

Statement at 11/9/2010 Council meeting regarding OA-04-10("PD Zoning Amendment")

-Chris Smithson: Southern Pines native, resident, and Councilmember

It is no secret to many that I feel this amendment and some of the circumstances surrounding its submission and review to be deeply flawed.

I'd like to take a few minutes to give some background and explain why I feel the way I do.

As we all know, news stories and opinion pieces on Pine Needles Village dominated the Pilot's front and editorial pages for the better part of two years between 2006 and 2008. Related amendments to our code were on the agenda of Planning Board or Council meetings for much of that time too. Needless to say, what exactly happened with the project and the property were a really big deal to a lot of people and the press.

Let's fast forward from 2008 to July of this year. That is when Hobbs Upchurch & Associates submitted an amendment to Southern Pines' Unified Development Ordinance (UDO) that would apply only to the 500 or so acres known to most as "the Pine Needles Property." Although Hobbs Upchurch was hired by the property's owners to submit the amendment and although the amendment would only apply to the Pine Needles property, there was no mention of that property or of Pine Needles' sponsorship of this amendment. If it is in the Public's best interest to know about the implications and intent of amendments to our ordinances, the Public was not well served by an application that seemed intentionally worded to obscure its sponsors and specific intent.

Although the Pilot knew of the amendment and certainly knew of the newsworthiness of potential development of the Pine Needles property, they strangely withheld from writing a story on the proposed amendment for five weeks after they received information on the amendment and four weeks after the first public hearing before the Planning Board. If the press serves the public best by informing them of government activities and the implications of the activities, the public was not served well enough or soon enough.

Though presented as a text amendment and framed as a simple clarification to align our existing code with our recently adopted Comprehensive Long Range Plan, the amendment before us is no mere "text amendment," which is usually a true clarification or "tweak" to the code. For one, this amendment seeks to add over thirty new permissible uses to properties zoned PD. This almost doubles the total numbers of permissible uses. Additionally, the new uses, ranging from horse farms to hamburger joints, are fundamentally different from existing

permissible uses, which are basically offices and light manufacturing. These are not minor changes. They constitute a de facto rezoning of hundreds of acres of PD zoned property all over town. If all owners and neighbors of PD-zoned properties were not notified of the hearings and potential changes, the public has not been served well and the Town may have broken the law.

This amendment more substantially than not, would duplicate an already existing zoning category in the UDO. The category, fittingly named, "Mixed Use," could with much fewer changes and with a proper rezoning process reach the stated goals of both the applicant and the Town.

Now, despite knowing of the fundamental change to the use of PD-zone properties knowing that many people in Southern Pines are just now learning of the existence and implications of this amendment, and hearing from residents who want the hearing re-opened, the Council majority has refused to reopen the public hearing for further examination of the amendment and to let the people be heard. *(Note: Although the Council majority still refused to reopen the public hearing, at the request of numerous residents, they did reluctantly allow for additional public comments near the beginning of the agenda last night.)*

We, the Council are people of Southern Pines and are elected by the people to carry forth the business of the Town and be its stewards. Now, when we are making a decision on the future of perhaps the majority of the undeveloped property left in town, we're telling the people of Southern Pines, "we're sorry you didn't catch the little ad in the back of the paper, but we've met all legal minimums and if you are just now hearing about this amendment it is just too bad."

This is the same Council majority who earlier this year on a more traditional, much less substantial, text amendment (OA-11-09) that sought to treat all residential subdivisions roughly the same, had the amendment removed from one Council agenda and delayed a vote for another sixty days just so one person, the representative from the Moore County Homebuilders Association would have the chance to fully speak his piece on the matter and meet with Town staff. Do we extend the courtesy of taking a little extra time to the head of the Homebuilders Association because he was "busy working on the home show" yet not extend the same diligence and courtesy to the average citizen who needs the time to learn about the existence and implications of an amendment?

This amendment was not submitted in a clear and open manner.

This amendment received little or no press coverage until the last minute.

This amendment, if taken for what it really is- a rezoning- and not what it is called- a text amendment- has not been properly noticed to affected property owners and their neighbors.

This amendment has been treated differently than other recent amendments with much less potential impacts.

This Council apparently wants to say “tough luck” to the people of Southern Pines wishing to participate in the process.

For those and other reasons, I cannot support this amendment and ask my fellow Councilmembers to deny it.