



**PLANNING AND ZONING BOARD
REGULAR MEETING
THURSDAY, MARCH 02ND, 2023
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:00 PM**

Board Members Present:

Jeramy Hooper, Chair
Jack Farrell, 1st Vice-Chair
Matt Jones
David Alzamora
Bruce Hironimus
Sonja Rothstein
Paul Roberts
Louise Mercuro

Board Members Absent:

Julia Latham, 2nd Vice-Chair

Staff Present:

Mark Wagner, Parks & Recreation Director
Alex Cameron, Planning Supervisor
Katherine Liles, Senior Planner
Alfred Cassidy, Senior Planner
Maria Carpenter, Planner
Shannon Konstantinou, Clerk to the Board
Lori Hercules, IT Technician

Approximately 9 member(s) of the public in attendance.

I. Call to Order

Mr. Hooper called the meeting to order at 04:00 PM, confirmed a quorum was present, and explained the purpose of this meeting. The Board introduced themselves and Mr. Hooper introduced Staff. Mr. Hooper noted Ms. Latham's absence.

Mr. Hooper asked those in attendance who wished to speak during the Public Hearing portion of the meeting to sign up and keep comments relevant to the Public Hearing topic being heard.

Mr. Hooper outlined the goals for the meeting.

II. Approval of Minutes

02-02-2023 Regular Meeting Minutes

Ms. Mercuro moved to approve the minutes of the February 02nd, 2023 Regular Meeting. Seconded by Ms. Rothstein. Approved by a vote of 7-0.

Mr. Alzamora moved to recess the Regular Meeting and enter into the Public Hearing. Seconded by Mr. Farrell. Approved by a vote of 7-0.

III. Public Hearing

A. No. 1 – PCN/NLA Text Amendments to the PDO

The purpose of the Public Hearing is to discuss text amendments creating Planned Community Neighborhoods and Neighborhood Lodging Accommodations. These amendments would affect the following sections of the PDO:

- *Section 8.5 Table of Permitted and Special Uses and Special Requirements*
- *Section 10.2 Definitions.*

Mr. Cameron gave a PowerPoint presentation outlining the details of the proposed text amendments and the process followed by Staff and the Board when considering a proposed text amendment, reviewed minor changes to the proposed text amendments which were outlined in a document given to the Board during the meeting, and outlined the Board's options for how to proceed with the Public Hearing and a recommendation to Village Council.

The Board and Mr. Cameron discussed changing the definition as outlined in Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements item #1D to read "Submission of documentation that the Neighborhood Lodging Accommodations have been authorized by the Master Association," removing or editing item #1C, how the proposed amendments relate to the Planned Community Act of 1999 and Chapter 47F and how they would apply to communities established prior to this act, the registered bylaws or declarations of the community allowing for short-term rentals provided 67% of the property owners vote in favor of short-term rentals, the terms used in the community bylaws or declarations needing to meet the definition of neighborhood lodging accommodation as outlined in the ordinance (not needing to use this specific term), the definition of a short-term rental, the process for changing bylaws or declarations, the proposed amendments being broad so as to include existing and potential future planned community neighborhoods, existing neighborhoods that would meet the proposed definition of a planned community neighborhood, the potential difficulty communities would face in reaching a super majority vote due to lack of property owner interest or participation, and the inability of the Village to impose regulations on developers being super majority voters in under development or new communities.

Mr. Hooper opened the Public Hearing to Public Comments.

Ms. Lynn Goldhammer, 11 Salem Lane, expressed concerns over the lack of knowledge on the part of Pinehurst property owners regarding the proposed text amendments; the proposed text amendments allowing for developers to create a mass produced short-term rental community and seemingly going against the recently adopted ordinance banning any new short-term rentals within Pinehurst; and the change in the character of the Pinehurst community as a whole.

Ms. Isabel Mattox, P.O. Box 946 in Raleigh (representing the Country Club of North Carolina [CCNC]), discussed the history of and financial benefit from short-term rentals within CCNC, how the proposed text amendments would affect the current and future short-term rentals program practiced by CCNC, and asked the Board to consider editing the language of the proposed text amendments to better accommodate the program practiced by CCNC.

Mr. Steve Saye, 5 McDonald Rd. E, thanked the Board for their work, expressed support for short-term rentals within the Village of Pinehurst and the benefit short-term rentals bring to the Village, outlined the history of short-term rentals within the Village, expressed concern over the hypocritical nature of the proposed text amendments, and stated the Village needs to find a way to deal with existing issues such as traffic.

The Board and Staff discussed the Board's scope of review being whether the proposed amendments are consistent with the Pinehurst Development Ordinance not the intention behind the proposal, the need for the proposed amendments to be able to be applied broadly to many different neighborhoods within the Pinehurst community and not specifically to one or two neighborhoods, the proposed amendments being in contradiction to the recently adopted ordinance regulating short-term rentals, aspects of the proposed amendments creating greater division within or between neighborhoods, the proposed amendments appearing to allow a land use in an area where the recently adopted ordinance states that use is not allowed creating an inconsistency, the process of changing the bylaws or declarations of existing neighborhoods being challenging but not impossible if 67% of the owners want to allow short-term rentals, adoption of the proposed amendments having the potential to create a divide within the community of have's and have not's / those allowed and those not allowed, there being no apparent widespread community want or need for the proposed amendments, adoption of the proposed amendments setting the precedent for HOA's to implement less restrictive regulations than the PDO requires (which is the exact opposite of the intention behind HOA's), creating a discrepancy in uses between adjacent properties within the same zoning district, the Board's responsibility to consider the good of all within the community and not just one particular neighborhood, concerns over the proposed amendment creating a situation in which a developer could "flip" a community of short-term rentals, and protecting golf in one community does not equate to protecting golf as outlined in the Comprehensive Plan.

The Board debated whether the proposed amendments could be improved to allowed for a broader application within the community and it was determined there was not a way to improve the proposed amendments to achieve this goal.

The Board verified with Staff that existing property owners within the CCNC community who were operating short-term rentals prior to the ordinance would be eligible to apply for the Non-Conforming Use Certificate, which would allow continued short-term rental operations for their property.

The Board discussed the decision options available to them.

Consistency Statement: Ms. Rothstein moved the Planning and Zoning Board adopt the Statement of Consistency and authorize its Chair to execute the document as the proposed text amendments are not consistent with the adopted 2019 Comprehensive Plan as described in the Staff Report prepared by Maria Carpenter dated March 02nd, 2023.

After discussion with the Board, Ms. Rothstein withdrew her motion.

Council Recommendation: Mr. Farrell moved the Planning and Zoning Board recommend the Pinehurst Village Council reject the proposed amendments to the Pinehurst Development Ordinance. Seconded by Ms. Rothstein. Reason for rejection: the proposed text amendments are not consistent with the 2019 Comprehensive Plan due to creating different neighborhoods with different land use abilities. Approved by a vote of 7-0.

Mr. Hooper recessed the Public Hearing at 05:12 PM for a five-to-ten-minute break.

Mr. Hooper reconvened the Public Hearing at 05:22 PM.

B. No. 2 – Retaining Wall Text Amendments to the PDO

The purpose of this Public Hearing is to discuss text amendments regulating retaining walls in section 9.13 of the PDO.

Mr. Cassidy gave a PowerPoint presentation outlining the details of the proposed text amendment and the process followed by Staff and the Board when considering a proposed text amendment.

Mr. Cameron gave background on the intention behind the proposed text amendments, noted the contributions to the amendments made by Staff, and outlined upcoming changes to the North Carolina State Building Code regarding retaining walls. Mr. Cameron, also, noted a change in the numbering of section 9.13(F) – Retaining Walls (5, 6, and 7 were added).

The Board and Staff discussed the proposed text amendments being beneficial to the Board, Staff, and property owners; what constitutes a right-of-way as noted in 9.13(G) – Fences in Rights of Ways; retaining walls 18” or taller needing to be setback at least 5’ from the property line or right of way line; the language of the ordinance having been slightly adjusted to accommodate / take into consideration the conditions and constraints present on some of the undeveloped lots while still being aware of the restrictions needed for properties abutting special sites such as golf courses or lakes; when wall height would trigger the requirement to obtain a development permit and how the highest point of the wall would be measured; and Pinehurst not having engineering standards on the materials used for retaining walls (9.13[F][8]);

No members of the audience wished to speak.

Consistency Statement: Mr. Alzamora moved the Planning and Zoning Board adopt the Statement of Consistency and authorize its Chair to execute the document as the proposed text amendments are consistent with the adopted 2019 Comprehensive Plan as described in the Staff Report prepared by Alex Cameron dated February 09th, 2023. Seconded by Ms. Rothstein. Approved by a vote of 7-0.

Council Recommendation: Mr. Farrell moved the Planning and Zoning Board recommend the Pinehurst Village Council adopt the proposed amendments to the Pinehurst Development Ordinance. Seconded by Ms. Rothstein. Approved by a vote of 7-0.

C. No. 3 – Land Use for Temporary Rental Text Amendments to the PDO

The purpose of this Public Hearing is to discuss text amendments to address the use of land for temporary rental only, upon which recreational vehicles (RV) are allowed in the Public Conservation (PC) district. These proposed amendments would affect the following sections of the PDO:

- *Section 8.5 Table of Permitted and Special Uses and Special Requirements*
- *Section 10.2 Definitions.*

Ms. Carpenter gave a PowerPoint presentation outlining the details of the proposed text amendment and the process followed by Staff and the Board when considering a proposed text amendment.

The Board, Mr. Mark Wagner (Parks and Recreation Director), Mr. Cameron, and Ms. Carpenter discussed the history of Recreational Vehicle (RV) use on Village property at the Harness Track, the proposed locations for RV hookups, the increased demand for RV use due to increased cost of accommodations in the area for trainers, the increase in stall rentals and revenue for the Village as a result of the additional RV hookups, the use of the RV's primarily being for trainers who wish to be on site and close to the horses, the marketing of the RV site being targeted to horse trainers and owners, sufficient utilities already on site for power and water (sewer and other utilities needing to be contracted by the RV owner offsite), the number of spaces made available for hookup, the Village creating one specific site for the RV's, the amendment permitting the land use on Village property, no other Village properties will have an RV site, the fee schedule being adjusted to take into consideration the additional cost to the Village for creating and maintaining the RV site, RV rental being associated with training season or horse shows / events and not open to just anyone wanting an RV rental hookup, the duration someone could rent one of the spaces at the RV site, and modifying the last sentence of Section 10.2 Definitions – Recreational Vehicle Park.

Mr. Hooper opened the Public Hearing to Public Comments.

No members of the audience wished to speak.

Consistency Statement: Mr. Jones moved the Planning and Zoning Board adopt the Statement of Consistency and authorize its Chair to execute the document as the proposed text amendments are consistent with the adopted 2019 Comprehensive Plan as described in the Staff Report prepared by Maria Carpenter dated March 02nd, 2023. Seconded by Ms. Rothstein. Approved by a vote of 7-0.

Council Recommendation: Mr. Alzamora moved the Planning and Zoning Board recommend the Pinehurst Village Council adopt with revisions the proposed amendments to the Pinehurst Development Ordinance. Seconded by Ms. Rothstein. Revision: Section 10.2 Definitions –

Recreational Vehicle Park – Second / Last sentence shall read: Service buildings and areas necessary to provide laundry, sanitation, storage, vending machines and other permitted services shall only be offered by the facility operator for the use and convenience of recreational vehicles. Approved by a vote of 7-0.

Mr. Farrell moved to adjourn the Public Hearing and re-enter the Regular Meeting. Seconded by Mr. Alzamora. Approved by a vote of 7-0.

IV. General Business
Discuss Scheduling Work Session Meetings

The Board and Staff discussed potential Work Session meeting dates, topics, goals, and other communities the Board can use as references for reviewing the proposed Form Based Code documents for Village Place and Pinehurst South.

V. Next Meeting Date
A. 04-06-2023 Regular Meeting

VI. Motion to Adjourn

Mr. Alzamora moved to adjourn the Regular Meeting. Seconded by Ms. Rothstein. Approved by a vote of 7-0 at 06:26 PM.

Respectfully Submitted,

Shannon Konstantinou
Clerk to the Board &
Planning Administrative Specialist
Village of Pinehurst

A videotape of this meeting is located on the Village website: www.vopnc.org.

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Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement.



**PLANNING AND ZONING BOARD
SPECIAL MEETING
THURSDAY, MARCH 09TH, 2023
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:00 PM**

Board Members Present:

Jeramy Hooper, Chair
Jack Farrell, 1st Vice-Chair
Matt Jones
Bruce Hironimus
Paul Roberts
Louise Mercuro

Board Members Absent:

Julia Latham, 2nd Vice-Chair
David Alzamora
Sonja Rothstein

Staff Present:

Alex Cameron, Planning Supervisor
Katherine Liles, Senior Planner
Alfred Cassidy, Senior Planner
Maria Carpenter, Planner
Shannon Konstantinou, Clerk to the Board
Lori Hercules, IT Technician
Josh Dockery, IT Technician
Justin Surratt, GIS Analyst

Approximately 1 member(s) of the public in attendance.

I. Call to Order

Mr. Hooper called the meeting to order at 04:00 PM, confirmed a quorum was present, and explained the purpose of this meeting. The Board introduced themselves and Mr. Hooper introduced Staff. Mr. Hooper noted the absence of Ms. Latham, Mr. Alzamora, and Ms. Rothstein.

Mr. Cameron outlined the topics and goals for the upcoming Special Meetings scheduled for the month of March and the Public Hearings scheduled for the end of March and beginning of April.

II. New Business

a. Village Place Form Based Code

Mr. Cameron discussed the history of the development of the Form Based Code document for Village Place.

The Board and Staff reviewed the Village of Pinehurst Form Based Code Village Place (January 2023, Final Draft V1) document focusing on the sections of 2.0 Site Design, 3.0 Street Design, 4.0 Landscape Design, and 5.0 Architectural Design.

The following revisions were agreed upon:

1. The Board agreed to adjusting the boundary in block L to change all of Village owned property to PC.

2. The Board agreed to merge “live/work” with “mixed use.”
3. The Board agreed to push the garages back 10’ from the alleys.
4. The Board agreed to 50% of the structure to be front-loaded to the build-to line for Single Family Attached only.
5. The Board agreed to no stone or stone-like materials.

b. Discuss Conditional Zoning Approach with Pinehurst Development Ordinance and Official Zoning Map Amendments

Staff provided the Board with an overview of how using Conditional Zoning to implement the Pinehurst Development Ordinance and Official Zoning Map amendments needed for adoption of the Village Place and Pinehurst South Small Area Plans and Form Based Codes will streamline the implementation process and allow the Council, Board, and Staff the time and flexibility to evaluate and make any necessary changes once applied in “real life”.

The Board and Staff discussed further the topics and goals for the upcoming Special Meetings.

Mr. Cameron reviewed Board member attendance commitments and asked the Board to notify Staff as soon as they are able should anything change.

III. Next Meeting Date

A. 03-15-2023 Special Meeting

IV. Motion to Adjourn

Mr. Farrell moved to adjourn the Special Meeting. Seconded by Ms. Mercuro. Approved by a vote of 5-0 at 05:40 PM.

Respectfully Submitted,

Shannon Konstantinou
Clerk to the Board &
Planning Administrative Specialist
Village of Pinehurst

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Pinehurst South

USE TYPES									
PRINCIPAL USES									
RESIDENTIAL	A	B	C	D	E	F	G	H	I
USE TYPES	1,2,3	1,2,3,9	1,2,3,4	1,2,3,4	6,7,8	1,2,3	1,2,3	5,6,7,8,10	2
PRINCIPAL USES									
Dwelling-Single Family					X			X	
Dwelling-Two Family								X	
Dwelling-Multifamily								X	
Dwelling-Townhouse/ Clustered Dwellings								X	
Family Care Home (6 or fewer residents)								X	
Halfway Homes									
Dwelling -Mixed Use	X	X	X	X		X	X		
Manufactured Housing									
Manufactured Home Park									
LODGING	A	B	C	D	E	F	G	H	I
Bed and Breakfast Homes									
Boarding or Rooming House									
Dormitory									
Hotel		X							
Recreational Vehicle Park									
Short Term Rental									
OFFICE/SERVICE	A	B	C	D	E	F	G	H	I
Banks, Credit Unions, Financial Services	X	X	X	X		X	X		X
Business Support Services	X	X	X	X		X	X		X
Crematoria									
Dry Cleaning & Laundry Services	X	X	X	X		X	X		
Funeral Home									
Medical Clinic	X	X	X	X		X	X		X
Personal Services	X	X	X	X		X	X		X
Personal Services, Restricted									
Post Office	X	X	X	X		X	X		X
Professional Services	X	X	X	X		X	X		X
Radio/TV Studio									X
Small Equipment Repair/Rental	X	X				X	X		
Small Engine Repair / Sales	X	X				X	X		
Veterinary Services / Indoor Kennels	X	X	X	X		X	X		X

Pinehurst South

COMMERCIAL/ ENTERTAINMENT	A	B	C	D	E	F	G	H	I
Sexually Oriented Business									
Alcoholic Beverage Sales Store	X	X	X	X		X	X		
Amusements, Indoor	X	X	X	X		X	X		
Amusement, Outdoor									
Billiard/Pool Hall									
Bar/Tavern/Night Club	X	X	X	X		X	X		
Garden Center									
General Retail	X	X	X	X		X	X		
Golf Course									
Internet Sweepstakes Facilities									
Outside Sales									
Pawnshops									
Racetrack									
Restaurant	X	X	X	X		X	X		
Shooting Range									
Theater, Indoor (Movie or Live Performance)									

CIVIC	A	B	C	D	E	F	G	H	I
Civic/Cultural Facilities									
Community Shared Facilities								X	
Conference/Convention Center		X							
Country Club									
Municipal Public Service Facility									
Private Clubs									
Public Safety Station									
Recreation Facilities, Indoor	X	X	X	X		X	X		
Recreation Facilities, Outdoor									
Religious Institution									
Park	X	X	X	X	X	X	X	X	X

Pinehurst South

EDUCATION/ INSTITUTION	A	B	C	D	E	F	G	H	I
Residential Care Facilities (More than 6 Residents)									
Child/Adult Day Care Center	X	X	X	X		X	X		
Community Support Facility									X
Hospital									
Schools - Elementary & Secondary									
Schools- Vocational/Technical									
Studio - art, dance, martial arts, music	X	X	X	X		X	X		

USE TYPES	A	B	C	D	E	F	G	H	I
AUTOMOTIVE	A	B	C	D	E	F	G	H	I
Fueling Station									
Heavy Equipment/ Manufactured Home Rental/Sales									
Vehicle. Rental/Leasing/Sales	X	X				X	X		
Vehicle Service- Maintenance Repair/Body Work									

INDUSTRY/ WHOLESALE/ STORAGE	A	B	C	D	E	F	G	H	I
Artisan Workshops	X	X	X	X		X	X		
Industry, Manufacturing									
Landfill/Waste Recovery Facilities									
Recycling Collection Stations Municipal									
Storage -Outdoor Storage Yard									
Storage-Self Service									
Storage -Warehouse, Indoor Storage									
Wholesaling and Distribution									

AGRICULTURE	A	B	C	D	E	F	G	H	I
Farming/Animal Production									
Horse Farm & Training Track									
Nurseries									
Gardens (Community and Private)	X	X	X	X	X	X	X	X	X
Kennels, Outdoor									
Swine Farms									

Pinehurst South

INFRASTRUCTURE	A	B	C	D	E	F	G	H	I
Parking Structure	X	X	X	X		X	X		
Parking Lot -Principal Use	X	X	X	X		X	X		
Small/Micro Wireless Facilities	X	X	X	X	X	X	X	X	X
Telecommunications Facilities									
Utilities -Moore County and VOP	X	X	X	X	X	X	X		X
Utilities-All Other									

ACCESSORY USES	A	B	C	D	E	F	G	H	I
ATM	X	X	X	X		X	X		X
Beekeeping									
Cemetery									
Child/Adult Day Care Home Occupations									
Farmers Market									
Concealed Wireless Telecommunication Facility	X	X	X	X	X	X	X	X	X
Fuel/Propane Tanks	X	X	X	X	X	X	X	X	X
Ice Vending									
Home Occupation					X			X	
Outdoor Swimming Pools and Spas					X			X	
Pet Houses and Pet Runs					X			X	
Playground Equipment					X			X	
Accessory Buildings	X	X	X	X	X	X	X	X	X
Dwelling - Accessory					X			X	
Accessory Structure	X	X	X	X	X	X	X	X	X
Bulkheads on Lakes	X	X	X	X	X	X	X	X	X
Docks on Lakes									
Floats/Rafts and Mooring Buoy									

TEMPORARY USE	A	B	C	D	E	F	G	H	I
Boat Storage									
Temporary Facilities during replacement of existing facilities or until permanent establishment of new facilities	X	X	X	X	X	X	X	X	X
Temporary Expansion of School Facilities									

Pinehurst South

Temporary Real Estate Offices									
Model Homes					X			X	
Yard Sales					X			X	
Temporary Uses Other	X	X	X	X	X	X	X	X	X

2.2 Regulating Plan

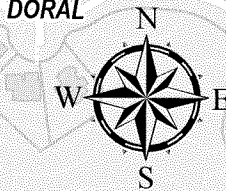
The Regulating Plan is a plan diagram that acts as a key for the application of the Site Design and Street Design criteria, linking the criteria with physical locations.

The Regulating Plan defines the boundary within which the FBC criteria apply, as shown by the SAP Boundary as a brown dashed line. The Regulating Plan also indicates allowed Uses and Building Heights within subareas. For Building Heights for example, "BH: 1-2" indicates that buildings shall be either 1 or 2 stories in height (see Section 8.0 Definitions for information on how building height is measured within Village Place).

Additionally, the Regulating Plan indicates where Active Frontage is required, that is, where retail or restaurant space, lobbies, or building amenities must be located on the ground floor facing the street.

Proposed street alignments and open space locations and configurations may vary from those shown to the right, with Village approval.

Pinehurst South Draft 01/23



Key

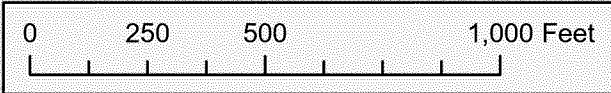
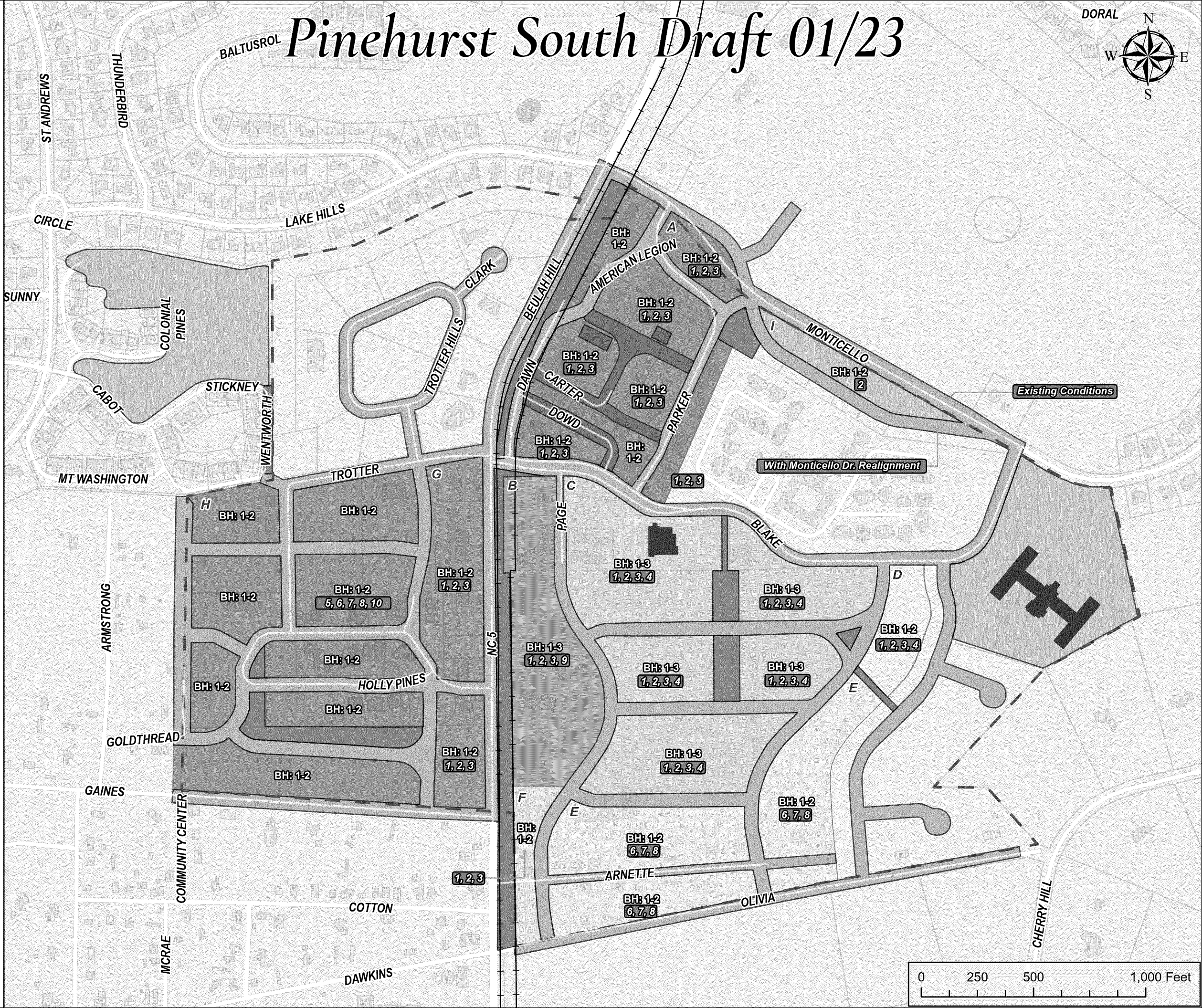
Core Area Blocks

- Block A
- Block B
- Block C
- Block D
- Block E
- Block F
- Block G
- Block H
- Block I
- General Frontage
- Active Frontage
- Public Conservation
- Open Space
- Civic Building Monuments

Building Types

- 1 MIXED-USE
- 2 OFFICE
- 3 RETAIL
- 4 LIVE - WORK
- 5 SFA - TOWNHOUSE
- 6 SFD - COTTAGE
- 7 SFD - VILLA
- 8 SFD - MANOR
- 9 HOTEL
- 10 MULTIFAMILY

- Pinehurst South Boundary
- Existing Street Centerline
- Railroads





PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Planning and Zoning Board
From: Katherine Liles, Senior Planner
Alex Cameron, Planning Supervisor
Date: March 14, 2023
Subject: Process to Lift the Moratorium and Begin Implementation of Form-Based Codes

Village Place and Pinehurst South have been subject to moratoria to discourage development until such time as the Village is able to put regulations in place for implementation of form-based codes for these two areas. As the Village works its way through the guidelines, questions have been raised regarding how these regulations will actually be implemented and how the moratoria may be lifted.

Part 1. Logic Behind Implementation of Form-Based Codes

In considering an appropriate approach, it is important to note some expectations about form-based codes. The Form Based Codes Institute defines them as “a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code.” Because the results should be predictable if design guidelines are followed, municipalities do not typically require special use permits or conditional zoning to approve development projects. Buildings are designed for their use with constraints on the design. As an example, if a building may not be designed for drive-through, then there is no drive-through use that will work in the building. The type of form based code we are implementing is a hybrid. A hybrid code meshes the conventional zoning (separation of uses) with design standards, setbacks, bulk, building and parking placement, materials and architectural features.

The North Carolina Planning Statute expressly allows for the use of form-based codes; however, that same statute also prohibits the regulation of single and two-family home design and size (both for attached and detached housing) unless it is in a historic district. As the draft form-based code guidelines include both housing types, another mechanism is needed to allow the Village to work with the development community to achieve the proposed architectural standards for residential units. The PDO cannot dictate the home size or appearance and be consistent with the statute. Historic preservation guidelines by themselves are not sufficient to use as they allow for all types of structural designs consistent with the entirety of the historic district – not just Village Place. The proposed architectural standards help to integrate the blocks within the Village Place planning area – both commercial and residential - giving Village Place a look that will be more compatible and transitory to the Village Core.

Understanding these constraints leads staff to several conclusions.

1. The only mechanism to address residential appearance standards in the area needs to be through a mutual agreement process statutorily allowed such as conditional district zoning.
2. In order to lift the moratorium in a reasonable period, it would be helpful to use conditional district zoning for other uses to allow staff time to work out bugs in the system. Although contrary to the predictability of form-based codes, it would not result in a very different timeline than the standard review process. It does open the door for the Village to “just say no.”
3. All “recommendations” for architectural standards – particularly residential - should be contained in guidance documents (adopted plans), not the PDO.
4. Mandates should be in the PDO such as lot configurations and uses.
5. Opportunities for flexibility or to negotiate certain aspects of the plans and hybrid code requirements especially some of the architectural design standards.

The question needs to be asked why conditional district zoning (CZ) provides an opportunity for the Village to achieve residential design. CZ is a give and take process that focuses on an outstanding outcome – something more than what traditional zoning would provide. It opens the door to conversation about community desires. It is a legislative process which gives latitude to the Village in considering development proposals and reviewing them against adopted plans. For the development community, Village Place offers an opportunity for greater residential density and expectation of the desired outcome. The trade-off for the Village is that the Form-Based Code documents direct the developer to the preferred design. If the Form-Based Code design document is adopted as a companion document to the small area plan, then the Village will also be determining consistency with that plan. If the concept is not consistent with the intent of the plan, a denial is reasonable.

Table 1. Comparison of existing zoning minimum lot size to Form-Based Code for Purpose of Trade-Off

Current PDO				
<u>VR</u>	<u>VMU</u>	<u>R-10</u>	<u>NC</u>	<u>VCP</u>
5,500 SF	20,000 SF	10,000 SF	10,000 SF	8,000 SF
Form-Based Code				
<u>SFA</u>	<u>SFD Cottage</u>	<u>SFD Manor</u>	<u>SFD Villa</u>	<u>Live-Work, Mixed Use</u>
1,650 – 2,775 Sf	2,550 – 3,150 SF	4,160 – 4,960 SF	5,760 – 5,904 SF	1,440 SF

The use of conditional district zoning is not anticipated to impact the review time period. The current review process for major subdivisions and for major site plans involve the.

1. Optional sketch plan review.
2. Application for General Concept Plan or Plat is submitted.
3. Staff conducts completeness review.
4. TRC and HPC meet and review concept plans and plats following (for Village Place, Pinehurst South does not need HPC review).
5. P & Z conducts a Public Hearing (note statute does not require a hearing but the PDO does) and makes recommendation.
6. Council conducts a Public Hearing (note statute does not require a hearing unless it is a Special Use Permit but the PDO does), and Council approves or denies the request.

The significant differences between the process for major site plans and subdivisions versus conditional zoning is that a public hearing by council is mandated by statute and that the rezoning process includes a plan consistency step which directs the use of adopted plans while evaluating the project for approval or denial. Council would be able to achieve anticipated objectives of the plan or could choose to deny a project based on inconsistency of the project with the Small Area Plan and the associate Form-Based Code Guidelines.

What this process would not address would be in-fill residential projects, but it should apply to commercial projects and new residential subdivisions. The design guidelines can be made available to all applying in the area considered to be Village Place and where not required be suggested, but they should not be mandated.

Part 2

Staff is evaluating the following process for implementation of the form-based codes in the Pinehurst Development Ordinance. The following steps are needed.

1. Rezone the underlying zoning district for the area in the final Village Place regulating plan as VP and final Pinehurst South plan as PS.
2. Add the two form-based code districts to the list of districts and remove any districts within those areas that are no longer needed.
3. Adopt a new regulatory section to include Form-Based Code Districts. This section will include the following.
 - a. Purpose of District.
 - b. Regulating Plan, Subdistricts, and Active Frontage.
 - c. Allowed Uses by Subdistrict (set to a conditional zoning requirement).
 - d. Lot Configurations for Residential and Commercial Uses.
 - e. Table of Dimensional Requirements.
 - f. Use of Form-Based Code Guidelines.
 - g. Consistency with All Other PDO Requirements, including nonconforming uses.
4. Remove unused districts from overall TOPU and add VP and PS.
5. Establish minimum lot size for existing residential lots of record within the districts.
6. Replace the current plant list in the Appendices and replace it with the one from the guidance documents. Establish a percentage of plants to be used from that list.
7. Add and modify definitions.

As allowable uses in the table would be approved through a conditional rezoning process, the small area plans and associated form-based code guidelines establish the path for Village Place and Pinehurst South to achieve the village's vision and could serve as the sole implementation direction. However, staff recommends that work continue to implement other components of the form-based code into the PDO that may take additional time, in particular landscaping and open space. Once that work is completed, the allowed uses by subdistrict could be reconsidered and some of those uses could be converted to uses allowed by right that would not be subject to rezoning. Unfortunately, the only way to continue to regulate the one and two family uses would be to leave conditional zoning in place for major residential subdivisions. Fortunately, it would only apply to a very limited number of blocks within the jurisdiction as shown on the regulating plan for the two small areas.

Part 3. Lift the Moratorium

In order to lift the moratorium, all of these pieces should come into play close to or at the same time. First, the form-based code guidelines need to be adopted as a part of the small area plan or as a stand-alone plan following the same public hearing process as text amendments. One set of public hearings by Council could adopt the form-based code, rezone the VP and PS districts, adopt the amendments to the PDO, and lift the moratorium. Staff suggests that Council consider a special-called meeting to keep the focus on the small areas and to allow for adequate time. Staff also proposes to continue to work on PDO changes to continue to streamline the process to increase predictability and gain the full advantage of using form-based codes. At that time, some of the commercial uses could be converted to uses by right instead of conditional zoning.

If Council chooses, the process to move Village Place and Pinehurst South could be separated and moved independently of each other. As these areas are subject to separate moratoria, the moratoria could be lifted separately or allowed to expire.

Staff has begun the work on the PDO amendments but cannot finalize this work until the form-based codes are adopted to ensure that everything is correct and accurate. Staff envisions that the process to implement the code and remove the moratorium for Village Place could move forward in April 2023 with Pinehurst South to follow shortly after.