



# Diagnosis Report

for revisions to the  
Development Standards  
& Review Process  
of the Village of Pinehurst, NC

05.10.11

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# 1 PERCEPTIONS AND REALITIES

## EXECUTIVE SUMMARY

The Village of Pinehurst is currently encumbered by an unhealthy development climate; regulations that are overly-complex, confusing, and onerous; and a development review process that is arduous, and in some cases, unnecessary. In general, Pinehurst's development review process is broken, and there is a lot of finger-pointing going on amongst village stakeholders about what or who is at fault. In some instances these perceptions of fault accurately reflect the reality of the situation. In some instances they do not, or rather, they are unfair or misinformed characterizations of the process.

The list below includes our assessment of the most significant perceived problems with the development review process in Pinehurst and the reality of the various factors that have contributed to these perceptions. The list also includes our major recommendations for the regulatory and administrative changes that the village needs to make moving forward. The recommendations are presented in the following manner:

- **Perception:** What was reported to us during the various stakeholder interviews.
- **Reality:** Our opinion of the situation taking into account input from a variety of groups, Pinehurst's specific regulatory structure, and the development process utilized by the village.
- **Action Item:** Our specific recommendations to address the problems associated with Pinehurst's development review process.

## 1 IMPLEMENTING THE 2010 COMPREHENSIVE LONG-RANGE VILLAGE PLAN

**Perception:** The 2010 Comprehensive Long-Range Village Plan says a bunch of really nice things about where the village wants to go, but the regulations that govern development are stuck in the past. The kind of development outcomes the village supposedly wants are not possible to build within the current regulatory framework and review process, but the village is not doing anything to amend the regulations to reflect the policy recommendations in the Comprehensive Plan and encourage good development.

**Reality:** The implementing elements of the Plan have been identified as part of the supplemental document “Implementation Element.” The changes have not yet been implemented, though we suspect the recommendations contained in this report will help to provide additional motivation.

- **Action Item Reference:** #1 (p.13)

## 2 INCONSISTENT ENFORCEMENT OF THE PDO

**Perception:** It’s impossible to know what the rules are from project to project because the PDO is so confusing and is enforced inconsistently. It doesn’t matter if the rules are stringent, as long as they are predictable. It seems like everything needs a Special Use Permit.

**Reality:** The PDO is in fact overly-complex but not necessarily more so than most other communities its size. The fact that most non-residential uses require a Minor/Major Special Use Permit, and that multi-family development is permitted in only one zoning classification, indicates that the rigid separation of uses is inflexible to a changing economy, changing community, and a changing demographic. The current PDO is very disorganized due in part to its original construction and in part to some recent additions and/or changes. We are big advocates for making a table of contents and a code that makes it simple to find things based on what you would like to do. Engineers should be able to find their sections clustered together. The landscape architects should be able to find the landscaping section without much trouble. The sign manufacturer should easily find those requirements in a prominent

section. Instead, most of the general standards are lumped into Section 10.

More challenging than the disorganization of the PDO is the gauntlet of processes that development applications must traverse. Though this is certainly very common in smaller communities, Pinehurst is generally much more challenging than many other communities. For example, the Special Use Permit process, as a quasi-judicial procedure, is simply too cumbersome a process for legitimate public engagement to occur. In addition, we question why Accessory Dwellings require a Major Special Use Permit if the rules to abide by are so precise and lack any room for discretion.

We also believe that once the recommended updates in this report as well as the amendments outlined in the Implementation Element of the Long-Range Plan are incorporated into the PDO the code will be much easier to maneuver.

And finally, there were a number of very frustrated applicants who were required by the PDO to submit reams of very expensive drawings prior to making any presentation before a board. This is a notable problem, and we recommend that submittal requirements be lessened to only those elements necessary to render judgment in the applicable permitting process. In short, we didn’t find as many legitimate claims on uneven enforcement of the PDO as we found on the general unpredictability bred by the process. We also heard enough stories of applicants, small and large, who did not get an appropriate level of customer service by the staff to warrant a comment here. There will be further discussion on customer service later.

- **Action Item Reference:** #2 (p.13); #3 (p.19); #4 (p.20)

## 3 ONEROUS ENGINEERING STANDARDS

**Perception:** The village uses unnecessary “gold-plated” engineering standards, is widely inconsistent in its enforcement of the standards, and is entirely unresponsive to project/site-specific issues. The village also has a history of being adversarial and inflexible with regard to engineering requirements. In addition to enforcing overbearing and confusing standards, the village makes it difficult to get a hold of the engineering standards.

**Reality:** The Village has made a variety of changes in the past six months to address some inflexible or outdated engineering standards. All of the claims that we heard from applicants (developers and designers) occurred under previous design requirements. We have a number of further clarifications to improve their usability including context-based solutions, but we believe that the bulk of the concerns have been addressed.

With regard to not making the standards readily available, we too question why the Engineering Standards and Specifications Manual is not posted online in an easily accessible location. The Pinehurst Development Ordinance is regularly updated and available as a full PDF download. So too should the Engineering Manual.

With regard to the claim that the village staff has been unresponsive or inconsistent, there is some mixed evidence to suggest that both the village staff and developers/engineers are at fault. It is our opinion that the previous Village Engineer was generally competent but in an ever changing regulatory environment it is very difficult to be a master of the many complex issues related to land development in a small town. Stormwater was one such issue. These rules, as handed down from the federal government through the state, have been a thorn in the sides of many communities in recent years. Even the larger cities with a large staff of engineers have yet to perfect this approach.

But, we must note that we found a couple of occasions where we believe the decision of the engineering staff to require certain types of infrastructure of applicants was in fact excessive. We still do not understand why a substantial drywell was required for the Razook's building when every other building in the village drains into the streets. In a Village Center, stormwater should be managed as a public utility, not on a site by site basis. The fact that the drywell collapsed was not the village's fault. The fact that it needed to be installed in the first place is what is at question.

However, the blame is not just with the Village Engineer but also with the design/developer community. Based on our evaluation of some of the applications, there were some indications that the village was clearly being held as the scapegoat for certain designer/contractor errors. There seemed to be blame on the village for the large underground detention facility that was required to be installed at the Pinehurst Medical Plaza, however it is clear to us that the

cause for that problem was inadequate site grading and a botched off-site stormwater collection agreement. In that regard, staff appeared to be helpful to the applicant to achieve a solution. Yet the story in the general community was that staff was to blame for delays in occupancy.

- **Action Item Reference:** #5 (p.21); #6 (p.25); #7 (p.25)

## 4 COMPLEX INTERNAL STAFF REVIEW PROCESS

**Perception:** The development review process, particularly the TRC review process, is never the same twice, and is one of the most difficult to navigate in the state. It seems like the process is designed just to discourage development. Development applications are shuffled across the desks of various staff members, and no one can tell you where a project stands or when you'll get comments back on a submittal.

**Reality:** Nearly every application must run a gauntlet known as the Technical Review Committee (TRC) prior to receiving permission to move forward on any development application. In a sense, the TRC has been directed by the boards that they serve to ensure that no application moves forward unless it is determined to be both complete and compliant. This however underscores the futility of the additional reviews of subsequent boards and commissions. If the application is in fact "compliant" then why is further review even necessary?

It is also important to note that the volume of paperwork deemed "necessary" to ensure this level of completeness and compliance is excessive for the actual permit that is being requested. Many of the special use permits require engineering-level detail that is only necessary for construction reviews. And, even though the PDO permits joint processing of an SUP and a Major Site Plan, the expense associated with preparing a full application prior to grinding it through other board and commission reviews and approvals is considerable. In fact, it appears that nearly every application requires a full set of engineering and architectural drawings prior to being permitted to be reviewed.

The largest number of complaints we received from staff were related to their processing of application reviews. There were some prominent cases where the first and even the

## one: perceptions and realities

second submittals were not submitted in full compliance of the provided checklists of Appendix C in the PDO. Unfortunately this occurs throughout the field as very often designers will submit a partial or intentionally incomplete set of drawings in the hopes that the local municipality will “finish” the set with comments and reviews that incorporate quality control reviews and required details. And to add insult to injury, some design professionals will convey to their owners that they have submitted complete applications so as to comply with a set of internal scheduling expectations. This then unfairly shifts the burden onto the local jurisdiction. This is truly a black eye on the profession and those that continue this behavior should be ashamed. In fact, the City of Charlotte found that this bad behavior was so rampant and costing them so much in staff time that they created a penalty structure for necessary additional reviews.

The other side of this coin however is that village staff (TRC) reviews are conducted by a number of individuals, collated by a senior planner, and then distributed to the designer with little benefit of an explanation. This “chain of command” approach is not conducive to a collaborative review process. Instead we would recommend a TRC review session more akin to the process used in the City of Wilson. Wilson’s TRC meets every two weeks and invites all applicants to sit around the table with the appropriate members of the TRC to ask questions and receive comments. The result of this face-to-face meeting is a clearer sense of direction shared among all parties and a diminished set of potential surprises down the line.

With regard to project tracking, applicants currently have no way to electronically track their submittals, and there is no staff protocol for consistently tracking projects as they move through the process. While a true online tracking database is probably not realistic for a community the size of Pinehurst, there is no reason why a simple Excel spreadsheet cannot serve a similar function. If staff receives a phone call about a project’s status and the senior planner is not available, an Excel project log could be easily referenced on an internal network by all employees.

We must note that for nearly all applications that we reviewed, and based on our interviews with boards and commissions, the applications seemed to face their largest hurdle at the TRC level. Once that hurdle is cleared, nearly all applications are approved without any changes whatsoever. This is a testament to the confidence that the Village Council and the reviewing boards and commissions

have in the staff and should be so noted. In other communities, it appears that everyone feels that they should have a “bite at the apple” as it proceeds through the review and approval process. In this regard, most applications that clear TRC approval receive rubber stamp approvals. This is problematic however for other reasons noted elsewhere in our commentary.

- **Action Item Reference:** #11 (p.27), #12 (p.29)

## 5 SINGLE FAMILY DESIGN REVIEW

**Perception:** The Community Appearance Commission is a rubber-stamp board that only adds one more layer of approval to the process. The single family design review process of the Community Appearance Commission is cumbersome and a waste of time.

**Reality:** We agree that the CAC review of single family development is redundant and adds little value to the development review process. This type of review of single-family detached homes is very rare in North Carolina. This does not make it inappropriate, but it does call such a process into question if the result does not seem to yield better design. In fact, in our windshield survey of homes that had been processed through this review we were unimpressed with the end result. This is not to say that the homes were not aesthetically acceptable. On the contrary, we have found homes that were equally or more handsome and stylistically appropriate in many other communities who do not use such a cumbersome and tedious process.

First, as many homes in Pinehurst are also within neighborhoods that maintain homeowner associations with similar design review boards, this process is particularly redundant. In fact, the HOA’s probably have more legal authority and general discretion to regulate and manage this tedious review process. As an alternative, perhaps this process need only be applied in neighborhoods where such a design review function is not performed.

It seems as though the primary concern is that new homes in existing neighborhoods might overshadow the existing homes built in a different era. It seems odd to us that this fear of “McMansion-ization” is a concern in Pinehurst. There were many homes built, particularly in the Diamondhead era, that lacked any real sense of local style



or vernacular. To use these as a gauge for new construction is certainly a questionable practice, though we are told that the CAC's biggest concern is (thankfully) more related to overall building mass than other, more stylistic elements of compatibility. Still, we think that there are codes and standards on the books with some additional tweaking that can provide sufficient guidance for management by the staff or a contract architect without the need for cumbersome citizen board reviews and site inspections.

- **Action Item Reference:** #14 (p.30)

## 6 PERMIT PROCESSING REQUIREMENTS

**Perception:** The way that the village receives plans communicates an anti-development message because of the limited time that applications are accepted, the huge number of plans that have to be submitted at every turn of the development process, and the detailed engineering that is required for a first submittal.

**Reality:** We concur that the number and size of plan sets for the various board reviews is excessive. In accordance with Appendix C of the PDO, no less than 34 sets of plans are required to navigate the process for a Major Site Plan application and 39 sets are required in a Major Subdivision application. That is indeed a lot of paper! This volume of paper is required to ensure that each person involved in application review has his/her own copy. At a minimum, these copies should be a reduced set – 11x17 format. Reduced sets are generally acceptable for distribution to reviewing boards and commissions. Electronic-only submissions should also be considered for staff review. Further efforts to green this process might include experimenting with the provision of iPads or similar tablet computing devices to board members as nearly everything can be submitted in PDF format. Finally, mylars are no longer necessary in the profession. It has been more than 10 years since our office, which practices both architecture and landscape architecture, has been required to submit a mylar copy. Granted, most mylars are often submitted by surveyors, but we suspect if you polled them they would note that this is an anachronism.

With regard to limited hours to submit applications, it probably seemed like a prudent practice when the economy was much busier for the village to accept plan

submissions on Wednesdays only. The reason for this was well intentioned. They wanted to ensure that a staff member was there to receive the applications and ensure that they were complete. This was, in fact, intended to be a very pro-applicant gesture. When things slowed down, they relaxed this policy and began accepting applications on a rolling basis by appointment. The protocol is simply to make sure that a planner is available to make the determination of completeness before the courier walks out of the door. While this is all well-intentioned, the onus of responsibility should be on the applicant to ensure that they have a complete application, not the planning staff. The staff only needs to make sure that the application check is made payable to the Village of Pinehurst. After that, if staff opens up the package the next day and finds things missing, then the designer must make another trip to Village Hall.

And finally, not only is the sheer volume of paper required excessive, but we consider the breadth and depth of each submission to be unnecessary. We have a simple rule that we recommend to each municipality we work for – require only that which is necessary to render the appropriate decision at the appropriate phase in the process. Full construction drawings should never be required for board, commission, or Council reviews. A set of Design Development/ Working Drawings that illustrate to scale the horizontal (site plan) elements of the site are more than sufficient. Site utilities and grading plans (with the possible exception of a conceptual grading plan) are only necessary for what should be final approvals by the staff following approval from the respective board, commission, or Council.

- **Action Item Reference:** #13 (p.29)

## 7 STAFF DISCRETION AND ADMINISTRATION

**Perception:** Planning Staff and the Village Engineer are free to invent/enforce regulations as they see fit throughout the development review process. The staff has too much power and often makes post-approval changes that cost the developer time and money

**Reality:** As with many of these assertions, the truth is somewhat less extreme. There is enough evidence of poor communication between the village and developers/designers to fill reams of paper in the silliness that has transpired through the years.

## one: perceptions and realities

There is in fact a great deal of subjective discretion vested with the Village Engineer that defers to the professional judgment of performance standards. Stormwater compliance is one such section. The standards are such that they present a certain performance measurement to achieve but don't necessarily prescribe a specific path to compliance. This is very common. Unfortunately when you only have one person with a limited scope of experience enforcing these standards, they tend to rely on a small toolbox. The fact that the village is now using a contract engineering firm that works in many different geographies and jurisdictions allows a broader view of solutions.

There were a number of contentions surrounding the East Lake development that seemed to convict the previous Village Engineer as the sole conspirator in what appears to us as a flawed project. The reality is that it appears that nearly every player in that game, on both the development and village side, is responsible for its many flaws. The lack of connectivity due to its geography and remoteness make it one very long cul-de-sac on the end of another very long cul-de-sac. It was also delivered just in time to see the market crash around it. Both are very unfortunate situations but are not the fault of the village.

The gold-plated standards for infrastructure in place at the time were adopted by previous Village Councils and were simply being enforced by the Village Engineer. The desire of the developer to create a unique neighborhood with narrower streets and wooden bridges is welcomed in a community whose utterly dull public realm is typified by most of its modern development.

However, these changes necessitated variances and modifications to existing standards that the current standards did not contemplate. Curb details seemed to be a moving target during the engineering process from the perspective of the developer. The standards conversely required curb and gutter even though the rest of the neighborhood was not constructed with them. It should be noted that there are some streets in that same neighborhood that have been retrofitted by homeowners to manage stormwater flows that were not properly contemplated by the original engineers. It is clear that the soil conditions and the topography of Pinehurst is such that maintaining vegetated swales along every street edge is not always the optimal arrangement. The resultant combination of swales and curb/gutter around East Lake was no doubt a long and

painful dialogue but in the end we feel that the results make sense.

- **Action Item Reference:** #2 (p.13); #5 (p.21); #6 (p.25)

## 8 THE ROLE OF THE FIRE MARSHALL

**Perception:** The Fire Marshall has broad discretion to enforce whatever fire protection regulations he wants and is free to stop development in its tracks whenever he sees fit without any oversight. The Fire Marshall wants sprinklers in every building and uses his power to achieve that end.

**Reality:** The village is handicapped by a county water system that is generally inadequate for its urban conditions. Therefore, the village decided to adopt Appendix B of the State Fire Code to give it some options. Without Appendix B in place, development in many parts of Pinehurst would likely come to a screeching halt.

The discretion vested with the Fire Marshall through Appendix B in the enforcement of fire protection regulations has been problematic, and has at times led to unpredictable situations that end up costing money. This is due primarily to a lack of knowledge about the capacity of the county system and poor communication between the Fire Marshall and individual project engineers early in the development process. There has also been a sufficient amount of anecdotal evidence that the requirements of fire flows and life-safety issues have come late in the review process.

We must point out that this issue is not solely the responsibility of the Fire Marshall. A building's civil engineer should be well aware of water availability before designing a system and the county, as the provider, should be in a position to provide sufficient information during the due diligence phase of any project to help quantify this risk item for a developer pro-forma. Far too often the Fire Marshall recommendations have come later in the process because of the failure on the part of the applicant to provide the necessary ISO data on the first review set.

But as with everything, with great power comes great responsibility. We believe that in all of our analysis that the Fire Marshall has acted in the best interests of the community and the future homeowner and/or building

occupant in rendering his decisions. Fire sprinklers are clearly the preference of most fire professionals and are clearly the preference of the International Building Code. The County water system's poor water pressure aggravates the need for such systems in many parts of the community.

In the case of East Lake, the decision was made by the Fire Marshall to require residential sprinklers as a means to compensate for 1) the lack of available connectivity, 2) excessive distance from a fire station, and 3) reduced street widths. On this third matter, we respectively disagree with the need to compensate simply because the road isn't overbuilt for the unlikely event that a party would be occurring and cars would be parked on both sides of the street preventing fire apparatus from approaching a fire. But on matters one and two we must defer to his judgment. It appears that the decision to install residential fire sprinklers was an amicable one near the beginning of the process.

Sprinkler technology has been in existence for decades. The fact that a contractor failed to install it correctly does not condemn all other such systems, nor does it negate the need for them in this case. Therefore, the developer's subsequent rant against residential fire sprinklers and the Fire Marshall seems at best misguided and at worst dangerous. To advise homeowners to turn off such systems is irresponsible in our opinion.

In conclusion, Appendix B offers designers and owners a variety of performance-based standards by which inadequate fire flows can be mitigated. Sprinkler systems are no doubt the best alternatives, though often the priciest. The development community needs to keep in mind that the Fire Marshall, in most cases, is offering suggestions of how to comply with the standards. The onus of responsibility lies with the building owners and their engineers to produce viable alternatives. It appears that there has been confusion as to whether the suggestions are in fact requirements as they are relayed from the building developer to the designer or vice versa. This is another reason to have everyone in the room at the same time to ensure that this communication is clear and all alternatives are reasonably explored.

Finally, we must re-iterate that the poor water pressure is not the village's fault, though they have thrust themselves in the middle of that problem by continuing to enforce standards for new water infrastructure. The County must be given the full brunt of the frustrations regarding the system's inadequacies, and the only role that the village should play is

the role of advocate on behalf of its residents and building owners.

**Action Item Reference:** #9 (p. 25); #10 (p.26)

## 9 EXCESSIVE WATER/WASTEWATER UTILITY INFRASTRUCTURE STANDARDS

**Perception:** The village enforces "gold-plated" water infrastructure standards for a system it does not own, creating redundancy with the county's requirements and leading to confusion and frustration for the development community.

**Reality:** The village does not own its water system, but due to a legacy of poor quality water infrastructure and a lack of confidence in the county it regulates water infrastructure to an excessive degree. We question whether the village has the legal authority to regulate construction details for infrastructure it does not own without some type of interlocal agreement to do so. Further, we question why the village would even want to take on this responsibility and by extension, the legal liability for construction inspection on a utility system that it does not own, insure, or maintain.

It is certainly true that the village has been enforcing excessive standards for utility infrastructure in the past, though a number of changes in recent months have right-sized those regulations to what we believe are generally reasonable requirements.

- **Action Item Reference:** #8 (p.25)

## 10 CUSTOMER SERVICE

**Perception:** Members of village staff are uncooperative, unprofessional, and adversarial. Staff has singled out firms and individuals that they refuse to work with due to personal issues and are recommending against the use of specific firms/designers, which constitutes a major conflict of interest. Overall, staff is the single biggest problem with the development review process. The staff treats applicants unfairly and actively discourages the use of certain local designers.

## one: perceptions and realities

**Reality:** There is enough evidence from a variety of sources (developers, designers, homeowners, and local merchants) to indicate that there is plenty of room for growth here on the part of the staff to better embody a more appropriate customer service attitude. Some of this is due to the difficulties that staff faces in terms of enforcing an overly-complex and onerous set of development regulations. Some of this may also be a reflection of the general anti-development attitude held by previous councils and vocal anti-development proponents within the community.

The problem has become so acute as to create concern amongst those participating in our interviews that there might be retribution from the staff for their comments. Sarcastic comments, poor communications, and lack of responsiveness were most frequently cited as criticisms of both current and previous staff members. We must note that some members of staff got very high marks with most of the interviewees; however others are considered far less responsive and easy to work with.

In addition, there is some concern that certain designers, developers, and applicants have been intentionally mistreated because they weren't respected by certain members of the staff. To this claim we could find only that it appears that everyone seems to be treated equally, or equally poorly, depending on your perspective. The sole exception to this is that it appears that all projects related to the hospital or medical office buildings appear to be given top priority in reviews and responsiveness. We suspect this is related to a combination of factors – professionalism and resources of the design/contractor team, size and prominence of the projects, preference of the village towards this type of development, etc.

With regard to the charge that staff has recommended that certain design firms and, more particularly, certain designers not be used for projects in the village, we have found credible evidence to satisfy this claim. We have communicated specific issues to the Village Manager about this and he is taking action to ensure that this does not happen again. However, we would be remiss if we did not point out that we also have anecdotal evidence that similar comments have been made by members of the boards and commissions as well as by previous members of the Village Council.

We must guard against however, using this study as simply being a measure to demonize the staff as an institution and

to suggest that a housecleaning were in order. That is not the case. There are some internal personnel matters that we have communicated to the Village Manager for suggested corrections and/or improvements but none that we would consider warranting any formal disciplinary action. As is mentioned extensively in this report, there is enough blame to go around.

- **Action Item Reference:** #15 (p.31); #16 (p.32)

## 11 PUBLIC ENGAGEMENT

**Perception:** The public is largely ignored when it is invited to give input on development issues. There are too many applications that require Special Use Permits.

**Reality:** Pinehurst's development review process is unpredictable and frustrating and, for the most part, it is much like many other small communities where there is an expectation of public engagement and Village Council decision-making. The problem is that nearly all applications are (or should be) quasi-judicial proceedings which limit the scope and breadth of public comment and board interaction. Both the Town of Davidson and the Town of Wake Forest also require that most of their development applications be approved in some form by elected officials, and both are equally frustrated by the process, but being small towns, it is very hard to let go and allow certain types of approvals as by-right, over-the-counter propositions.

In order to adopt a quasi-judicial application, a series of findings of fact must be agreed to prior to the adoption of the application. This is a frustrating process for boards and the public alike as it requires that all evidence be considered "competent" and that the testimony must be given under oath.

For the development community, the Special Use Permit process is, in fact, a very predictable process, though board consideration of controversial applications (which seem to be most applications) can often result in very long meetings and the postponement of decisions. Developers have the resources necessary to produce competent evidence and fulfill the requirements – a task that can be very difficult and time-consuming for the average homeowner.

- **Action Item Reference:** #4 (p.20); #17 (p.33)





## 2 INTRODUCTION AND PROJECT OVERVIEW

### INTRODUCTION AND GENERAL METHODOLOGY

The Village Council of the Village of Pinehurst has retained the Lawrence Group to analyze its development review process. The purpose of this analysis is to compile a professional critique of the current regulatory structure involved in the development process and related institutions of the village. The analysis includes a review of the existing Pinehurst Development Ordinance, the Engineering Standards and Specifications Manual, and the 2010 Comprehensive Long-Range Village Plan as well as the manner in which these documents are administered and enforced by village leadership, staff, and boards.

On January 24th - 26th, and February 8th, 2011, we conducted a series of seventeen stakeholder group interviews in Pinehurst. In addition, we conducted 8 private phone interviews both before and after our on-site meetings. In total, more than 70 individuals contributed their input to the stakeholder interview process which was intended to solicit general perceptions, comments, and recommendations on the current development review process in the Village of Pinehurst.

This report is informed primarily through these stakeholder interviews as well as a detailed analysis of the existing plans and regulations for the community. It is our intention that this report serve as the summation of that analysis and present village officials with a succinct overview of the current problems with the village's development review process as well as specific recommendations for how to address those issues. Together, these recommendations amount to a roadmap for regulatory and administrative changes to the village's development review process that will 1) simplify the village's regulations to better reflect the intent of its adopted plans and 2) clarify the review of development applications to village officials, staff, property owners, and developers alike.

### A BRIEF HISTORY OF DEVELOPMENT IN PINEHURST

When the founder of Pinehurst, Boston businessman James Walker Tufts, visited the sandhills of North Carolina in the spring of 1895, he was seeking land to construct a health-oriented resort. He purchased 600 acres of land that had been recently cleared of its indigineous pine tree forest, commissioned a master plan by the firm headed

## two: introduction and project overview

by Frederick Law Olmstead (designer of New York's Central Park), and proceeded to construct a New England style village. Over the next 18 months, Tufts acquired an additional 6,000 acres of land, established an electric trolley line from Southern Pines to Pinehurst, and opened the Holly Inn. In addition, he invested heavily in planting over 200,000 trees and shrubs to overcome the sparse landscape.

In the following decades, the Pinehurst resort was closely held and managed by the Tufts family and slowly grew to approximately 1,100 full-time residents by 1971. Facing a huge necessary investment to renovate and update the resort, the Tufts chose instead to sell the resort to the Diamondhead Corporation.

*“Since the resort had been run as a big family, some of the changes at the resort were dramatic. Diamondhead’s strategy to recoup its investment involved the creation and sale of lots with membership rights to the Pinehurst resort facilities.*

*Over the next decade, Diamondhead created about 7,000 lots or units for sale. Advertisements were placed in newspapers all over the country and people were flown in to play golf and attend a sales presentation about purchasing a lot or condominium unit. Roads, water lines, and sewer pipes were put in place to support development and recreational improvements were made to enhance the marketability of Pinehurst. While most all of the buildings built prior to 1971 were carefully designed to blend with the character of a New England village, Diamondhead had little incentive to manage the character of construction. An economic recession in the mid-1970s slowed sales and Diamondhead’s assets were taken over by a consortium of banks.” (Pinehurst 2010 Comprehensive Long Range Village Plan)*

In 1980, the residents of Pinehurst successfully incorporated as a municipality. Growth continued rapidly through the 1980's and 1990's, and the full time population surged. By the 2000 census, the official population was listed at 9,706 residents.

The first Pinehurst Development Ordinance was adopted in 1994, and a substantial update was completed in 2005. The Pinehurst Engineering Standards and Specifications Manual was adopted in 2004.

The dissatisfaction with the development process dates back for many years but seems to have recently erupted into a level

of discourse that the Village Council considers to be urgent. These same issues appeared to arise back in 2009 as well. At that time, the Village Council convened a roundtable of various stakeholder (e.g., engineers, architects, developers) who expressed their concerns with the current standards and process.

Since then, a number of changes to the PDO and Engineering Standards have been made, though there is clear indication that the dissatisfaction continues.

### THE 2010 COMPREHENSIVE LONG-RANGE VILLAGE PLAN

The Village of Pinehurst recently completed the 2010 Comprehensive Long-Range Village Plan. The plan noted a number of planning challenges unique to the community because of its history and geography, including:

- Most of the land in Pinehurst was subdivided in a 3-4 year timeframe during the early 1970s and was configured for the development goals and the lifestyles of people at that time;
- Besides golf courses, very little open space or parkland was set aside for the needs of future residents;
- Pinehurst does not own or control its water or sewer system;
- Minimal provision was made for the eventual stormwater drainage needs of the community; and
- Little preparation was made for the ultimate water supply needs of the village as it was fully developed.

The plan notes that “as a result, the challenge of this Plan is to find ways to manage the growth of Pinehurst in order to retain and enhance community character in a situation where so many lots have already been created.”

The plan consists of 1) a “Strategic Element” which sets goals and policies organized around the four thematic elements: **Enhance, Preserve, Guide, Support**, and 2) an “Implementation Element” which identifies 248 specific actions/tasks to be completed in support of these goals. The four pillars of the “Strategic Element” were derived from public feedback, Steering Committee input, and village staff recommendations, and include the following 14 goals/strategies.

#### Enhance:

- Character/Ambience: We must maintain and enhance the overall character and ambience of Pinehurst in order to preserve its international reputation and quality of

life.

- **Quality of Life:** We must do more to promote events and activities which enhance the overall quality of life in the community.
- **Image/Reputation:** We should continue to preserve, maintain, and enhance the overall image and reputation of Pinehurst.

**Preserve:**

- **Open Space:** We should establish a meaningful open space system and provide trails within the community.
- **Natural Resources:** We must continue to do what we can to guide development in an appropriate and sustainable way that will protect natural resources and overall environmental health.
- **Sustainability:** We must start to look at ways of promoting development patterns and activities that are more sustainable over the long term and have lower economic or social costs.

**Guide:**

- **Village Center:** If the Village Center is to retain its role for the next 100 years in Pinehurst’s history, we must not sit on the sidelines and wait to see what will happen.
- **Extra-Territorial Areas:** Focusing entirely on development within our own borders is not a good strategy.
- **Residential Development:** We must encourage the preservation and enhancement of Pinehurst’s residential neighborhoods while addressing the housing needs of current and future residents.
- **Business Development:** We should continue to review the locations of business zones and the types of issues allowed in the various business zones for consistency with the overall land use vision / community structure for Pinehurst.

**Support:**

- **Utility Infrastructure:** We should strive to ensure the adequacy of our utilities in order to enhance the quality of life for residents and ensure their needs are met.
- **Vehicular Transportation:** We must strive to manage the transportation system in Pinehurst to ensure that it operates within a reasonable level of service, supports community structure, and enhances community character.
- **Community Facilities:** We must continue to monitor and adapt to changing community facility needs.

- **Other Transportation:** We must strive to provide for alternative forms of transportation to meet the needs of the present and future Pinehurst residents.

While the “Guide” portion of the plan appears to have the most to do with the enforcement of the development process and the day-to-day administration of the Pinehurst Development Ordinance, there are certainly relevant goals and strategies that fall under every category.

The “Implementation Element” of the Comprehensive Plan details 248 specific actions/tasks to be completed in support of the 14 goals and strategies outlined above. Many of these implementation actions/tasks are relevant to the development review process and are specifically assigned to the Planning and Inspections Departments, the Planning and Zoning Board, or the Village Engineer as the leading entity responsible for implementation. (*Appendix B* outlines the specific tasks with significant implications for the development review process.)

Of these relevant tasks, many have a target date for completion of either May or December, 2011. Since this analysis is an opportunity to step back and reassess Pinehurst’s approach to the development review process, it is also an appropriate time to revisit these implementation actions/tasks and ensure that the village is moving ahead with them according to the prescribed target dates. The village should review the Implementation Guide in the Comprehensive Plan to ensure that the actions/tasks related to the development review process (specifically those tasks assigned to the Planning and Inspections Departments, the Planning and Zoning Board, and the Village Engineer) are being completed.



*The goals and strategies from the 2010 Comprehensive Long-Range Village Plan have not yet been translated into a set of development regulations that supports the future vision of the community. This will need to happen as the village seeks to clarify and improve its development review process.*



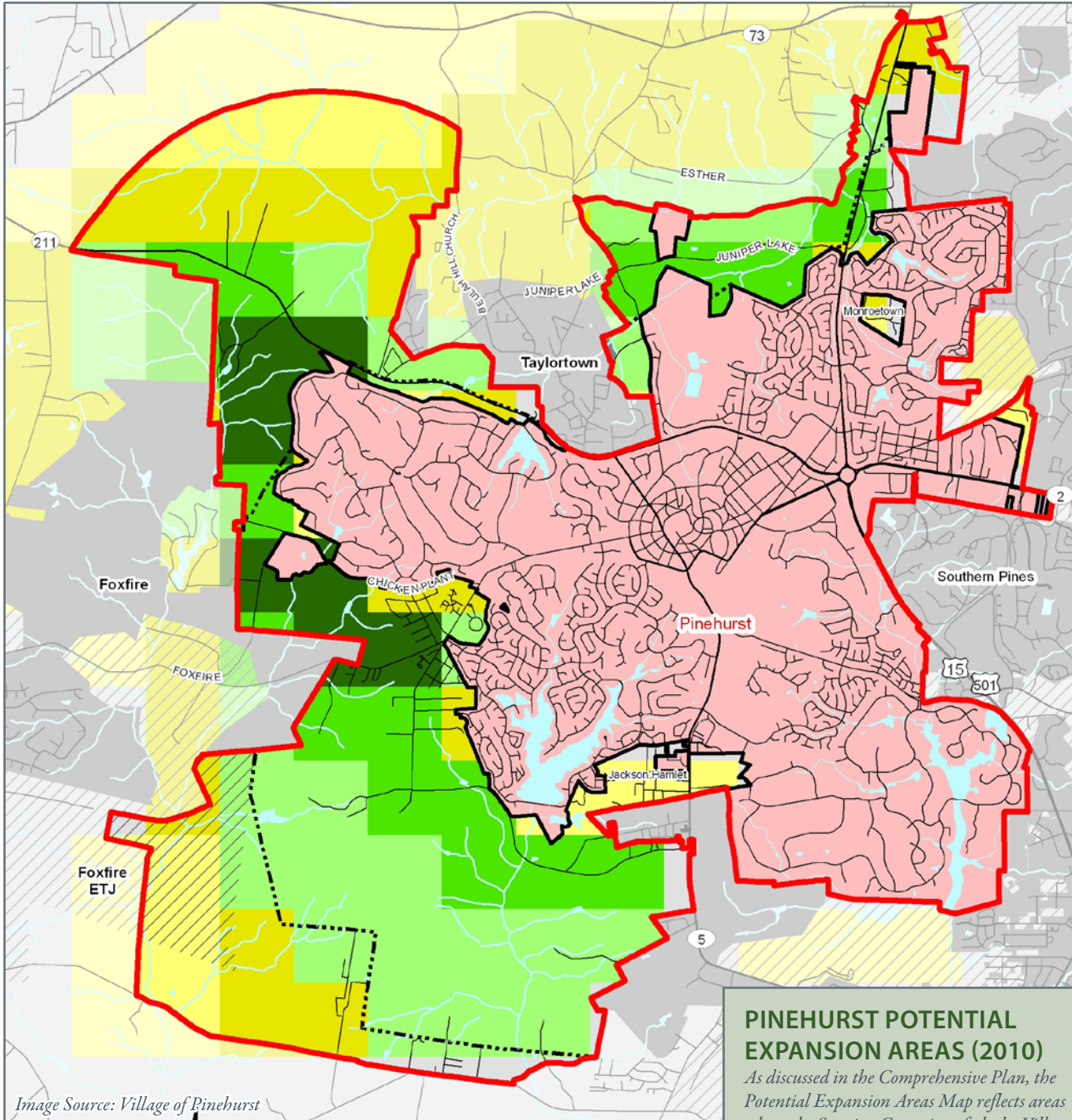


Image Source: Village of Pinehurst

**PINEHURST POTENTIAL EXPANSION AREAS (2010)**  
 As discussed in the Comprehensive Plan, the Potential Expansion Areas Map reflects areas where the Steering Committee feels the Village of Pinehurst is most likely to expand in the future. The type of development and expansion anticipated by the Comprehensive Plan will need to be supported and guided by a development review process that is more easily navigated by staff, property owners, and developers alike.

Legend		Potential Annexation Areas	Other Areas
	Pinehurst Limits		
	Pinehurst ETJ		
	Planning Boundary		
			Water
			Other Incorporated Areas
			Other EITs





# 3 PINEHURST DEVELOPMENT ORDINANCE

## **Action Item 1: Implement the proposed code changes from the 2010 Comprehensive Long-Range Village Plan.**

Not surprisingly, the 2010 Comprehensive Long-Range Village Plan describes a vision for Pinehurst that is not entirely consistent with the community's existing rules and regulations. This is not uncommon as many implementing measures of comprehensive plans in general are key code changes. In addition, the village still doesn't really seem to know what it wants to be from a developmental standpoint. Our stakeholder interviews uncovered some general disagreement about whether Pinehurst's citizens are mostly pro-growth or anti-growth, and that seems to be handicapping village leadership to act on certain development issues. This pro- vs. anti-development distinction however is largely irrelevant given the recent completion of the Comprehensive Plan.

If the village is confident in the public input process utilized to arrive at the recommendations in the Comprehensive Plan, then the Plan should be used as the guiding document for development attitudes amongst village leadership, and the Pinehurst Development Ordinance should be amended to support the vision that the Plan contains.

## **Action Item 2: Amend the PDO to improve its usability and organization and incorporate best practices.**

The Pinehurst Development Ordinance (PDO) was adopted in its current form on May 24, 2005. Although the current ordinance has only been in place for about 6 years, numerous significant amendments have been incorporated throughout its lifetime, the most recent amendment coming on February 22, 2011. These amendments, sometimes small and innocuous, and other times bulky and repetitious, have built up over successive administrations and have created an extremely complex document that is replete with inconsistent and confusing regulations which lack contextual consideration in their application.

As a result of the complex nature and confusion surrounding the PDO, inconsistency in its enforcement has become common. Discrepancies in how the regulations are applied

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from project to project have led to the perception that staff has broad flexibility and discretion to invent and enforce regulations as they see fit. Although staff is afforded some limited discretion under the PDO, this is largely an unfair characterization of the process, as most of the inconsistencies in the enforcement of the PDO are derived from its unnecessary complexity. Nonetheless, this misconception has led to much of the animosity that characterizes the current development climate in Pinehurst today.

Regardless, any simplification/rewrite of the PDO should include a close examination of this issue in order to streamline the development review process. Staff should have enough discretion to do “over-the-counter” approvals for minor applications/alterations, but not so much discretion as to substantively change the rules and procedures for administrative/legislative processes.

After thoroughly evaluating the current PDO, we recommend the following changes, amendments, and reorganization:

**Overall Order and Hierarchy:** Re-order the document so that the chapters/sections identify a progression of importance or hierarchy. For example, districts / district provisions (and the use tables) and design standards should be up front, and all subsequent information should flow from them. In general, we recommend a simple hierarchy to the chapters - districts & design standards, general provisions (signs, landscaping, stormwater, infrastructure, etc.), and administration. Major topics that are discipline-specific such as signs, landscaping, lighting, infrastructure, etc., should be contained in a separate section or chapter to make navigating to them by the specific designer or contractor easy. Definitions should be at the end as they are needed only in the event of a question.

**Chapter 1 – General Provisions:** No substantial changes are necessary, though it would be appropriate to amend the statement of intent to reflect the most recent long-range plan and its basic goals and principles.

**Chapter 2 – Definitions:** As noted previously, we would recommend relocation of this chapter to the end of the document. There appears to be definitions for all major use categories and other terms of art (a characteristic that, much to our dismay, is not commonly found in other ordinances). However, there are a few definitions that contain standards which should be embedded elsewhere and not hidden in

this reference guide. Specifically, Convenience Store, Day Care Center, Life Care Community, Neighborhood Center, Nursing Home, Open Space, Retail Store, Sight Line, and Single Family Sidewalk.

#### **Chapter 3 – Administrative Rules: Nonconformities:**

No substantial changes other than to relocate this section towards the end of the document with the other administration sections.

#### **Chapter 4 – Decision Making and Administrative Bodies:**

In accordance with N.C.G.S. 160A-393, all site plan and subdivision plan approvals are considered quasi-judicial proceedings if the governing ordinance’s standards for approval include discretionary as well as objective standards. The fact that the Community Appearance Commission in their review of applications is asked to render judgment “regarding their aesthetic suitability” is, in our opinion, a de facto discretionary action. We also question the efficiency of having as many as four reviews of an application before a final decision is rendered (TRC, Community Appearance, Planning Board, Village Council), particularly for applications that are considered non-discretionary, by-right applications.

One last notable change is to Section 4.7.3 under the duties of the Village Engineer. Subsection (h) notes that the Village Engineer is to prepare the Engineering Standards and Specifications manual. As there is no other reference elsewhere in the PDO that we can find, we would strongly suggest that such Engineering Standards and Specifications have a formal adoption process identified in the PDO. There does not appear to be legal consensus on whether the PDO may be adopted and amended by simple Council action or following a normal text amendment procedure so we will defer to the Village Attorney as to their preference.

**Chapter 5 – Permits and Approvals:** We would recommend relocating this information into the same section as subdivisions and site plans. It appears that certain explicitly quasi-judicial procedures are located in this section but non-discretionary, by-right procedures are buried in Chapter 10 under General Use Zoning Districts (10.2.14 and 10.2.15). For efficiency and predictability, we like the fact that Major Special Uses are reviewed by one board only (the Village Council, in this case) but are always concerned when the legislative body is asked to render quasi-judicial decisions following a public hearing. In general, most legislative boards find it very uncomfortable to have to tell their voters that

they cannot speak to them about a particular application outside of the actual public hearing and that decision must be based on strict findings of fact. In this regard, the village might want to consider relegating all Special Use decisions to the Planning Board or Zoning Board of Adjustment.

**Chapter 6 - Variances and Administrative Appeals:** No changes recommended other than relocation.

**Chapter 7 – Text Amendments and Rezoning:** In accordance with N.C.G.S. 160A-132, we strongly recommend that the village convert the current two-step process Conditional Use Rezoning (Conditional Use Permit and Rezoning) to a single Conditional Zoning Process. (See *Action Item 4*) This eliminates the current quasi-judicial process in favor of a purely legislative process which gives greater flexibility to discuss those development projects with potentially broad community impacts.

**Chapter 8 – Enforcement Against Violations:** No changes recommended other than relocation.

**Chapter 9 – Zoning Districts Created:** Why is this a separate Chapter? Combine with Chapter 10.

**Chapter 10 – General Use Zoning Districts:** This chapter is clear in its intent for each district, which appears to be tied to the Comprehensive Long-Range Village Plan and provides a nice cross reference to other applicable standards. The use table is clear and each use category is defined properly, although we question why certain uses carry with them Special Use Permit procedures (e.g., detached garages, hospice care, horse farms, stables) when these might simply be handled by special requirements.

In general, the table of permitted and special uses discourages pedestrian-scale mobility between varied destinations. The village should consider being more flexible with allowed uses within zones and/or move toward a more form-based approach in some areas. (See *Action Item 3*)

For example, the only residential uses allowed in non-residentially zoned areas are “Mixed-Use Dwellings” with 100% ground floor retail. Consider allowing multi-family and townhouse dwellings with approval in non-residentially zoned areas. Similarly, commercial uses are allowed in very few zoning districts. Consider allowing small neighborhood-serving local businesses and professional offices in certain residential districts (such as R-MF and R-5) with approval.

### 10.2.1.3 – Special Requirements:

- **SR-1 Dwelling, Accessory:** We recommend increasing the maximum percentage of an accessory dwelling to 600 sq ft or 40% of the heated floor area of a principal dwelling. Most 2 car garages are 20 to 24 feet by 24 feet putting an average garage apartment at approximately 524 square feet.
- **SR-3 Townhouse:** The open space standard is perhaps too high to effectively promote walkability as it essentially encourages these developments to be segregated from everything rather than integrated into a more pedestrian-friendly configuration. Also, the use table only permits these in the R-MF but does not note a reference to the SR.
- **SR-9 Bed and Breakfast Home:** Requirements (2) and (3) are nearly impossible to regulate or otherwise encroach on other agencies’ permitting requirements.
- **SR-11 Offices in the VC District:** Consider altering the ground floor prohibition for office such that ground floor office uses are prohibited along the primary frontage. Office uses with access along the side or rear via a pedestrian alley are very common in downtown areas and help to add needed vitality as long as they do not interrupt the preferred retail and restaurant frontages that create sustained activity.
- **SR-14 Neighborhood Center:** The exception granted for exceeding the 12,000 square foot maximum based on a specific use is short-sighted as tenants may change a number of times over a twenty year period. Instead consider site context and overall design quality.
- **SR-18 Accessory Uses and Fences:** (a) Home Occupations - The incubation of a small business from one’s home is the American dream of many an entrepreneur. Hewlett-Packard is renown for starting in a garage. Consider permitting up to one employee who is not a resident. For the diagram in (e) and (m) (and elsewhere in the PDO), consider a different diagram that does not show a garage-facing house. This is inconsistent with the Comprehensive Long-Range Plan character preferences.

**10.2.2.1 General Standards:** These very important standards are buried amidst supplemental use regulations. We recommend that they be given the necessary prominence of a separate chapter. In addition, these appear to be the only



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design standards for development (other than detached single family homes). They are sorely lacking in their scope and breadth and need at least as much clarity as given for single family homes. The PDO more heavily regulates the dimension and number of parking spaces than it does of the design of buildings (except detached single family homes).

**10.2.2.2 Table of Dimensional Requirements:** For most zoning ordinance users, the two most important pieces of information are permitted uses and setbacks, however the latter information is buried deep in the PDO. First, consider relocating it to be adjacent to the use tables. And second, consider modifying certain setback requirements. Deep front yards are often very destructive to landscapes. They add to the tree clearing areas and create yards that often have little use other than maintenance. It is ironic that in some districts the front yard setback is deeper than the rear as it is the rear where private functions can occur and also where trees can best be saved to create landscaping transitions.

This issue is particularly acute with regard to the multi-family district which by its nature should promote intimate streets and walkable environments much like the New England villages noted as models in the Comprehensive Long-Range Plan. Thirty foot front yard setbacks are awkward at best and do not support urban building types that can promote pedestrian activity near mixed-use centers. We also discourage the use of maximum lot coverage as a regulatory tool. Instead, we recommend using usable open space and transitional yards (if needed as the key open spaces) as the determinants of overall development impact.

Also of issue is the fact that the buildings in the Village Center carry a minimum 5 foot setback. The current conditions of the historic village are quite eclectic and and it not clear where certain building lots begin and the public sidewalk ends. For the casual passerby, they believe this

transition occurs where the sidewalk meets the building face. We believe that there is no need to enforce a five foot setback and instead recommend a zero foot setback. The pictures on the bottom of this page illustrate the current variety in the Village Center.

We are also skeptical of the village's legal authority to require a minimum heated area for each residential unit. It is our understanding that this is in violation of fair housing laws, but we would encourage further research on the matter.

**10.2.3 Off Street Parking:** The current standards generally correspond to the use table and while the number of required parking spaces is not the most excessive that we have seen, we would encourage the village to consider further leniency. Today's standards for office and retail uses continue to fall as turnover increases with shorter lengths of stay. In addition, parking lots are the single largest contributor to heat island effects, stormwater runoff, and poor water quality. If the village is truly committed to sustainable design, they can start with parking areas.

Shared parking allowances could be considered beyond just the South Business Overlay District. Bicycle parking could be required and/or correspond to vehicle parking credits. The village should also consider pervious parking areas (the current requirement is for 75% of spaces to be paved) and reduced parking space requirements and encourage on-street parking where the fronting street is of sufficient width to accommodate vehicles (minimum of 24 ft for yield-flow parking on one-side only). Finally, this section should be a new chapter combined with the dimension and use tables.

**10.2.4 Landscaping Requirements:** Is there a need for a buffer between every use? Could this also be a landscaping easement across the rear of the property for tree preservation but not necessarily a buffer that acts to segregate one



*Images of the various frontage conditions in the historic village that show a zero setback condition*



property from another? Also, the urban transition highway corridor overlay buffer serves to hide commercial operations from the road. This is good to provide a serene environment for the cars passing by, but it is not pedestrian or bike-friendly because it further separates the building from the fronting sidewalk. In addition, by hiding the retail from the road, that operation is less likely to be successful because visibility is a necessary element for success. This section should be set apart as a separate chapter.

**10.2.5 Sign Regulations:** It is unclear who the approving entity is for comprehensive sign plans issued for all subdivisions, multi-family development, and multi-tenant development except those in the Historic Preservation Overlay District. It also seems unnecessary for a separate board approval when most other jurisdictions set the necessary dimensional, material, and locational standards and approve them administratively. In general the standards appear to be compliant with all content-neutral requirements established through constitutional rulings with the exception of temporary signs (j) where the sign's content is limited to only the "name of the business and/or the nature of the business and may contain a phone number".

**10.2.6 Community Appearance Standards:** This should be set apart and combined with other design standards. The fact that there is such a thorough and comprehensive set of standards for detached single family homes is unique to Pinehurst. These standards mimic typical CCRs (codes, covenants, and restrictions) found in many homeowner's associations and are likely redundant in a place like Pinehurst where many new homes are constructed in planned communities with such rules. (See *Action Item 14*) A number of the rules are exceptionally detailed (e.g., fascia and rake board reveals and dimensions). Yet nearly all of the rules are presented in a manner that leaves little to actual discretion and may, in our opinion, be administered by staff rather than by the Community Appearance Commission.

We do not understand why a tree survey must be sealed by a landscape architect or surveyor as neither profession registers their membership to provide such service. The landscape requirements favor tree/vegetation preservation and if necessary their replacement with xeriscaping. We laud the community for this low water usage approach. Further, we do not understand why the Community Appearance Commission is involved with the administration of this section as the standards appear to be reasonably straightforward and we further are confused by why

members of the CAC actually conduct the inspections when ultimately it is the responsibility of the Village Planner to certify compliance or non-compliance.

Finally, we find that the requirements for compliance with this section in Appendix B of the PDO are excessive and require information that is unnecessary to show compliance with the standards (minimum dwelling size proposed for each floor – which we have commented on previously, location of dog runs, floor plan, framing plan for all floors, wall elevation including typical wall elevation, etc.) We must further note that the Final Approval Checklist is another unnecessary cost item and is not required for other types of building compliance (e.g., multi-family) and can be easily verified by a single site visit by the staff.

**10.2.7 Colors:** Combine with the other Design Standards for ease of use.

**10.2.8 Exterior Lighting Standards:** No changes are recommended other than relocation.

**10.2.9 Utilities:** The standards in this chapter are written in a manner so as to assume that the village is the responsible authority for the provisions of water and sewer services when in fact, this is not the case. We question the authority of the village to regulate utilities that are not under their control. (See *Action Item 8*)

**10.2.10 Well Field Protection:** No changes are recommended.

**10.2.11 Flood Damage Prevention Standards:** If the standards of the Flood Damage Prevention Ordinance apply to all properties within the village limits and the ETJ then we recommend that they be included in the text of the PDO.

**10.2.12 Tree and Ecosystem Protection:** The manner in which the tree protection ordinance is enforced should be reexamined. The current ordinance requires trees to be surveyed through a line-of-sight method, which means that lesser trees are being cut down in order to establish line of sight to significant trees. This is counter-productive to the intent of the ordinance. We would also recommend that this section be combined with the landscaping requirements of section 10.2.4 as they frequently cross reference each other and share many common elements, particularly as they relate to the protection of existing vegetation.

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**10.2.13 Soil and Erosion Control:** No changes are recommended.

**10.2.14 Subdivision Standards:** To begin, we recommend that these standards be set apart as a separate section or chapter. Further, there does not appear to be a specific reason why the Village Manager is the approving official when the Village Planner or the Village Engineer seems to administer most of the other applications.

Furthermore, because the Action by the Village Council in subsection (f) permits them to approve preliminary plans subject to conditions that are clearly discretionary in nature, the entire process should be considered discretionary and should follow a quasi-judicial process. In doing so, the village is subjected to the establishment of findings of fact and must follow strict hearing procedures.

The standards should also more explicitly define minimum connectivity and access guidelines. In order to promote connectivity minimum/maximum guidelines for block size, intersection spacing, etc. should be considered.

**10.2.14.11 Dedication of Open Space and Recreational Land:** At present the village requires open space to be set aside as part of the subdivision process but has no standard for the improvement of such lands so that they may be used by the neighborhood's residents for active or passive recreation. The open space must only comply with standards for unity, usability (most of the land must be outside of the floodplain), shape, location, accessibility, topography, sub-soils, and vegetative cover. This standard is also referenced for development subject to site plans (e.g., multi-family).

**10.2.14.20 Sidewalks:** The standards require sidewalks on one side of the street only for detached single family home subdivisions and on both sides of the street in all other subdivisions except along private gated streets. First, we strongly discourage the differentiation of private streets from public streets with regard to village standards. Private streets should be merely a function of access and maintenance, not construction, as far too many formerly "private" streets are requested to be placed on local municipalities' systems when assessments come due. Second, if there is a situation where a sidewalk is determined to be simply out of place within an existing neighborhood, then we would instead recommend that a fee in lieu of sidewalk construction be made to the general fund for the construction of sidewalks in other areas.

Internal walkways should also be required to provide more than just internal accessibility. They should connect buildings to existing sidewalks and crossings within the right of way.

**10.2.12.21 Utilities:** As previously noted, we strongly disagree with the requirements that the Village Engineer approve all water and/or sewer plans as the village has no jurisdiction over the system. (See *Action Item 8*)

**10.2.14.26 Planned Residential Development:** Like other Planned Unit Development (PUD) ordinances in other jurisdictions, the PRD permits the variation of certain standards within the context of a master planned development. However, there are some unique standards that we would recommend reconsidering to promote more sustainable neighborhoods that will be more resilient to changing demographic patterns and market expectations, including, but not limited to: the limitation that all such streets be private, the restriction that permits only detached single family homes, and the requirement that the minimum principal building size be 1,800 heated square feet (which has been found in other jurisdiction to run afoul of Fair Housing rules).

**10.2.14.27 Green Neighborhood Regulations:** As another means to promote such open space-oriented subdivisions, we would encourage the village to streamline the approvals of such development so as to give them an advantage over conventional development patterns. We would however, strongly discourage the limitation on impervious surfaces on a lot by lot basis as such a standard is administratively very difficult to manage. If impervious surface is important, then it should be managed as part of the open space of the overall neighborhood which will more effectively mitigate the negative impacts.

**10.2.15 Site Plan Development Standards:** At present there are two types of site plans – minor and major. Minor site plans are approved administratively by the staff, whereas major site plans are approved by the Village Council following review by the Planning and Zoning Board and a public hearing. Like major subdivisions, they seem to skirt a fine line as to whether there is any discretion in the review process. Holding a public hearing seems to suggest that there is discretion in the process and therefore seems to fall into the quasi-judicial process. If they are in fact non-discretionary review proceedings, then why must they be reviewed by the TRC, the Planning and Zoning Board and

the Village Council? The general design standards in section 10.2.15.8 suggest that there are in fact some discretionary standards. For example, being asked to determine if a site plan shows “adequate” traffic circulation and control patterns, water supplies, fire protection, sewer facilities, and drainage systems could be considered discretionary.

**Chapter 12 Overlay Districts:** We recommend that these standards be co-located with the other district standards.

**12.2.4 Pinehurst South Business Overlay District**

**Regulations:** The shared parking standards are unnecessarily complex and may simply be accommodated through an overall reduction in the minimum parking standards as noted previously.

**12.3 Historic Preservation Overlay District:** We would encourage the expansion of the minor works policy as part of the certificate of appropriateness procedure to permit staff review and approval of certain minor works beyond just “normal maintenance” (e.g., building expansions not visible from the public street).

**13.1.1 VMU Village Mixed Use:** We find the standards of this district to be technically impossible to comply with. Specifically, the maximum floor area of 7,500 square feet, and a highly prescriptive (and unrealistic) tenant mix, is too limiting to comply with. Even though these standards are intended to be calculated based on the total building area of the new development, the requirements are unrealistic and unmanageable.

Also, in the VMU, the VCP, and the VR, the open space standards are unclear. Can parking areas qualify as open space? If not then the extremely low density of the development will not yield a buildable or successful village center that is supportive of pedestrian activity.

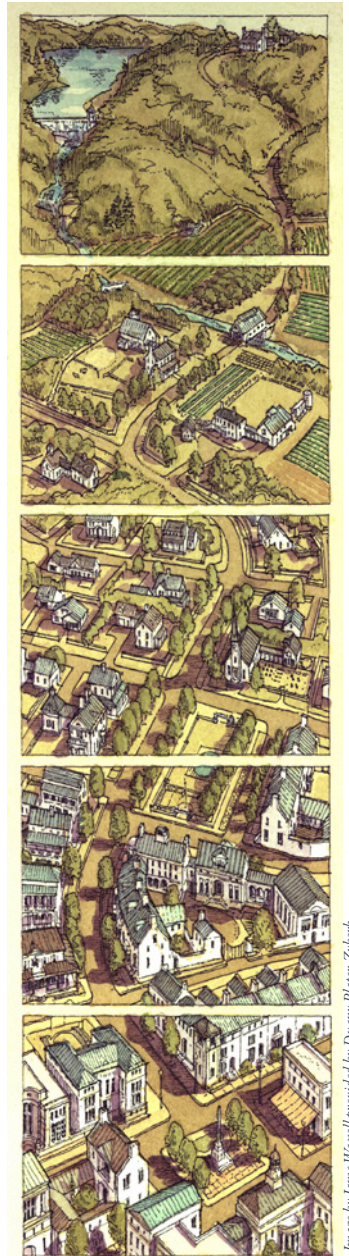
**Action Item 3: Consider the use of form-based codes, particularly to help streamline regulation of the Village’s mixed-use areas.**

Despite the sometimes onerous layers of regulations in the PDO, the development outcomes that have been built in Pinehurst aren’t substantially better than development in other communities around the state. In other words, the village’s excessive rules and regulations haven’t led to better development outcomes; they are just making the development process more difficult for staff and developers

alike. This is a clear indication of a disconnect between what the village wants to look like and what the standards are enforcing. Somehow the village has lost sight of what it is trying to accomplish through its development regulations and process.

The basis of ensuring a logical gradation of urbanism in a community is the incorporation of the Rural-Urban Transect into all aspects of design and development decisions. The Transect concept of context-based land development is based on precepts of human settlements that are hundreds, and in some cases, thousands of years old, but have a basis in the historic framework of Pinehurst. The Transect is a method of, first, classifying the natural and built environments as a continuum of conditions, ranging from the most natural to the most urbanized; and, second, detailing the specific development and design details for each condition.

The conversion of an arcane zoning classification that is based on a separation of uses to a more sustainable mixed-use pattern can best be accomplished by using the Transect to order all of the regulations. Each Transect category has detailed provisions for the design of neighborhoods, density, height, street design, the design of parks, appropriate mix of uses,



*The transect is a scaleable organizing tool that the village might consider using in order to establish more form-based, contextually appropriate zoning districts and encourage mixed-use development more effectively than the current VMU district.*



### three: pinehurst development ordinance

building design, parking, and other aspects of the human environment.

The graphic on the previous page illustrates the relative intensities of development along the Transect spectrum. For example, a rural street typically has no curbs or sidewalks, and its buildings are typically farmhouses or barns. An urban street, depending on the intensity of urbanism, may have curbs and gutters, regularly placed street trees, sidewalks, and building forms that include common walls, flat roofs, and cornices. Streetscape standards that may be appropriate for Old Town Pinehurst may not be appropriate for development at the village's edge or in the rural fringe and vice versa.

The Transect is typically ordered as follows:

#### **T1 & T2: Natural & Rural Zones**

The Transect begins with two zones that are rural in character: the Natural Zone (or T-1), which is made up of lands protected in perpetuity as natural, recreational, or agricultural areas; and the Rural Zone (T-2), which includes areas of high agricultural, scenic, or environmental value that should be protected.

#### **T3: Suburban Zone**

The transition zone between countryside and town is called the Suburban Zone (T-3). The T-3 area consists primarily of single family homes. Although the T-3 area is primarily a residential zone, it may have other development types, such as schools and other civic uses.

#### **T4: General Urban Zone**

T-4 development is primarily residential, but more urban in character, having a higher density with a mix of housing types and a greater mix of uses, including neighborhood-serving commercial uses.

#### **T5: Urban Center Zone**

At the more urban end of the spectrum is the Urban Center Zone, or T-5. This can be a small neighborhood center or a larger Village/Town center, the latter serving more than one neighborhood.

#### **T6: Urban Core Zone**

The Urban Core or Downtown (T-6) serves not only adjacent neighborhoods, but the entire city and the region. It is typically the central business district where the greatest mix of uses occurs.

#### **Special Districts**

The Special Districts make allowance for specialized activities and development types, such as big box retail, institutional campuses, and industrial zones.

#### **Action Item 4: Convert Conditional Use Districts to Conditional Districts to permit an open legislative discussion about development applications.**

A specific instance where Pinehurst can better utilize public input, while simultaneously clarifying its development process, is by converting its current Conditional Use Districts to Conditional Districts. The issuance of Conditional Use permits by municipal boards/councils are frustrating quasi-judicial proceedings that limit the often necessary public engagement. By contrast, Conditional Districts are considered through a legislative rezoning process that permits a site-specific plan, illustrations, and any other voluntary conditions, to be submitted with a rezoning application. Application for both the rezoning and the site plan run concurrently and can be adopted with one motion by the legislative body.

The Conditional District process, upheld first by the state courts, and then codified into state law, is perhaps one of the most flexible zoning tools available to North Carolina local governments. Because it is a legislative process, it allows more opportunity for meaningful public input than Conditional Use permits. By marrying a site plan and/or other development-related details to a legislative process, an open conversation can occur, not only on the merits of the application, but also on the impacts to the greater community. Neither the applicant, nor the governing body is bound by testimony and findings-of-fact to rule on a narrow interpretation of the ordinance. Through the use of Conditional Districts, the public is given some sense of predictability by showing a picture of the proposal rather than just simply rezoning the parcel and relying upon the table of uses to guide any future development decisions. This is an ideal situation where public input can be more meaningfully utilized, increasing transparency without compromising regulatory oversight.





# 4 ENGINEERING STANDARDS & SPECIFICATIONS

**Action Item 5: Continue to right-size and clarify the engineering standards to balance long-term durability with cost and technology and reduce discretion.**

Pinehurst's current Engineering Standards and Specifications Manual was adopted on August 24, 2004 and has been continuously updated and amended since that time. To an even greater extent than the PDO, the requirements in the Manual have been haphazardly assembled over the years creating layers of regulatory minutiae that are cumbersome and in some cases unnecessary. Until recently, some of the standards were also stringent to an uncommon degree and outlined infrastructure requirements that were among the most aggressive in the state.

These "gold-plated" standards were largely a result of Pinehurst's development history. Pinehurst was originally developed, beginning in the late 1960's, by the Diamondhead Corporation through a period of rapid expansion over a little more than a decade. This decade-long building boom created 7,000 single family lots and left an infrastructure legacy of rushed construction, poor details, and inadequate management of stormwater runoff. In its effort to overcome that legacy of poor quality infrastructure, we believe that Pinehurst's regulatory mechanisms were attempting to overcompensate for existing deficiencies.

The design and development community rightfully screamed about these standards and the seemingly broad authority granted to the Village Engineer to implement them. We heard a number of "horror stories" that we believe were precipitated not by a single individual, but more often by an unfortunate combination of poor engineering or site development practices, unclear or overly rigid standards, and poor communication between the village staff and the developer/contractor.

We also have come to believe that while the previous Village Engineer had some obvious faults when it came to communication, he was zealous in his desire to provide the village with infrastructure that would lower maintenance and long-term lifecycle costs. Further, it is also clear to us that the standards adopted by previous Village Councils were intended to be "gold-plated" or overly rigid without regards to cost. We suspect that inflating the costs of housing through the standards, or possibly even causing

**four: engineering standards and specifications**

a project to no longer be viable, were equally acceptable outcomes to members of previous boards, commissions, Village Councils and a vocal minority of the population.

Broad staff discretion in the enforcement of the village’s rules and regulations, particularly in the village’s water and stormwater standards, has created situations where inconsistency and a lack of predictability have frustrated the Pinehurst development community. Switching to a contract engineer that is more removed and objective has helped somewhat, but the level of discretion should still be examined and limited for the following reasons:

Undue discretion can:

1. Challenge the intent of the development attitudes described in the Comprehensive Plan,
2. Obfuscate village expectations with regard to infrastructure provisions in development/ redevelopment projects, and
3. When combined with a lack of communication, lead to costly “surprises” for developers and property owners

when changes or additions are required during later stages of projects.

Instead, more contextually appropriate regulations combined with a simplification of the standards will allow for the enforcement of quality infrastructure in development without the unpredictability that a high degree of staff discretion can cause.

Since the departure of the Village Engineer, the hiring of a contract engineer, and the dramatic reduction in development projects, a number of key changes have already been made to the engineering standards that have significantly improved their application. Standards such as the requirement for ductile iron pipe for water lines have been right-sized to accommodate equal or better performing materials such as PVC.

Further recommendations for specific changes to the Engineering Standards and Specifications Manual are listed in the table below.

**Recommended Amendments to the Pinehurst Engineering Standards and Specifications Manual**

Article #	Issue	Recommendation
<b>Section 1.0 – Preliminary Considerations &amp; Instructions</b>		
1.01	References a pre-design meeting with Village Engineer regarding unspecified standards.	Pre-design conferences with the design engineer to discuss the full range of design expectations and issues (not just unspecified standards), are always valuable and save time and money for the developer. This is a good policy and the Village Engineer should make sure to be readily available and responsive.
1.02	Submittal requirements call for a large number of prints.	The village staff should review the number and reduce the quantity if possible. Staff should consider the submittal of digital copies (pdf format) in some cases to reduce the volume of paper stored a Village Hall.
1.02b – (2) and (3)	Indicates that the Village Manager will sign the water and sewer permits.	These permits will be executed by Moore County, and the second submittal of the applications to the village is not necessary. The same is true for the submittal of full design data for sanitary pump stations. It is useful for the village to have this information, but 2 copies each of the initial and second submittals seem excessive.
1.06	Allows the village to issue “Stop Work” orders.	Village staff should work closely with the Village Attorney and Risk Management group to limit village liability in Stop Work situations, particularly from contractor delay claims. It would be appropriate for this Article to include “hold harmless” provisions that are executed by the contractor. The Article also needs to clearly state that having the authority to stop work does not mean that the village is in any way directing the construction, nor that the village is responsible for job site safety.

Article #	Issue	Recommendation
<b>Section 2.0 – General Provisions</b>		
2.03	Requires Developer/ Contractor insurance.	It would be useful to potential contractors to have the insurance requirements and liability limits be readily available, perhaps on the village’s website.
2.08	Provides detailed specifications for concrete.	Since there are concrete specifications in other sections of the standards, this article can be deleted.
2.09	Requires the installation of private utilities at locations within public right-of-ways per the schedule set by the village.	The reference should be changed to the Standard Street Cross Section detail where specific locations have been established for the private utilities.
<b>Section 3.0 - Streets</b>		
3.02a	General street design standards are excessive.	A minimum 20’ clear width for residential streets is excessive. Curb radius requirements for residential streets are excessive.
3.02b	Requires soil testing to determine the thickness of street paving materials.	This section should specify when soil boring and evaluations are required. The previous Village Engineer indicated that this provision was not generally required for residential streets, where the minimum materials and thicknesses presented in Article 3.02 are sufficient. The design phase soil testing is appropriate for arterial streets and highways. A reference to certain classifications on the Village Thoroughfare Plan would be good.
3.03a	Gives clearing requirements for street construction.	Requirements may be excessive. Consider setting requirements based on sight triangle.
3.03c	Requires the use of I-2 asphalt surface course.	NCDOT Superpave materials are the new standards for surface and base course materials. References to I-2 should be changed in this paragraph and also in Articles 3.10, 3.12, and 4.01.
3.11	Gives guidelines for Traffic Impact Studies.	The guidelines are far too vague. Consider a stand-alone process with documented requirements for when a study is required and what standards it should adhere too, including how TIA firms are selected.
Figure 3-1	Describes geometrics involved in curve controls.	Review Figure 3-1 with regard to best practices for walkable thoroughfares. The minimum design speeds may also be excessive. Consider ranges or “target” speeds (by right, not exception), so as to allow greater flexibility by context, including architectural form and placement, not just land use.
Figure 3-2	Recommends excessive parallel parking widths.	Reduce recommended parallel parking width dimension to 8 ft.
<b>Section 4 – Sidewalks</b>		
4.05	Describes driveway criteria without regard to adjacent roadway typology.	Driveway criteria should correlate to roadway typology from Section 3 and Standard Details.

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Article #	Issue	Recommendation
4.07	Requires 6' minimum greenway width.	This minimum greenway width is insufficient.
<b>Section 5 – Storm Drainage</b>		
5.01	Requires receiving a watershed analysis at the Village Engineer's discretion. Also, the "Village" may require offsite improvements if deemed "prudent" by the village.	If there are existing downstream issues, the Village Engineer should present these issues to the developer in the pre-design stage.
5.01	Mentions that stormwater management facilities "may" be required.	Too much discretion in enforcement is permitted here. The conditions under which the facilities would be required should be specified.
<b>Sections 6, 7 &amp; 8 – Water Distribution, Sanitary Sewers, &amp; Wastewater Pumping Stations and Force Mains</b>		
Relevant to all articles	Many of the standards required by these three sections may overlap or conflict with the Moore County Public Utilities specifications.	These sections should be carefully coordinated with the County's standards. The village should consider reducing the requirements in these sections to only those items that specifically affect village operations such as water main and sewer locations, fire hydrant requirements, fire protection analysis, etc. Unless the village has the responsibility for the operation and maintenance of the water and sewer systems, many of the provisions of these sections are likely redundant with the County specifications.
<b>Standard Details and Materials - General Issues</b>		
The standard details need more and better articulated street sections. Consider referencing the new NCDOT Complete Streets guidelines. The street typologies and available sections need to be expanded.		
Need more specifications for pervious paving surfaces in street and sidewalks, and other Low-Impact Development materials and techniques.		



**Action Item 6: Create context sensitive infrastructure standards.**

One key challenge to these standards is that they are applied uniformly over the entirety of the village, or, if there is any contextual consideration at all, it is through the broad discretion left to the Village Engineer in the application of the standards. This high degree of discretion vested with staff however has led to inconsistency in the enforcement of requirements and become very problematic in its own right.

Given the variety of built and natural environments in Pinehurst it doesn't make sense to apply uniform engineering standards across the entire village. Instead, Pinehurst's Engineering Standards, as well as its other development regulations, should be keyed to districts that better describe the form and function of desired development, and accordingly, the infrastructure that will be necessary and appropriate to serve it.

**Action Item 7: Post the Engineering Standards and details on the web site and maintain a mailing list for updates.**

We don't know why the manual or the standard details are not available electronically. In the electronic age, there is simply no excuse to not make these readily available. The PDO is available on the village website and is updated regularly. The Engineering Manual should be available as well.

**Action Item 8: Come to an understanding with the county about water service delivery and either get in the water business or get out.**

County ownership of the village's water system has created a negative ripple effect that extends from inconsistency in the enforcement of fire protection regulations, to conflicting layers of approval for development, to an erosion of the relationships between staff and the development community, and perhaps most poignantly, to the inability of the village to maintain a necessary level of resiliency in its infrastructure.

A lack of trust in the county's standards, combined with Pinehurst's legacy of poor quality public infrastructure, has led to the village enforcing their own standards for water infrastructure despite not owning the system. Village leadership contends that, although this situation is far from ideal, the county has been ill-prepared or unwilling to adequately regulate and manage the provision of water

infrastructure on its own. The village is therefore reluctant to abandon its own local water delivery standards.

Unlike some other issues with the development process, this is not a quick fix. Ultimately, there are two "best outcomes" to the situation. Either 1) the county needs to provide the capital improvements necessary to guarantee adequate provision of fire flow pressure and potable water throughout its system, or 2) Pinehurst needs to take ownership of its municipal system, make the necessary improvements, and amend its Engineering Manual to require typically accepted construction practices for the provision of high quality water infrastructure. In the meantime, it doesn't seem prudent for the village to regulate a system that it does not own.

As long as this awkward situation persists though, there are some intermediate regulatory provisions that Pinehurst can enforce in order to clarify the village's role regarding the operation of the water and sewer systems. It is acceptable for the village to specify certain elements of proposed water and sewer systems if these elements directly impact village operations. Examples of this would include the type and location of fire hydrants and the location of sewer and water mains within the right of way. In the end though, it doesn't make sense for the village to comprehensively regulate a water system it does not own. The bottom line is Pinehurst needs to get in the water business or get out.

**Action Item 9: Work with the County to complete the hydraulic model of the water system to pro-actively identify low pressure zones.**

In the case of enforcing fire protection regulations, the village is handicapped by its municipal service arrangements with Moore County. Much of Pinehurst's current water delivery infrastructure is extremely dated, especially in Old Town, and much of it does not provide the fire flow rates necessary to comply with the state fire code. Since the water system is county-owned and serviced, the village is limited in terms of its ability to address these deficiencies, and it must guarantee adequate fire protection by other means. (See *Action Item 10*)

Because of this, there is clear a need for hydraulic modeling of Moore County's water system to guide the application of fire protection regulations in the village. A systemwide fire flow study is reportedly in progress, but it is still largely unknown exactly what areas have inadequate fire

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flow and what areas can currently serve development at an approved fire code pressure. Having the results of such modeling, calibrated using hydrant flow test data currently collected by the Fire Department, will allow the Fire Marshall and County Engineer to make accurate preliminary determinations regarding the required scope of water improvements necessary for land development/redevelopment at specific sites.

#### **Action Item 10: The development community needs to complete their due diligence obligations prior to first submittal, and the village needs to provide fire flow recommendations in the first review of project plans.**

Appendix B of the State Fire Code gives municipalities the ability to allow alternate methods of compliance in order to satisfy the normal standards of the state fire code when it is practically impossible or prohibitively expensive to meet those standards. Pinehurst needs Appendix B because of its fire flow issues. Without the adoption of Appendix B, development in many parts of the village would be practically impossible. Appendix B compliance however, is based on performance criteria that are inherently discretionary, and the application of that discretion through the village Fire Marshall has been problematic.

It seems as if staff has attempted to offer acceptable solutions within the discretion vested in the village through Appendix B, but since a county-wide fire flow study has not yet been completed, the Fire Marshall is “aiming at a moving target” in terms of how to apply that discretion. The village’s default position has been to require fire sprinkler systems in practically all development to guarantee adequate fire protection. Sprinkler systems have not been required by the village in all cases however, and the resulting inconsistencies in enforcement have been extremely frustrating for the development community, particularly because village expectations with regard to fire protection requirements are frequently not communicated until late in the process.

The problem is that the recommendations given by the Fire Marshall are either communicated to or interpreted by the development community as absolute requirements, or they are communicated too late in the process. From the project engineer’s or developer’s perspective the village is applying its discretion in an inconsistent, unfair, and overbearing manner. From the village’s perspective, the Fire Marshall is offering a range of flexible solutions on a case-by-case basis that will guarantee adequate fire protection and allow

development to continue in the village. The reality of the situation needs to be understood by all parties as a reflection of the latter, and ultimately this boils down to establishing more open and timely communication between the village (specifically the Fire Marshall) and individual project engineers. The village needs to make the fire flow situation very clear to potential applicants with each first contact, and recommend that designers provide ISO calculations to the village with their first submittal.

Given the widely known issue of inadequate fire flow provision in Pinehurst, the development community has also displayed a surprising lack of due diligence on their part in assessing the fire flow rates on potential development sites. Certainly some of the blame for the confrontations between village staff and the development community rests with this lack of due diligence on the part of designers and developers. Project engineers, designers, and developers working in Pinehurst need to be more conscientious of their due diligence obligations with regard to fire flow, and calculate ISO fire flow rates earlier than normal for typical projects to avoid costly surprises in later stages of development.

Again, the fundamental issue is neither staff discretion nor applicant negligence. It is the county’s substandard water system and the village’s lack of ability to improve it. This is the most critical long-term issue to address as the improvement of fire flow in the village will eliminate enforcement problems in the future. The ultimate goal should be to provide adequate fire flow so that Appendix B can be removed from the village code. Until then, three things will be necessary to address Pinehurst’s fire flow issues:

1. The hydraulic modeling of Moore County’s water system needs to be completed to more effectively identify deficiencies in the system. Once completed, this analysis should be translated and adopted as a local resolution identifying where additional fire protection needs are known to exist in order to guide more consistent application of Appendix B in Pinehurst.
2. Better communication between the Fire Marshall and project engineers is needed to clarify expectations from the village at the outset of development projects and avoid “surprises” at the 11th hour.
3. Better due diligence on behalf of the development community is needed to identify the fire flow needs of specific development sites prior to first submittal.



# 5 DEVELOPMENT PROCESS

**Action Item 11: Adopt a clearer development review process that, appoints a project manager to oversee individual applications, requires pre-application reviews for large/non-residential development, incorporates simultaneous review by the TRC, and allows staff to approve a variety of minor applications “over-the-counter.”**

## Process from Vision

Of all of the issues and concerns expressed during the stakeholder interviews, among the most prevalent was the current path to receive a permit. With few exceptions, this frustration is centered on those processes that require a level of review beyond staff approval. To summarize, nearly all involved in the review process – applicants, designers, village staff, citizen board members, and members of the public – consider the current process unpredictable, expensive, time-consuming, and in some cases, unnecessary.

Excessive process typically happens in the absence of vision. Pinehurst’s process is broken, but fortunately the village has a vision in place through the recently completed Comprehensive Plan. Village leadership needs to take the next step and translate that vision into a more effective development review process that encourages the type of high-quality, diverse, sustainable development that is described in the Comprehensive Plan. Rewriting the community’s rules and regulations, as discussed in Chapters 3 and 4, without fixing the fundamental procedural issues discussed here will not be enough.

## Current Process

The village’s current typical development review process for Site/Subdivision Plans is handled in the following manner:

- A pre-submittal “courtesy review” is conducted upon request by the developer with Planning Staff and some members of the Technical Review Committee if necessary. There is no established protocol to govern the depth and scope of those meetings.
- Seven sets of plans are required to be submitted to Planning Staff to be reviewed for completeness. Submittals are accepted on Wednesday afternoons only or by appointment.
- Plans are forwarded to the Technical Review Committee (TRC), Fire Marshall, and NC DOT (if necessary) for their independent review.

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- Comments are submitted back to staff and assembled before being given back to the applicant.
- This process continues until the plans are deemed to be in compliance by the TRC.
- Plans are then given to the Planning and Zoning Board for their review and recommendation.
- The project goes on to Village Council for a vote.
- If approved, the project moves on to construction, pending permit approvals from Inspections Staff, the Village Engineer, and the Fire Marshall.

If the submission is perfect and does not require multiple rounds of review by the TRC, the minimum length of time the process would take is 3 to 4 months. Anecdotally, it appears that the average timeframe is double that period.

### Streamline the Process

There are specific steps in the process that can be simplified or eliminated to streamline development review. In general, engaging in pre-submittal meetings and improving the village's project tracking system will be key components of an improved development review process moving forward. The following list includes other specific procedural items that can be implemented to eliminate inefficiencies without sacrificing diligence.

- The process is nearly the same for single-family development as it is for major commercial developments. An expedited process should be created for single-family and/or small developments that recognizes the limited scale and scope of these projects.
- TRC should be given the authority to approve Major Site and Subdivision Plans administratively. Because Pinehurst's review process is so heavily "front-loaded" toward review for compliance through the TRC, subsequent reviews by the Planning and Zoning Board and Village Council are unnecessary. Rarely, if ever, have applicants had to make any significant changes to plans after going through TRC review.
- The TRC should hold simultaneous review of development applications every two weeks. This will allow for a more collaborative discussion of the issues and concerns associated with each project and may help to reduce the need for multiple rounds of review on the same project. These reviews should be relaxed and conversational in nature, and should be oriented toward individual applications spread across a table. The reviews

should include a small number of people who are capable of speaking for the whole. At a minimum, they should include an urban/environmental planner, an engineer examining the provision of utilities and fire protection, and an engineer examining the provision of roads and stormwater infrastructure.

- Too many uses require a Special Use Permit (SUP). This process has very little predictability for applicants and compromises staff time that could be better spent elsewhere. Instead of SUP's, the Village should consider allowing more uses by-right with appropriate Supplemental Use Standards.

### Pre-Submittal Meetings

The village's current "courtesy review" procedure has not been an effective way to approach pending development applications. Frequently these meetings, if they are conducted at all, do not involve the Fire Marshall, Moore County Public Works (water and sewer) representatives, members of the TRC, and/or members of the Planning and Zoning Board, and therefore, have not accomplished as much as they should in terms of generating useful information.

Staff has been reluctant to engage in pre-submittal meetings with a large number of parties at the table, partially to avoid a "design by city" scenario. Developers/applicants have also been reluctant to utilize the courtesy review process to its full extent. When utilized correctly however, pre-submittal meetings can elicit a great deal of useful information from a variety of parties. This in turn helps to avoid multiple rounds of plan submittals, reducing cost for the developer and saving time for village staff.

Stakeholders have reported that pre-submittal meetings typically feel like bargaining sessions or making a final argument in front of a jury as opposed to a more relaxed discussion about general issues. Plans at the pre-submittal stage should be conceptual, not engineered to a significant degree. As a result pre-submittal meetings should be conversational and collaborative, not overly critical. Pre-submittal meetings are simply a "blink test" - an opportunity for village staff to express any concerns they might have about a specific project or site at the outset of the process in order to clarify the village's expectations and help avoid any big "surprises" in later stages of the process. All parties should keep this purpose in mind and approach



these kinds of meetings with an attitude that reflects these preliminary intentions.

Discussing expectations for development up front, instead of waiting for construction drawings to be delivered, helps to ensure a more predictable process for the applicant and a better end product for the village. At the same time, the local development community needs to realize that there are certain unforeseeable and site-specific circumstances that arise in every project which may require additional engineering and design. Again, addressing these issues should be a collaborative and conversational process between the village and the property-owner/developer.

Finally, the village should investigate requiring pre-submittal meetings for certain kinds of development projects. While it is likely not as necessary to hold pre-submittal meetings for small single family residential projects, the village may want to consider mandating pre-submittal meetings for all multi-family development, commercial projects, and even single family projects over a certain size. The more complex the project, the more likely a pre-submittal review will serve as a useful preliminary tool to clarify and communicate development expectations to applicants and keep village staff apprised of development agendas.

To summarize, pre-submittal meetings should:

- bring more relevant parties to the table,
- be conceptual and conversational in nature,
- be conducted with the goal of avoiding any big surprises at later stages of the process, keeping in mind that it is impossible to foresee all issues that might be problematic for developers, and
- be required in development applications beyond small single family projects.

**Action Item 12: Investigate the use of an online portal or easily accessible project tracking sheet that would allow applicants and/or staff to monitor the status of individual projects.**

Ideally the development review process, from pre-submittal meetings to the issuance of a certificate of occupancy, should be guided by a staff member who can follow up on the status of an application and communicate that status to the applicant upon request. In effect, Pinehurst’s existing development review process assigns this role to a single staff member, the Senior Planner. While this arrangement is being handled well by the Planning Department, it means that one person is responsible for tracking all of the projects across the

department. When the village is processing a large number of applications, this breadth of responsibility assigned to one person can, at times, preclude familiarity with individual projects and create uncertainty. If this occurs, the impression given to applicants is that their plans are shuffled across various desks during application review without any broader sense of direction or knowledge of where their project stands.

A project tracking log or online portal would help to clarify any uncertainty about project status. The village should investigate the use of an online portal which would allow applicants to track their project/permit through the process. Ideally this portal would also provide basic information on the development process, typical application timelines, and the ability to search the PDO and Engineering Manual for specific rules and regulations. Although ideal, this kind of tool may be costly and cumbersome for a small community to purchase, administer, and manage. Simply having a project tracking log that any staff member can access in order to update and check on project status may be sufficient.

A typical project approval calendar describing when staff responses will be given along the way should also be established by the Project Manager and discussed with the applicant at the outset of each project.

**Action Item 13: Relax/amend plan submittal requirements to focus primarily on the “horizontal” design elements of development, and allow digital-only submissions where possible.**

Based on our review of the TRC process, staff comments, and input from the development community, Pinehurst’s current submission requirements are excessive, though we have seen many cities and towns move towards similar “front loading” of submittal requirements. Far too often, applicants are expected to submit a large number of plan sets with most architectural and engineering elements finalized. As a result, applicants are spending an excessive amount of money on “highly engineered conceptual plans” before any sense of an approval. Or, perhaps worse, plans may be approved but with a number of changes that necessitate significant additional engineering expenditures prior to the start of “final design.”

It is our opinion, with experience as planning administrators, project designers, as well as chairmen on local development review boards and commissions, that a Schematic Design

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set or, at most, a Design Development set (both common pre-construction documents phases in the design industry) are perfectly sufficient for most plan reviews. In essence, this submission package is inclusive of only the “horizontal” design elements of a development along with some demonstrated consideration given to ensure that the site will be engineered in close approximation to what is presented. Generally speaking, this also means that the use of topographic detail and aerial photography available from either the village or the county is sufficient base detail, particularly if corroborated with a site visit by a staff member.

In addition, the volume of paper required to navigate the development review process is excessive. According to Appendix C of the PDO and Section 1.02 of the Engineering Manual, the village currently requires

- 3 sets of plans for initial courtesy review by Planning Staff
- 7 sets of plans for TRC review
- 3 sets of all Major and Minor Subdivision plans for review by the Village Manager
- 14 sets of Major Site and Subdivision plans for review by the Planning and Zoning Board
- 10 sets of Major Site and Subdivision plans for review by Village Council
- 5 sets of all approved plans to be filed with village
- 5 sets of all Construction Plans in first and second (and any necessary additional) submittals

Not only are these printing requirements excessive, but due to the method of independent review that the TRC currently utilizes and the multiple rounds of review that it can lead to, an even greater burden is placed upon applicants and staff alike in terms of time and cost spent printing plan sets and navigating the process.

The village is currently in the process of allowing “slip sheet” resubmittals instead of full resubmittals for minor changes. This will allow applicants to resubmit only those sheets that require changes for minor resubmittals and will be a positive change in terms of reducing the volume of paper necessary to navigate the process.

In addition to “slip sheet” resubmittals, the village should consider allowing more submittals to be done digitally (“.pdf” format) to expedite the process, ease printing costs for applicants, and reduce the volume of paper stored at Village Hall. Further efforts to green this process might include experimenting with the provision of iPads or similar

tablet computing devices to board members as nearly everything can be submitted in PDF format.

We also feel it necessary to comment on the requirement to submit final plans in mylar. In the digital age, mylars are no longer necessary in the profession. It has been more than 10 years since our office, which practices both architecture and landscape architecture, has been required to submit a mylar copy. Granted, most mylars are often submitted by surveyors but I suspect if you polled them they would note that this is in fact an anachronism.

Lastly, there are two submittal checklists for most plans, one on the application packet and another in Appendix C of the PDO itself. These should be consolidated to eliminate conflicts and published in a single location.

**Action Item 14: Consider elimination of single-family reviews outside of the historic district. Instead, utilize the Community Appearance Commission for design review of multi-family and non-residential development.**

### Design Review – Community Appearance Commission

The role of the Community Appearance Commission (CAC) is to enforce the Architectural and Building Design Standards for single family homes found in Section 10.2.6 of the PDO. There is a legitimate question as to whether single family reviews are a necessary protection of the public realm in Pinehurst or if they simply add another layer of redundancy to an already cumbersome process. It is our opinion that the reality of the situation is somewhat closer to the latter conclusion.

CAC review of single family development in Pinehurst is largely unnecessary for two reasons. First, most single family units in Pinehurst are already governed by the stipulations of their respective neighborhood homeowner’s associations (HOA’s). The architectural review boards of neighborhood HOA’s are typically far more restrictive than the requirements enforced by CAC’s. Second, Planning Staff conducts a preliminary review of development applications upon submittal, which is supposed to including a check for compliance with basic appearance standards. Given these layers of redundant approval, it is not clear what value the CAC review adds to the review process.

It would be more appropriate to mandate this level of scrutiny for multi-family, commercial, mixed-use, or large

single-family residential developments. The village should consider abandoning CAC review of single family homes and utilize that process for more intense development.

### Design Review – Historic Preservation Committee

In general, the Historic Preservation Committee (HPC) has been an important tool for the village, but has been a confusing and time-consuming process to navigate for applicants. Because the committee meets only once a month, the historic preservation approvals process, especially if multiple rounds of review are required, can substantially delay a project and create costs. We recognize that the HPC is staffed on a volunteer basis, but the impact that it has on project timelines can be significant, and it should be more responsive because of this. The minor works designation in the historic district approvals process should also be expanded in order to streamline the approval of minimal alterations/additions beyond just “normal maintenance.”

Another problem with the historic preservation ordinance is that it does not specify the route that applications should take when they are subject to reviews by HPC, homeowner’s associations (HOA’s), and the Community Appearance Commission (CAC). The village needs to work with neighborhood HOA’s to establish a hierarchy that allows HPC review pursuant to approval from the pertinent HOA or vice versa. It should be stated that, in the event of any conflicting requirements, HOA’s are bound by the requirements of the HPC or CAC.

Finally, similar to the PDO, a simplification of the procedures and requirements for historic districts would help to make enforcement more predictable, timely, and consistent. The requirements should focus primarily on substantive changes to those elements that directly impact the public realm. Outward architecture and aesthetics of landscape are especially important.

**Action Item 15: Ensure that that staff maintain a courteous and professional customer service ethic, avoid apparent conflicts of interest, and give them clear direction of how to manage public interaction.**

### Customer Service Ethic

Historically Pinehurst has been a fairly insular community. Even when compared to other small resort communities, Pinehurst has had an atypical aversion to change and an adversarial attitude toward new development. One of the most troubling and repeatedly cited issues in the stakeholder

interviews was that village staff has come to embody this attitude and lacks a courteous and professional customer service ethic.

It is not uncommon to hear these kinds of grumblings from a handful of property owners and/or developers during stakeholder interviews of this nature, and if that kind of scattered criticism amongst the development community was the case in Pinehurst, it would not be worth mentioning in this report. What is uncommon and troubling, however, is the nearly unwavering and pointed criticism directed at village staff regarding their administration of the development process.

### Process Administration by Staff

Almost without exception the stakeholders interviewed characterized their interactions with certain village staff as unfriendly, unhelpful, and unprofessional. It is not the purpose of this report to identify specific individuals or instances where a lack of professionalism has been an issue. This is not a performance evaluation or an employee audit. We would be remiss however, in not addressing this issue within the context of a broader evaluation of the development process as it is currently administered in Pinehurst.

Part of this issue is almost certainly caused by the existing encumbrances and difficulties that staff is handicapped by in terms of the day-to-day work of enforcing an overly-complex and inconsistent set of development regulations. Unfortunately though, a large part also seems to be an unacceptable lack of customer service ethic among village staff in working with the development community. This can be avoided!

The following are some key principles that staff should adhere to when approaching interaction with the public and the administration of the development review process.

- Don’t use the complexity and stringency of the PDO and Engineering Standards as a crutch to support regulatory minutiae that don’t make sense. Instead, assure developers/property owners that the village is examining its rules and regulations to allow for more contextually appropriate application and improved clarity, and note specific standards that are likely candidates for change based upon the input of the development community.
- When development issues inevitably arise, the staff needs to embody an ethos of “this is what we can

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do to solve the problem,” as opposed to simply, “no you can’t do that.”

- Face-to-face meetings are essential for a helpful collaborative process, and are most useful when all relevant parties are allowed at the table.
- Make time to engage the development community through personal meetings and site visits to help work through issues.
- Return phone calls and e-mails within 24 hours.
- Recommending against the use of certain engineering/design firms in the preparation of development applications, site plans, etc., is inappropriate and, under the right circumstances, can constitute a serious conflict of interest. Such practice, if it is indeed taking place, should stop immediately.
- Similarly, the recommendation of specific vendors/contractors/firms to be used for engineering services, construction services, etc., can be construed as a serious conflict of interest. Unless specifically asked, this is an inappropriate role for village staff to take. Instead, create a list of vendors/engineers who have worked successfully with the village in the past. This is simply a precaution against the perception of impropriety, but especially given the discretion that village staff is vested with in enforcing the various codes and standards.
- Be mindful of the sensitive nature of development schedules and identify issues in a timely manner.
- Utilize pre-application courtesy reviews to clarify any concerns and expectations that the village has with regard to specific development agendas and sites. The goal should be to avoid costly “surprises” later in the process and establish a cooperative professional relationship from the outset.
- The customer is not always right, but a courteous and professional customer service ethic should be extended to everyone.

### Village Leadership

Staff administration of the process begins with leadership from the Village Council and Village Manager. The strict ordinances and standards have likely been the result of Village Councils who were much more focused on very slow growth policies with the support of vocal anti-growth members of the general public. Whether intentional or not, staff’s approach towards the administration of the development process may simply reflect that general direction from their supervisors.

In order for the necessary sea change to occur with regard to the village’s approach and administration of the development process, village leadership (specifically Village Council and the Village Manager) needs to provide proper direction and guidance to staff that is more representative of the development attitudes expressed in the Comprehensive Plan (again, see discussion and recommendations from *Chapter 2*). Insularity can no longer be bred from the top, and the reflection of such attitudes at the staff level can no longer be tolerated by village leadership.

### Action Item 16: Engage the development community through a development council and regular updates/forums.

The development community is certainly not blameless in the recent history of poor interaction either, and will need to approach interaction with staff in a less confrontational manner moving forward. In general, improved interaction between the village and the development community is a “low-hanging fruit” that can and should be addressed immediately, and it needs to start with clear guidance and accountability from village leadership.

As much as anything, the delivery of this report signifies a chance for the village to step back and “hit the reset button.” The development environment in Pinehurst has been a particularly contentious one over the past several years, and no one is free from blame. Village leadership, village staff, property owners, developers, engineers, and designers have all had a hand in bringing the village to where it currently stands. This report represents an opportunity for all of these groups to reassess how they approach the development application and review process in order to establish a development environment that is responsive to the needs of all groups involved and supportive of the greater public good of the Pinehurst community.

One way this could begin is through the establishment of a development council/forum where village leadership, staff, and the development community can discuss problems with the current process without getting caught up in the specifics of individual projects.

The Technical Review Committee is currently holding quarterly builder meetings, but clearly there is a need for a more interactive discussion between the village and the development community. A more regular development forum, attended by representatives from multiple levels of village government, could provide an ideal outlet for



gathering public input and reaching a broad understanding as the village seeks to make necessary improvements to its development regulations and process. This “Pinehurst Guild” could also serve as an advisory council for the needed PDO code upgrades mentioned previously.

**Action Item 17: Village leadership should provide clear guidance about how to engage the public in the development process so that a broad group of stakeholders has the opportunity to give meaningful and effectual input.**

**Development as Entertainment**

Relative to state and national norms, Pinehurst has a very educated population<sup>1</sup> and a relatively high number of retirees.<sup>2</sup> This amounts to a large number of very talented and capable people in Pinehurst who are willing and eager to volunteer their time for the benefit of the community. It also means that Pinehurst has a somewhat unique condition of extraordinary involvement and interest from the public within the development process.

As part of our assessment we conducted a series of individual and small group stakeholder interviews. During our stakeholder interviews a local developer summarized this issue of extraordinary involvement well by paraphrasing a community member who had approached him after a particularly animated public meeting and said, “Don’t worry too much about all this commotion. After all, you’re really just entertainment for us.” It’s not likely that this attitude is truly reflective of public sentiment toward development issues/applications in Pinehurst, but it does warrant a discussion about how the extraordinary level of public involvement in Pinehurst can be most effectively utilized as a tool for the guidance and well-being of the community.

**Encouraging Public Input**

Public involvement should be encouraged regardless of individual motivation, but it should be carefully directed to those portions of the development process where it is most appropriate and useful. Pinehurst, like many communities, has struggled in this regard, and too frequently public involvement has handicapped the development process as opposed to contributing meaningful oversight.

<sup>1</sup> 49.9% of Pinehurst residents have a bachelor’s degree or higher, as compared to 22.5% in NC and 24.4% nationally. (census.gov. US Census 2000)

<sup>2</sup> 42.2% of Pinehurst residents are over age 65, as compared to 12.0% in NC and 12.4% nationally. (census.gov. US Census 2000)

Too often in Pinehurst, public input has been invited without any notion of predictability. The village seems to genuinely want to engage its active populace but has not done so effectively. In general there are three types of proceedings in development issues: administrative, quasi-judicial, and legislative. Public input is not necessary in administrative issues because of the narrow guidance that is typically provided by municipal ordinances in their oversight. Public input is permitted in quasi-judicial proceedings but is subject to the narrow constraints necessary to establish “findings of fact” in a discretionary review. Typically, public input is most beneficial in legislative processes (e.g., rezonings, the adoption of plans and policies, text amendments to development ordinances, etc.) because of the open discussion permitted about the merits of legislative actions.

Trying to solicit broad public input in instances beyond legislative proceedings can foster the misconception that all development decisions are in the community are handled through a de facto public referendum and creates unrealistic expectations for public control over the development process. If the public is invited to give input in any sort of development review/hearing, they should have a reasonable expectation that their input can change the outcome of that proceeding. This is rarely the case in quasi-judicial proceedings, but if candidly sought, can frequently be the case in legislative hearings.

Accessibility of public hearings is also an important consideration that Pinehurst should readdress. For example, because most Village Council, Planning and Zoning Board, Historic Preservation Commission, and Community Appearance Committee meetings are held during the day, they are not accessible to many working people in the community. Whether intentional or not, the outcome of this schedule is that Pinehurst’s retirement community has more opportunity to chime in than working professionals and young families. In general, public input is most useful when it is sought in a legislative hearing held at a time and location that is accessible to a broad group of stakeholders, and when the input stands to meaningfully support council in reaching a reasonable conclusion of what is best for the good of the community.

**The Role of Village Council**

Village Council has been discerning in its recognition that Pinehurst’s development climate is unhealthy and its development review process is broken. The current

## five: development process

council's sensitivity to this issue is an encouraging first step toward distancing the village from an insular identity and a recent history of poor interaction with the development community. The Village Council will continue to play a significant role within the development review process, and needs to be willing to take additional steps to help clarify its role and distance itself from the legacy of previous councils with regard to the regulation of development.

In particular, Village Council should be wary of its leadership role in terms of directing staff (through the Village Manager), implementing the adopted Comprehensive Plan, and making necessary amendments to the PDO and Engineering Standards. Council will need to guard against the propensity of prior councils to bow to pressure from vocal minorities. The issue of vocal minorities may be particularly deceptive in Pinehurst because of the extraordinary amount of public involvement that the village receives with regard to development issues. Certainly this is not to say that all vocal support/opposition of issues that come before council is the product of a "vocal minority." It is simply a recognition that development issues can be very provocative, and the loudest supporters/detractors are not always representative of the good of the community.

In general, Pinehurst cannot be an anti-development community and succeed in the future global marketplace. Although the rich history of Pinehurst is aligned with the rise of the golf industry and a lifestyle that appeals to current retirees, that market may not continue to sustain the community in the future. Despite the objections of some outspoken citizens in Pinehurst, Village Council needs to acknowledge this and proceed accordingly by encouraging sustainable, diverse, high-quality development. The Comprehensive Plan calls for a similar approach and council's role in the development process should support it. In general, council should follow these guidelines in dealing with development issues.

1. Give staff clear direction in how to approach the day-to-day administration of the development process, then trust staff and appointed boards when they deliver recommendations.
2. Understand that certain decisions which support the greater good and diversity of the community can amount to an undesirable burden for specific individuals.
3. Weigh public input vs. what the community needs to do to stay relevant and healthy.
4. Utilize the guidance provided in the Comprehensive

Plan and expand upon it.

5. Take proactive steps to encourage the kind of development and community improvements that the village wants to see emulated throughout the community.

These guidelines for council action assume that the community has clear, simple, contextually-appropriate regulations and a coherent, expedient review process in place. Since this is not currently the case in Pinehurst, council should continue to lead the effort to resolve this situation by making necessary changes to the PDO, the Engineering Standards and Specifications Manual, and the development review process.



# A STAKEHOLDER INTERVIEWS

On January 24th - 26th, and February 8th, 2011, the Lawrence Group, along with engineering consultants from Fuss & O'Neill and Hatton Associates, conducted a series of seventeen stakeholder group interviews in Pinehurst. In addition, the Lawrence Group conducted 8 private phone interviews with community stakeholders. In total, more than 70 individuals contributed their input to the stakeholder interview process which was intended to solicit general perceptions, comments, and recommendations on the current development review process in the Village of Pinehurst. While village staff members were present at some interviews, they were intentionally excluded from others in order to ensure that the participants' commentary was not inhibited or reserved in any way.

The participants in the interviews represent a broad cross-section of community stakeholders affected by development review process in Pinehurst, including representatives from the planning and engineering staff, other senior staff members from related village departments, the Village Attorney, elected officials and city leadership, local institutional leaders, design and engineering consultants, architects and land planners, neighborhood leaders, business leaders, developers, property owners, and members of citizen boards.

The notes on the following pages are the cumulative commentary that was collected during those interviews as well as additional commentary that was submitted following to those meetings. The information has been sorted for easy review and collation with the recommendations within the Diagnosis Report.

## PINEHURST DEVELOPMENT ORDINANCE

- The requirements of the PDO are confusing but no more stringent than most ordinances.
- The standards have been built up in layers in an effort to preserve the ambiance of the village but have become very convoluted as a result.
- The PDO needs to be cleaned up to clear out the old and confusing elements.
- The tone of the PDO seems to imply a degree of flexibility that is not met in its enforcement.
- The expectation of the PDO and staff is that design teams should have enough knowledge and expertise to work their way through the village's development regulations. This is not unreasonable, but there should also be some recognition of the PDO's complexity and the confusion that it tends to create.
- Village landscape requirements conflict with US Fish and Wildlife threatened species requirements.
- Developers "don't know what the rules are" from project to project because of inconsistent staff enforcement of the PDO and Engineering Manual.
- The signage regulations/approval process is unclear.
- The regulations haven't led to better development outcomes. Old Town was developed without any local development regulations in place, but it's the best part of town. A lot of the new development is monotonous and unattractive but meets the regulations.
- The tree survey removes more trees than it saves because it requires a "line-of-sight" survey, meaning lots of smaller trees have to be cut down to preserve the large ones. Developers want to save more trees but can't because of the tree survey has to be conducted.
- The PDO should be online and "searchable" so that specific regulations can be quickly referenced.
- When an amendment to the PDO is made, there should be a "sunset" date placed on it, so that it has to be revisited every so often to make sure it is working.
- The village needs to be more nimble in accepting incremental changes to simplify the PDO in the short term instead of waiting for a comprehensive rewrite.
- The same rules apply regardless of the size and cost of development.
- The village needs to consider more contextually-based requirements, especially with regard to landscaping and building form. Different areas of town should reflect different characters.

## ENGINEERING STANDARDS

- The village adopted water infrastructure standards in

anticipation of taking over their own system from the county, but that hasn't happened and doesn't seem likely to in the near future.

- The village is trying to regulate its way out of a fundamental problem with substandard water infrastructure. As long as the county owns the water system this is impossible for the village to manage.
- The legacy of poor infrastructure (especially streets) that the DiamondHead developments left the village with has resulted in extremely strict standards to prevent similar situations, but they are excessive.
- The standards in the engineering manual are tougher than most other communities in the state and NCDOT.
- The application of curb and gutter requirements is not consistent and constantly frustrates developers.
- There are lots of situations that the manual doesn't cover and are therefore left to the interpretation of the Village Engineer. When this happens the village typically defaults to the most expensive, "gold-plated" standards. This is unnecessary.
- There is no real discussion about Low Impact Development techniques.
- The manual requires a pre-construction that is not always worthwhile because planning/inspection/fire departments aren't involved.
- Village stormwater requirements conflict with DOT requirements.
- The standards are a mystery to council and most staff and so they have to defer to others to enforce and hope that the manual is being implemented correctly. Simplifying the standards will provide more transparency and oversight.
- There is too much discretion allowed in stormwater rules. There is no guidance given for when BMP's should be used.

## UTILITIES AND NC STATE FIRE CODE

- The county is responsible for inadequate fire flows in the village which is creating a myriad of problems in the village's development review process.
- The county wouldn't allow the village Fire Marshall to test the hydrants for a period of 3 years. As a result, the village was "shooting blind" with regard to its fire protection enforcement.
- The Fire Marshall needs to be involved much earlier in the process. The village has had a habit of requiring residential sprinklers in the eleventh hour.
- It is unclear when the Fire Marshall is supposed to be involved in the process.



- There have been several recent projects that were allowed to move forward to 100% construction drawings before the village stepped in and delayed/ blocked them due to fire flow concerns.
- Why are projects allowed to move forward if fire flow is known to be such a concern? The Fire Marshall should be involved in pre-application courtesy reviews, or definitely pre-construction meetings.
- There is no consistency in the enforcement of fire requirements, particularly sprinklers.
- The village's development requirements, in particular the fire protection requirements, are preventing older buildings downtown from being redeveloped and used.
- County's view of the water utility has historically been that they are only a potable water system and are not responsible for supporting fire protection. This has changed recently and the county seems more amenable to working with the village to make the investments necessary to guarantee adequate fire flow, but it is still a huge problem.
- The water infrastructure in Old Town is particularly bad.
- Development is locating in Southern Pines as opposed to Pinehurst because of the confrontational process and fire protection regulations.
- Because of the village's adoption of Appendix B in the State Fire Code, there is no accountability or mechanism to hold the Fire Marshall's discretion over the application of fire regulations in check.

### PLANNING AND ZONING BOARD / BOARD OF ADJUSTMENT

- The Planning and Zoning Board feels that the staff is easy to work with and does a great job of getting them enough information to make confident recommendations.
- There is some frustration amongst the Planning and Zoning Board that their recent recommendations have been ignored by the Village Council. The Board feels that that they are providing recommendations based on the PDO, and the Council is ignoring them in order to appease vocal public opposition.
- The Planning and Zoning Board feels that there is some futility in what they are doing if Council is just going to ignore their recommendations whenever any contentious issues arise.
- Politics are too involved in the development review process. "If you meet the ordinance your project should be able to move forward without village interference."

- Boards feel that the PDO needs to be simplified to shorten review process and clarify the development requirements for everyone involved.
- The order and number of reviews required for applications seems excessive, and the process is burdensome. Why does it cost \$100 to approve a small sign?
- Planning and Zoning Board is divided in terms of their personal notions of development in Pinehurst (e.g., pro-development vs. anti-development).
- Landscaping is the most important streetscape element to regulate because it ties everything together.
- The Board of Adjustment only meets once a year now. Can their function be rolled into something else in the process?
- Developers have no problems with boards and commissions.

### TECHNICAL REVIEW COMMITTEE

- The TRC meets monthly for project updates but doesn't conduct simultaneous reviews at those meetings.
- Why are comments on plans submitted back to staff separately instead of having a meeting to discuss and reach consensus on the issues that need to be addressed.

### HISTORIC PRESERVATION COMMITTEE

- Pinehurst's development rules and regulations are more focused on historic preservation than most communities.
- It's important the community maintain its unique aesthetic element, based primarily on the New England village look.
- The committee needs to be more responsive. They only meet once a month which can delay projects 30 to 45 days.
- HPC process is tedious and takes too long.
- The committee is too formal given the procedural nature of their reviews.

### COMMUNITY APPEARANCE COMMISSION

- CAC review of single family homes is unnecessary.
- The reviews take about 3 weeks to complete.
- Most single-family reviews are redundant because of either Historic Preservation review or individual homeowner's association reviews.
- The council almost took the CAC out of the single family review process about 1.5 years ago but got cold feet.
- If the village can't do away with single-family review they

## appendix a: stakeholder interviews

need to figure out how to make it more manageable and productive. Maybe require review only for those homes that don't fall under existing homeowner's association review.

### VILLAGE COUNCIL

- Previous councils were much more difficult to deal with in terms of event permitting.
- Council tends to bow to vocal anti-development minorities. Prior councils especially seemed to be anti-development leaning.
- Current Council has tried to be clear, predictable, and transparent with everyone.
- Council is too involved in the details of the development process. The Planning and Zoning Board has essentially become a rubber stamp because council is so involved in individual projects and essentially runs the development process.
- Development in Pinehurst is "entertainment" for the retirees and council gets too caught up in their games.
- The council recognizes that addressing fire flow issues and establishing contextual development standards in certain areas are priorities.

### STAFF CUSTOMER SERVICE ETHIC

- The relationships of some staff with the development community are very positive while others are categorically negative.
- Staff maintains a good relationship with certain organizations and individuals but struggles with others.
- In the past the Engineering Staff has been unpredictable and extremely difficult to contact.
- Phone calls and e-mails are returned in a timely manner by most staff.
- Inspections staff is typically prompt, friendly, and helpful.
- Some staff personalities have been very dominant and uncooperative.
- Staff tactics were frequently cited as adversarial, intimidating, and demeaning. There is a lack of a customer service ethic.
- Staff refuses to have site visits or face-to-face meetings to help work out issues in the field.
- The culture/ethic among certain staff is adversarial as opposed to accommodating. The attitude always seems to be, "No you can't do that," as opposed to "This is how we can fix that issue."
- Staff has specifically recommended against the use of certain engineering and design firms. Because of this

there is a perception of staff extortion/coercion against certain applicants.

- Staff is "selling out" local firms by recommending that they shouldn't be used. This is an inappropriate conflict of interest.
- Council held a roundtable in 2009 about improving the development process. People that spoke up at those meetings suffered retribution later from staff – i.e., staff telling people not to use the engineers who spoke up.
- The departure of the previous Village Engineer has given the village an easy scapegoat for their problems with the development community, but the staff problems are still very much an issue.
- Builders/developers/property owners are scared of retribution from village staff if they speak up about problems.
- Certain staff personalities involved throughout the development process are the biggest problems to address and they aren't being held accountable by village leadership.
- Some staff have personal hang-ups and quarrels about who they will deal with, over the phone or otherwise. Necessitates using contractors as third parties to help negotiate the process and slows everything down.

### PROCESS AND PROJECT TRACKING

- The development review process is much more onerous than in other communities and typically takes about 5 hearings to get any significant project through.
- Nothing in the process is easy. Irrespective of the requirements in the PDO, it seems like everything in the process is designed to make it difficult to get an application through.
- The village's arduous process doesn't seem to be achieving anything better from the development applications they receive. It's just process for the sake of process.
- Kickoff meeting between the development team, planning staff, and engineering staff would be very helpful.
- Subsequent meetings to follow up on project would also be helpful, especially if development and construction team would be allowed to meet face-to-face with planning staff and members of the TRC.
- The process is so inconsistent between projects that you never know when you'll receive comments back.
- The process needs to be more consistent in order to budget projects accurately. The only predictable aspect of the process is that it's always frustrating.

- The process is extremely unpredictable because staff interjects additional requirements at every step. It's impossible to budget a project or estimate when a Certificate of Occupancy will be granted.
- Sometimes staff will request additional information in subsequent reviews that result in new comments to address.
- Staff is seeing a lot of "design by city" applications where designers submit plans knowing that they will get extensive edits and feedback from village.
- The process for getting a Temporary Certificate of Occupancy is unclear and very confusing.
- There's no one in charge of specific projects – no project coordinator. It seems like applications and drawings just get shuffled across people's desks and it's impossible to know where you stand in the process.
- There is no system for tracking permits or applications. This is especially difficult for large projects. Durham, NC has a nice system that could be examined for use in Pinehurst.
- The process for planning and zoning approvals and engineering approvals are uncoordinated and make managing projects very difficult.
- Assigning addresses is still an issue that creates a lot of confusion and needs to be coordinated better with all of the utilities.
- The process doesn't allow for enough staff approval of minor applications/revisions.
- The scheduling of public hearings and council meetings is slanted toward the retiree demographic in town. They are typically held during the day which doesn't allow working folks and families to attend.
- Submitting applications requires two checks to be written for fees to two separate people, and neither of those people can accept the plans/drawings. So to submit one basic plan involves 3 or 4 different people.
- A perfect Site/Subdivision Plan would take 3-4 months at a minimum to review and approve, but 8 to 9 months is a more typical timeframe given the comments and issues that need to be addressed on every application.
- Other communities have a 3-day turnaround on minor submittals. Why can't Pinehurst.
- Staff can't use common sense to enforce the process because it is set up in a nonsensical way.
- Why can applications can only be submitted at a certain time?
- Why do all changes, regardless of scope, require a complete resubmission?
- Why do plans have to be folded instead of rolled?
- Why are 7 copies of the application needed for review?
- As-built drawings have to be submitted digitally, on mylar, and on bond. Why do they need three different forms of as-builts?
- There are two application requirement checklists, one on the application cover page and one in the PDO. This needs to be clarified.
- There needs to be a master checklist for development applications with an associated schedule of development that helps guide everyone through the process.
- There is almost no difference between the requirements for Major Site Plans and Minor Site Plans. Why have a Minor Site Plan process if it's not going to be easier to manage than a Major Site Plan?
- Projects are required to be almost completely engineered prior to first submittal. This is excessive and implies a huge cost/gamble on the part of the developer.

### OTHER COMMENTS

- The village needs quality growth to survive. It can't be just a resort community forever. The ability to support the community on that lifestyle alone is dwindling.
- Quality growth doesn't mean only \$1M houses. There should be a variety of options.
- The majority of citizens in the village are pro-growth because they perceive that the village is dying. The anti-growth folks are a vocal-minority that has undue influence with village leadership.
- There is not a lot of pro-development sentiment around the community. They are a vocal minority.
- The building permit process has improved dramatically in the past 3-4 years.
- The village needs to decide what it wants to be in a regulatory sense. The 2010 Comprehensive Plan provided a vision that the current regulations don't support.

### PLAN SUBMITTAL REQUIREMENTS

- The submittal requirements are unnecessarily complicated and stringent and communicate an unhealthy anti-development message.

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## B COMPREHENSIVE PLAN STRATEGIES

The following actions/tasks from the “Implementation Element” of the Comprehensive Plan have been included based upon their relevance to the development application and review process. They have significant implications for the enforcement of development regulations and the administration of the development review process in Pinehurst moving forward. Many of the included actions/tasks identify the Planning and Inspections Department, the Planning and Zoning Board, or the Village Engineer as the leading entity responsible for implementation.

Of these relevant tasks, many have a target date for completion of either May or December, 2011. Since this analysis is an opportunity to step back and reassess Pinehurst’s approach to the development review process, it is also an appropriate time to revisit these implementation actions/tasks and ensure that the village is moving ahead with them according to the prescribed target dates. The village should review the Implementation Guide in the Comprehensive Plan to ensure that the actions/tasks related to the development review process (specifically those tasks assigned to the Planning and Inspections Departments, the Planning and Zoning Board, and the Village Engineer) are being completed.

Task #	Action Item
<b>Overall Implementation</b>	
A.2	Use the Plan as a reference when reviewing development applications.
<b>Character/Ambience</b>	
A.2	Maintain strong design controls in the Village Center area.
A.5	Encourage / require the maintenance / enhancement of landscaping on private property within the Village Center.
A.10	Revisit uses allowed along major corridors.
A.12	Modify the PDO to require berms, landscaping, and/or walls / fencing along major road corridors to screen parking lots, loading docks, storage areas, etc. from adjacent roads.
B.6	Review and revise the PDO to ensure that it requires extensive landscaping within developments and along streets.
C.6	Seek ways to provide incentives for property owners to improve / restore structures.
C.8	Establish a design review process to guide business development in Pinehurst.
<b>Image/Reputation</b>	
A.1	Promote the image and reputation of Pinehurst as a desirable place - locally, regionally, nationally, and internationally.
A.2	Establish a positive and supportive image of the Village of Pinehurst and its local government programs.
<b>Open Space</b>	
A.1	Reinvigorate and accelerate efforts to build additional trail sections as part of a comprehensive greenway system in Pinehurst.
B.1	Encourage the preservation of more open spaces in Pinehurst - both planned and natural.
B.3	Modify the Pinehurst Development Ordinance to promote (or require) conservation development patterns in the ETJ area in order to ensure significant open space is reserved as part of any development in the ETJ area.
B.4	Modify the Pinehurst Development Ordinance to promote (or require) provision of a "greenbelt buffer" as part of open space developments on the perimeter of Pinehurst (similar to the viewshed protection language currently in the PDO).
D.1	Connect greenway trails together, including connections to greenway trails in other communities.
D.2	Connect open space areas together to enhance the overall open space system.
<b>Natural Resources</b>	
A.1	Continue to protect water features, wetlands, and floodplains.
A.2	Maintain the quality of water supplies through available means, including the wellfield protection program.
A.4	Adopt regulations that will promote conservation development patterns and help protect sensitive natural resources.
A.6	Require greater setbacks to waterbodies, watercourses, and wetlands.
A.8	Continue to address and manage erosion problems.
B.2	Promote or require stormwater infiltration on private property through infiltration basins, recharge basins, and rain gardens.
B.3	Limit the use of sprinkler irrigation systems.
B.4	Continue to regulate (or prohibit) the installation of private irrigation wells.
B.5	Recommend (or require) planting with species that require lower water use to minimize irrigation needs.

Task #	Action Item
B.6	Limit the planting of grass on public and private property unless needed for erosion/drainage control or other public purpose.
B.8	Examine requirements in the Development Ordinance in terms of landscaping, water use, drainage, etc.
C.1	Continue to protect the habitat of the Red-Cockaded Woodpecker.
C.2	Continue to protect the Longleaf Pine ecosystem.
C.3	Continue to encourage the preservation of trees and the Tree Preservation Program.
C.4	Discourage or prevent the introduction of invasive or non-native species.
<b>Sustainability</b>	
B.2	As circumstances warrant, find ways to mandate use of water conservation technologies.
B.3	Encourage (or require) irrigation systems to be drip-type and/or use water sensors.
B.5	Discourage extensive planting of grass or other "thirsty" plantings.
B.6	Continue to encourage the use of xeriscaping (landscaping that does not require supplemental irrigation).
B.7	Continue to encourage the planting of native and/ or drought tolerant plant species.
C.1	Encourage development that incorporates measures from the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) or other similar sustainable design programs.
C.3	Encourage "green" building design and construction on private property.
C.6	Encourage landscaping that will provide shade to buildings and reduce the heating effect from large expanses of paved and unlandscaped areas.
C.7	Encourage the use of solar collectors.
C.8	As technology evolves, evaluate ways to encourage the use of alternative energy systems (such as fuel cells and wind energy systems).
C.9	Investigate ways to reduce the need for automobile travel for daily needs.
C.10	Promote walking and bicycling through site and building design.
<b>Village Center</b>	
A.2	Ensure that the overall New England character of the Village Center and expansion area will be maintained and enhanced.
B.3	Ensure development along the organizing spine is comparable to the Village Center in terms of appearance, intensity, quality, and level of interest.
B.4	Maintain continuity in activities and level of interest along the organizing spine in order to promote pedestrian traffic along it.
B.5	Configure the organizing spine as a roadway / sidewalk combination.
B.6	Adopt an "official map" to identify and preserve the route of the connecting spine.
D.1	Based on the building character and style that presently exists, review and revise dimensional standards (building footprints, floor areas, yard setbacks, and building heights) to ensure they will produce the desired vision (intensity, character, etc.) for the Village Center and expansion area.
D.2	Review the uses permitted in the various zoning districts in the Village Center expansion area (VC, VMU, VCP) to ensure they are appropriate (commercial, residential, etc.).
D.3	For the Village Center expansion, limit zoning along the organizing spine to the Village Commercial district only.
D.5	When appropriate, eliminate the current restrictions on banks and real estate offices on the first floor of buildings in the Village Center area.

appendix b: comprehensive plan strategies

Task #	Action Item
D.6	Review, for appropriateness, the forms and types of residential uses allowed.
D.7	Given the importance of ambience and character, adopt design guidelines or form-based coding for the Village Center and expansion area.
E.3	Modify the PDO to require all new floor area to provide on-street parking spaces (first priority), off-street parking spaces, or make a fee-in-lieu payment to the village (a special fund) to support the provision of public parking spaces to support all uses.
E.4	Modify the PDO to adopt either an overall parking ratio (such as 2.5 spaces per 1,000 SF) or compute each use individually with credit given for mixed / shared use.
F.1	Define the desirable roadway cross-section in more detail (and compared to the existing roadway cross-sections in the Village Center area) before proceeding.
F.2	Make the connection from the Village Center to the expansion area with a vehicular travel way with abundant on-street parking along the organizing spine.
F.3	Connect to Rattlesnake Trail.
<b>Extra-Territorial Areas</b>	
B.1	Modify the PDO to promote (or require) open space residential development patterns in the ETJ area.
B.2	Modify regulations to allow for Planned Unit Development or Open Space Subdivisions as described in the "Strategic Element" of the Plan.
B.3	Prepare a map of "potential conservation lands" to guide growth (including soils, slopes, vegetation, hydrology, wetlands, floodplains, aquifers, wildlife habitat, scenic viewsheds, historic resources, cultural resources, etc.).
B.4	Guide development activities based on the process described in Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks (Island Press, 1996).
B.5	Require that open space that will be provided as part of a development be deeded to the Village of Pinehurst or an acceptable entity.
C.1	Within any area included in any future extension of corporate limits or extraterritorial jurisdiction, establish business zoning for existing business uses where desired to meet community needs.
C.2	With any future extension of corporate limits or extra-territorial jurisdiction, if existing business uses will not be allowed in the proposed zoning district, investigate revising the PDO to allow for expansion of non-conforming uses by special permit.
<b>Residential Development</b>	
A.1	Protect existing residential neighborhoods from inappropriate uses or activities.
A.2	Enhance existing residential neighborhoods through supporting landscaping, street tree planting and similar programs.
A.3	Maintain and evaluate residential design standards.
A.4	Evaluate uses allowed in residential districts in order to eliminate inappropriate uses and allow for additional uses, if appropriate.
A.5	Review standards for floor area, lot coverage, yard setbacks, building height, and overall building mass in residential zones to ensure they are appropriate.



Task #	Action Item
B.1	Consider allowing congregate living facility, assisted living facility, and/or life care facility in appropriate locations as a major special use.
B.2	Continue to allow for upper level residential units in the Village Commercial (VC) district to provide housing opportunities for individuals, young couples, and others.
B.3	Continue to allow for upper level residential units in the Neighborhood Commercial (NC) and Office Professional (OP) districts to provide housing opportunities for individuals, young couples, and others.
B.4	Diversify the housing portfolio of Pinehurst by allowing cluster developments that preserve desirable open spaces in the ETJ.
B.5	Diversify the housing portfolio of Pinehurst by allowing assisted living or other types of housing facilities or mixed use development in the ETJ.
B.6	Consider whether to allow smaller houses in Pinehurst in exchange for more architectural amenities.
<b>Business Development</b>	
A.1	Review the location of commercial and business zones, particularly the Neighborhood Commercial zone, and change the zoning of those properties where the type of business development allowed would not be appropriate in that location.
A.2	Review the parameters of commercial and business zones, particularly the Neighborhood Commercial and Village Commercial zones, and modify those standards which might result in inappropriate development patterns.
A.3	Amend the uses permitted in the Neighborhood Commercial zone and designate some or all of these uses as special uses (requiring a special use permit).
B.1	Establish a new neighborhood business "hamlet" at the intersection of Linden Road and Chicken Plant Road and at other appropriate locations.
B.2	If considered desirable at some time in the future, allow small "general stores" or similar operations where appropriate.
C.1	Establish a design review process (which might include a design review committee) to guide the character of business development in Pinehurst.
C.2	Adopt graphic design guidelines to ensure appropriate future development in the peripheral business areas.
C.3	Modify the PDO to require shared driveways and parking to the side and rear of the buildings unless modified by the Village Council.
C.4	Undertake more detailed studies of peripheral business areas (use regulations, design standards, etc.) to enhance the overall character of these areas.
<b>Utility Infrastructure</b>	
A.1	Continue to seek additional water sources for Pinehurst residents and businesses to ensure an adequate water supply to meet their present and future needs.
A.2	Continue to work for a regional water solution that will benefit Pinehurst and its residents.
A.3	Continue efforts to expand and diversify the village's water supply sources.
A.5	Encourage the County to evaluate and reconcile water availability with the overall growth pattern of the county.
A.6	Increase water storage capacity within Pinehurst.

appendix b: comprehensive plan strategies

Task #	Action Item
A.7	Consider the need for " fire flow" of water when undertaking any water line improvements.
B.2	To help manage stormwater drainage from new development, modify regulations and policies to increase the amount of infiltration and reduce the amount of runoff.
B.3	Encourage (or require) existing properties to capture and infiltrate rainfall.
C.1	Continue to ensure that new wired utilities are installed underground.
G.5	Adopt a standard street light specification(s) which minimizes the effects of night sky lighting.
<b>Vehicular Transportation</b>	
A.1	Carefully review proposed developments and roadway improvements to ensure they do not have an adverse impact on the overall character and ambience of the community.
B.7	Prepare a traffic circulation "master plan" for the extra-territorial area since development of individual properties might not result in a meaningful roadway system.
D.4	Protect neighborhoods from adverse impacts of through traffic (through techniques such as "traffic calming").
<b>Other Transportation</b>	
B.2	In outlying business areas, require sidewalks for pedestrian circulation.
B.3	Over the long-term, in outlying residential areas, extend the greenway trail system.
B.5	As pedestrian activity continues to increase, establish sidewalks along the major streets in residential neighborhoods or seek more ways to help people get to the greenway trail system.
B.7	Promote connectivity for bicycles and pedestrians within Pinehurst and to surrounding communities.
C.4	Continue to provide for bicycle racks and other bicycle amenities in appropriate areas.





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