



To: Mayor Fiorillo and Village Council
From: Andrea Correll, Director of Planning and Inspections
Cc: Andy Wilkison, Village Manager
Lauren Craig, Village Clerk
Date: October 3, 2013
Subject: Summary of Major Changes – Proposed Pinehurst Development

Please find below an executive summary of the major changes proposed in the new Pinehurst Development Ordinance for your consideration. The public hearing is advertised for Oct.22nd to be heard at your regular 1 pm Council meeting. On October 8th, Robert Hayter and I will brief you on the proposed changes and answer your specific questions. If you have questions or need further clarifications, please contact me. If you have issue with a proposed changes it would be very helpful

The outline below identifies major changes included in the final draft attached:

Chapter 1 - General Provisions

- **Section 1.2 Statement of Intent-** changes to the Statement of Intent & Community Goals
- **Section 1.3- General Purpose and Authority-** Added to (d) to conserve and protect the value of buildings and land
- **Section 1.8 Engineering Standards and Specifications Manual** modified text and removed from being incorporated in the PDO
- **Section 2.3.2 Nonconforming Uses (b) Minor Repair** -added more detail and options for repair including signage

Chapter 2 - Administrative Rules; Nonconformities

- **Section 2.3.2 General Rules (c)** Added act of God provision (tornado, flood, etc.)
- **Section 2.33 Nonconforming Structures (c)** Added act of God provision (tornado, flood, etc.)
- **Section 2.3.2 Nonconforming Uses (e)** Cession of Use 120 days for all nonconforming uses

- **Section 2.3.4 Nonconforming Signs (b) & (f)** added provision to allow businesses to change out message for non-conforming, multi-tenant signs

Chapter 3 - Decision Making and Administrative Bodies

- **Section 3.6 Historic District Design Committee-** added
- **Section 3.7.6 Technical Review Committee-**added TRC to Ordinance and scope of work. Previously ordinance only mentioned and the Village appointed

Chapter 4 - Public Hearing, Permits and Approvals

- **Section 4.2.1 Development Permit Required** clarified a use being established needs a development permit
- **Section 4.2.2 Development Permit Application** introduces language regarding the need for plans & reference to plan types & appendix A-E and deletes plan information from these sections
- **Section 4.2.3 Term of a Development Permits** modified to have universal 365 Day expiration
- **Section 4.2.6 Prerequisite Permits, Approval and Reviews for a Development Permit** - moved CAC from development review, removed water and sewer from review by the Village
- **Section 4.3.2 Establishment of Vested Rights** - added language to indicate process, made clear minor site plans included, removed plan requirements and referenced the plan type being vested from appendix A through E
- **Section 4.5 Special Use Permit** -there are no longer major and minor special use permits. Just a limited number of uses which require a special use permit approved by Village Council they are new golf courses in R-210,R-30, R-20, R-15 and R-MF; Accessory Dwelling outside of the Historic District; Restaurant in Office Professional; Schools; Residential Care Facility; other utilities not Moore County or the Village
- **Section 4.5.1 Purpose and Applicability(c) Special Use Permit** flow chart added
- **Section 4.5.2 Special uses Requiring Variances-** provides the opportunity to address all the needs of a special use including variances at the hearing
- **Section 4.5.4 Lapse of Special Use Approval for Failure To Obtain Site Plan Approval** extended time period of Special Use approval from 6 to 12 months
- **Section 4.5.5 Action by the Village Council (b)** defines 60 days as the time in which Village Council may make a decision on Special Use permits
- **Section 4.5.5 Nature of Conditions (d) 5** - indicates recreation requirements can be dictated at the Special Use level
- **Section 4.5.6 Standards of Review** reduces the number of the Standards of Review based on case land and NC School of Government study of most common used in NC

Chapter 5 Variances and Administrative Appeals

Section 5.1.1 Purpose and Scope – added flow chart illustrating variance process

Section 5.2 Administrative Modification of Dimensional Standards - adds administrative modification criteria to enable staff to approve a setback variance of 10% or 24 inches greater

Section 5.3 Appeals of Administrative Decisions (a) added flow chart

Chapter 6 Text Amendments and Rezonings

- **Section 6.1.1 Purpose and Scope** (a) – added a flow chart illustrating the process for text amendments and rezonings
- **Section 6.1.3 Filing and Content of Applications** (d) no longer requires public hearings for rezonings at the Planning Board which is consistent with the NC general statutes
- **Section 6.1.3 Filing and Content of Applications** (e) modifies language to move from conditional use rezoning to conditional zoning, legislative versus quasi-judicial
- **Section 6.2 Special Provisions for Conditional Districts** setup this provision to establish conditional use districts vs. conditional uses. A Conditional Zoning District is an area on which special conditional are placed upon the request of the property owner as part of a rezoning of the property. This process is legislative not quasi-judicial.

Chapter 7 Enforcement against Violations

Chapter 7 Enforcement Against Violations minor text changes for clarification of responsible individuals

Division II: Regulatory Provisions

Chapter 8 Zoning

Section 8.2.8 (HC) Highway Commercial District – created this district for more intense commercial along major thoroughfares current there is no property zoned Highway Commercial

Section 8.3 Overlay Zoning District – there are only three overlay districts in this ordinance; 1- Pinehurst South Business Overlay, 2-Historic Preservation, 3- Watershed Protection

Section 8.4 Conditional Zoning Districts – are the means by which special conditions can be imposed in the rezoning process by Village Council. This type of zoning provides Council special discretion, and it is their role to evaluate the merits of the request.

Section 8.5.1a Table of Permitted and Special Uses and Special Requirements – this section of the ordinance establishes all the permitted, special uses and special requirements and should be closely reviewed for agreement by Council. Also it is broken up into principal uses, accessory uses and temporary uses. New uses have been listed and modifications as to permitted and special uses in each district have been made.

SR-1 Dwelling- Single Family – Two Family – In the VCP and VMU between any single family use and a non-residential a class 1 buffer will be provided by the non-residential use

SR-2 Dwelling – Townhouse/Clustered Dwellings minimum lot size of five acre removed and public utility connection language removed

SR-3 Dwelling, Multi-family section added and minimum square foot reduced from 1600 to 800 and there is no longer a special chart for this section

SR-4 Family Care Home added an outline of the process for getting approval

SR-5 Dwelling, Mixed Use added provision to allow mixed use dwellings as accessory use in the rear yard in VCP, VMU and VC

SR-6 Manufactured Housing reduced the manufactured home requirements from four standards to two

SR-7 Bed and Breakfast Homes have made minor modifications to the requirements of B&B to make the section better organized

SR-8 Hotel new provisions which enable street level vitality by requiring at least 50% of the ground floor rooms not be used for guest rooms

SR-9 Banks, Credit Unions, Financial Services, Professional Services the change is professional services (formerly office) being added to clarify completely what is prohibited in the VC and VMU on the ground floor.

SR-10 Dry Cleaning and Laundry Services added new defined use and requirements

SR-11 Veterinary Services and Indoor Kennels requirements are narrowed to indoor kennels and now outdoor facilities will require a special use permit.

SR-13- General Retail now includes the standards first established for Neighborhood Center

SR-14-Outsides Sales new section and new requirements

SR-17 Recreation Facilities, Outdoor (RD, R-210, NC, HC) new use and new requirements

SR-19 Community Support Facility new use and requirements

SR-20 Fueling Stations new use and requirements

SR-21 Vehicle Rental/Leasing Sales [HC] new use and requirements

SR-22 Landfill/Waste Recovery Facilities (PC) new use and requirements

SR-23 Storage – Outdoor Storage Yard [HC] new defined use and requirements

SR-24 Storage – Self-Service new defined use and requirements

SR-25 Farming/Animal Production (R-210) new defined use and requirements

SR-26 Horse Farm and Training Track new defined used and requirements

SR-27 Parking Structure language modified from current SR-20/21

SR-28 Telecommunication Facilities increases height from 150' from 150', required additional setback in exchange

SR-112-Docks on Lakes (Sketch) added

Section 8.8 Temporary Uses (All Districts) -reintroduced temporary uses and added temporary use language

SR-200 Boat Storage modifies language to be more lenient but requires screening

SR-204 Model Homes (2) modified to allow them to be used for real estate sales offices until 80% of the homes have received Cos formerly 50%

Chapter 9 Design and Development Standards and Processes

Section 9.1(a) Exterior Building Materials modified to include addition siding materials

Section 9.1(i) Standard of Dimensional Calculations new section added to clarify that numbers used to establish dimensional requirements shall be rounded to the nearest whole number.

Section 9.1 (j) Colors - language clarified

Section 9.2a Tables of Dimensional Requirement-has been combined from 3 tables to one
Language has also been modified. See summary of the changes below:

- Some dimensional criteria has been modified
- Done away with minimum lot size for non-residential buildings
- Lake /Golf Course setback- added 30' to R-5
- Maximum Building height is 35 feet in all zoning districts with the exception of Hotel, Hospital, Village Mixed Use, Village Commercial and Recreational Development District which includes many local club houses and facilities
- Increased all non-residential districts to 70% max impervious surface to be consistent with watershed regulations & Special Non-residential Intensity Allocations.
- Reverted the Village districts to impervious coverage versus open space so all districts are administered the same way
- Maximum Residential density added to the chart
- R-MF increased from 6 to 8 units, Village Residential listed as 8 units
- Minimum accessory structure setback reduced
- Minimum building sizes removed
- Minimum lot covered by buildings removed and notes simplified

Section 9.3 Special Use District Design Standards – consists of Village Mixed use District Design Standards, Village Cottage Professional District Design Standards and Village Residential District Design Standards:

- we are no longer requiring a special use permit for all development in Village Place
- no longer automatically receiving intensity allocation in the watersheds
- off-street parking regulations have been removed

Section 9.4.1.1 (g) Table of Required Parking -completely revamped table to reflect new use table and the uses listed therein

Section 9.4.1.2 Location and Design of Parking Areas/Stacking Lanes (k, l) have been added

Section 9.4.1.3 Shared Parking these requirements are new

Section 9.5.1.2 Planted Buffers (d) Village Council may waive buffer standards in the VC and also add provisions on how to account for greenways within buffers

Section 9.5.1.2 Planted Buffers (d) (4) added provisions for buffering along Midland Road as the other highway corridors are being deleted

Section 9.5.1.2 Planted Buffers (f) (2) Requirements for Planted Buffer Areas has been modified to create one standard for all buffers regardless of the width. Removed requirement for hardwoods and dictate long leaf pines with a (3) inch caliper are to be used at 1 per 200' of buffer area.

Section 9.5.1.4 Parking Area Landscaping (b) Required Perimeter Landscape Plants

- modified language to require longleaf pines shall be planted rather than hardwoods and increased to every 20 linear feet versus 40
- Also added language on where they are to be planted in relationship to the parking lot; 5 to 20 feet

- Added language regarding where shrubs are to be planted in relation to the parking lot every 5 to 10 feet and if walls are used they may be substituted for shrubs

Section 9.5.1.7 Existing Vegetation Credits the text was modified to simplify the tree protection measures. The tree size was increased to 3' caliper if used for credit.

Section 9.7 Sign Regulations This section has been re-written and re-organized, however almost all of the regulations regarding sign type, location, size and height have remained the same. There should be no visual changes to new signage.

Section 9.13 Fences, Walls, and Columns

- Increased maximum fence height from 6' to 7'
- Allows fences 4' or less in height in rear yards of golf course and lake lots and up to 10' of the property line
- Increase front yard fence allowance from 3.5' to 4'
- Requires fences to be 2' off of the property line adjacent to street right of way
- Addresses farm and livestock fencing in the R-210 District
- Column height increased from 5.5' to 8'
- Removes fence type requirements but adds appendix for guidelines
- Adds regulations prohibiting certain materials for fences
- Raises the height of retaining walls that can encroach into the setback to 36" from 30" and modifies rear and side setback requirements for retaining walls to the accessory setback requirement vs. the principal setback
- Creates a 5' retaining wall setback
- **Section 9.13.6 Tree Conservation and Newly Installed Trees and Plants**
- New tree preservation/planting requirements put in place
- No longer requiring foundation plantings

II-Section 9.14 Design Standards for Single Family Homes

- Removes CAC from review of projects
- Removes much of the Design Standards for SF Homes

II-Section 9.16 Site Plan Development Standards

- Added SF to the types of development requiring site plan (although modified)
- Minor Site Plan approval by staff increased from 1 acre of land disturbance to 2 acres of land development
- Added language that if an approved general concept plan is in place. Major site are only to be reviewed by staff.
- Optional sketch plan review has been added to both the major and minor site plan processes for initial feedback
- Time of review by Village Planner has been reduced from 90 to 45 days
- Developers only need to provide a general concept plan for review and approval by the Planning Board and Village Council
- If approved by these bodies then a full site plan/construction plan is submitted to staff for review

- Village Council is no longer required to hold a public hearing on a major site plan/but they may

II-Section 9.16.1.8 Required Improvements for Major and Minor Site Plans (d) Recreational Fees for Residential Development

- This section mandates that Park & Recreation fees be paid rather than current process of land dedication or fee in lieu of for all residential developments.
- Also added sidewalk provisions

II-Section 9.17 Subdivision Standards

- Added optional sketch plan submittal for initial feedback
- If general concept plan previously approved than subdivision review reverts to the Village Planner

II-Section 9.17.1.11 Required Open Space

- Combined the open space subdivision requirements of the R-210 District/Green Neighborhood Standards of other Residential Districts and removed the PRD regulations for the R-30 District
- New Regulations require open space and lot reductions for all new major subdivisions
- Sidewalks are only needed if street serves 8 or more homes
- Added fee in lieu of sidewalk provision for subdivisions



History, Charm, & Southern Hospitality.

Vision

The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions, enhanced by a unique combination of cultural arts and recreational activities.

Mission

Preserve and enhance the community's character and ambience by guiding growth, managing change, and providing services in a financially responsible manner.

Values

Competent
Courteous
Professional
Responsive

Lauren Craig

From: Vicki Bouplan <vicki@vancamlaw.com>
Sent: Friday, May 30, 2014 12:53 PM
To: Andy Wilkison; Lauren Craig
Subject: Align Developement
Attachments: RAL-#1784051-v1-Pinehurst__Settlement_Agreement_and_Release (2) red-line draft.docx; Pinehurst__Settlement_Agreement_and_Release-Final.pdf

Importance: High

Andy and Lauren:

As you requested, enclosed is the final draft together with the red-line draft which included our proposed minor revisions, all of which were incorporated into the final draft.

Should you have any questions, please do not hesitate to contact Mike.

Thank you,

Vicki Bouplan
Paralegal to Michael J. Newman and William M. Van O'Linda, Jr.
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SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

WHEREAS, Align Development LLC, Julie Sutton, Lizzie Covington, and Marian Baker (collectively "Claimants") may have claims against the Village of Pinehurst and Village of Pinehurst Village Council (together hereinafter referred to as "Village of Pinehurst") for discrimination in land-use decisions or in the permitting of development based on the fact that a proposed development contains affordable housing units for individuals with incomes below eighty percent of the area median income; discrimination in land-use decisions or in the permitting of a proposed development based on race; otherwise making unavailable or denying housing because of race; statements indicating any preference, limitation, or discrimination based on the fact that a proposed development contains affordable housing units for individuals with incomes below eighty percent of the area median income, by refusing to approve, blocking or otherwise interfering with the development of an affordable housing apartment complex (the "Claims");

WHEREAS, the Village of Pinehurst denies any liability for the aforementioned claims.

WHEREAS, the purpose of this agreement is to settle and compromise the dispute between the parties;

WHEREAS, it is understood and agreed that this is a compromise settlement agreement and full release in satisfaction of the claims and demands and that the furnishing of the consideration for this agreement shall not be deemed or construed as an admission of liability.

WHEREAS, the parties have agreed to settle the Claims through this Settlement Agreement and Release of Claims;

In consideration of the rights and benefits conferred on each party, the parties have agreed to enter into the following SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS (the "Agreement");

1. **EFFECTIVE DATE:** the parties agree that this Agreement is effective upon the payment of the Monetary Payment set forth below;

2. **MONETARY PAYMENT:** The Village of Pinehurst shall pay the lump sum payment of \$90,000 in the form of a check made payable to "Relman, Dane & Colfax PLLC" within 14 days of the execution of the Agreement. The payment shall be sent to Reed Colfax, Relman, Dane & Colfax, 1225 Nineteenth Street, NW, #600, Washington, D.C. 20036. This payment is inclusive of all monetary payments to be made by Village of Pinehurst to all Claimants, including, but not limited to, attorneys' fees and costs.

3. OTHER RELIEF: The Village of Pinehurst agrees to the following:

a. The Village of Pinehurst agrees to comply with all applicable fair housing laws, including the federal Fair Housing Act or the North Carolina State Fair Housing Act;

b. The Village of Pinehurst has agreed to permit the construction of Pinehurst Senior Apartments, a 56-unit senior affordable rental housing community on a parcel of property currently within the Extra Territorial Jurisdiction of Village of Pinehurst, North Carolina and being further defined as a portion of Moore County LRK # 00022010 in accordance with Village of Pinehurst Ordinance #14-09. The Village of Pinehurst shall not obstruct or delay any aspect of construction or completion of Pinehurst Senior Apartments including with respect to the timing, level, and issuance, as applicable, of inspections, approvals, occupancy permits, and other similar matters. If permits or approvals are required from Moore County, the State of North Carolina, or any other entity for the construction or completion of Pinehurst Senior Apartments, the Village of Pinehurst shall work with Align Development LLC and Julie Sutton to obtain as promptly as possible, in the normal and ordinary course of business, the necessary permits and approvals. If modifications, changes, or clarifications to the plans for, or construction of, Pinehurst Senior Apartments become necessary during the pendency of its construction, the Village of Pinehurst shall work cooperatively and in good faith with Align Development LLC and Julie Sutton to handle these matters reasonably and in the ordinary course of permitting and construction. Nothing in this paragraph shall be construed to prevent the Village of Pinehurst from applying its zoning requirements in a non-discriminatory manner and from ensuring that Pinehurst Senior Apartments complies with valid requirements of applicable law.

4. RELEASE: It is understood and agreed that the following is a full, complete, and final general release of any and all claims described as aforesaid, and each party agrees that it shall apply to all unknown, unanticipated, unsuspected, and undisclosed claims, demands, liabilities, actions or causes of action, in law, equity or otherwise, as well as those which are now known, anticipated, suspected or disclosed.

a. General Mutual Release: The parties hereby forever generally and completely release and discharge the opposing parties and their servants, agents, directors, officers, employees and all others, of and from any and all claims and demands of any kind and nature, in law, equity or otherwise, known or unknown, suspected or unsuspected, disclosed and undisclosed, and in particular of and from all claims, demands of every kind and nature, known or unknown, suspected or unsuspected, disclosed and undisclosed, for damages, actual and consequential, past, present and future, arising out of or in any way related to their respective obligations, activities, dealings with one another at any time prior to the date hereof, including (without limitation) all such claims and demands arising out of or in any way related to the alleged but denied claims and causes of action for otherwise making unavailable or denying housing because of race and/or affordable housing characteristic by refusing to approve, blocking or interfering with the development of Pinehurst Senior Apartments.

5. WARRANTIES AND REPRESENTATIONS: Claimants warrant and represent that there are no liens or claims of liens or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein and, further, that each party is fully entitled and duly authorized to give this complete and final general release and discharge.

6. COMPLETE AGREEMENT: This agreement contains the entire agreement between the parties hereto and constitutes the complete, final, and exclusive embodiment of their agreement with respect to the subject matter hereof. The terms of the Agreement are contractual and not a mere recital. The Agreement is executed by the parties without reliance on any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein, and each party has carefully read this Agreement, has been advised of its meaning and consequences by his or her respective attorney, and signs the same of his, her or its free will.

7. COUNTERPARTS: This Agreement may be signed in counter-parts.

Dated: _____

Mayor Nancy Roy Fiorillo for
Village of Pinehurst

Dated: _____

Charles Grant for
Align Development LLC

Dated: _____

Julie Sutton

Dated: _____

Lizzie Covington

Dated: _____

Marian Baker