer main be extended to the parcel to provide sewer service.*

## **STAFF ANALYSIS**

In analyzing this request, staff reviewed other nearby lots, which are not presently connected to the Town's sewer system (202 and 203 Ridgeview Road, located across from and next to the subject property). Unlike Mr. Furie's lot, both of these lots were developed prior to the 1984 adoption of the sewer use ordinance as well as the installation of the nearby sewer main in 2001. As a result of these conditions, the installation of on-site septic systems was permissible with the development of these lots. It should be noted, however, should either of the existing septic systems fail at 202 or 203 Ridgeview Road, that condition would trigger the mandatory connection and sewer main extension, currently in effect for the development of Mr. Furie's lot.

## **STAFF RECOMMENDATION**

Sewer access is readily available to this lot, through connection to nearby lines on both Ridgeview Road and E. Massachusetts Avenue. The Code of Ordinances provides already for a waiver of connection requirements; Mr. Furie's lot does not meet the required conditions for said waiver. Further, 202 and 203 Ridgeview Road would also be required to connect to sewer, should a "triggering condition" occur; this also presents an opportunity for the three property owners to install a connection to serve all three lots and jointly share in those costs. Based on these facts, staff recommends that the Code of Ordinances be enforced as adopted, with the connection to the sewer system when development of 206 Ridgeview Road occurs.

## Work Session Agenda Item

**To:** Reagan Parsons, Town Manager

**From:** BJ Grieve, Planning Director

**Subject:** Highlights from upcoming 160D revisions to UDO.

**Date:** May 24, 2021

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On June 8<sup>th</sup>, 2021 the Town Council will hold a public hearing on a substantial set of text amendments to the Unified Development Ordinance (UDO) that have been prepared by planning staff. The purpose of the amendments is to revise multiple sections of the UDO to comply with North Carolina statutes governing local development regulations that were significantly revised and reorganized in 2019. Local jurisdictions have until July 1, 2021 to update development regulations to comply with current state statutes.

A copy of the UDO showing all proposed text amendments, as well as a variety of supporting documents, have been posted to the Town’s website since May 4<sup>th</sup>, 2021. AS is typically done, a full staff report will be forwarded to the Town Council following the May 20<sup>th</sup>, 2021 Planning Board public hearing. However, given the scope of changes that are proposed, planning staff is requesting time during the May Town Council Work Session to present and discuss a few of the substantive changes to the UDO by topic. Planning staff would like to briefly summarize 27 topics with which the Town Council may want to be familiar.

<b>Topic:</b>	<b>Summary:</b>	<b>UDO §:</b>
<b>1.</b> Clarify three types of development approvals and procedures required.	Per §160D-102 and various subsequent sections of 160D, all decisions are clearly either legislative, quasi-judicial or administrative and must be treated as such and follow the procedures for one of those types of decisions.	UDO §2.5
<b>2.</b> Conflict of interest standards expanded.	Per §160D-109, no administrator may make an administrative decision when a conflict of interest exists, and a conflict of interest for a hearing body for a legislative decision now includes a close familial relationship.	UDO §2.5.3 and §2.13.2
<b>3.</b> Planning Board review of quasi-judicial decisions authorized.	§160D-301(b)(6) now formally authorizes the Planning Board to review quasi-judicial decisions, “provided that no part of the forum or recommendation may be used as a basis for a decision by the Town Council.”	UDO §2.5.2
<b>4.</b> Administrative amendments to development approvals authorized.	§160D-403 now allows for administrative approval of minor modifications to development approvals. However, just like any administrative decision, what qualifies must be well-defined to avoid significant	§2.5.15, §2.17.11(K) and §2.21.13

	discretion on the part of staff. UDO revisions have been made to delete §2.5.15 and to improve definition of minor modifications for CZDs in §2.17.11(K) and SUPs in §2.21.13. Everything else is covered in UDO §2.8.4.	
<b>5.</b> Default development approval timelines expanded.	Previously, development approvals expired if nothing happened within a year, expired if everything stopped for a year, and if the project wasn't completed within 2 years. Now, per 160D-403(c), approvals are valid for two years as long as work "substantially commences" and continue to be valid as long as work continues.	§2.8.1
<b>6.</b> Permit choice added and expanded.	"Permit Choice" has existed in N.C. since 2014 but has never been added to the UDO. So the first step was to add a Permit Choice provision per §160D-108(b) and §143-755. Then, S.L. 2019-111 expanded the scope of Permit Choice, so the new section of the UDO being added reflects that expansion. Permit Choice dictates that an applicant can't be made to wait if he/she chooses old rules, may choose old or new rules (apparently may cherry pick but that may change) and Permit Choice is valid for 18 months for subsequent development approvals. Tracking permit choice and working with applicants on what set of rules they choose to follow will be a new significant allocation of the public's money.	§2.8.5
<b>7.</b> Vested rights expanded and clarified.	Per §160D-108, added a section to the UDO clearly explaining and establishing the five types of vested rights and corresponding timelines. Tracking vested rights and what set of regulations applies to what project and/or phase of a project will be a new significant allocation of the public's money.	§2.8.6
<b>8.</b> Adjacent property notification boundaries clarified.	Per §160D-602, adjacent property notification is mailed to all properties within 200' of subject property, now not counting streets, railroads, and other transportation corridors. For some projects adjacent to wide rights of way, this will increase direct notification and likely yield additional neighborhood participation in public hearings.	§2.10.3
<b>9.</b> Administrative staff work prior to evidentiary hearing authorized.	The question has come up in the past how staff can prepare a report and send it along to the Town Council prior to an evidentiary hearing. Now, §160D-406(c) authorizes administrative materials to help the Town Council in reviewing quasi-judicial applications.	§2.14.4

<p><b>10.</b> No third party down-zoning without written consent of landowner(s).</p>	<p>It used to be that, for example, my neighbor could apply to the Town to down-zone my property. Now, per §160D-601(d), such as request requires my written authorization. The Town may still initiate a down-zoning.</p>	<p>§2.17.3(A)</p>
<p><b>11.</b> Plan consistency and reasonableness statements required.</p>	<p>Recall in 2017 when a requirement was added to statute (160A-393(b)) for “Plan Consistency Statements” that chose one of three options. That didn’t work. 160D makes the zoning amendment process less clunky. It does still require a determination of whether the amendment is consistent or inconsistent with the plan (and a plan is now required to have zoning per §160D-501), and now also requires adoption of a statement of reasonableness covering whatever the local jurisdiction wants to cover, but now both can be achieved in less formal methods, such as it being clearly in the minutes. Planning staff will be achieving this in an attachment similar in concept to findings of fact addressing the criteria for a zoning amendment.</p>	<p>§2.17.8</p>
<p><b>12.</b> Written consent to conditions of approval required.</p>	<p>Per §160D-703(b) for conditional zoning districts, and per §160D-1402(k) and §160D-1403.2 for certain quasi-judicial decisions, the Town should have the applicant’s written consent to conditions of approval. This has been added to the UDO for CZDs, PDPs, PPs, SUPs and CoA Major Works. Town Council should keep in mind that refusal to agree to conditions in writing may mean that foreseeable impacts are not reasonably mitigated and project may not be approvable as submitted.</p>	<p>§2.17.11(G), §2.18.5(G), §2.20.4(H), §2.21.10(B) and §2.28.4(A)</p>
<p><b>13.</b> New type of subdivision called “Expedited Review.”</p>	<p>Not exempt, not minor and not major. Per 160D-802(c), this is a new category of subdivision for a very unique circumstance and it has been added to the UDO in a new UDO §2.19.3(A).</p>	<p>§2.19.3(A)</p>
<p><b>14.</b> Sketch Plat requirement removed.</p>	<p>Related to topic #1 above, Exhibit 2-1 had a Sketch Plat listed as a QJ decision that went to the Planning Board. This created so many complications under 160D definitions for a process that is of so little use and is so often simply combined with the Preliminary Plat per UDO 2.20.4(B), that staff proposes to eliminate the Sketch Plat to avoid getting sideways with 160D definitions. Staff put Architectural Compliance Permits on a separate list to come back to.</p>	<p>§2.20.4 (delete)</p>

<p><b>15.</b> Entitlement timeline for Preliminary Plats now matches other approvals.</p>	<p>For a long time, UDO §2.20.5(J) and 2.20.9(G) have created confusing and inconsistent timelines for Preliminary Plat timelines and Final Plat (respectively) timelines. Now, per 160D-403(c), both of these sections have been corrected to simply default to the same timelines as other development approvals as explained in topic #5 above.</p>	<p>§2.20.5(J) and §2.20.9(G)</p>
<p><b>16.</b> Subdivision Performance Guarantees expanded.</p>	<p>Per §160D-804.1, SPGs (fka SIAs) may be used for subdivision improvements and “other development regulation requirements.” Per §160D-804.1(1a), timelines for SPGs are now at the discretion of the developer, not the Town. This is a noteworthy change...once a SPG is approved, the duration is up to the developer.</p>	<p>§2.20.7</p>
<p><b>17.</b> Development Agreements concurrent with development approvals.</p>	<p>Per §160D-1003(b), a Development Agreement may now be processed concurrently with a project. So no need for separate public hearing, could be included with a PDP application, for example.</p>	<p>§2.20.8(D)(1)</p>
<p><b>18.</b> Conditional Use Permit is now Special Use Permit.</p>	<p>This is one of the smallest changes, and yet one of the most noticeable changes. Under statute, “Conditional Use Permits” no longer exist but this same zoning mechanism is now called a “Special Use Permit.”</p>	<p>§2.21, and references throughout the UDO.</p>
<p><b>19.</b> Variance for reasonable accommodations.</p>	<p>Per §160D-705(d)(2), “a variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.” As best as staff can tell, an example of this may be when an access ramp can only be built in a setback, so a variance could be granted even if it didn’t meet other criteria for a variance.</p>	<p>§2.22.6(B)</p>
<p><b>20.</b> Timeline for appealing administrative decisions restricted.</p>	<p>Any person aggrieved by an Administrative Determination can appeal it within 30 days. This is relatively easy when the person aggrieved is the person receiving the determination in writing. However, what if the person aggrieved is the neighbor of a structure that is being converted to another use based on an Administrative Determination, and they don’t even know it was made until construction begins 6 months after the determination? Now, per §160D-405(d), aggrieved parties have 30 days from date of receipt of determination or 30 days from constructive notice of a determination. So if the first time I know about a determination that my neighbor can convert his home to an office is when contractors begin work, then that’s constructive notice. People can post notices</p>	<p>§2.23.3</p>

	on their property to qualify as constructive notice and run out the 30 days.	
<b>21.</b> Clarify requirements for on-site inspections.	UDO §2.30.10 deals with “Right of Entry” and UDO §8.18 also deals with this topic. §160D-403(e) makes clear that on-site inspections must be done at a reasonable time, for purpose of inspection or other enforcement action, upon presentation of credential and with consent, or with a warrant. Staff proposes deleting §2.30.10 and slightly revising §8.18 to match exactly what is in §160D-403(e).	§2.30.10 and §8.18
<b>22.</b> Add timeline for building permits from state statute.	UDO §2.37 covers building permits, but the statutory timeline for building permits was not in the UDO. Per §160D-1111, added exact language to UDO regarding expiration of building permits.	§2.37.4
<b>23.</b> Incorporate floodplain maps by reference.	Previously, anytime floodplain maps were updated by FEMA, it required a text amendment to reference the new map adoption dates. Now, per §160D-105, we can simply incorporate the most recent maps by reference.	§4.13.3
<b>24.</b> Allow “Temporary Family Healthcare Structures.”	Per §160D-915(a)(5), a “temporary health care structure” is <i>“A transportable residential structure providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b).”</i> Per §160D-915(b), they must be a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. So we can expect to see these in the near future.	§5.3.1
<b>25.</b> Provide a clear purpose for Special Committees.	The UDO allows for the creation of Advisory Committees to advise the Planning Board, Town Council, etc. Now, per §160D-306, this is allowed but the ordinance establishing the board/committee has to specify the composition and duties of such boards.	§8.15.1
<b>26.</b> Rules of Procedure and Oaths of Office required for all Boards created under Chapter 160D.	Per §160D-308 each board created under Chapter 160D (like Planning Board, Board of Adjustment, Historic District Commission) must have rules of procedure adopted and a copy must be posted to the local government website. Per §160D-309, members	§8.17.2(B) and §8.17.2(M)

	of boards created under Chapter 160D must take oaths of office.	
<b>27.</b> Added and revised definitions.	Per §160A-390, definitions of building, dwelling, dwelling unit, bedroom, or sleeping unit may not be inconsistent with state building code. Furthermore, per §160D-102 there are 11 new definitions based on other new terms used in §160D.	UDO §9.3

# MEMORANDUM

**To:** Reagan Parsons, Town Manager  
**From:** James Michel, PE, MBA, Town Engineer/Assistant Public Works Director  
**Re:** Consolidation of Water Systems Serving The Carolina Development  
**Date:** May 18, 2021

## **RECOMMENDATION**

Staff recommends that Council analyze the merits of consolidating the water systems for The Carolina, currently served by both Moore County and the Town of Southern Pines, to a single system served by the Town.

## **BACKGROUND**

Moore County Public Utilities currently operates a satellite water system in the older sections of The Carolina development located off Airport Road. All the customers on this satellite system are within the Town's corporate limits and the system is supplied through a master meter connection to the Southern Pines Water System. The newest sections of the Carolina Development have been extending Town water lines to serve the new properties as required in the most recent development approvals CUP. This has led to several locations where Town and County lines are parallel to each other and several of the upcoming phases of the project will result in additional parallel lines.

In a letter dated April 26, 2021, The Carolina developer requested that the Town and County work together to consolidate the two systems into a single Town water system. The developer benefit from this consolidation as it reduces the length of new water mains that must be extended to serve future phases of the development. In exchange, the developer has offered to provide the improvements listed in his letter to limit the Town's costs associated with the requested change-over and to improve the hydraulics of the water systems.

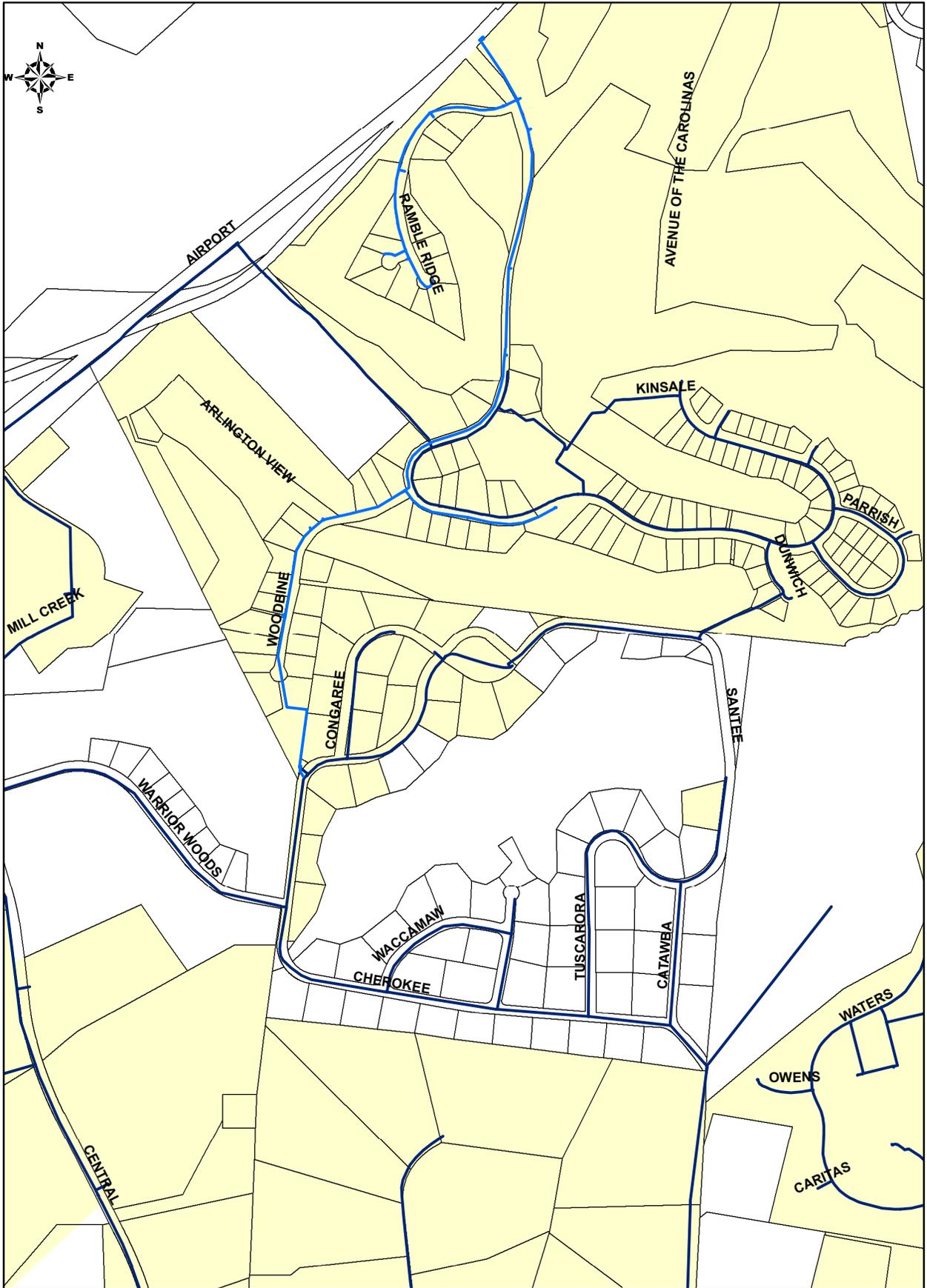
The parallel systems are undesirable due to inefficiencies and complexities in system operations and future maintenance and confusion among residents. This is further exacerbated given that residents have different rate structures depending on which system serves their home. It should be noted that while the County and Town water rates are very similar, a current customer on the County's system would see an increase of \$0.05/month after transitioning to the Town's system (based on an average use of 5,000 gallons/month).

In addition to the operational concerns, the County's system also falls within the Town's Fire District, but was developed prior to current fire flow requirements and has limited capability to meet current standards. The developer proposes installing an additional loop and additional interconnection with the Town's system, which will improve the system hydraulics and fire flow in the older sections.

## **NEXT STEPS**

Staff requests direction from Council on forwarding a request to the Moore County Commissioners to approve this transfer. If Council desires, staff will draft a resolution to review at the June 2<sup>nd</sup> agenda meeting, followed by a vote at the June 8<sup>th</sup> business meeting. The Town would then forward the approved resolution to the County Commission for their consideration.





# The Carolina Water System

**Legend**

	The Carolina Water Mains		Tax Parcels
	TOSP Water Mains		TOSP City Limits

April 26, 2021

James Michel  
Town of Southern Pines  
Town Engineer/Asst. Public Works Director  
140 Memorial Park Ct.  
Southern Pines, NC 28387

RE: Caropines  
Water Line Transfer Request

Mr. Michel,

Over the past few months, my clients, Caropine Ventures, LLC and 71<sup>st</sup> Partners, LLC, have been working with the Town on a Utility Master Plan for the future phases of The Carolina development. This study has included a detailed investigation of the potential public water service options for the project. As you are aware, Moore County Public Utilities provides water service for some customers within the Carolina, mostly in the original sections of the development. The Town of Southern Pines water services serve and will serve, the new and future phases of The Carolina development. Because of this unique situation, parallel water utility lines (Moore County and Town of Southern Pines) will be required to provide water service to future phases.

Since the Caropines approval for the Planned Development (PD) zoning and the Conceptual Development Plan, the entirety of the property has been annexed into the Town of Southern Pines. Having water provided by a single entity would be more efficient for the residents of The Carolina and avoid duplication of water infrastructure for future phases. Caropine Ventures, LLC and 71<sup>st</sup> Partners, LLC would request that the Town of Southern Pines work with Moore County Public Works to transfer ownership of the existing Moore County water lines within The Carolina development to the Town of Southern Pines.

At such time as this system would be transferred to the Town of Southern Pines, Caropines Ventures, LLC would agree to provide the following modifications to the system to meet compliance standards with the Town's water system.

- Replace the register so the meters will work with the Town's billing system. There are currently 42 meters on the County's system. Town staff has estimated that the replacement of the registers, including materials and labor, will be \$216.04/meter for a total cost of \$9,073.68. Upon approval of the transfer request by the Town Council, the developer will deposit this amount with the Town, prior to the request being forwarded to the County Commissioners. If the Commissioners decide to reject the transfer request, then the money will be returned to the developer.
- Fire hydrants will be raised and painted to meet the standard Town of Southern Pines colors of green and white. This work will be included in the first site plan to be approved after acceptance of the Transfer request by the County Commissioners.



- An additional water line will be connected from Airport Road to a location on Ramble Ridge as discussed with the Town previously. In addition, a connection between the Town and existing County system will be required just north of the clubhouse where the Town's system currently ends. The design of these connections and extension will be required to be included with the first site plan submittal to be approved after acceptance of the Transfer request by the County Commissioners.

We appreciate your consideration of this request and would be happy to answer any questions you may have regarding this request. Please contact me at (910) 639-4058 if you would like to discuss this request.

Best regards,



Robert E. Koontz  
Principal

cc. Randy Gould, Moore County Public Works  
Reagan Parsons, Town Manager, Town of Southern Pines

**MOORE COUNTY  
NORTH CAROLINA**

**SETTLEMENT AGREEMENT AND RELEASE**

This SETTLEMENT AGREEMENT AND MUTUAL RELEASE (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2020 by and between the Town of Southern Pines (“Town”) and \_\_\_\_\_ (“Lake Owner”). For the purposes of this agreement, Town and Lake Owner may be referred to collectively as the “Parties” or singularly, as a “Party.”

**RECITALS**

WHEREAS, the manmade body of water (“Lake”) located within the Warrior Woods subdivision lies within a watershed that affects the town and its residents; and

WHEREAS, it has been asserted that discharge from a sewer lift station (“Incident”) operated by Town has contributed to deleterious conditions in the lake and watershed downstream from the lift station; and

WHEREAS, Lake Owner is willing to undertake measures intended to ameliorate or remediate any such conditions on behalf of the development, and

WHEREAS, Town wishes to support efforts to address any such conditions;

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree to be unconditionally and irrevocably bound by the following terms and conditions:

1. **Settlement Amount.** Town will tender the lump sum amount of \_\_\_\_\_ (“Settlement Amount”) to Lake Owner within [forty} days of the date of approval of this agreement by Town’s Council.
2. **Waiver and Release of Claims.** By entering into this Agreement and accepting its terms, including payment of the Settlement Amount, the Lake Owner and Town knowingly, intentionally, and expressly waive and disclaim any and all claims arising from the Incident.
3. **Compromise of Claim; Confidentiality.** The Parties acknowledge that this Agreement represents a compromise and settlement and that nothing contained in this agreement is or shall be deemed to be an admission or concession by any Party

regarding the merits of the claims or defenses that could be asserted in any dispute among the Parties related to the Subject Dispute or any other matters waived pursuant to this Agreement

Settlement and Release

Page 2

4. **Lake Owner's authority to undertake efforts.** Lake owner warrants that its interest in the Lake is such that it may undertake efforts arising from this agreement without approval from any other person or entity, including any property owners in the Warrior Woods subdivision.
5. **Use of Payment.** Lake Owner agrees that it will within a reasonable time apply the payment from Town for the purpose and with the intention of amelioration or remediation of any deleterious consequences of the Incident and that it will make reasonable efforts to seek advice and recommendation on the preferred method for accomplishing their work from property owners in the Warrior Woods subdivision.
6. **Third party Beneficiaries.** The Parties agree that persons entitled to use of the Lake are third-part beneficiaries of this agreement.
7. **Entire Agreement.** This Agreement is the only agreement between the Parties with respect to the subject matter hereof and contains all the terms agreed upon. There are no other agreements, oral or written, between the Parties with respect to the subject matter hereof, nor have any promises or representations been made by or to any Party except as expressly provided herein.
8. **Severability.** The provisions of this Agreement are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision.
9. **Joint Preparation; Right to an Attorney.** Each Party represents to the other Party that it has been afforded the right to review all aspects of this Agreement with an attorney and has had an opportunity to do so. For purposes of construction or interpretation, it is hereby stipulated and agreed that the Parties have jointly prepared this Agreement such that any principle that contracts shall be construed against the drafters.
10. **Governing Law; Forum.** This Agreement is made and entered into in the State of North Carolina. This Agreement shall, in all respects, be construed, enforced and governed in accordance with the laws of the State of North Carolina. The Parties further agree that any dispute arising with regard to this Agreement shall be heard exclusively in the courts of Moore County, North Carolina.
11. **Counterparts.** This Agreement may be executed in up to two (2) counterparts.

[Remainder of this page intentionally left blank. Signatures begin on the next page].  
Settlement and Release Page

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement under seal as of the day and year first above-written.

**[Lake Owner**

By: \_\_\_\_\_

**NORTH CAROLINA COUNTY OF MOORE**

I, \_\_\_\_\_, a Notary Public for said County and State, do certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that he/she is the \_\_\_\_\_ of [Lake Owner] and being authorized to do so, executed the foregoing instrument on behalf of [Lake Owner].

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2021.

[Seal]

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**Town of Southern Pines**

By \_\_\_\_\_

**NORTH CAROLINA COUNTY OF MOORE**

I, \_\_\_\_\_, a Notary Public for said County and State, do certify that \_\_\_\_\_ personally appeared before me this day and executed the foregoing instrument on behalf of the town of Southern Pines.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2021.

[Seal]

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_