

ORDINANCE #97-19

AN ORDINANCE AMENDING THE PINEHURST DEVELOPMENT ORDINANCE OF THE VILLAGE OF PINEHURST AS IT PERTAINS TO TEXT AMENDMENTS TO SECTIONS 5.4, 5.5 AND 7.1.

THAT WHEREAS, the Village Council of Pinehurst adopted a new Pinehurst Development Ordinance and Map on the 23rd day of October, 1995, for the purpose of regulating planning and development in the Village of Pinehurst and the extraterritorial area over which it has jurisdiction; and

WHEREAS, said Ordinance and Map may be amended from time to time as circumstances and the best interests of the Community have required; and

WHEREAS, A Public Hearing was held at 4:00 P.M. on June 16, 1997, in the Meeting Room of the Pinehurst Village Hall, Pinehurst, North Carolina after due notice in The Pilot, a newspaper in Southern Pines, North Carolina, with general circulation in the Village of Pinehurst, and its extraterritorial jurisdiction, for the purpose of considering proposed zoning ordinance text changes, at which time all interested citizens, residents and property owners in the Village of Pinehurst and its extraterritorial jurisdiction were given an opportunity to be heard as to whether they favored or opposed the proposed text changes; and

WHEREAS, the Planning and Zoning Board has recommended that the Village Council amend the Pinehurst Development Ordinance, Sections 5.4; 5.5; 5.12.6 and 7.1, identified as Exhibit A, and hereby incorporated by reference as a part of this Ordinance; and

WHEREAS, the Village Council, after considering all of the facts and circumstances surrounding the proposed amendments in the text of the Pinehurst Development Ordinance, have determined that it is in the best interest of the Village of Pinehurst and the extraterritorial jurisdiction that the Development Ordinance and Map be further amended, making the amendments as requested;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED, by the Village Council of the Village of Pinehurst, North Carolina in Regular Session assembled on the 21st day of July, 1997, as follows:

SECTION 1. That the Pinehurst Development Ordinance of the Village of Pinehurst and its extraterritorial zoning jurisdiction be and the same hereby is amended by the text amendments attached hereto described in (Exhibit A) and made a part hereof, the same as if included verbatim.

SECTION 2. That Section 5.12.6, "Approval Procedure for Temporary Signs; Lapse of Approval" of the Pinehurst Development Ordinance, shall be deleted.

SECTION 3. That this ordinance shall be and remain in full force and effect from and after the date of its adoption.

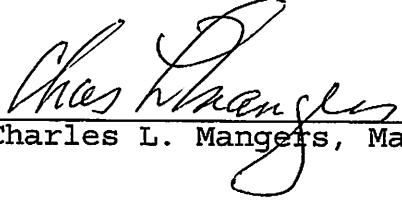
SECTION 4. Adopted this 21st day of July, 1997.

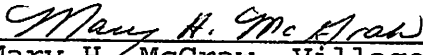
(Municipal Seal)

VILLAGE OF PINEHURST
VILLAGE COUNCIL

Attest:

By:


Charles L. Mangers, Mayor


Mary H. McGraw, Village Clerk

Approved as to form:

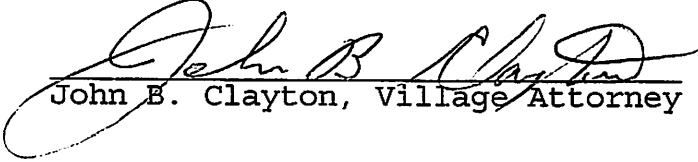

John B. Clayton, Village Attorney

EXHIBIT A

CHAPTER 5. DEVELOPMENT REVIEW PROCEDURES

PART 4. SPECIAL USES

5.4.6. Action on Major Special Uses.

a) Review by Planning & Zoning Board.

In considering the application, the Planning & Zoning Board shall review the application materials, the general purpose and standards set forth in this Part for the approval of special uses and any additional standards set forth in this Ordinance for approval of the proposed use. As part of their review, the Planning and Zoning Board shall conduct a public hearing. After review, the Planning and Zoning Board will formulate a recommendation and forward it to the Village Council for consideration.

b) Review by Village Council.

Upon completion of the Planning and Zoning Board's review and formulation of a recommendation, the Village Council shall review the application and conduct a public hearing. Notice of public hearing shall be provided and the public hearing shall be conducted in accordance with Part 14 of this Chapter. The recommendation of the Planning and Zoning Board shall be reported during the public hearing. After the public hearing, the Village Council shall continue to review the application materials, the general purpose and standards set forth in this Part for the approval of special uses, any additional standards set forth in this Ordinance for approval of the proposed use, and all evidence and testimony received by the Village Council at the public hearing.

c) Action by Village Council

At the conclusion of the public hearing, the Village Council shall approve, approve with conditions, deny, or take any other action consistent with its usual rules of procedure on the Special Use Permit application. Any approval or denial of the application shall state the findings of fact showing whether the proposed use meets or does not meet each of the standards set forth in Section 5.4.7. below and all other requirements set forth by this Chapter for the proposed special use, and the standards for site plan approval. The decision on the application shall be by a simple majority vote of those members of the Village Council present at the meeting at which the action is taken. The Council is not required to take action within any specified period of time.

d) Conditions attached to approval.

In approving the major special use, the Village Council may attach such conditions to the approval as it deems necessary to have the proposed use meet the standards set forth for the proposed special use in Section 5.4.7. below and elsewhere in this Ordinance, and to protect the public health safety and general welfare. All such conditions shall be stated in the resolution approving the applications.

e) Nature of conditions.

Such conditions may be stricter than any requirement or limitation stated elsewhere in this Ordinance for the proposed use. Such condition may include, but are not limited to the following:

- 1) Limitations on the size, bulk and location of structures;
- 2) Requirements for landscaping, signs, and outdoor lighting;
- 3) The provision of adequate ingress and egress;
- 4) Dedication of rights-of-way for streets or utilities;
- 5) Provision of open space and/or active recreational space and facilities;

- 6) Limitations on the duration of the approval and the time period within which the use will be developed;
- 7) Limitations on hours of operation;
- 8) Limitations on the transfer of such approval to a successor-in-interest or lessee of the property;
and
- 9) The mitigation of environmental impacts.

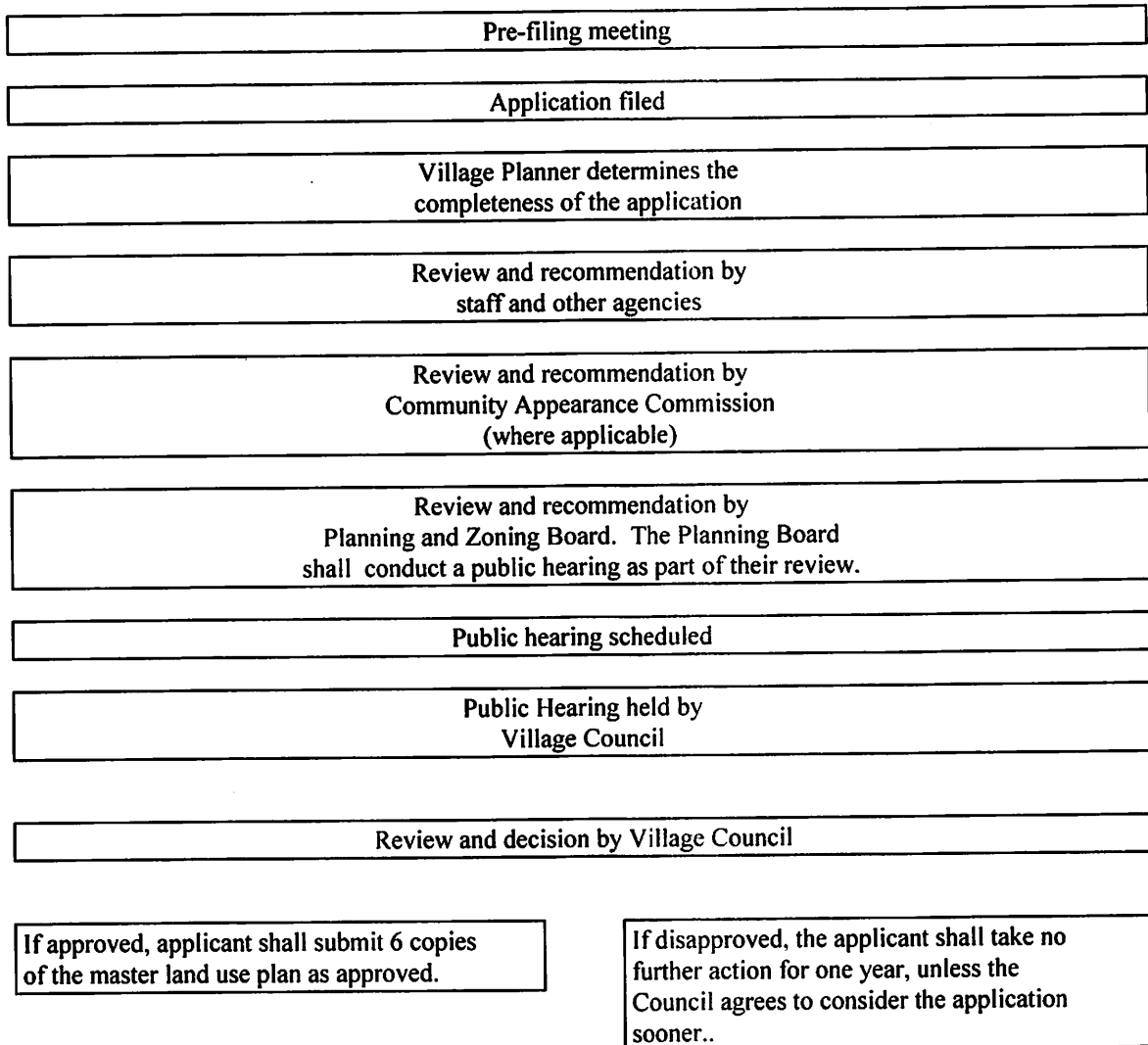
f) Appeal to courts.

Appeal from the decision of the Village Council shall be by petition for certiorari to the Moore County Superior Court. Any such petition to the Superior Court shall be filed with the court clerk no later than thirty days after the date the decision of the Village Council is filed with the Village Planner, or after the date a written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Village Council at the public hearing, whichever is later. The copy of the decision shall be delivered to the aggrieved party either by personal service or registered or certified mail, return receipt requested.

PART 5. PLANNED DEVELOPMENTS

Figure 5.5.1.

Flowchart for Decision on a Planned Development district Application



5.5.5 Staff Review

- a) After determining that an application for a planned development approval is complete, the Village Planner shall transmit the application and proposed master land use plan to the Village Manager and the appropriate Village Staff.

- b) The Village Staff shall review the application and the proposed master land use plan for compliance with the requirements of this Ordinance, including the impact of the proposed planned development on adjacent lands and on the Village's abilities to provide adequate public services to the proposed planned development. The applicant shall obtain from the Moore Water and Sewer Authority a letter stating that the proposed planned development can be adequately served with water, and sewer service by the Authority. The Village Staff may transmit the proposed master land use plan to the Community Appearance Commission, the Planning and Zoning Board, and any other board or commission deemed appropriate by the Village Council for review and comment.

5.5.6 Review and Recommendation by the Community Appearance Commission

The Community Appearance Commission shall review the application for community appearance related concerns, and make a recommendation to the Village Council.

5.5.7 Review and Recommendation by the Planning and Zoning Board.

- a) The Planning and Zoning Board shall consider an application for a planned development approval and proposed master land use plan and shall make recommendations to the Village Council regarding whether to approve or deny each plan. While considering an application, the Planning and Zoning Board shall conduct a public hearing.
- b) In forming its recommendation to the Village Council, the Planning and Zoning Board may consult with and consider the recommendations of the Village Staff, and any board or commission which has considered the proposed planned development.

5.5.8 Review by Village Council.

Upon completion of the Planning and Zoning Board's review, the Village Council shall review the application and conduct a public hearing. Notice of public hearing shall be provide and the public hearing shall be conducted in accordance with Part 14 of this Chapter. After the public hearing, the Village Council shall continue to review the application materials, the recommendations of the staff, Community Appearance Commission, Planning and Zoning Board, and any other boards or commissions that provided comments or recommendations, and all public comment and information received by the Village Council. . Public comment shall be accepted by writing or other statement from the date of submission of the application until 2 working days prior to the Village Council's decision on whether to approve the application.

Upon concluding their review, the Village Council shall approve, approve with conditions, deny, or take any other action consistent with its usual rules of procedure.

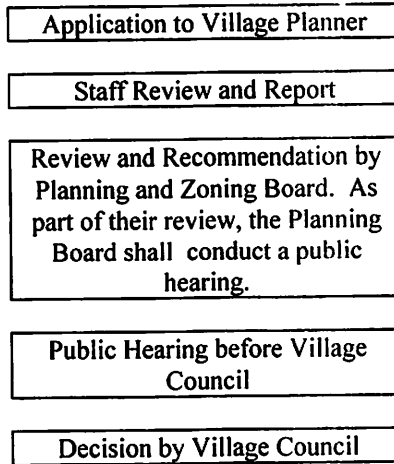
Any approval or denial of the application shall be by resolution, stating the reasons for such approval or denial. The decision on an application for a planned development and master land use plan approval shall be by simple majority vote of those members of the Village Council present at the meeting at which the action is taken.

5.12.6 Approval Procedure for Temporary Signs; Lapse of Approval

(c) ~~The applicant shall pay an application fee which shall be refunded after all of the temporary signs have been removed.~~

Chapter 7 Text Amendments and Rezoning

**Figure 7.1.1
Process for Text Amendments and Rezoning**



7.1.6 Review by Planning and Zoning Board

- (a) The Planning and Zoning Board shall consider each proposed amendment and shall make recommendations to the Village Council regarding whether to approve or deny each proposed amendment. In considering each proposed amendment, the Planning and Zoning Board shall elect to conduct a public hearing on the petition. After review, the Planning and Zoning Board will formulate a recommendation and forward it to the Village Council for consideration.

7.1.7 Review and Action by the Village Council

- (a) A text amendment or rezoning may be adopted only after the Village Council has conducted a public hearing on the proposed amendment, at which parties interested in the proposed amendment shall have an opportunity to be heard. Notice of the hearing shall be provided and the public hearing shall be conducted in accordance with Chapter 5, Part 14 of this Ordinance.

(b) Before acting on any proposed amendment, the Village Council shall consider the recommendation of the Planning and Zoning Board, the report and recommendation submitted by the Village Planner to the Planning and Zoning Board, and the comments made at the public hearing.

(c) Upon reviewing such information, the Village Council may:

- (1) Adopt the proposed amendment by ordinance;
- (2) Reject the proposed amendment;
- (3) Refer the proposed amendment back to the Planning and Zoning Board or to a committee of the Village Council for further consideration.

(d) The Village Council, with or without a recommendation of the Planning and Zoning Board, also may rezone the property to any zoning district which is classified higher than the district requested in the application for rezoning, but only with the consent of the applicant.