

**ORDINANCE #08-34:**

**AN ORDINANCE AMENDING THE PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO SECTION 12.3 HISTORIC PRESERVATION OVERLAY DISTRICT AND SECTION 4.1 NOTICES AND PUBLIC HEARINGS.**

**THAT WHEREAS,** the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance on the 24<sup>th</sup> day of May, 2005, 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 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 1:00 p.m. on October 21, 2008 in the Assembly Hall 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 Pinehurst Development 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 amendments; and

**WHEREAS,** the Planning and Zoning Board has recommended that the Village Council amend Sections 12.3 and 4.1 of the Pinehurst Development 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 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 18<sup>th</sup> day of November, 2008, 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 adding the following text amendment to Section 12.3:

**Section 12.3 Historic Preservation Overlay District**

**12.3.2 Historic Districts Established**

- d) With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by this Section shall be prepared by the Historic Preservation Commission and shall be

referred to the Planning and Zoning Board for its review and comment according to the procedures set forth ~~in the Zoning Ordinance~~ herein. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural Resources in accordance with the provisions of this Section;

### 12.3.3 Certificate of Appropriateness Required

- a) From and after the designation of a historic district and the adoption of Review Criteria and Design Guidelines by the Historic Preservation Commission and approved by the Village Council, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), no above-ground utility structure, nor any type of outdoor advertising sign or business identification sign shall be erected, altered, restored, moved, or demolished within the historic district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. Such a certificate shall be issued by the Commission prior to the issuance of a development permit. Such certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Section. A Certificate of Appropriateness shall be required whether or not a building permit is required;
- ~~b) The Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the Village, NCDOT, or public utility companies.~~
- b) c) Publication dispensers shall be required to comply with the Section 2.20.2(a) of the Local Historic District Standards and Guidelines, and a Certificate of Appropriateness must be obtained prior to display. All publication dispensers in existence as of the effective date of this provision (September 23, 2008) must, within one year thereafter: (1) come into compliance with the requirements of Section 2.20.2(a) of the Local Historic District Standards and Guidelines and (2) have been issued a Certificate of Appropriateness. Existing publication dispensers which do not meet the requirements of subparts (1) and (2) above within the required one year period will be in violation of this Ordinance.

### 12.3.4 Certificate of Appropriateness Procedure

- a) An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Village Planner. Applications for Certificates of Appropriateness for major work shall be considered by the Historic Preservation Commission at its next regular meeting, provided they have been

filed, complete in form and content, at least ~~28~~ **21** days prior to the regularly scheduled meeting of the Commission; otherwise, consideration shall be deferred until the following meeting;

- ~~e) Upon receipt of an application, the Village Planner shall notify the Historic Preservation Commission at least seven calendar days before its regularly scheduled meeting; **reserved**~~
- e) The Commission shall take action on the application and in doing so, shall apply the Review Criteria contained in this section **and within the Local Historic District Standards and Guidelines**;
- f) The Commission's action on the application shall be approval, approval with modifications **and/or conditions, delay of demolition**, or disapproval;
- h) The Commission shall cause to be entered into the minutes of its meeting the reasons for its action, whether it be approval, approval with modifications **and/or conditions, delay of demolition**, or denial;
- i) If the Commission fails to take final action upon any application within ~~60~~ **180** days after the complete application is submitted to the Village Planner for **historic approval**, the application shall be deemed to be approved **unless the applicant consents to extend this period of time**.

#### 12.3.5 Review Criteria

- a) Intent:
  - 1) It is the intention of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district shall be congruous with the special character of the district. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of the same or to impose architectural styles from particular historical periods. In considering new construction, the Commission shall encourage ~~contemporary~~ design that is harmonious with the character of the district;
- b) Exterior Form and Appearance:
  - 1) The following criteria shall be considered, when relevant, by the Commission reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design

Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:

### 12.3.9 Appeal of Decision

- c) The State of North Carolina shall, for property of the State or its agencies, have a right of appeal to the North Carolina Historical Commission, ~~which shall render its decision~~ within 30 days from the date of the decision ~~that a notice of appeal by the State is received by the Historical Commission~~. The decision of the **State** Historical Commission shall be final and binding upon both the State and the Commission.

### 12.3.10 Compliance

- a) Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Village Planner. Failure to comply with a Certificate of Appropriateness shall be a violation of the Zoning Ordinance. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for a period of ~~six~~ **nine** months shall be considered as a failure to comply with a Certificate of Appropriateness;

**SECTION 2.** That the Pinehurst Development Ordinance of the Village of Pinehurst and its extraterritorial zoning jurisdiction be and the same hereby is amended by adding the following text amendment to Section 4.1:

#### Section 4.1 Notices and Public Hearings

##### 4.1.1 Notice Requirements

- b) Notice of all public hearings before the Historic Preservation Commission will be mailed to adjacent property of the affected property and a notice will be posted on said property at least ten (10) days before the scheduled date of the hearing.

##### 4.1.2 Public Hearing Procedures

- a) The procedures and requirements set forth in this Section shall apply to all public hearings regarding the rezoning of property to a parallel conditional use district, the approval of a planned development, the approval of a special use or variance, the approval of a vested rights certificate or an administrative appeal pursuant to Chapter 6 of this Ordinance, or for Certificate of Appropriateness;
- e) All testimony and evidence given in a public hearing in front of the Zoning Board of Adjustment, Historic Preservation Commission, ~~in front of the Village Council during a public hearing~~ on a conditional use

rezoning, **Certificate of Appropriateness**, or a major special use permit shall be given under oath or by affirmation to the body conducting the hearing;

**SECTION 3.** That all ordinances or sections thereof in conflict herewith are hereby repealed and declared null and void from and after the date of adoption of this ordinance.

**SECTION 4.** That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

Adopted this 18<sup>th</sup> day of November, 2008.



VILLAGE OF PINEHURST  
VILLAGE COUNCIL

By: *Lorraine A. Tweed*  
Lorraine A. Tweed, Mayor Pro-Tem

Attest:

*Linda S. Brown*  
Linda S. Brown, Village Clerk

Approved as to Form:

*Michael J. Newman*  
Michael J. Newman, Village Attorney