Pender County

Agenda

Board of Adjustment Meeting
Wednesday, March 20, 2024 @ 9:00 AM
Pender County Public Assembly Room 805 S. Walker Street, Burgaw, NC 28425

		Presenter	Page
1.	CALL TO ORDER		
2.	ROLL CALL		
3.	INVOCATION		
4.	ADOPTION OF AGENDA		
5.	ADOPTION OF MINUTES		
	5.1. February 21, 2024 Meeting Minutes February 21, 2024 Meeting Minutes - Pdf		3 - 63
6.	PUBLIC COMMENT		
7.	VARIANCE		
	7.1. VAR 2023-16: Variance request seeking relief from Article 7.4.4, Cross Access Corridors, of the Unified Development Ordinance VAR 2023-16 - Pdf		65 - 106
8.	APPEAL		
	8.1. APPEAL 2024-12: Appeal of Administrative Decision APPEAL 2024-12 - Pdf		107 - 150
9.	APPROVALS AND RESOLUTIONS		
	9.1. Amendments to the Rules of Procedure Rules of Procedure - Pdf		151 - 159
10.	DISCUSSION ITEMS		
11.	NEXT MEETING DATE		
12.	ADJOURNMENT		

Pender County
February 21, 2024 Meeting Minutes

TO:	Board of Adjustment
FROM:	Daniel Adams
DATE:	March 20, 2024
SUBJECT:	February 21, 2024 Meeting Minutes

SUMMARY:
Minutes from the February 21, 2024, Board of Adjustment meeting.

ACTION REQUESTED:
Review and approval of the minutes from the February 21, 2024, meeting.

ATTACHMENTS:
1. February 21, 2024 meeting minutes

Pender County Board of Adjustment Meeting Minutes – February 21, 2024

Members Present: Max Kipfer, Chairman
Brett Keeler
Jeffrey Snider, Alternate
Andrew Olsen, Alternate

Members Absent: Kyle Breuer, Vice Chairman

Others Present: Daniel Adams, Planning Director
Justin Brantley, Deputy Planning Director
Taylor Davis, Planner
Charlie Ring, Code Enforcement Officer
Donna Sayre, Planning Technician
Trey Thurman, County Attorney
Patrick Buffkin, Staff Attorney
Members of the Public

1. Call to Order: 9:08 a.m.

2. Roll Call

3. Invocation

4. Elections of Officers

Mr. Thurman explained the procedure to adopt both the Chairman and Vice-Chairman to the Board members.

Mr. Thurman opened the floor to nominations for the position of Chairman. Mr. Keeler nominated Mr. Kipfer. Due to no further nominations being made, Mr. Thurman closed the floor. A vote was taken and was unanimous.

Mr. Thurman opened the floor for nominations of Vice-Chairman. Mr. Kipfer nominated Mr. Keeler. Due to no further nominations being made, Mr. Thurman closed the floor to nominations and the vote was unanimous.

5. Adoption of Agenda

Mr. Adams stated that he would like to move the Variance case, Variance 2023-16, in front of the Appeal case, APPEAL 2024-13, due to a request being made by Ms. Schaefer for a continuance. A vote was taken to make the adjustment to the agenda and was unanimous.

Ms. Schaefer stated that the Engineers are continuing to work on the Master Plan Development and additional time to work with staff is being requested. She requested the continuance until the March meeting. Mr. Adams stated that the Planning staff had no issues with the continuance and that the next hearing date would be March 20, 2024. A vote was taken and was unanimous to continue the case to the March 20, 2024, meeting.

6. Adoption of Minutes

Mr. Keeler made a motion to adopt the minutes from the October 18, 2023, meeting. Mr. Snider seconded the motion, and the motion was unanimously approved.

Mr. Keeler referenced the new member that was mentioned in the minutes. Mr. Adams stated that there was a new Board member appointed to the Board, but she was never able to serve.
Mr. Adams stated that she changed jobs and her new schedule would not allow her the ability to serve on the Board.

7. Public Comment

There was no public comment.

8. Public Hearing

Appeal 2024-13 – Marcus Spencer, Applicant on behalf of Marcus and Kaylla Spencer, Owners

Mr. Thurman swore in Planning staff members and members of the public who will be testifying at the hearing.

Marcus Spencer, applicant, on behalf of Marcus and Kaylla Spencer, owners, is requesting an Appeal of an Administrative Decision. The appeal is of an administrative decision by the Pender County Planning & Community Development Department to deny the permitting of a residential accessory building. The subject project is located at 91 Scotch Bonnet Way which is approximately 150 feet from the intersection of Scotch Bonnet Way and Inlet Court in the Topsail Township and may be further identified by Pender County PIN 4203-60-9602-0000.

Mr. Brantley, Deputy Planning Director, presented the Staff Report. Planning staff's packet was presented as **Exhibit A** and the Planning staff's Power Point presentation is recognized as **Exhibit B** by the Board and were accepted into record.

Mr. Kipfer asked the Board members if they had any questions for staff and no questions were presented.

Andrew Jones, Attorney for Applicant, stated that the Board should reverse the decision of the Planning Department and approve the permit application that was submitted by his client.

Mr. Jones stated that the permit should be approved for two reasons with the first reason being that the setback encroachment is minimal and under the Administrative Adjustment provision of the Ordinance, the Planning staff, and the Board have the ability to grant a minimal encroachment. Mr. Jones stated that the second reason is that the County has waived its right to enforce the setback requirements for Accessory structures since three of the four adjoining properties in this neighborhood are not in compliance.

Mr. Jones stated that he agrees with the Planning staff that Section 5.3.3 of the UDO is the location of information pertaining to where Accessory structures need to be located in relation to setbacks.

He read the definition of “area” from the UDO and questioned as to what the definition of “area” and “in area” is.

Mr. Jones stated that the garage area is the only true floor space and is surrounded by exterior walls. He stated the garage area is approximately 312 square feet.

Mr. Jones stated that the attic should not be considered floor space, is not a residential space and will only be used for storage. He stated that the carport does not have surrounding walls and should not fall within the scope of the definition as the UDO defines.

Mr. Jones stated that if the garage square footage of 312 square feet is used, then the Ordinance requires ten-foot setbacks from all property lines.

Mr. Jones stated that according to the Surveyor’s map, there is only a minor encroachment from both the side and rear setback requirement. He stated the minor encroachment happened due to his client initially hiring a surveyor to produce a survey map of the property and the Surveyor made an error. Due to the error, Mr. Jones stated that the building was placed in the wrong location but that was no fault of his client.

Mr. Jones stated that the building placement error was not something caused by his client as his client relied on a licensed and qualified Surveyor. He stated that after the footer was poured, his client realized that the property line was further away from where he originally thought it was.

Mr. Jones stated that the property next to his client’s house was sold and a new survey was completed which indicated that the property line was different than what his client’s surveyor had indicated.

Mr. Jones stated that Section 3.1.5.2 of the UDO gives the Planning staff the capability to override the setback requirement if the error is within two feet or twenty percent of the standard setback requirement. He read the criteria listed in the Ordinance that must be in place for an Administrative Adjustment to be made.

Mr. Jones stated that the second reason the Board should reverse the decision of the Planning staff is that Pender County has waived its right to enforce setback requirements in this neighborhood due to multiple accessory buildings in close proximity not following the setback requirements.

Attorney Patrick Buffkin raised an Evidentiary Objection based on relevancy. He stated that Mr. Jones is about to show pictures of other properties in the neighborhood, and he does not feel this evidence is relevant to the appeal. Mr. Buffkin stated the neighboring properties were not considered by the Planning staff when making their decision and all that is relevant in this matter is the subject property.

Mr. Jones stated that Mr. Buffkin’s objection is a fair objection but is wrong. He stated that the Board has the right to see the pictures and he is creating a record. Mr. Jones stated that if the Board does not approve their request, his client has a right to appeal to a Superior Court Judge who has the right to have the evidence before him or her.

Mr. Olsen stated that he does not think the evidence that Mr. Jones is attempting to enter into record is relevant to this hearing today.

Mr. Jones asked if the Board renders the decision to not consider the evidence, then he is requesting that the evidence be proffered. He stated that the Board does not need to consider it but would like to have it on record.

Mr. Kipfer stated that Mr. Jones is welcome to put the evidence into the record, but the Board is not going to consider it.

Mr. Jones stated that they will proffer the Power Point presentation as evidence with Mr. Kipfer stating that the Power Point presentation will be accepted. Applicant's PowerPoint presentation is recognized as **Exhibit C** by the Board and was accepted into record.

Mr. Jones stated that the Board should reverse the decision made by the Planning staff and approve his client's permit.

Mr. Keeler asked what square footage triggers a building permit for Accessory structures. Mr. Brantley stated that to his knowledge, any structure that is twelve feet in any dimension requires a building permit. Mr. Brantley stated that a Zoning permit is always required regardless of the building size.

Mr. Keeler asked Mr. Jones if his client used a contractor and why did his client not obtain a building permit before commencing construction. Mr. Jones stated his client thought the building was considered a farm building so did not apply for any permits. He also stated that Mr. Spencer is doing the work himself but has sought the advice of contractors.

Mr. Kipfer asked if there was a copy of the survey map available. Mr. Jones stated that a copy of the second survey map is in the record. Mr. Kipfer asked if the original survey map was available to which Mr. Jones responded negatively. Mr. Kipfer stated that since the original survey map was not presented, there is no proof that it was ever completed. Mr. Jones stated that the map has not been submitted as evidence but that the Board does have their testimony that an original survey map was completed and can be made available but is not currently on hand.

Mr. Keeler asked Mr. Jones to explain how he is calculating the gross floor area. Mr. Jones stated that their position is that the attic is just an attic and should not calculated for purposes of square footage of usable space. He stated that the attic is not going to be heated or cooled. Mr. Jones stated the only usable floor is the garage area. Mr. Keeler stated that the UDO states floor area and not usable floor area. Mr. Jones stated that the attic should not be counted with an example being when someone buys a house that has an attic, the house is not labelled as a three-story house but rather a two-story house with an attic.

Mr. Snider asked if the rear lot line had changed along with the sideline. Mr. Jones stated that he does not know the answer to that question, but he could find out.

Mr. Kipfer asked if the slab was poured after the first survey was completed with Mr. Jones responding affirmatively. Mr. Kipfer then asked when did Mr. Spencer became aware of lot line error with Mr. Jones stating that the error was discovered after lot five beside Mr. Spencer's was sold and a survey was done on that property.

Mr. Kipfer asked Mr. Jones what his interpretation of farm use and how does this apply to this situation. Mr. Jones stated that farm use is not applicable in this situation as the client has a residential accessory building so farming use is not being made as an argument.

Mr. Olsen stated that he feels Mr. Jones' argument is well constructed but that he does not agree with it. He stated he feels the building's square footage is over the three hundred that Mr. Jones is claiming due to the space in the attic.

Mr. Kipfer asked if the Board had any additional questions for Mr. Jones and no questions were presented.

Mr. Kipfer asked Mr. Jones if his client would like to testify with Mr. Jones asking if it would be helpful to the Board's decision if Mr. Spencer testified. Mr. Kipfer stated not for the Board's purpose, but Mr. Spencer is welcome to testify if he wishes to.

David Watters, 102 Sand Dollar Lane, stated that he has no objection to the building. He stated that the building has been well thought out and planned. Mr. Watters stated that their HOA has a system in place called ARC, Architectural Review Committee, which reviews all changes to the lots before any ground can be broke. He stated that the ARC does not grant approval or denial but rather is a recommendation committee to the ARC Board. Mr. Watters stated that Mr. Spencer's project was recommended and went before the ARC Board which granted permission.

Mr. Keeler asked if the complaint was brought to the Planning Department by a formal complaint or by an inspection. Mr. Brantley stated that to his knowledge, a formal complaint was reported but Charlie Ring, Code Enforcement Officer, is present and could speak to that question more specifically.

Mr. Jones stated that the property owner of Lot 5 was the individual who filed the formal complaint, and that owner has since moved.

Mr. Keeler stated that he feels the structure is greater than the three-hundred twelve square feet that Mr. Jones is claiming and the ten-foot property setbacks does not apply in this situation. He stated that he cannot in support to reverse the Appeal due to that information.

Mr. Kipfer stated he feels this situation was self-opposed and would have liked to have the incorrect survey map provided so that a comparison could be done. He stated that due to those two thoughts, he is unable to approve a reversal of the Planning staff's decision.

Mr. Snider stated if the client had followed the correct processes in obtaining the necessary permits, this situation may never have happened.

Mr. Olsen stated that the Attorney presents a good argument but agrees with the decision of the Planning staff.

Mr. Olsen made a motion to deny the Appeal with Mr. Keeler seconding the motion. A vote was taken and was unanimous.

Mr. Jones stated his client's intention to file a Notice of Appeal for the record.

9. Discussion Items

Amendments of the Rules of Procedures

DRAFT

Mr. Adams stated that this topic has been discussed with the Board members many times. He stated that the Rules of Procedure requires that any amendments be brought before the Board as a discussion item and then voted on at the following meeting.

Mr. Olsen expressed his concern over the wording in Section IV., Meeting, letter L. He is concerned with five days being used for participants to submit evidence to the Secretary.

Mr. Adams stated that he will change the first sentence to read as "Participants of the hearing shall submit evidence, including photos, videos, and other documentations, to the Secretary five days prior to the hearing upon which the evidence is related." Mr. Adams stated he will bring the new language back before the Board at the next hearing.

Mr. Adams introduced Staff Attorney, Patrick Buffkin, to the Board members. He stated Mr. Buffkin is available to represent the Planning staff when Appeals are filed.

Mr. Olsen stated he will not be present at the March meeting with Mr. Kipfer, Mr. Snider, and Mr. Keeler stating they will not be present at the May meeting.

10. Next Meeting Date

March 20**,** 2024 @ 9:00 a.m.
Commissioner's Meeting Room
805 S. Walker Street
Burgaw, NC 28425

11. Adjournment

The meeting adjourned at 10:21 a.m.

DRAFT

Pender County
APPEAL 2024-13: Appeal of Administrative Decision

TO:	Board of Adjustment
FROM:	Justin Brantley
DATE:	February 21, 2024
SUBJECT:	APPEAL 2024-13: Appeal of Administrative Decision

SUMMARY:
Marcus Spencer, applicant, on behalf of Marcus and Kaylla Spencer, owners, is requesting an Appeal of an Administrative Decision. The appeal is of an administrative decision by the Pender County Planning & Community Development Department to deny the permitting of a residential accessory building. The subject property is located at 91 Scotch Bonnet Way which is located approximately 150 feet from the intersection of Scotch Bonnet Way and Inlet Court in the Topsail Township and may be further identified by Pender County PIN 4203-60-9602-0000.

ACTION REQUESTED:
To hold a public hearing and consider the appeal request.

ATTACHMENTS:
1. Staff Report
2. Attachment 1: Permit Denial Package
3. Attachment 2: Appeal Application
4. Attachment 3: Corrected Check

STAFF REPORT FOR APPEAL 2024-13
APPEAL OF ADMINISTRATIVE DECISION APPLICATION

APPLICATION SUMMARY	
Case Number	APPEAL 2024-13
Hearing Date	February 21, 2024 - Board of Adjustment
Applicant	Marcus Spencer
Property Owner	Marcus and Kaylla Spencer
Parcel Identification Number	4203-60-9602-0000
Acreage	+/- .47
Township	Topsail
Zoning District	RP, Residential Performance

APPEAL SUMMARY
Marcus Spencer, applicant, on behalf of Marcus and Kaylla Spencer, owners, is requesting an Appeal of an Administrative Decision. The appeal is of an administrative decision by the Pender County Planning & Community Development Department to deny the permitting of a residential accessory building.
LOCATION
The subject property is located at 91 Scotch Bonnet Way which is located approximately 150 feet from the intersection of Scotch Bonnet Way and Inlet Court in the Topsail Township and may be further identified by Pender County PIN 4203-60-9602-0000.

Below: Vicinity Map of the Area

DESCRIPTION OF APPEAL

On November 6, 2023, a building permit application was submitted to Pender County Planning & Community Development for an accessory structure at 91 Scotch Bonnet Way in Pender County. This property can also be identified by Pender County Parcel Identification Number (PIN) 4203-60-9602-0000 and is zoned RP, Residential Performance. On November 28, 2023, Justin Brantley, Deputy Planning Director, issued a letter of denial for the proposed accessory structure. See full Denial Letter with Attachments as **Attachment 1**. Attachments within this document include the Residential Building Permit Application (RACC-01856), Foundation Survey of existing structure, building plans, Pender County Unified Development (UDO) Excerpt of Section 5.3.3.A., and UDO Excerpt of Section 4.14.

Planning Staff found that based on the submitted plans, the Gross Floor Area of the proposed building is approximately 1,250 sq ft and was supported by a finding that the carport area counts towards the total square footage of the structure as well as the 2nd floor attic portion as shown on the building plans. The Pender County UDO defines Gross Floor Area as follows:

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings.

In addition to the Gross Floor Area, Staff considered the UDO's definition of Building which is as follows:

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

For additional context, the Pender County UDO Defines Accessory or Secondary Use and Accessory Structure as follows:

ACCESSORY OR SECONDARY USE: A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by right in a zoning district but may be permitted in conjunction with a permitted use. In no instances shall an accessory or secondary use be permitted without the presence of a primary use.

ACCESSORY STRUCTURE (Appurtenant Structure): a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Staff found that the total structure based on the submitted plans consisted of approximately 1,250 sq ft. Section 5.3.3.A, Accessory Structure Setbacks and Separation Requirements, identifies setback requirements for accessory structures based on square footage.

5.3.3 Accessory Uses and Structures

A. Accessory Structure Setbacks and Separation Requirements

1) Accessory Structures 50-599 Square Feet In Area:
    a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
2) Accessory Structures 600-1,199 Square Feet In Area:
    a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
3) Accessory Structures 1,200 Square Feet in Area or Greater:
    a) Same setback and separation requirements as principal buildings per zoning district regulations

Staff found that the proposed building fell into the third category (Accessory Structures 1,200 Square Feet in Area or Greater) which requires the same setbacks as principal structures. The Pender County UDO Section 4.14 (Provided in **Attachment 1**) provides the following setback requirements for principal structures in the RP, Residential Performance, zoning district:

Front Yard Setback – 30'
Rear Yard Setback – 25'
Side Yard Setback – 10'

Structure Separation – 30’

The submitted building application included in **Attachment 1** includes a foundation survey of the existing structure. This survey shows the current location of the proposed structure. To further illustrate, the photo below was received from the applicant on June 29, 2023:

Staff identified two issues with the application in terms of setbacks:

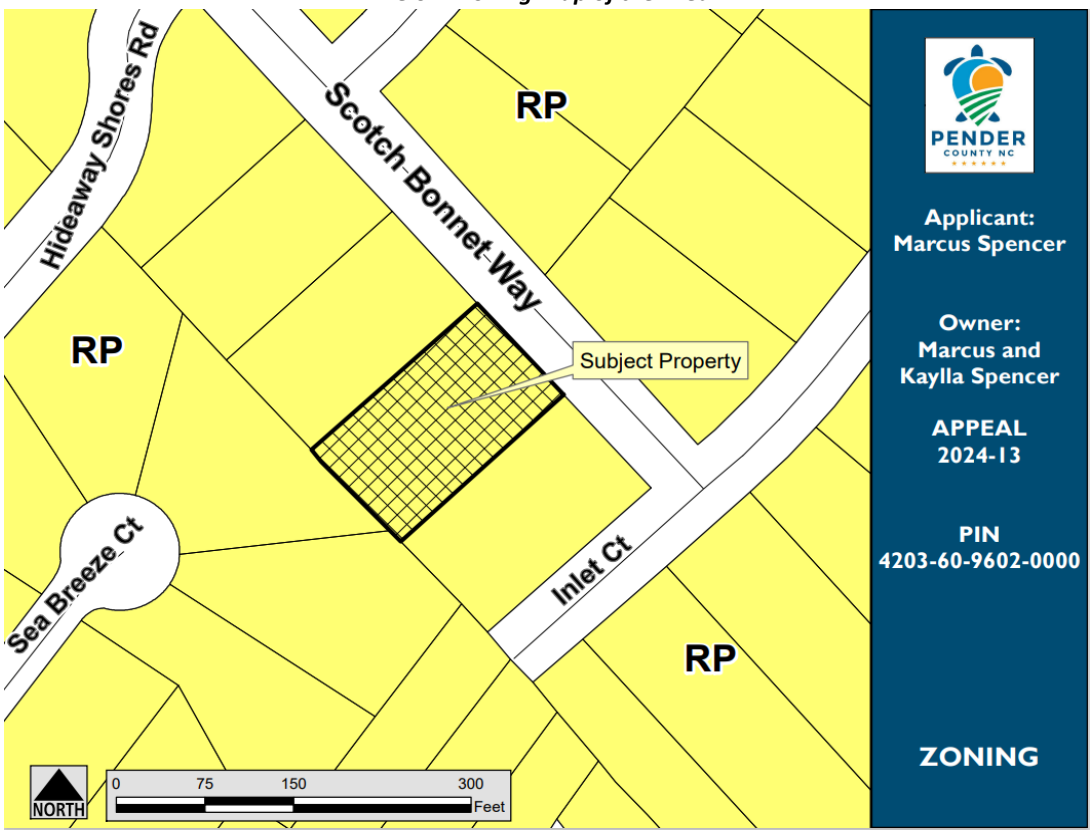
1. The existing location of the structure as shown by the foundation survey included in **Attachment 1** provides that the accessory structure is located from 8.74’ to 8.72’ from the side property line, whereas the side setback requirement is 10’.
2. The existing location of the structure as shown by the foundation survey included in **Attachment 1** provides that the accessory structure is located from 9.57’ to 9.10’ from the rear property line, whereas the rear setback requirement is 25’.

As discussed, the 25’ rear setback is required for structures over 600 square feet in area and because the structure was identified as being approximately 1,250 square feet in size it was determined to be unable to be approved and was therefore denied. Furthermore, the inability to meet the 10’ side setback was also considered in this decision.

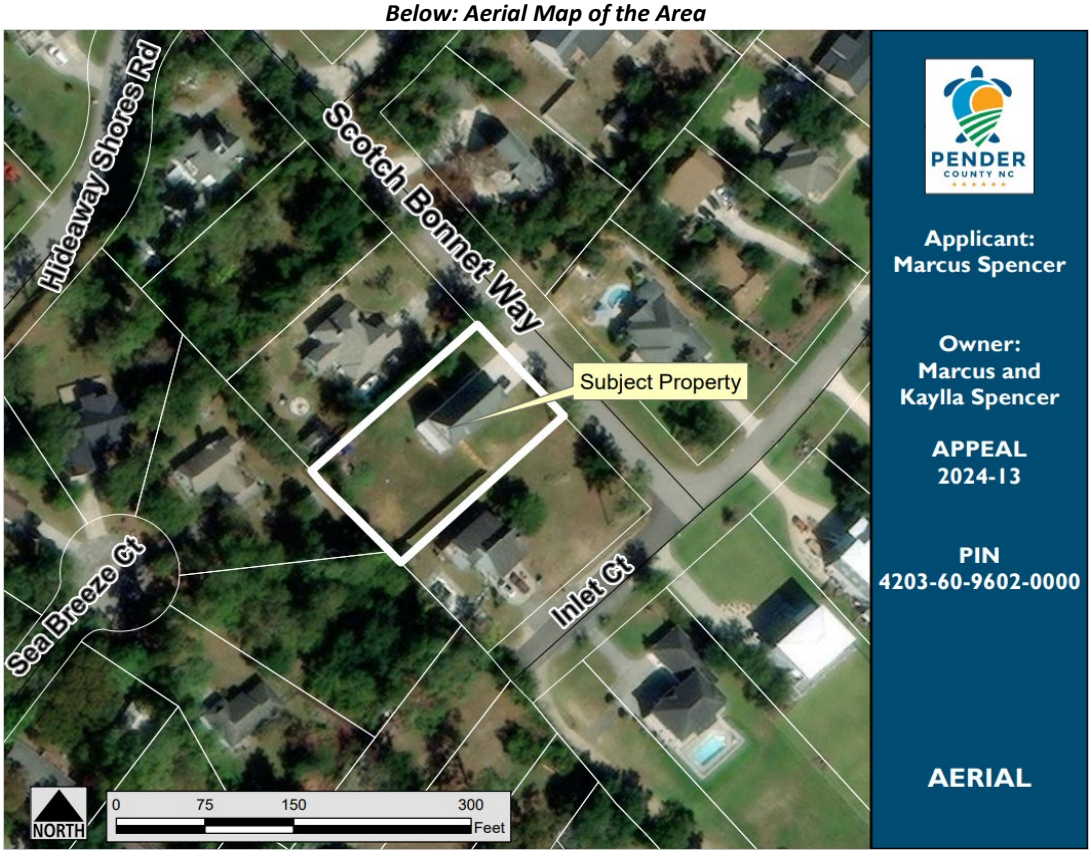
Ultimately, Staff issued the denial letter, **Attachment 1**, for failure to meet the required setbacks for a structure of that size.

On December 27, 2023, Pender County received an Application for the Appeal of An Administrative Decision related to the denial of the proposed accessory building. This document can be identified as **Attachment 2**. Furthermore, an error in the issued check payment necessitated the issuance of a new check payment. This document can be identified as **Attachment 3**.

Below: Zoning Map of the Area



Below: Aerial Map of the Area



ZONING ADMINISTRATOR'S CONCLUSION

As detailed in this report, the administrator's interpretation of the standards and regulations found within the Pender County Unified Development Ordinance was appropriate. This interpretation therefore led to the denial of the building permit application for the proposed accessory structure located at 91 Scotch Bonnet Way. It was found that the proposed structure was approximately 1,250 sq ft in size and therefore had to adhere to the required side setback of 10' and the required rear setback of 25'. The proposal did not meet these requirements and was subsequently denied.

PENDER COUNTY UDO APPEAL OF ADMINISTRATIVE DECISION

3.16 APPEAL OF ADMINISTRATIVE DECISION

3.16.1 Applicability

As specified in N.C.G.S. 160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

3.16.6 Action by Board of Adjustment

A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

C. If a motion to reverse or modify is not made or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.

D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

BOARD OF ADJUSTMENT ACTION FOR APPEAL OF ADMINISTRATIVE DECISION	
MOTION	**SECONDED**

AFFIRMED	REVERSED	MODIFY

Kipfer	Breuer	Keeler	ALT: Olsen	ALT: Snider

ATTACHMENT 1 – 91 SCOTCH BONNET WAY ACCESSORY STRUCTURE DENIAL LETTER WITH ATTACHMENTS

Pender County
Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425

Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

CERTIFICATE OF SERVICE:

The attached Zoning Letter of Denial for Residential Accessory Building Application RACC-01856-2023 for 91 Scotch Bonnet Way was served via email and US Mail upon the applicant, this the 28th Day of November, 2023.

Respectfully submitted by:

Justin Brantley

Justin Brantley
Deputy Director
Pender County Planning & Community Development

Pender County
Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425

Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

November 28, 2023

Marcus Spencer
91 Scotch Bonnet Way
Hampstead, NC 28443

Re: Zoning Permit Denial For Pender County PIN: 4203-60-9602-0000, 91 Scotch Bonnet Way

Mr. Spencer,

Pender County PIN 4203-60-9602-0000 is currently zoned RP, Residential Performance and is located within the Pender County jurisdiction for planning and zoning purposes. The subject property is known by the address 91 Scotch Bonnet Way. A permit application was submitted on November 6, 2023, (RACC-01856-2023) for an accessory building for this property. See **Attachment 1** (Building Application), **Attachment 2** (Foundation Survey), and **Attachment 3** (Building Plans).

The building permit application for the accessory structure on the subject property is not able to move forward because the Zoning Permit request is hereby **DENIED**.

According to the Foundation Survey, prepared and sealed by Michael J. Lawrence, PLS, that was submitted as part of the building permit application, the proposed accessory building was partially constructed prior to the building application being submitted. Upon further review of the foundation survey and building application, it has been determined that the structure does not meet the required structure setbacks and can therefore not be approved as proposed.

According to the Foundation Survey, the base of the structure, or 1st floor, is 626 sq feet in size (313 sf shed and 313 sq ft covered boat storage). Furthermore, the structure also includes a 2nd floor attic that is around the same square footage (624 sq ft). This would bring the total building square footage to approximately 1,250 sq ft.

The County's Unified Development Ordinance (UDO) provides the following definition for Gross Floor Area:

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings.

Based on the submitted building plans the Gross Floor Area of the proposed building is approximately 1,250 sq ft. It is the position of the Administrator that the car port area of the structure counts towards the square footage of the total structure as does the 2nd floor attic portion.

Section 5.3.3.A, Accessory Structure Setbacks and Separation Requirements, of the Pender UDO specifies setback requirements and separation requirements for accessory structures based on their size. See UDO section below as well as in **Attachment 4**:

5.3.3 Accessory Uses and Structures

A. Accessory Structure Setbacks and Separation Requirements

1) Accessory Structures 50-599 Square Feet In Area:
    a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
2) Accessory Structures 600-1,199 Square Feet In Area:
    a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
3) Accessory Structures 1,200 Square Feet in Area or Greater:
    a) Same setback and separation requirements as principal buildings per zoning district regulations

The Administrator finds that the proposed building is approximately 1,250 sq. ft. in size and would require the structure to adhere to setback requirements and structure separation requirements established in Section 4.14, Zoning District Dimensional Requirements, of the UDO, for principal structures in the RP, Residential Performance zoning district. This equates to the following setbacks and structure separation requirements. See setbacks and separation requirements for the RP district below as well as in **Attachment 5**:

Front Yard Setback – 30’
Rear Yard Setback – 25’
Side Yard Setback – 10’
Structure Separation – 30’

The proposed/existing building, which is approximately 1,250 sq ft in size would be required to meet the setback and separation requirements for a principal structure as previously identified and included as **Attachment 4** and **Attachment 5**.

Furthermore, in accordance with provisions laid out in Article 3.16 of the Unified Development Ordinance, this determination can be appealed to the Pender County Board of Adjustment within 30 days of receipt of this determination.

Please do not hesitate to contact me with any further questions.

List of Attachments

1. Attachment 1 – Residential Building Permit Application

2. Attachment 2 – Foundation Survey
3. Attachment 3 – Building Plans
4. Attachment 4 – UDO Excerpt Section 5.3.3.A.
5. Attachment 5 – UDO Excerpt Section 4.14.

Sincerely,

Justin Brantley

Justin Brantley, MPA, CZO | Deputy Planning Director
Pender County Planning & Community Development
(910) 259-1529
jbrantley@pendercountync.gov
805 S. Walker Street,
Burgaw, NC 28425

PENDER COUNTY INSPECTION & PERMITTING DEPARTMENT

RESIDENTIAL BUILDING PERMIT APPLICATION

(APPLICATION WILL NOT BE ACCEPTED FOR PROCESSING UNLESS ALL REQUIRED INFORMATION IS PROVIDED)

ZONING PERMIT _____ BUILDING PERMIT PACC-018516-2023

CONSTRUCTION SITE ADDRESS: 91 Scotch Bonnet Way, Parcel # (PIN) _____

Subdivision: Hideaway Shores Lot: 4 Street Name: Scotch Bonnet Way

NC Liens Entry #: _____ (www.liensnc.com) DIRECTIONS TO CONSTRUCTION SITE: It will be located in the left rear of the back yard while facing property.

Project Contact : Marcus Spencer Phone: 910-512-8536 Email address: marcus.spencer@compass-usa.com

Property Owner: Marcus Spencer Phone: 910-512-8536 Email address: marcus.spencer@compass-usa.com

Address: 91 Scotch Bonnet Way City: Hampstead State: NC Zip: 28443

NEW CONSTRUCTION

_____Height _____ NO. of Stories _____ NO. of Bedrms _____ NO. of Bathrms

Total Heated: _____ Total Unheated area: _____

Heated Area: 1st Floor _____ sq. ft. 2nd Floor _____ sq. ft. Other _____ sq. ft.

Unheated Area: Garage _____ sq. ft. Porch _____ sq. ft. Deck _____ sq. ft.

ADDITION

_____Height _____ NO. of Stories _____ NO. of Bedrms _____ NO. of Bathrms

Total Heated: _____ Total Unheated area: _____

Heated Area: 1st Floor _____ sq. ft. 2nd Floor _____ sq. ft. Other _____ sq. ft.

Unheated Area: Garage _____ sq. ft. Porch _____ sq. ft. Deck _____ sq. ft

ACCESSORY STRUCTURE

Detached Garage _____ sq. ft. Carport ~~312~~ sq. ft. Shed 312 sq. ft. Deck _____ sq. ft. Seawall _____ sq. ft.

Porch _____ Screened Porch _____ Pool _____ Pool Depth _____ Dock/Pier _____

RENOVATION/REPAIR/ALTERATION

Work will include: ☑ Building ☐ Electrical ☐ Plumbing ☐ Mechanical

DETAILED DESCRIPTION OF WORK: I intend to build a shed for tools with a attached boat port to store my boat.

Cost of Construction $: $15,000

PENDER COUNTY INSPECTION & PERMITTING DEPARTMENT

RESIDENTIAL BUILDING PERMIT APPLICATION

(APPLICATION WILL NOT BE ACCEPTED FOR PROCESSING UNLESS ALL REQUIRED INFORMATION IS PROVIDED)

Contractor:

_____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ License # _____

Print Name(Qualifier): _____ Signature: _____

Electrical:
_____AMPS

_____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ License # _____

Print Name(Qualifier): _____ Signature: _____

Mechanical:
____ # of units

_____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ License # _____

Print Name(Qualifier): _____ Signature: _____

Plumbing:
____# of Fixtures

_____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ License # _____

Print Name(Qualifier): _____ Signature: _____

Gas Piping:
____# of Fixtures

_____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ License # _____

Print Name(Qualifier): _____ Signature: _____

Insulation:

_____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ License # _____

PENDER COUNTY INSPECTION & PERMITTING DEPARTMENT

RESIDENTIAL BUILDING PERMIT APPLICATION

(APPLICATION WILL NOT BE ACCEPTED FOR PROCESSING UNLESS ALL REQUIRED INFORMATION IS PROVIDED)

AFFIDAVIT OF WORKERS' COMPENSATION EXEMPTION N.C.G.S. § 87 AND 97

The undersigned applicant do hereby aver under penalties of perjury that the person(s), firm(s), or corporation(s) performing the work set forth in the permit:

☑ Unlicensed Contractor ☐ Licensed Contractor License #_____

☐ has/have not more than two (2) employees and no subcontractors, while working on the project for which this permit is sought. It is understood that the Inspections and Permitting Department issuing the permit may require certificates of coverage of workers' compensation insurance prior to issuance of the permit and at any time during the permitted work from any person, firm, or corporation carrying out the work.

Firm Name: _____

By: Marcus Spencer

Title: _____

Date: _____

Applicant Signature _____ 10-31-23 **Date**

AFFIDAVIT AS TO STATUS OF LICENSURE N.C.G.S. § 87-1

Applicant: Please check the appropriate boxes; provide requested information, sign, and date below.

☐ **I propose to construct a new building.**

☐ **I propose to set-up a properly labeled modular building.**

☐ **I am a North Carolina licensed general contractor.** License Number: _____

☑ **I am NOT a North Carolina licensed general contractor.** The cost of the project does not exceed $30,000 per **N.C.G.S. § 87-1.**

☐ **I am NOT a licensed general contractor.** I am providing a $5,000 surety bond in accordance with **N.C.G.S § 143-139.1. (For Modular set-up ONLY)**
Bond Company: _____ **Bond Number:** _____

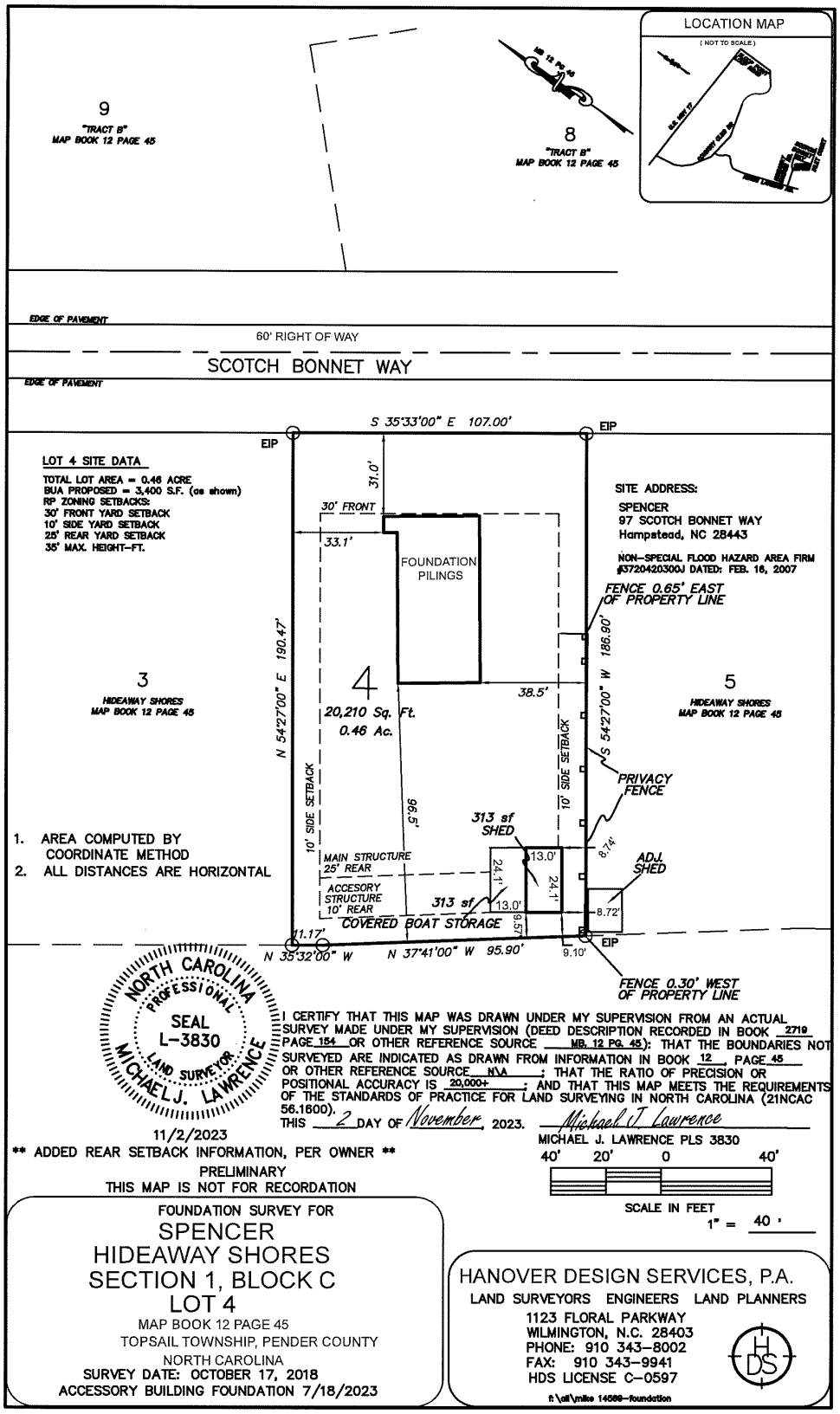
☑ **I am the owner of the proposed building.** It is my intention to act as my own general contractor for constructing the proposed building or for setting up the proposed modular building. I have entered into a construction project where the cost of the undertaking exceeds $30,000. I have read N.C.G.S. § 87-1. I certify that I am not allowing an unlicensed general contractor to perform the duties of a general contractor, which I understand from reading N.C.G.S. § 87-1 includes construction superintending and managing in addition to, among other things signing written contracts. I intend to retain the finished house (or other project) exclusively for my own use and to be occupied by me or my family for a minimum of one year after completion. I am not building a "speculation" project with the intention of selling the project once it is completed. I understand that building a "spec" project without proper licensure is a violation of N.C.G.S. § 87-13; this may be a criminal offense. Also, I understand that problems which may arise due to construction of the building or set-up of the properly labeled modular building, such as inaccurate or insufficient foundation, improper or inadequate marriage line connections, improper plumbing, mechanical, or electrical connections between the units, etc., will be solely my responsibility, and I will be left with no recourse and must assume total liability for correction of the problems. I personally have a thorough knowledge of the requirements of the NC State Building Code with regard to construction and/or setting up modular buildings.

Applicant Signature _____ 10-31-23 **Date**

I hereby certify that all information in this application is correct and all work will comply with the NC State Building Code and all other applicable State and local laws, ordinances and regulations including approved zoning permit. The Inspections Division will be notified of any changes in the approved plans and specifications for the project permitted herein.

☐ ***Check in lieu of signature to indicate agreement with the above statement if submitting electronically. Print name below.**

Applicant Signature: _____ **Date:** 10-31-23


LOCATION MAP
(NOT TO SCALE)
9
"TRACT B"
MAP BOOK 12 PAGE 45
8
"TRACT B"
MAP BOOK 12 PAGE 45
EDGE OF PAVEMENT
60' RIGHT OF WAY
SCOTCH BONNET WAY
EDGE OF PAVEMENT
S 35°33'00" E 107.00'
EIP
EIP
LOT 4 SITE DATA
TOTAL LOT AREA = 0.46 ACRE
BUA PROPOSED = 3,400 S.F. (as shown)
RP ZONING SETBACKS:
30' FRONT YARD SETBACK
10' SIDE YARD SETBACK
25' REAR YARD SETBACK
35' MAX. HEIGHT-FT.
SITE ADDRESS:
SPENCER
97 SCOTCH BONNET WAY
Hampstead, NC 28443
NON-SPECIAL FLOOD HAZARD AREA FIRM
#3720420300J DATED: FEB. 16, 2007
31.0'
30' FRONT
33.1'
FOUNDATION PILINGS
FENCE 0.65' EAST OF PROPERTY LINE
N 54°27'00" E 190.47'
S 54°27'00" W 186.90'
3
HIDEAWAY SHORES
MAP BOOK 12 PAGE 45
4
20,210 Sq. Ft.
0.46 Ac.
38.5'
5
HIDEAWAY SHORES
MAP BOOK 12 PAGE 45
10' SIDE SETBACK
10' SIDE SETBACK
96.5'
PRIVACY FENCE
313 sf SHED
13.0'
24.1'
24.1'
8.74'
ADJ. SHED
MAIN STRUCTURE 25' REAR
ACCESORY STRUCTURE 10' REAR
313 sf
13.0'
9.57'
8.72'
COVERED BOAT STORAGE
11.17'
N 35°32'00" W
N 37°41'00" W 95.90'
9.10'
EIP
FENCE 0.30' WEST OF PROPERTY LINE
1. AREA COMPUTED BY COORDINATE METHOD
2. ALL DISTANCES ARE HORIZONTAL
NORTH CAROLINA PROFESSIONAL SEAL L-3830 LAND SURVEYOR MICHAEL J. LAWRENCE
I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 2719 PAGE 154 OR OTHER REFERENCE SOURCE MB. 12 PG. 45): THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK 12, PAGE 45 OR OTHER REFERENCE SOURCE N\A; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 20,000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21NCAC 56.1600).
THIS 2 DAY OF November, 2023.
Michael J. Lawrence
MICHAEL J. LAWRENCE PLS 3830
11/2/2023
** ADDED REAR SETBACK INFORMATION, PER OWNER **
PRELIMINARY
THIS MAP IS NOT FOR RECORDATION
40' 20' 0 40'
SCALE IN FEET
1" = 40 '
FOUNDATION SURVEY FOR
SPENCER
HIDEAWAY SHORES
SECTION 1, BLOCK C
LOT 4
MAP BOOK 12 PAGE 45
TOPSAIL TOWNSHIP, PENDER COUNTY
NORTH CAROLINA
SURVEY DATE: OCTOBER 17, 2018
ACCESSORY BUILDING FOUNDATION 7/18/2023
HANOVER DESIGN SERVICES, P.A.
LAND SURVEYORS ENGINEERS LAND PLANNERS
1123 FLORAL PARKWAY
WILMINGTON, N.C. 28403
PHONE: 910 343-8002
FAX: 910 343-9941
HDS LICENSE C-0597
HDS
ft\all\mike 14589-foundation

Notes:

1. All Construction to comply with Local and N.C. Building Code

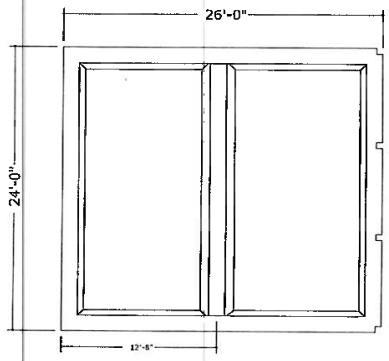
September 22, 2023

Project Location || 91 Scotch Bonnet Way

A | 01

MC Drafting

Top View

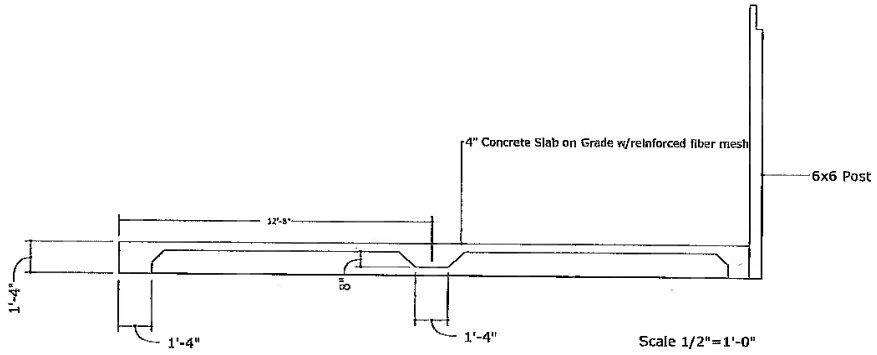


Monolithic Slab

Scale 1/4"=1'-0"

Notes:

1. Foundation/Partial Building constructed prior to ARCH drawings/current as-built unverified
2. 6x6 post depth and footing as-built unverified
3. Engineer to verify/approve current foundation
4. Drawings provided to bring current as-built structure into compliance with Pender County Building Dept.

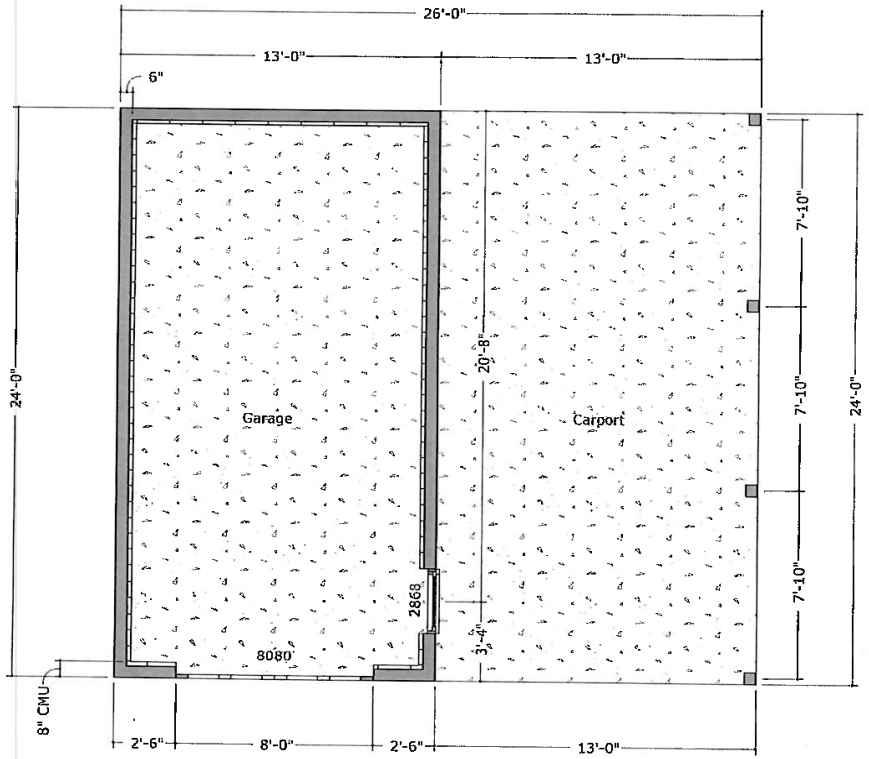


Scale 1/2"=1'-0"

Foundation

Notes:

1. All Construction to comply with Local and N.C. Building Code



Ground Level

Scale 1/2"=1'-0"

Notes:

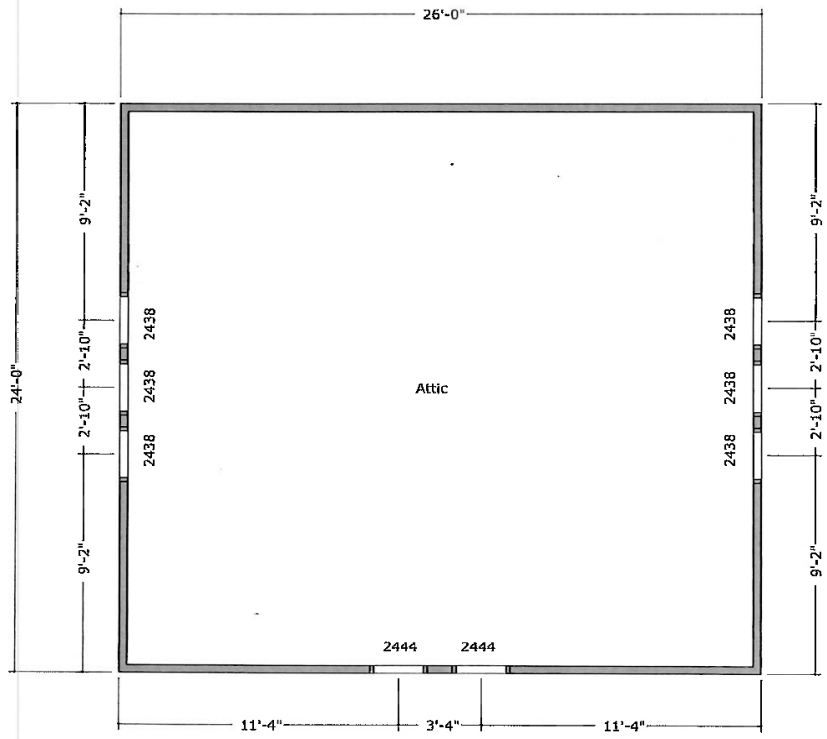
1. All Construction to comply with Local and N.C. Building Code

September 22, 2023

Project Location | 911 Scotch Kennel Way

A 03

MBC Drafting



Notes:

1. All Construction to comply with Local and N.C. Building Code

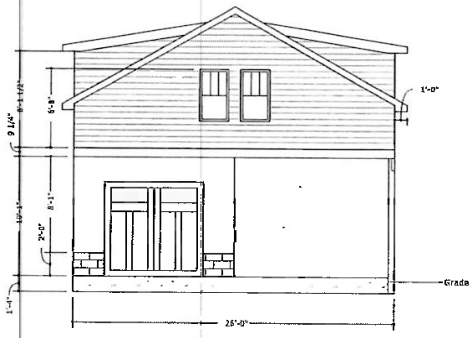
Scale 1/2"= 1'-0"

September 22, 2023

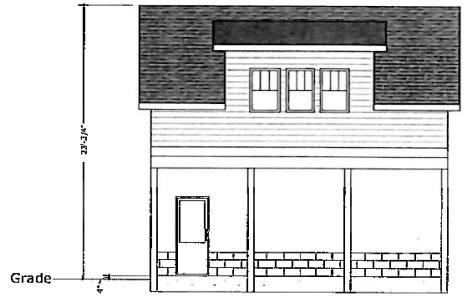
Project Location | 91 Scotch Tomato Way

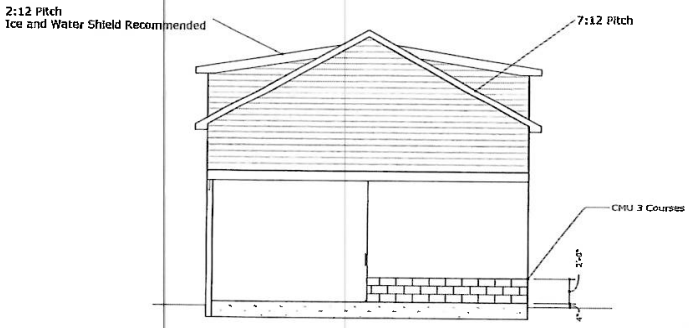
A | 04

Page 29 of 87

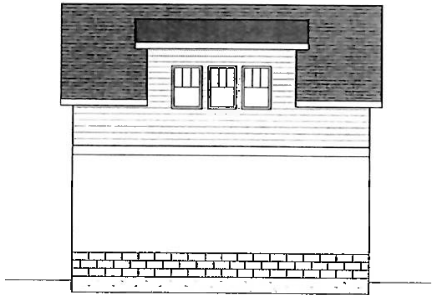


North Elevation





South Elevation



East Elevation

Notes:

1. All Construction to comply with Local and N.C. Building Code

1/4"= 1'-0"

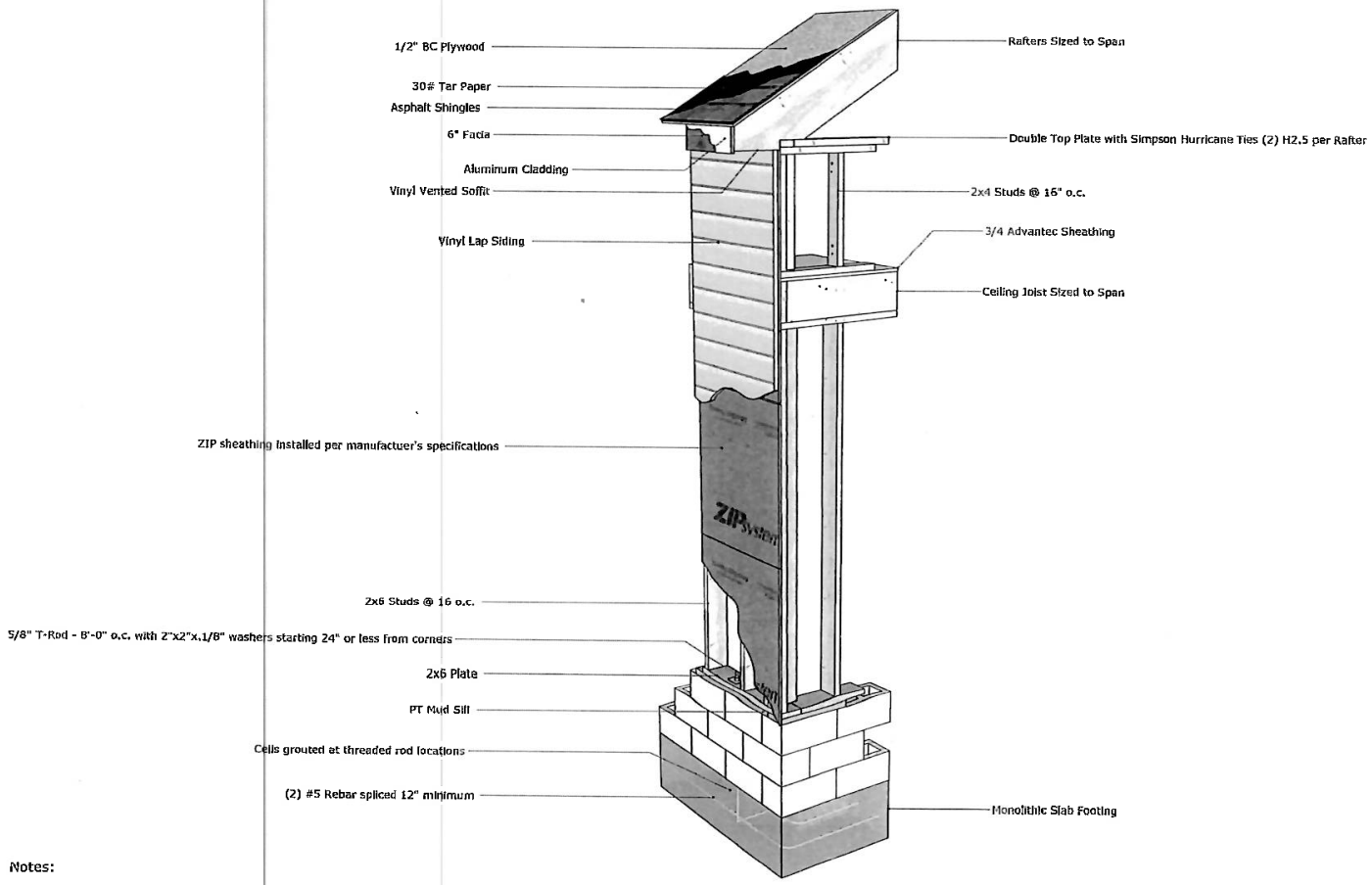
September 22, 2023

Project Location | 26 Scottish Road Way

A | 05

Page 30 of 87

Page 32 of 159



Notes:

1. All Construction to comply with Local and N.C. Building Code

Typical Wall Section

September 22, 2023

Project Location | 195 Scotch Bonnet Way

A | 06

MBC Drafting

Page 24 of 87

structure. Permit extensions may be granted by the Administrator upon submittal of documentation that shows progress is being made. This shall be demonstrated by documentation of inspections records on building and trade work associated with the repair and reconstruction. The maximum extension shall not exceed six (6) months. The Administrator may make a determination allowing the extension for multiple cases based on the severity of damage and overall recovery progress.

a) Zoning Approval Permits issued for emergency/disaster relief housing relating to Hurricane Florence shall be eligible for additional six (6) month extensions, providing progress has been made in the repair and reconstruction of the primary structure. The final expiration date shall be no later than September 14, 2021.

8) Temporary Housing Units must be removed from the lot within thirty (30) days following completion of repair and reconstruction of the primary structure, or within thirty (30) days following expiration of the related Zoning Approval Permit.

9) Temporary Housing Units shall also be allowed in the event repair or replacement is being made pursuant to a governmental grant or program. However, any temporary structure shall be removed within thirty (30) days after the issuance of an occupancy permit for the dwelling unit or the installation of the manufactured home.

5.3.3 Accessory Uses and Structures

A. Accessory Structure Setbacks and Separation Requirements

1) Accessory Structures 50-599 Square Feet In Area:

a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.

2) Accessory Structures 600-1,199 Square Feet In Area:

a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.

3) Accessory Structures 1,200 Square Feet in Area or Greater:

a) Same setback and separation requirements as principal buildings per zoning district regulations

B. Cottage Occupation – Cottage Occupations shall be permitted with an approved Special Use Permit in zoning districts indicated in Section 5.2.3, Table of Permitted Uses, with the following limitations:

1) The use must be clearly incidental and secondary to the use of the property for residential purposes.

2) The use shall not change the character or area of the structure or have any exterior evidence of the occupation.

3) The floor area of the cottage occupation cannot exceed the total floor area of the primary residence.

4) No cottage occupation shall be permitted which creates objectionable noise, dust, smoke, odor, glare, or traffic attraction greater than that of other residential properties in the vicinity.

5) Workers not living on the property shall be limited to three (3) persons per day.

6) Proposed Cottage Occupation permits in the GB, General Business district, shall not expand or increase the existing non-conforming use or structure.

4.14 ZONING DISTRICT DIMENSIONAL REQUIREMENTS

Dimensional Requirements Table

Dimensional Standards [9]	RA	RP	RM	MH	GB	OI	IT	GI	PD	EC
Lot Size	1 Acre[8]	15,000[5] Sq. Ft.	(1)	(7)	15,000 Sq. Ft.[8]	15,000 Sq. Ft.	1 Acre	1 Acre	(1)	1 Acre
Lot Size Duplex	60,000 Sq. Ft.	22,000 Sq. Ft.	(1)						(1)	
Min. Area Rezoning(3)	NA	5 Acres	10 Acres	5 Acres	1 Acre	1 Acre	5 Acres	5 Acres	5 acres	NA
Min. Lot Width-Ft	100[8]	80[6]	(1)	(7)	80[8]	80	100	100	(1)	100
Min. Chord Length at ROW line for "cul de sac's"	45	30	(1)	20	30	30	45	45	(1)	45
Min. Front Yd.-Ft.	30[8]	30	(1)	(7)	25[8]	25	40	50	(1)	50
Min. Side Yard-Ft	15[8]	10	(1)	(7)	10[8]	10	25	25	(1)	25
Min. Corner Yard Ft (10)	15	15	(1)	(7)	12	12	20	25	(1)	25
Min. Rear Yard-Ft	30[8]	25	(1)	(7)	10[8]	10	25	25	(1)	25
Max. Height-Ft	35[2]	35[2]	45	35	40	40	50	50	(1)	40
Min. Req. Structure Separation	30[8]	30	(1)		20[8]	20	(11)	(11)	(1)	50

(1) Dimensional standards in the Planned Development (PD) and Residential Mixed (RM) Districts are required to be specified on a Master Development Plan.

(2) Maximum Height requirements in the RA, RP, RM and PD Zoning Districts shall be allowed an additional 10' feet if located within any Special Flood Hazard Area (SFHA) at the calculation of five (5) additional feet in building height per every two (2) feet built above the regulatory flood prevention protection elevation, as defined in the Pender County Flood Damage Prevention Ordinance with building height at a maximum of forty-five (45) feet.

(3) Any parcel of property meeting the guidelines set forth in Sections 3.3 or 3.4 that adjoins an established zoning district that is identical to the district that is applying for a rezoning shall not have to meet the minimum area requirements for rezoning for that district.

(4) The minimum required separation standards are for principal or primary structures, accessory structures must follow separation and setback requirements as outlined in Sections 4.6.3 and 5.3.3.A.

(5) Minimum lot sizes in the RP zoning district may be reduced to twelve thousand (12,000) square feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.

(6) Minimum lot width in the RP zoning district may be reduced to sixty (60) feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.

(7) Dimensional requirements for a Manufactured Home District may be found in Section 5.3.2.D, Manufactured Home Community.

(8) Dimensional requirements for a Recreational Vehicle Park may be found in Section 5.3.9.B, Recreational Vehicle Park.

(9) Variations to Dimensional Standards are allowed for projects meeting LID Project Criteria, as overviewed in Section 7.14, Low Impact Development.

(10) See Figure 4.1

(11) North Carolina Building Regulations Apply

ATTACHMENT 2 – APPEAL APPLICATION

Michael Best & Friedrich LLP
Attorneys at Law
Andrew R. Jones
T 910.442.8740
E arjones@michaelbest.com

December 27, 2023

VIA EMAIL AND U.S. MAIL

Daniel Adams, MPA, CFM, CZO
Planning and Community Development Director
UDO Administrator
Pender County Planning Division
P.O. Box 1519
Burgaw, NC 28425
dadams@pendercountync.gov

Re: Notice of Appeal
Zoning Letter of Denial for Residential Accessory Building
91 Scotch Bonnet Way, Hampstead, NC 28443
Application RACC-01856-2023
Pender County PIN: 4203-60-9602-0000

Dear Administrator:

This Firm represents Marcus Spencer and Kaylla Spencer (the "Spencers") with respect to an appeal of Zoning Letter of Denial for Residential Accessory Building Application RACC-01856-2023. I have enclosed a copy of the Notice of Appeal pursuant to N.C. Gen. Stat. § 160D-405 and UDO Section 3.16.

We request that the Spencers' appeal be heard either the January 21, 2024, or February 17, 2024, Board of Adjustment hearing. Please contact me to coordinate that scheduling.

Very truly yours,

Andrew R. Jones

Enclosures

cc: Pender County Board of Adjustment
Justin Brantley, via email only with enclosures
Patrick Buffkin, via email only with enclosures

Pender County
Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425

Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

APPEAL OF ADMINISTRATIVE DECISION

As specified in N.C.G.S. 153A-345(b), an appeal by any person aggrieved by a final order, interpretation, or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

Application Requirements

A. An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Administrator and the Board of Adjustment within thirty days after the decision by the Administrator.
B. An application for appeal of an administrative decision shall be submitted in accordance with Section 3.1.2, Application Requirements.
C. A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Administrator. The date and time of filing shall be entered on the notice.

Deadline for Submission of Application

An appeal of an administrative decision shall be filed with the Administrator and Board of Adjustment within thirty (30) days of receipt of the decision.

Action by Board of Adjustment

A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
C. If a motion to reverse or modify is not made, or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.
D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

Appeals from the Board of Adjustment

Appeals to the Superior Court may be taken by any person, firm or corporation aggrieved, or by any office, department, board, of the County affected by any decision of the Board of Adjustment, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Adjustment is filed in the office of the Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board shall be delivered to the applicant by certified mail.

APPLICATION FOR APPEAL OF ADMINISTRATIVE DECISION

THIS SECTION FOR OFFICE USE			
Application No.	**AAD** APPEAL 2024-13	**Date**	12/27/2023
Application Fee	**$** 250.00	**Receipt No.**	INVOICE 00037918

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Marcus Spencer	**Owner's Name:**	Marcus and Kaylla Spencer
Applicant's Address:	91 Scoth Bonnet Way	**Owner's Address:**	91 Scotch Bonnet Way
City, State, & Zip	Hampstead, NC 28443	**City, State, & Zip**	Hampstead, NC 28443
Phone Number:		**Phone Number:**	
Legal relationship of applicant to land owner:	Applicant is land owner		

SECTION 3: SIGNATURES			
Applicant's Signature		**Date:**	12-27-23
Owner's Signature		**Date:**	12-27-23

NOTICE TO APPLICANT:

1. Applicant must also submit the information described below in the Appeal of Administrative Decision Checklist.
2. Applicant or agent authorized in writing must attend the public hearing.
3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.

APPEAL OF ADMINISRATIVE DECISION CHECKLIST

☐	Signed application form
☐	Application fee
☐	One business size envelope legibly addressed with **certified** postage for all participants for the appeal
☐	Appeal Description: Written description of the Appeal taken forward including all pertinent materials (pictures, permits, etc.)

OFFICE USE ONLY

☐	**AAD Fees $250**	**Total Fee Calculation $**	
Payment Method :	**Cash :** ☐ $_____	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☐ Check # _____
Application received by:		Date:	
Application completeness approved by:		Date:	
Date scheduled for public hearing:			

Print Form

STATE OF NORTH CAROLINA
COUNTY OF PENDER

IN RE: 91 SCOTCH BONNETT WAY, HAMPSTEAD, NC 28443

NOTICE OF APPEAL

NOW COME property owners MARCUS K. SPENCER and KAYLLA D. SPENCER (collectively the "Spencers"), by and through undersigned counsel and, pursuant to N.C. Gen. Stat. § 160D-405 and UDO Section 3.16, hereby provide notice of appeal of the Zoning Letter of Denial for Residential Accessory Building Application RACC-01856-2023, with respect to the property identified as Pender County PIN: 4203-60-9602-0000, 91 Scotch Bonnet Way dated November 28, 2023 (the "Denial").

As will be further proven in a hearing of this matter, the Denial relies upon errors of law and fact, fails to reflect the equities of the subject property, and should be reversed.

RESPECTFULLY SUBMITTED, this the 27th day of December, 2023.

MICHAEL BEST & FRIEDRICH, LLP
5815 Oleander Dr, Suite 300
Wilmington, NC 28403
Telephone and Facsimile: (910) 422-8470

By: _____
Andrew R. Jones
N.C. Bar No. 46161
arjones@michaelbest.com

Counsel for Marcus K. Spencer and Kaylla D. Spencer.

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of December 2023, the forgoing NOTICE OF APPEAL was served upon the parties to this action by email and depositing a copy thereof in the United States mail, first class, postage prepaid, and email addressed as follows:

Daniel Adams, MPA, CFM, CZO
dadams@pendercountync.gov
Planning and Community Development Director
UDO Administrator
Pender County Planning Division
P.O. Box 1519
Burgaw, NC 28425

Justin Brantley, Deputy Planning Director
jbrantley@pendercountync.com
Pender County Planning Division
P.O. Box 1519
Burgaw, NC 28425

Pender County Board of Adjustment
P.O. Box 1519
Burgaw, NC 28425

Andrew R. Jones
Counsel for Marcus K. Spencer and Kaylla D. Spencer

MICHAEL BEST & FRIEDRICH LLP
Attorneys at Law

US Bank - Milwaukee

DATE: 12-27-2023 **PAYEE: Pender County Clerk of Court**

VENDOR #: 706043.01 **CHECK #: 201919**

INVOICE NUMBER	INV. DATE	INVOICE DESCRIPTION	AMOUNT
890209-0001	12-27-23		250.00
		TOTAL	**$250.00**

Michael Best

Michael Best & Friedrich LLP
790 North Water Street, Suite 2500
Milwaukee, WI 53202

DATE **12-27-23**

US Bank
201 West Wisconsin Avenue
Milwaukee, WI 53259

CHECK NO. **201919**

AMOUNT
250.00

VOID AFTER 6 MONTHS

PAY
Two Hundred Fifty and 00/100 Dollar(s)

TO THE ORDER OF
Pender County Clerk of Court
P.O. Box 310
Burgaw, NC 28425

Holly Johnson

⑈201919⑈ ⑆075000022⑆ ⑈1823224203 6⑈

chael Best

er Drive

NC 28403

Daniel Adams, MPA, CFM, CZO
Planning and Community Development Director
UDO Administrator
Pender County Planning Division
P.O. Box 1519
Burgaw, NC 28425

chael Best

der Drive

NC 28403

Pender County Board of Adjustment
P.O. Box 1519
Burgaw, NC 28425

ATTACHMENT 3 – APPEAL APPLICATION CORRECTED PAYMENT

Michael Best & Friedrich LLP
Attorneys at Law
Amber D. Clemens
T 910.795.2797
E adclemens@michaelbest.com

January 2, 2024

VIA MAIL AND EMAIL: dadams@pendercountync.gov

Daniel Adams, MPA, CFM, CZO
Planning and Community Development Director
UDO Administrator
Pender County Planning Division
P.O. Box 1519
Burgaw, NC 28425

Re: Notice of Appeal Zoning Letter of Denial for Residential Accessory Building Application RACC-01856-2023, Pender County PIN: 4203-60-9602-0000,91 Scotch Bonnet Way

Dear Administrator:

As previously discussed in our email dated December 28, 2023, check number 201919 included with the Notice of Appeal was incorrectly issued to "Pender County Clerk of Court." We have reissued the check, and enclosed is the corrected check made payable to "Pender County Planning Division." Check number 201919 has been cancelled, and we request that you destroy it without depositing it.

We apologize for the confusion. Please do not hesitate to contact me if you have any questions or concerns.

Thank you,

Amber Clemens

Amber Clemens

MICHAEL BEST & FRIEDRICH LLP
Attorneys at Law

US Bank - Milwaukee

DATE: 01-02-2024 **PAYEE: Pender County Planning Division**

VENDOR #: 706043.02 **CHECK #: 201955**

INVOICE NUMBER	INV. DATE	INVOICE DESCRIPTION	AMOUNT
890209-0001	01-02-24		250.00
		TOTAL	**$250.00**

Michael Best

Michael Best & Friedrich LLP
790 North Water Street, Suite 2500
Milwaukee, WI 53202

DATE **01-02-24**

US Bank
201 West Wisconsin Avenue
Milwaukee, WI 53259

CHECK NO. **201955**

AMOUNT
250.00

VOID AFTER 6 MONTHS

PAY
Two Hundred Fifty and 00/100 Dollar(s)

TO THE ORDER OF
Pender County Planning Division
PO Box 1519
Burgaw, NC 28425

Holly Johnson

⑈201955⑈ ⑆075000022⑆ ⑈1823224203 6⑈

APPEAL 2024-13 Exhibit B

IF YOU WOULD LIKE TO SPEAK ON ANY PUBLIC HEARING ITEM(S) OR WISH TO SPEAK DURING THE PUBLIC COMMENT SECTION OF THE AGENDA,

PLEASE SIGN IN AT THE ENTRANCE TO THIS MEETING ROOM

THANK YOU
PENDER COUNTY, NORTH CAROLINA

Planning & Community Development February 21, 2024 Slide 1

1

Case APPEAL 2024-13

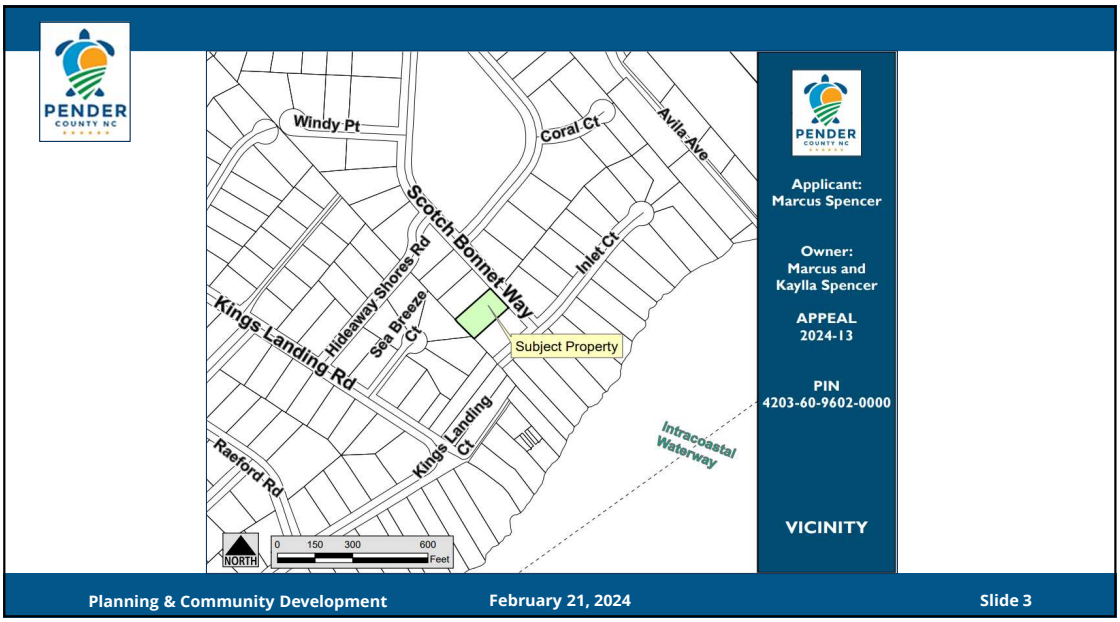
Appeal of an Administrative Decision

Marcus Spencer

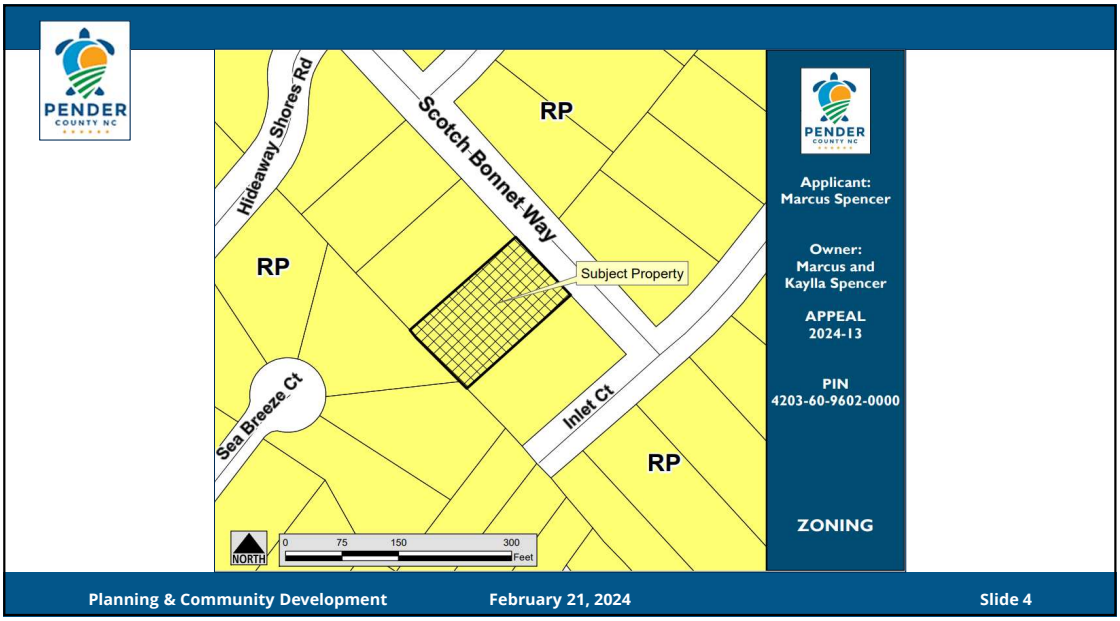
Marcus Spencer, applicant, on behalf of Marcus and Kaylla Spencer, owners, is requesting an Appeal of an Administrative Decision. The appeal is of an administrative decision by the Pender County Planning & Community Development Department to deny the permitting of a residential accessory building. The subject property is located at 91 Scotch Bonnet Way which is located approximately 150 feet from the intersection of Scotch Bonnet Way and Inlet Court in the Topsail Township and may be further identified by Pender County PIN 4203-60-9602-0000.

Planning & Community Development February 21, 2024 Slide 2

2


PENDER COUNTY NC
Windy Pt
Coral Ct
Avila Ave
Scotch Bonnet Way
Inlet Ct
Hideaway Shores Rd
Sea Breeze Ct
Kings Landing Rd
Subject Property
Kings Landing Ct
Raeford Rd
Intracoastal Waterway
NORTH
0 150 300 600 Feet
Applicant: Marcus Spencer
Owner: Marcus and Kaylla Spencer
APPEAL 2024-13
PIN 4203-60-9602-0000
VICINITY
Planning & Community Development
February 21, 2024
Slide 3

3


PENDER COUNTY NC
Hideaway Shores Rd
Scotch Bonnet Way
RP
RP
Subject Property
Sea Breeze Ct
Inlet Ct
RP
NORTH
0 75 150 300 Feet
Applicant: Marcus Spencer
Owner: Marcus and Kaylla Spencer
APPEAL 2024-13
PIN 4203-60-9602-0000
ZONING
Planning & Community Development
February 21, 2024
Slide 4

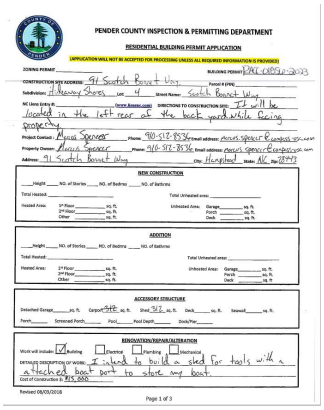
4

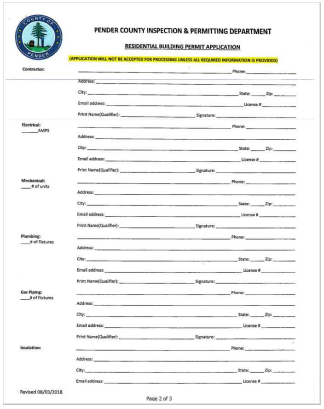
Case History

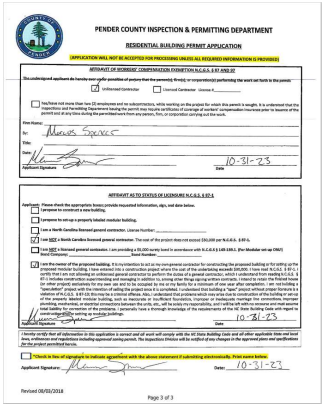
- On **November 6, 2023**, a building permit application (RACC-01856-2023) was submitted to Pender County Planning & Community Development for an accessory structure at 91 Scotch Bonnet Way.
- On **November 28, 2023**, Justin Brantley, Deputy Planning Director, issued a letter of denial for the proposed accessory structure.
- On **December 27, 2023**, Pender County received an Application for the Appeal of An Administrative Decision related to the denial of the proposed accessory building.

5

Building Permit Application (RACC-01856-2023)

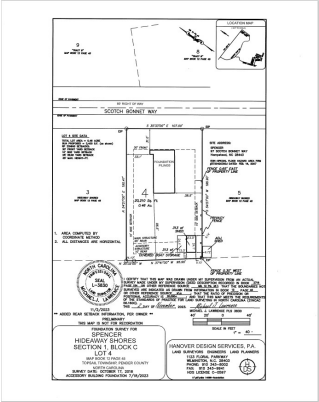

PENDER COUNTY INSPECTION & PERMITTING DEPARTMENT
RESIDENTIAL BUILDING PERMIT APPLICATION
(APPLICATION WILL NOT BE ACCEPTED FOR PROCESSING UNLESS ALL REQUIRED INFORMATION IS PROVIDED)

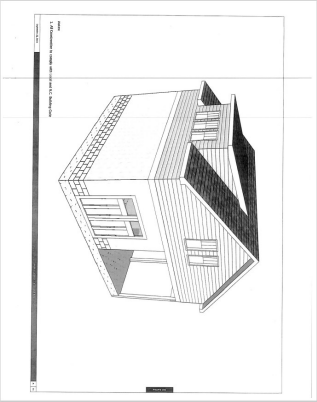

PENDER COUNTY INSPECTION & PERMITTING DEPARTMENT
RESIDENTIAL BUILDING PERMIT APPLICATION
(APPLICATION WILL NOT BE ACCEPTED FOR PROCESSING UNLESS ALL REQUIRED INFORMATION IS PROVIDED)

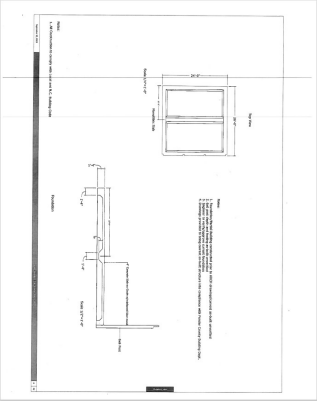

PENDER COUNTY INSPECTION & PERMITTING DEPARTMENT
RESIDENTIAL BUILDING PERMIT APPLICATION
(APPLICATION WILL NOT BE ACCEPTED FOR PROCESSING UNLESS ALL REQUIRED INFORMATION IS PROVIDED)

6

Building Permit Application (RACC-01856-2023)

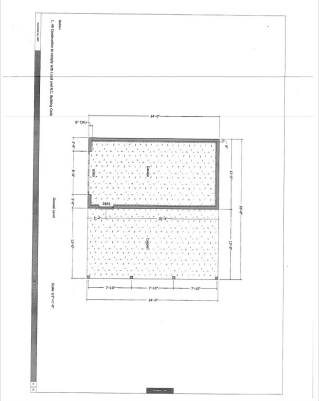


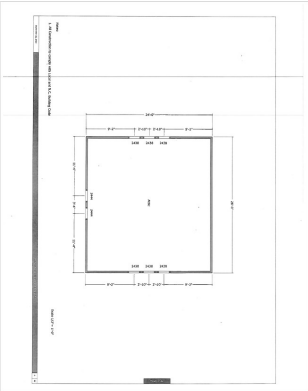


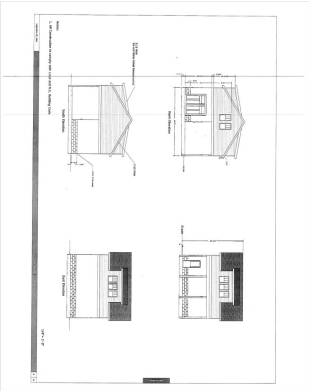


7

Building Permit Application (RACC-01856-2023)

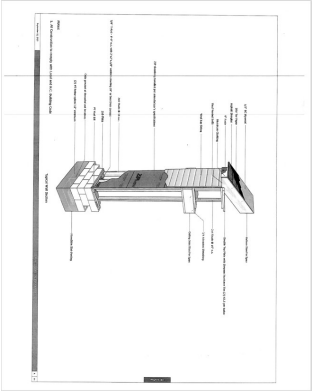






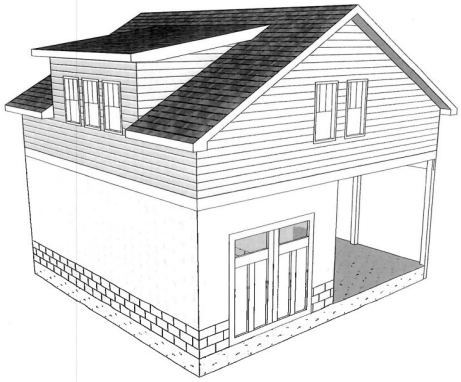
8

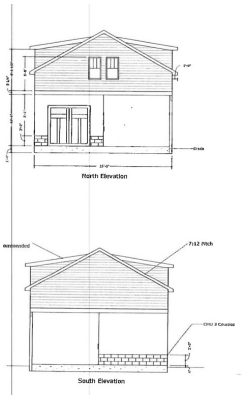
Building Permit Application (RACC-01856-2023)

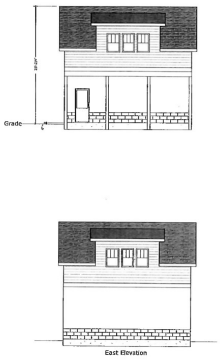


9

Building Permit Application (RACC-01856-2023)

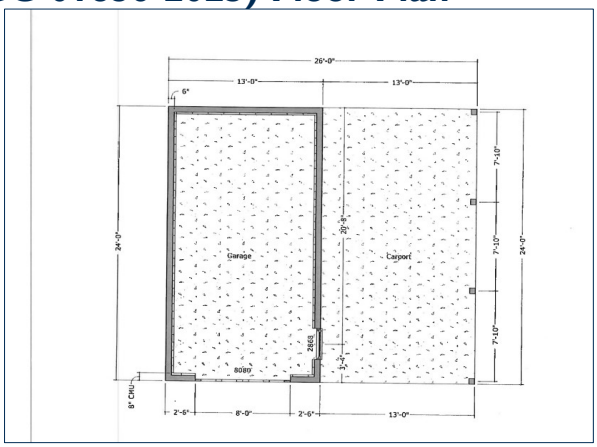






10

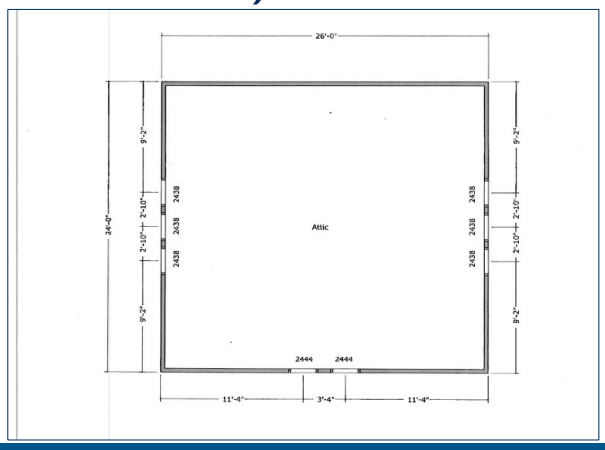
Building Permit Application (RACC-01856-2023) Floor Plan



Planning & Community Development February 21, 2024 Slide 11

11

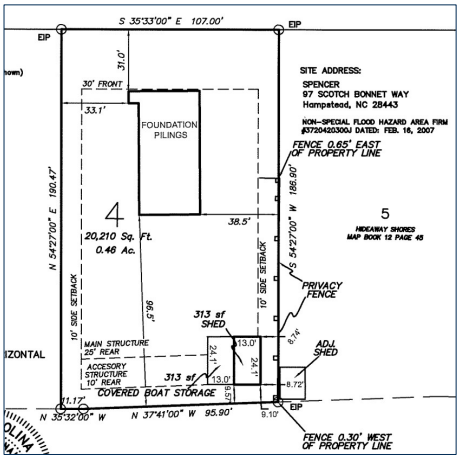
Building Permit Application (RACC-01856-2023) Floor Plan

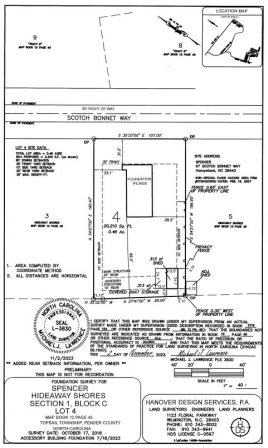


Planning & Community Development February 21, 2024 Slide 12

12

Foundation Survey

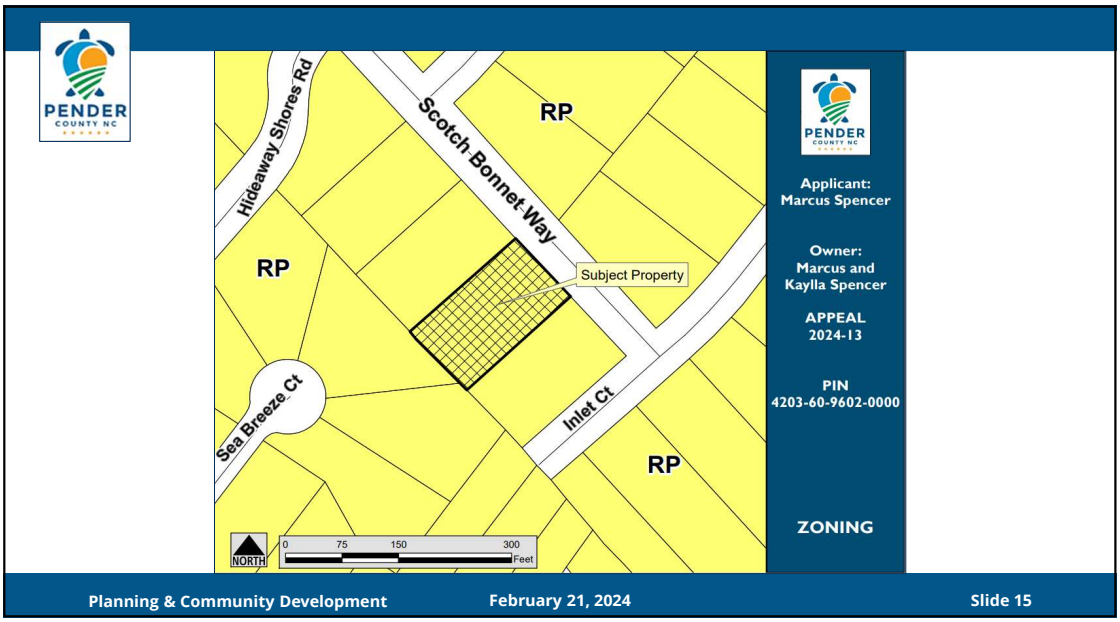




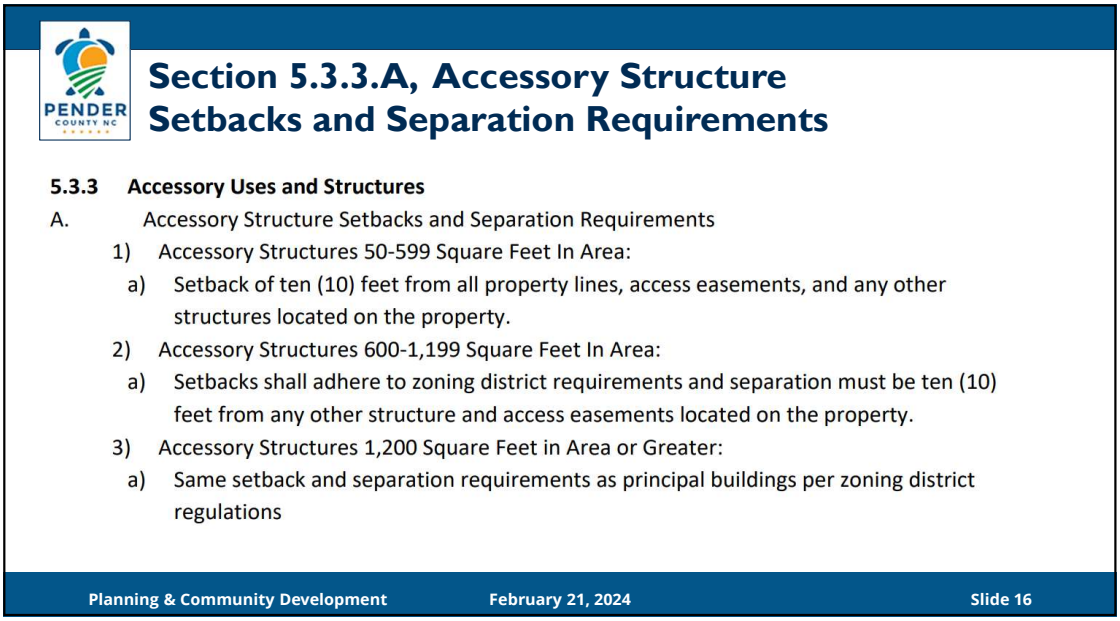
13

Structure Photograph Received June 23, 2023

14


PENDER COUNTY NC
Hideaway Shores Rd
Scotch Bonnet Way
RP
RP
Subject Property
Sea Breeze Ct
Inlet Ct
RP
NORTH
0 75 150 300 Feet
PENDER COUNTY NC
Applicant: Marcus Spencer
Owner: Marcus and Kaylla Spencer
APPEAL 2024-13
PIN 4203-60-9602-0000
ZONING
Planning & Community Development
February 21, 2024
Slide 15

15


PENDER COUNTY NC
Section 5.3.3.A, Accessory Structure Setbacks and Separation Requirements
5.3.3 Accessory Uses and Structures
A. Accessory Structure Setbacks and Separation Requirements
1) Accessory Structures 50-599 Square Feet In Area:
a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
2) Accessory Structures 600-1,199 Square Feet In Area:
a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
3) Accessory Structures 1,200 Square Feet in Area or Greater:
a) Same setback and separation requirements as principal buildings per zoning district regulations
Planning & Community Development
February 21, 2024
Slide 16

16

Section 4.14, Zoning District Dimensional Requirements

Dimensional Standards [9]	RA	RP	RM	MH	GB	OI	IT	GI	PD	EC
Lot Size	1 Acre[8]	15,000[5] Sq. Ft.	(1)	(7)	15,000 Sq. Ft.[8]	15,000 Sq. Ft.	1 Acre	1 Acre	(1)	1 Acre
Lot Size Duplex	60,000 Sq. Ft.	22,000 Sq. Ft.	(1)						(1)	
Min. Area Rezoning(3)	NA	5 Acres	10 Acres	5 Acres	1 Acre	1 Acre	5 Acres	5 Acres	5 acres	NA
Min. Lot Width-Ft	100[8]	80[6]	(1)	(7)	80[8]	80	100	100	(1)	100
Min. Chord Length at ROW line for "cul de sac's"	45	30	(1)	20	30	30	45	45	(1)	45
Min. Front Yd.-Ft.	30[8]	30	(1)	(7)	25[8]	25	40	50	(1)	50
Min. Side Yard-Ft	15[8]	10	(1)	(7)	10[8]	10	25	25	(1)	25
Min. Corner Yard Ft (10)	15	15	(1)	(7)	12	12	20	25	(1)	25
Min. Rear Yard-Ft	30[8]	25	(1)	(7)	10[8]	10	25	25	(1)	25
Max. Height-Ft	35[2]	35[2]	45	35	40	40	50	50	(1)	40
Min. Req. Structure Separation	30[8]	30	(1)		20[8]	20	(11)	(11)	(1)	50

RP, Residential Performance
Setbacks for Principal Structures

Front – 30'
Rear – 25'
Side – 10'
Structure Separation – 30'

17

Pender County UDO Definitions

Planning Staff found that based on the submitted plans, the Gross Floor Area of the proposed building is approximately 1,250 sq ft and was supported by a finding that the carport area counts towards the total square footage of the structure as well as the 2nd floor attic portion as shown on the building plans. The Pender County Unified Development Ordinance (UDO) defines Gross Floor Area as follows:

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings.

In addition to the Gross Floor Area, Staff considered the UDO's definition of Building which is as follows:

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

18

UDO Definitions

For additional context, the Pender County UDO Defines Accessory or Secondary Use and Accessory Structure as follows:

ACCESSORY OR SECONDARY USE: A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by right in a zoning district but may be permitted in conjunction with a permitted use. In no instances shall an accessory or secondary use be permitted without the presence of a primary use.

ACCESSORY STRUCTURE (Appurtenant Structure): a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

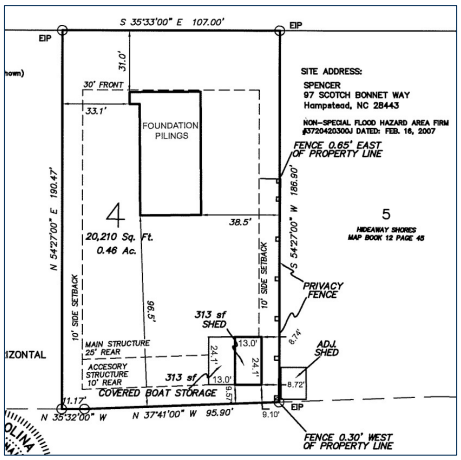
19

Section 4.14, Zoning District Dimensional Requirements

Staff identified two issues with the application in terms of setbacks:

1. The existing location of the structure as shown by the foundation survey provides that the accessory structure is located from 8.74' to 8.72' from the side property line, whereas the side setback requirement is 10'.
2. The existing location of the structure as shown by the foundation provides that the accessory structure is located from 9.57' to 9.10' from the rear property line, whereas the rear setback requirement is 25'.

As discussed, the 25' rear setback is required for structures over 600 square feet in area and because the structure was identified as being approximately 1,250 square feet in size it was determined to be unable to be approved and was therefore denied. Furthermore, the inability to meet the 10' side setback was also considered in this decision.



20

Zoning Administrator's Conclusion

As detailed in this presentation, the administrator's interpretation of the standards and regulations found within the Pender County Unified Development Ordinance was appropriate. This interpretation therefore led to the denial of the building permit application for the proposed accessory structure located at 91 Scotch Bonnet Way. It was found that the proposed structure was approximately 1,250 sq ft in size and therefore had to adhere to the required side setback of 10' and the required rear setback of 25'. The proposal did not meet these requirements and was subsequently denied.

21

PENDER COUNTY UDO APPEAL OF ADMINISTRATIVE DECISION

3.16 APPEAL OF ADMINISTRATIVE DECISION

3.16.1 Applicability

As specified in N.C.G.S. 160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

3.16.6 Action by Board of Adjustment

A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

C. If a motion to reverse or modify is not made or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.

D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

22

APPEAL 2024-13 Exhibit C

Appeal of Administrative Decision – 91 Scotch Bonnet Way

Andrew Jones

February 21, 2024

1

GIS Overview – 91 Scotch Bonnet Way

2

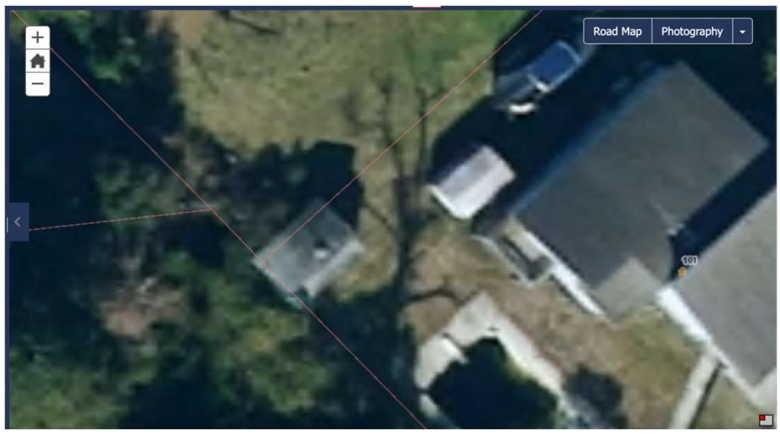
2

101 Inlet Court

3

3

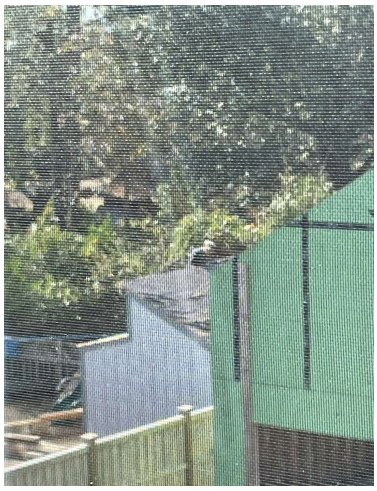
101 Inlet Court



4

4

101 Inlet Court



5

5

101 Inlet Court

Pender Online Resource Tool - Citizen Self Service

Apply, Build and Review

Login or Register

Home | Apply | Today's Inspections | Map | Pay Invoices | Search | Calendar 0

Inspection Number: 000066-2015

Inspection Details | Tab Elements | Main Menu

Inspection Type:	Code Enforcement Site Visit	Requested Date:	12/02/2015	Requested Time:	10:00 AM
Inspection Status:	[CM] Compliant	Scheduled Date:	12/02/2015	Scheduled Time:	10:00 AM
Code Case Number:	000036-2015	Completed Date:	12/02/2015	Completed Time:	7:00 AM
Inspector Name:	Charlie Ring				
Main Address:	101 INLET HAM, 28443				

6

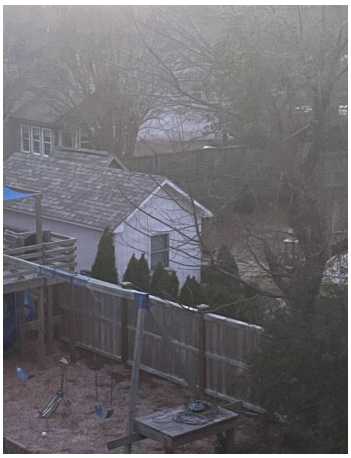
6

GIS Overview – 91 Scotch Bonnet Way

7

7

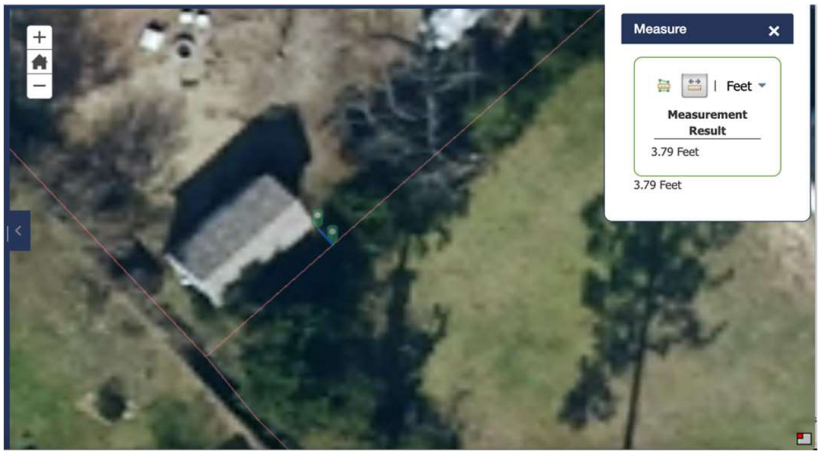
93 Scotch Bonnet Way



8

8

93 Scotch Bonnet Way



9

9

GIS Overview – 91 Scotch Bonnet Way

10

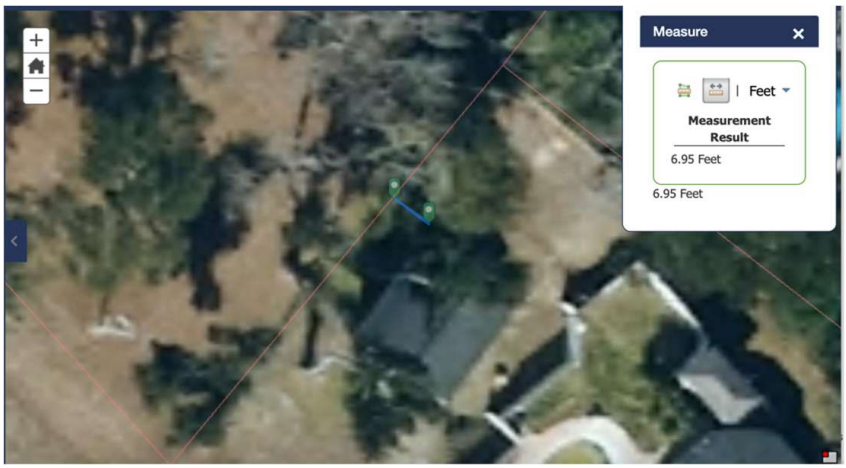
10

103 Inlet Court

11

11

103 Inlet Court



12

12

Pender County
VAR 2023-16: Variance request seeking relief from Article 7.4.4, Cross Access Corridors, of the Unified Development Ordinance

TO:	Board of Adjustment
FROM:	Daniel Adams
DATE:	March 20, 2024
SUBJECT:	VAR 2023-16: Variance request seeking relief from Article 7.4.4, Cross Access Corridors, of the Unified Development Ordinance

SUMMARY:
Little Hampstead, LLC, applicant on behalf of Tanner Postal Commercial Real Estate and O'Leary Property Management, LLC, owners, are requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 7.4.4, Cross Access Corridors. Specifically, the applicant is requesting to be exempt from the cross access connection requirement.

The subject properties are zoned GB, General Business, and are located on the west side of US Highway 17 across from Washington Acres Road in the Topsail Township. The properties may be further identified by Pender County PIN(s) 3282-53-8940-0000 and 3282-53-4438-0000.

ACTION REQUESTED:
To hold a public hearing and consider the variance request.

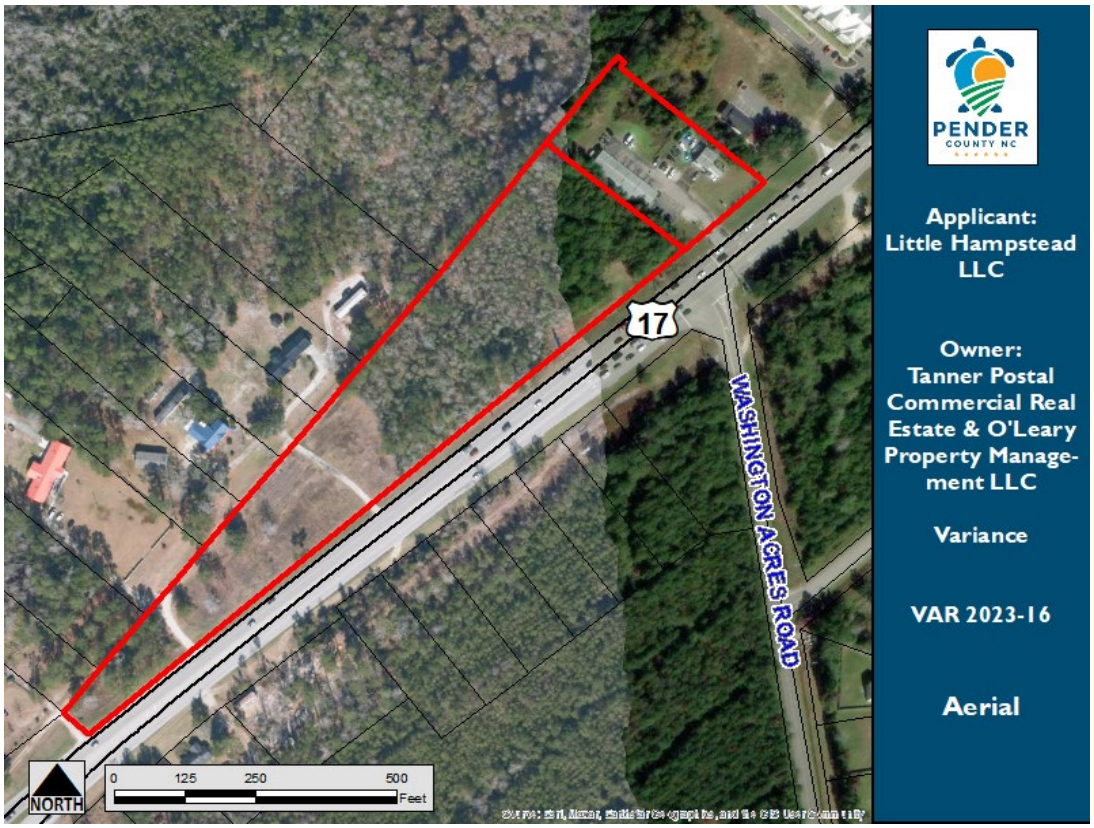
ATTACHMENTS:
1. Staff Report
2. Application
3. Narrative
4. Site Plan
5. Attachment 1: Wetland Delineation Report
6. Attachment 2: Wetland Map

STAFF REPORT FOR VAR 2023-16
VARIANCE APPLICATION

APPLICATION SUMMARY	
Case Number	VAR 2023-16
Hearing Date	February 21, 2024 – Board of Adjustment (Continued) March 20, 2024 – Board of Adjustment
Applicant	Little Hampstead, LLC
Property Owners	Tanner Postal Commercial Real Estate, O'Leary Property Management LLC
Parcel Identification Number	3282-53-4438-0000 & 3282-53-8940-0000
Acreage	Approximately 7.1 acres
Township	Topsail
Zoning District	GB, General Business
Pender 2.0 Future Land Use Category	Regional Mixed Use

VARIANCE PROPOSAL
Little Hampstead, LLC, applicant on behalf of Tanner Postal Commercial Real Estate and O'Leary Property Management, LLC, owners, are requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 7.4.4, Cross Access Corridors. Specifically, the applicant is requesting to be exempt from the cross access connection requirement.
LOCATION
The subject properties are zoned GB, General Business and are located on the west side of US Highway 17 across from Washington Acres Road in the Topsail Township. The properties may be further identified by Pender County PIN(s) 3282-53-8940-0000 and 3282-53-4438-0000.

Figure 1: Aerial Map of Subject Properties



PROPERTY DESCRIPTION

The subject properties consist of two tracts, the larger of which is undeveloped (PIN: 3282-53-4438-0000) and the smaller of which is developed with two commercial structures that house O'Leary's Automotive Repair and Offroad Towing (PIN: 3282-53-8940-0000). Based on the applicant's site plan, the two commercial structures would be removed as part of the development of the site.

The subject parcels are located on the west side of US Highway 17 across from its intersection with Washington Acres Road. The North Carolina Department of Transportation (NCDOT) has identified Washington Acres Road as a project site for future realignment such that the roadway will be shifted southwest from its existing location so that it intersects US Highway 17 closer to a 90-degree angle.

The Pender County Streets Plan, updated in 2021 and commonly referred to as the Collector Street Plan, has identified a future collector street on the subject properties. A collector street is

a street that connects local roads and neighborhoods to arterial roadways. Country Club Drive and Sloop Point Loop Road are examples of collector streets in the County. The purpose of the Collector Street Plan is to guide investment in new collector streets to improve connectivity, inform land development, maintain acceptable levels-of-service on existing roadways, ensure conservation of natural areas, and provide a safe and high-quality transportation network for residents, businesses, and visitors using all modes of travel. In other words, the Plan seeks to identify vital locations for future roadway corridors.

As noted in the applicant's submittal and shown on their site plan, the site includes a future collector road, which is aligned with the future alignment of Washington Acres Road. The intent is for there to be a collector road running east-west through the site as the property west of the site develops.

Figure 2: Probable Collector Street Locations

VARIANCE DESCRIPTION

The applicant is seeking a variance for relief from Article 7.4.4, Cross Access Corridors, of the Pender County Unified Development Ordinance (UDO). A cross access corridor is a driveway constructed between adjoining properties to provide an alternative passageway to access adjoining developments without entering and exiting the roadway. These cross access corridors are intended to link parking areas on adjoining developments (7.4.4.A). This Article requires that cross access corridors be established for all nonresidential adjacent properties (7.4.4.B).

In this case, the subject site is adjacent to property that is zoned GB, General Business, to the north and is thus required to create a stub to the property line where the cross access corridor will be located. As noted in Article 7.4.4.C, if a site is developed adjoining to an undeveloped parcel, it shall be designed so that its parking, access, and circulation are easily tied together to create a unified system at a later date. If the building site abuts an existing developed property, it shall tie into the abutting parking, access, and circulation to create a unified system when possible. This shall be accomplished by requiring the applicant to:

a) Construct a cross access future connection to the property line to allow for future connection or dedicate an easement of sufficient width to accommodate a future cross access corridor.

In this case, the abutting property to the north is developed and houses the True Blue Butcher and Baker (PIN: 3282-54-9096-0000). The property to the north of that parcel is also developed and houses Arbor Landing, a senior living facility (PIN: 3282-64-2389-0000). As shown on Figure 3, the Arbor Landing property was required to stub a cross access corridor to the True Blue Butcher and Baker site when it was developed. If redeveloped, the True Blue Butcher and Baker site will be required to connect their internal circulation system to that stub, which would then connect to a stub on the subject site. This system of cross access corridors across the three sites would provide for internal connectivity such that these parcels would be accessible without having to exit one site and travel on US Highway 17 to get to an adjacent site. This internal connectivity that is desired by the County's UDO is partially started, and as the properties continue to develop and/or redevelop, the internal connectivity created by the cross access corridor requirement will continue to be built out.

Figure 3: Existing Cross Access Corridor Stub at Arbor Landing site

The applicant's site plan has also changed over time. The initial site plan that was submitted to staff showed a different layout of the northern-most structure and associated parking that is proposed to be developed as part of this project. Figure 4 shows a structure that is situated such that the associated parking would create a more natural cross access connection to the adjacent northern parcel, whereas the reconfigured site plan most recently submitted (Figure 5) shows the proposed building oriented roughly 90 degrees from the initial layout. The proposed reorientation of the structure inhibits the ability to provide a cross access corridor. The initial site plan demonstrates a concept that would be much more suitable for a cross access corridor connection.

Figure 4: First Submittal

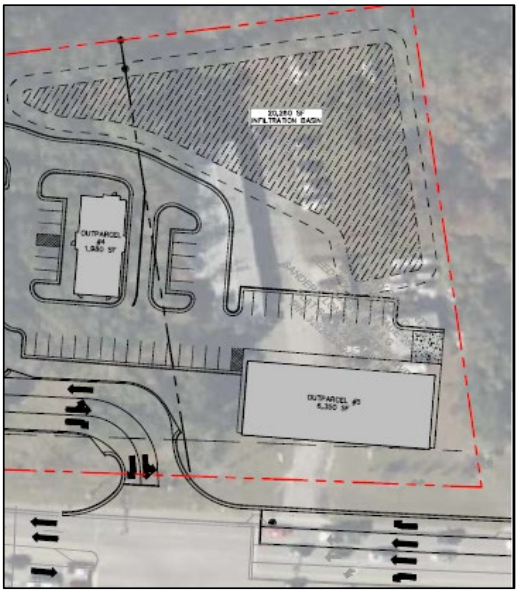


Figure 5: Most Recent Submittal

ZONING ADMINISTRATOR'S CONCLUSION

As stated in Article 1.4 of the UDO, it is the purpose of the UDO to promote the health, safety and general welfare of the residents of Pender County (1.4.1.A), facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements (1.4.1.I), and minimize congestion in the streets and accommodate the use of alternatives to the private automobile including public transportation and pedestrian and bicycle facilities (1.4.1.J). The requirement of cross access connections between commercial properties aligns with the purpose statements of the UDO by providing a safe point of access between commercial sites. In this case, the requirement provides an alternative to travelling on US Highway 17 to get between adjacent parcels, thus improving safety and reducing congestion on the roadway.

The applicant's narrative references development challenges associated with the installation of a collector street, changes in topography, and the presence of wetlands on the property. Those three factors, both individually and collectively, are not unique or peculiar to land in Pender County. Based on a Wetland Delineation Report completed by ECS Southeast, LLP, and included in the Board's packet as Attachment 1, neither Waters of the United States nor wetlands were found on the larger parcel. The applicant also submitted a preliminary wetlands map of the smaller parcel, which showed approximately 0.07 acres of potential jurisdictional wetlands (see Attachment 2). Additionally, the applicant has stated that the changes in topography are due to the installation of the collector road. Based on available data from the County's Geographic

Information System (GIS), existing conditions on the site do not indicate dramatic changes in topography along the site's northern boundary. The changes in topography appear to be the result of the applicant's preferred design of the site, not the collector street requirement or the natural grade of the land.

Article 7.4.4.B.3 of the UDO permits the Administrator to modify or waive the cross access corridor requirements if it can be proven that strict compliance would be impractical due to unique site conditions such as environmental concerns, safety concerns, extreme slope, or similar characteristics. An administrative waiver request was submitted by the applicant and subsequently denied by the Administrator.

PENDER COUNTY UDO VARIANCE EVALUATION

3.14 VARIANCE

3.14.1 Applicability

A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
F. The Board of Adjustment may grant variances in the following special circumstances, as indicated in Section 3.14.7 of this Ordinance.

3.14.6 Burden of Proof

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
   1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
   2) The hardship results from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
   3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship.
   4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.
B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

BOARD OF ADJUSTMENT: FINDING OF FACTS

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **results/does not result** from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
   a. This conclusion is based on the following FINDINGS OF FACT:

2. It is the Board's CONCLUSION that, the hardship **results/does not result** from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
   a. This conclusion is based on the following FINDINGS OF FACT:

3. It is the Board's CONCLUSION that the hardship **results/does not result** from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship.

a. This conclusion is based on the following FINDINGS OF FACT:

4. It is the Board's CONCLUSION that, the requested variance is **consistent/not consistent** with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.
   a. This conclusion is based on all of the FINDINGS OF FACT:

BOARD OF ADJUSTMENT ACTION FOR VARIANCE	
MOTION	**SECONDED**

APPROVED	DENIED	UNANIMOUS

Kipfer	Breuer	Keeler	ALT: Olsen	ALT: Snider

APPLICATION

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA	**Date**	
Application Fee	$	**Invoice Number:**	

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Little Hampstead, LLC	**Owner's Name:**	Tanner Postal Commercial Real Estate & O'Leary Property Management LLC
Applicant's Address:	13755 US Hwy 17	**Owner's Address:**	621 NW 53rd St, Ste 320 Boca Raton, Fl 33487 &
City, State, & Zip	Hampstead, NC 28443	**City, State, & Zip**	PO Box 10317 Wilmington, NC 28404
Phone Number:		**Phone Number:**	
Email Address:	rob@impeccabledevelopment.com	**Email Address:**	rob@impeccabledevelopment.com
Legal relationship of applicant to landowner:			

SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3282-53-4438-0000 & 3282-53-8940-0000	**Total property acreage:**	+/-7.1 acres
Zoning Classification:	GB	**Variance Size:**	+/-6.75 acres
Variance Location & Address	13755 US Hwy 17, Hampstead, NC		
Describe Variance and amount or type requested:	See attached.		

SECTION 3: SIGNATURES	DocuSigned by:		
Applicant's Signature	Rob Tanner C98CB199209D453...	**Date:**	11/3/2023
Applicant's Name Printed	Rob Tanner	**Date:**	
Owner's Signature	Rob Tanner C98CB199209D453...	**Date:**	11/3/2023
Owner's Name Printed	Rob Tanner	**Date:**	

NOTICE TO APPLICANT:

1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.
2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval.
3. An application for a variance shall be submitted in accordance with application requirements.
4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.
5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.
6. Applicant must also submit the information described in the Variance Checklist provided below.
7. Applicant or agent authorized in writing must attend the public hearing.
8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.

OFFICE USE ONLY			
☐ **VA Fees $250**		**Total Fee Calculation $**	
Payment Method :	**Cash :** ☐ $_____	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☐ Check # _____
Application received by:		Date:	

DigiSign Verified - f1d8dc7c-6ab0-4cf5-9306-79f30e07c875

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA	**Date**	
Application Fee	$	**Invoice Number:**	

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Little Hampstead, LLC	**Owner's Name:**	Tanner Postal Commercial Real Estate & O'Leary Property Management LLC
Applicant's Address:	13755 US Hwy 17	**Owner's Address:**	621 NW 53rd St, Ste 320 Boca Raton, Fl 33487 &
City, State, & Zip	Hampstead, NC 28443	**City, State, & Zip**	PO Box 10317 Wilmington, NC 28404
Phone Number:		**Phone Number:**	
Email Address:	rob@impeccabledevelopment.com	**Email Address:**	rob@impeccabledevelopment.com
Legal relationship of applicant to landowner:			

SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3282-53-4438-0000 & 3282-53-8940-0000	**Total property acreage:**	+/-7.1 acres
Zoning Classification:	GB	**Variance Size:**	
Variance Location & Address	13755 US Hwy 17, Hampstead, NC		
Describe Variance and amount or type requested:	See attached.		

SECTION 3: SIGNATURES			
Applicant's Signature		**Date:**	
Applicant's Name Printed	Rob Tanner	**Date:**	
Owner's Signature	*Dennis O' Leary*	**Date:**	11/03/2023
Owner's Name Printed	Dennis O' Leary	**Date:**	

NOTICE TO APPLICANT:

1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.
2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval.
3. An application for a variance shall be submitted in accordance with application requirements.
4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.
5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.
6. Applicant must also submit the information described in the Variance Checklist provided below.
7. Applicant or agent authorized in writing must attend the public hearing.
8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.

OFFICE USE ONLY

☐ **VA Fees $250**		**Total Fee Calculation $**	
Payment Method :	**Cash :** ☐ $_____	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☐ Check # _____
Application received by:		Date:	

Application completeness approved by:		Date:
Date scheduled for public hearing:		

NARRATIVE

NARRATIVE

Little Hampstead, LLC is requesting a variance for the property located at 13755 US Hwy 17 in Hampstead, North Carolina. They are requesting to be exempt from the Cross Access Corridor described in Sec. 7.4.4 of the Pender County UDO. The preliminary plan for the project is attached for your review.

ATTACHMENT TO VARIANCE SUBMISSION
Little Hampstead, LLC

Section 2: Project Information
Describe Variance and amount or type requested:

A variance is requested to exempt this project from Sec. 7.4.4 Cross Access Corridor.

1. **Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;**

   An unnecessary hardship is created by strict application of the ordinance as the collector road required by the county removes viable, buildable land from the project and requires fill which negatively impacts the potential for a cross access corridor. In addition, the current alignment of Washington Acres requires the property access from HWY 17 to be located close to the eastern edge of the property which could create a conflict with the cross access corridor. Further, the future Washington Acres realignment requires specific internal site design constraints which constitute a public taking of otherwise developable property. Finally, the cross access requirement creates a hardship to the property owner through extra maintenance on private property without just compensation to the property owners.

2. **The hardship results from conditions that are peculiar to the property, such as location, size, and topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;**

   The property is of a peculiar shape and orientation as shown on the site plan. The narrow western part of the property requires an access easement for the adjacent residential properties. The property also contains existing utility easements which must be taken into consideration in designing the site. There are identified wetlands on the property which must be avoided while constructing improvements. In addition, this commercially zoned parcel directly abuts residential uses to the north and the proposed project is designed with additional buffering to project the quiet enjoyment of the residential uses. The required collector road and future realignment of Washington Acres are particular to the property and limit the developable area.

3. **The hardship did not result from the actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship;**

   None of the hardships result from actions taken by the applicant or the property owner.

4. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

   The requested variance is consistent with the spirit, purpose, and intent of the ordinance. Not only is public safety secured, but it is also enhanced by removing any potential vehicular movement conflicts between the cross access and the required access from HWY

17 due to the current location of Washington Acres and protecting the adjacent residential properties through enhanced buffers. In addition, substantial justice is achieved by allowing additional property to be used for the project since the county is taking property for the collector road and realignment of Washington Acres.

SITE PLAN

Kimley»Horn

© 2023 KIMLEY-HORN AND ASSOCIATES, INC.
2035 MAYWILL ST, SUITE 200, RICHMOND, VA 23230
PHONE: 804-673-3882
WWW.KIMLEY-HORN.COM

No.	REVISIONS	DATE	BY

KHA PROJECT
XXXXXX
DATE
10/10/2023
SCALE AS SHOWN
DESIGNED BY ---
DRAWN BY ---
CHECKED BY ---

PRELIMINARY LAYOUT

HAMPSTEAD, NC

PREPARED FOR
IMPECCABLE DEVELOPMENT

PENDER COUNTY NC

SHEET NUMBER
1 OF 1

Plotted By:Anderson, Connor Sheet Set:#####################Layout:Layout October 10, 2023 01:30:33pm K:\NC_CLV\113076 Sheet:\113076-1D-1a LAYOUT\2023-10-10 PRELIMINARY LAYOUT.dwg
This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

ATTACHMENT 1: Wetland Delineation Report

WETLAND DELINEATION REPORT

HIGHWAY 17 AND WASHINGTON ACRES ROAD SITE

HIGHWAY 17 AND WASHINGTON ACRES ROAD
HAMPSTEAD, NORTH CAROLINA 28443

ECS PROJECT NO. 49:19299

FOR: IMPECCABLE DEVELOPMENT

JANUARY 13, 2023

ECS Southeast, LLP

"One Firm. One Mission."

Geotechnical • Construction Materials • Environmental • Facilities

January 13, 2023

Mr. Rob Tanner
Impeccable Development
1200 N Federal Hwy
Suite 200
Boca Raton, Florida, 33432

ECS Project No. 49:19299

Reference: Waters of the U.S. Delineation Report, Highway 17 and Washington Acres Road Site, Highway 17 and Washington Acres Road, Hampstead, Pender County North Carolina

Dear Mr. Tanner:

ECS Southeast, LLP (ECS) is pleased submit this report of the Waters of the U.S. (WOUS) services for the above-referenced site. ECS services were provided in general accordance with ECS Proposal No. 49:35508P authorized on January 5, 2023 and generally meets the requirements of the 1987 U.S. Army Corps of Engineers (USACE) Wetlands Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, Version 2.0 dated November 2010. ***Based on our field reconnaissance, potentially jurisdictional WOUS not present onsite.***

If there are questions regarding this report, or a need for further information, please contact the undersigned.

ECS Southeast, LLP

Jonathan Grubb
Environmental Project Manager
jgrubb@ecslimited.com
910-686-9114

Brandon Fulton, LSS, PSC, PWS
Environmental Principal
bfulton@ecslimited.com
704-525-5152

1.0 INTRODUCTION

This report presents the findings of a delineation conducted by ECS Southeast, LLP (ECS) for Impeccable Development at the Highway 17 and Washington Acres Road Site located at Highway 17 and Washington Acres Road, Hampstead, Pender County, North Carolina (34.357, -77.722). According to the Pender County Geographic Information System (GIS) website, the Parcel Identification Numbers (PINs) is: 3282-53-4438-0000 The site includes approximately 5.66 acres, as shown on the Site Location Map (Appendix I, Figure 1). The site currently consists of wooded land. Surrounding areas consists of commercial properties, single-family residences, wooded land, and agricultural fields. The purpose of this study was to identify and delineate jurisdictional Waters of the U.S. (WOUS) within the project study area (PSA).

Wetlands are defined by the United States Army Corps of Engineers (USACE) and the United States Environmental Protection Agency (EPA) as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions." In order for an area to be classified as wetland, hydrophytic vegetation, hydric soils, and wetland hydrology indicators must be present described in the 1987 "Corps of Engineers Wetlands Delineation Manual" and the Appropriate Regional Supplement.

2.0 METHODOLOGY

The findings of the WOUS delineation is based on ECS' professional judgment and application of the technical criteria presented in the 1987 USACE Wetlands Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, Version 2.0 dated November 2010.

ECS completed the following tasks to identify and delineate potentially jurisdictional WOUS boundaries onsite:

2.1 Literature Review

ECS reviewed supporting information from publicly-available databases to identify possible ecological effects the project may have on potential state- and/or federally-jurisdictional water resources. During the desktop review, ECS documented relevant, site-specific details (e.g., topographic characteristics, soil composition, recent precipitation, level of disturbance, plant community structure, etc.) and integrated the obtained information with the onsite delineation effort.

2.2 Methodology for Field Investigation

Wetland boundaries were delineated using the routine onsite determination method described in the USACE Manual and Regional Supplement, in conjunction with the Atlantic and Gulf Coastal Plain 2020 Regional Wetland Plant List and the USDA Soil Survey.

ECS performed onsite wetland delineations as described above. First, site hydrology was observed and the plant community within the data plot was characterized. The dominant plant species within each community were then identified, and it was determined whether or not hydrophytic (wetland) plants dominated the plant community. The USFWS has defined five wetland plant indicator categories including:

- Obligate wetland (OBL) – has >99% probability of occurring in wetlands
- Facultative wetland (FACW) – has 66% to 99% chance of occurring in wetlands
- Facultative (FAC) – has 33% to 66% chance of occurring in wetlands
- Facultative upland (FACU) – has 1 to 33% chance of occurring in wetlands
- Upland (UPL) – has <1% chance of occurring in wetlands
- No Indicator (NI) – no wetland indicator for the specified species, considered UPL

Plants identified as OBL, FACW, or FAC are considered wetland plants (or hydrophytes) by USACE.

In areas determined to have hydrophytic vegetation and potential wetland hydrology, an approximately 16-24 inch hand auger soil boring or shovel test pit was completed to determine if hydric soils were present. The soil boring was also inspected to determine if indicators of wetland hydrology (inundation, soil saturation, etc.) were present.

Once an area is determined to be a wetland, further testing was performed to locate the wetland/ upland (non-wetland) boundary. A second soil data point was completed in the upland area to document non-wetland conditions. Wetland boundaries were marked with consecutively numbered surveyor's ribbon flags.

Data forms specified in the Regional Supplement were completed for each wetland and non-wetland soil data point location. The data forms recorded the vegetation, soils, and hydrology observations used in making the wetland determinations.

3.0 FINDINGS

No waters of the U.S. were identified within the PSA.

3.1 Literature Review

ECS professionals reviewed the U.S. Geological Survey (USGS) Topographic Map, U.S. Department of Agriculture Natural Resource Conservation Service (USDA-NRCS) Soil Survey of Pender County, the Soil Data Access (SDA) Hydric Soils List, the Federal Emergency Management Agency (FEMA) Floodplain Mapping Service, U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) Wetlands Mapper, and available aerial photographs to identify potentially jurisdictional Waters of the U.S. (i.e., streams, wetlands, natural ponds, lakes) and available watershed information.

3.1.1 Literature Review Summary

The following is a summary of the available desktop information that was reviewed as part of this study:

- According to the Hampstead (North Carolina) USGS Topographic Map Quadrangle dated 1997 (Appendix I, Figure 2) depicts no potential waters of the US were depicted within the PSA. The PSA ranges from approximately 50 to 52 feet above mean sea level (MSL).

- According to the USDA-NRCS Pender County Soil Survey of Pender County (Appendix I, Figure 3), the PSA is comprised of the following soil map units: Alpin (AnB); fine sand, 1 to 6 percent slopes, Mandarin (Ma); fine sand, and Torhunta (To); mucky fine sand loam. All of the aforementioned soils are listed on the NRCS Hydric Soils List for Pender County, North Carolina.

- The US Fish and Wildlife NWI map (Appendix I, Figure 4) does not identify wetlands on the PSA. The site is located within the White Oak River Basin and Cape Fear River Basin watershed and is identified as Hydrologic Unit Code (HUC) 03020302 and 03030007.

- The FEMA Flood Insurance Rate Maps (FIRMs), Panel 3720328200J, dated February 16, 2007 (Appendix I, Figure 5) indicates the PSA is located in unshaded Zone X. These areas are determined to be outside the 0.2% Annual Chance Floodplain.

- ECS reviewed the NOAA LiDAR Elevation Data of the site (Appendix I, Figure 6). The on-site elevations range from approximately 29 feet above MSL to approximately 55 feet above MSL.

- ECS queried the USACE-developed Antecedent Precipitation Tool (APT) to gain an understanding of typical moisture conditions in the PSA vicinity. Pre- and post-investigation reports used to demonstrate typical versus atypical climatic conditions for the Project locale were, then, generated for a comparative analysis of current and historical moisture conditions. The analysis indicated the investigation was conducted during the Wet Season and conditions were Drier than Normal for the time of year (Appendix III).

3.2 Field Investigation Findings

ECS personnel conducted the field investigation on January 6, 2023. The last precipitation event prior to the site reconnaissance was on January 4, 2023 and approximately 0.171 inches was recorded.

No wetlands were depicted within the PSA.

3.2.1 Wetland Summary

ECS did not identify potential wetland areas within the boundaries of the PSA during the site reconnaissance.

3.2.2 Stream Summary

ECS did not identify potential streams within the boundaries of the PSA during the site reconnaissance.

4.0 REGULATORY DISCUSSION

After review of the findings in the report and at the client's request, ECS can coordinate with the USACE and the NCDWR to conduct a jurisdictional determination and field visit, if necessary. The timeline of this process is dependent on the availability of the regulatory agency. ECS recommends receipt of the formal jurisdictional determination letter from the necessary agencies prior to conducting any land-disturbance activities.

The WOUS are regulated by Sections 401 and 404 of the Clean Water Act. State and Federal law dictates that any disturbance to WOUS must be permitted through the appropriate agencies. If any potential impacts are proposed, we can assist you with permitting options and support to complete the process. As part of the permitting process, we will conduct a preliminary review of state and federal agency records pertaining to Section 7 (Federal Endangered Species Act) and Section 106 (National Historic Preservation Act). If deemed necessary, we can assist you with targeted species surveys or cultural investigations to satisfy the requirements of the Nationwide Permit (NWP), Individual Permit (IP), or General Permit conditions.

Section 404 of the Clean Water Act regulates the discharge of dredge and fill materials into waters of the United States (lakes, rivers, ponds, streams, etc.), including wetlands. Waters of the United States include territorial seas, navigable coastal and inland lakes, rivers, perennial streams, intermittent streams, and wetlands. The EPA and the U.S. Army Corps of Engineers jointly administer the Section 404 program. Section 401 of the Clean Water Act grants each state the authority to approve, condition, or deny any Federal permits that could result in a discharge to State waters. Mitigation and stormwater management plans will be a condition of permits issued for the Site. Buffers may be required adjacent to streams and water bodies. In general, the mitigation requirements and thresholds for North Carolina are 0.1 (1/10) acre of wetlands and 0.02 acres of stream bed. The mitigation credits may be estimated by linear feet (LF) and acreage, state specific calculation worksheets, or other methods utilized in that state or USACE district.

For impacts to 0.5-acre or more of WOUS or to 0.05-acre or more of jurisdictional stream channel, an IP may be required. An IP may also be required to authorize impacts if wetlands and/or streams are located in a floodplain. An IP requires a habitat analysis, alternative site analysis, project justification, plans to avoid and minimize impacts, and a proposed mitigation plan. Depending on the habitat analysis and the extent of impacts, and Environmental Impact Statement may be required by the USACE. An IP allows for a public comment period and the timeline ranges from 4 to 18 months to obtain depending on the conditions that may arise during the USACE review and public comment period.

5.0 WATERSHED CLASSIFICATION/BUFFER REQUIREMENTS

5.1 State Riparian Buffer Requirements

According to the NCDWR website, the site occurs in the White Oak River Basin and Cape Fear River Basin, which is designated as Primary Contact Recreation, Tidal Salt Water (SB) or Aquatic Life, Secondary Contact Recreation, Tidal Salt Water (SC).

SB: Tidal salt waters protected for all SC uses in addition to primary contact recreation. Primary contact recreational activities include swimming, skin diving, skiing, and similar uses involving human body contact with water where such activities take place in an organized manner or on a frequent basis.

SC: All tidal salt waters protected for aquatic life propagation, survival, and maintenance of biological integrity (including fishing, fish (not to include shellfish for market purposes), and Primary Nursey Areas); wildlife; and secondary contact recreation. Secondary contact recreation means wading, boating, other uses not involving human body contact with water, and activities involving human body contact with water where such activities take place on an infrequent, unorganized, or incidental basis.

Surface waters within the White Oak River basin and the Cape Fear River are not subject to state riparian buffers.

5.2 Local Buffer Requirements

According to the Pender County Planning Department, there are no additional riparian buffer requirements in addition to the state mandated rule.

ECS recommends consultation with a civil engineer to determine if mandatory vegetative buffers and/or regulated development (impervious surfaces) setbacks are required for the site in addition to those mentioned above.

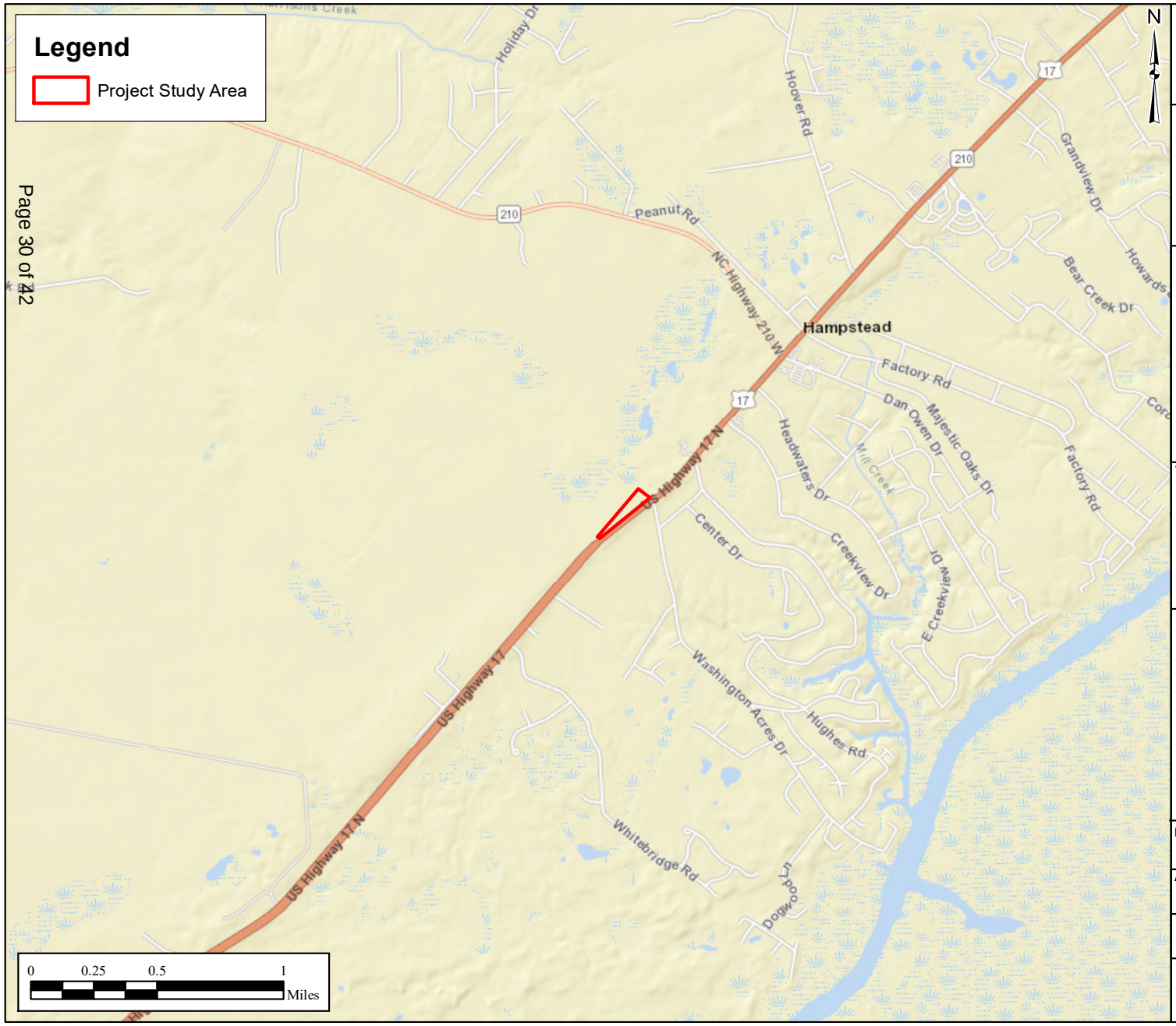
6.0 CONCLUSIONS

No potentially jurisdictional wetland areas or potentially jurisdictional streams were identified within the study area. Our findings are illustrated on the attached Waters of the U.S. Delineation Map (Appendix I, Figure 7).

The findings summarized in this report represent our best professional judgment concerning the presence or absence of potential jurisdictional aquatic resources in the PSA at the time of the study. These findings are only to be considered preliminary and are for planning purposes only, as they have not yet been verified by the regulatory agencies and are, therefore, subject to change pending their review. ECS cannot guarantee that field conditions and/or WoUS boundaries will not change over time.

Prior to conducting construction-related activities onsite, ECS recommends requesting an approved Jurisdictional Determination from the USACE for verification of these results to satisfy the requirements of Section 404 of The Clean Water Act (33 U.S.C. 1344). No earth-disturbing activities should be conducted within the PSA until a USACE Determination has been issued.

Appendix I: Figures



Client:

Project:

WASHINGTON ACRES SITE

HWY 17 &
WASHINGTON ACRES RD,
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

SITE LOCATION
MAP

PENDER COUNTY

Drawn By:	Scale:
KMC	1= 0.5 mi
Approved By:	Date:
WBF	01/05/2023

ECS Project No.
49:19299

FIGURE 1

Client:

Project:

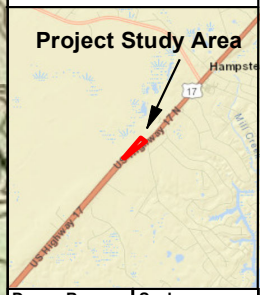
WASHINGTON ACRES SITE

HWY 17 &
WASHINGTON ACRES RD,
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

USGS
TOPOGRAPHIC
MAP

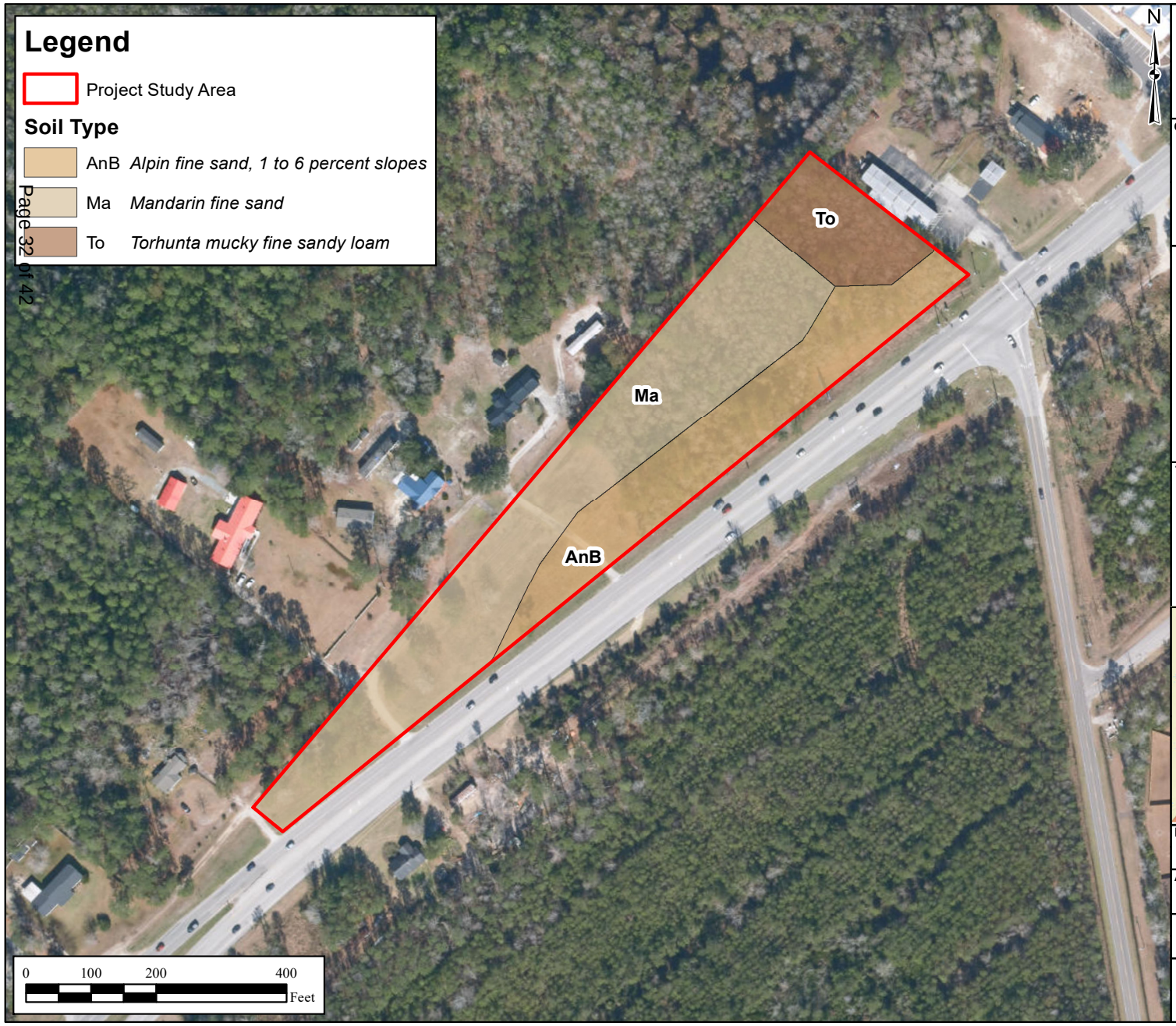
HAMPSTEAD NC
QUADRANGLE
DATED: 1997



Drawn By:	Scale:
KMC	1 in = 1,000 ft
Approved By:	**Date:**
WBF	01/06/2023

ECS Project No.
49:19299

FIGURE 2



Client:

Project:

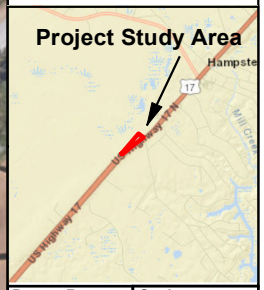
WASHINGTON ACRES SITE

HWY 17 &
WASHINGTON ACRES RD,
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

USDA-NRCS
WEB SOILS SURVEY
MAP

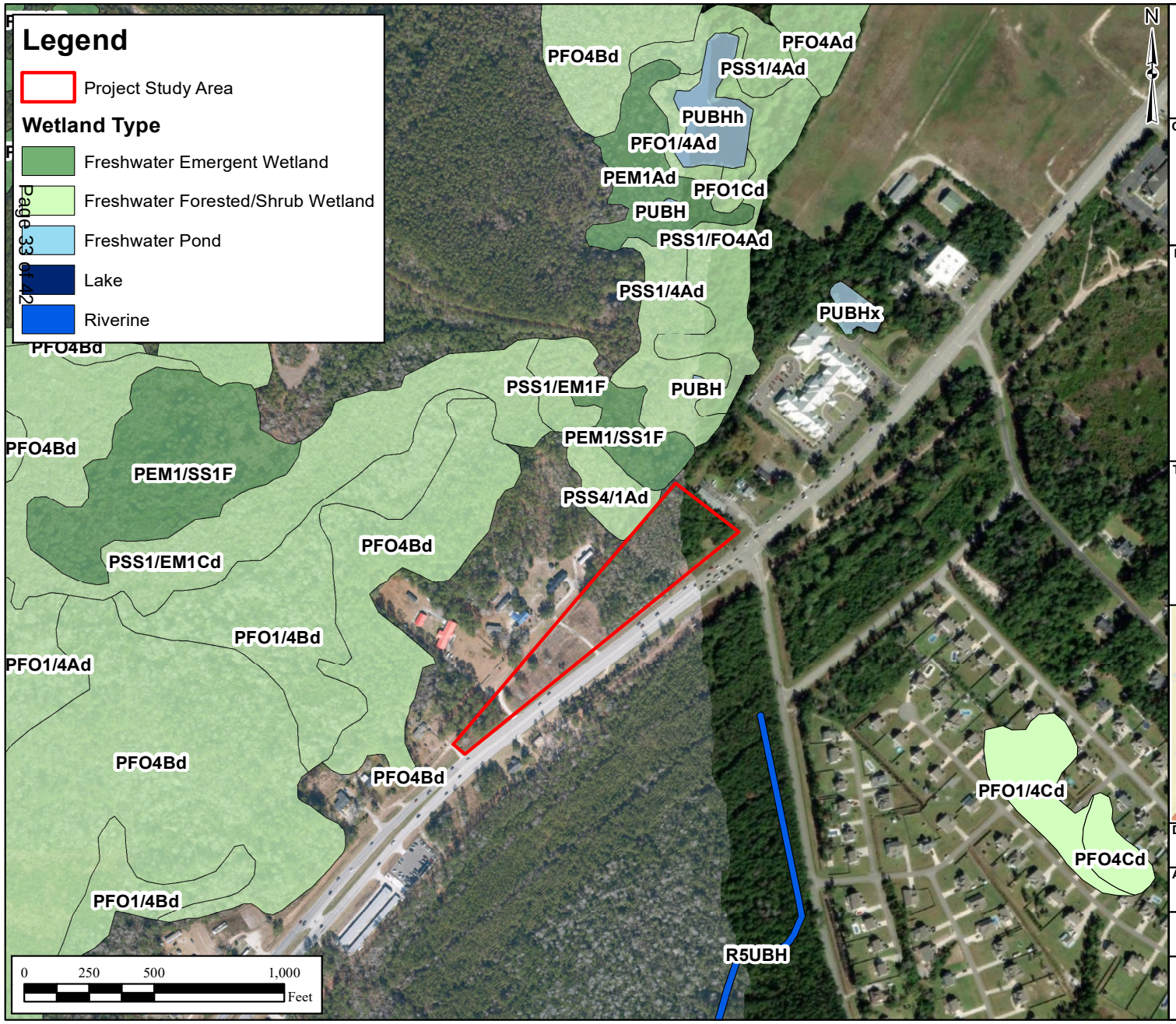
DATED: 09/12/2022



Drawn By:	Scale:
KMC	1 in = 200 ft
Approved By:	Date:
WBF	01/06/2023

ECS Project No.
49: 19299

FIGURE 3



Client:

Project:

WASHINGTON ACRES SITE

HWY 17 &
WASHINGTON ACRES RD,
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

NATIONAL WETLANDS INVENTORY MAP

Drawn By:	Scale:
KMC	1 in = 500 ft
Approved By:	Date:
WBF	01/06/2023

ECS Project No.
49: 19299

FIGURE 4

ECS

Client:

Project:

WASHINGTON ACRES SITE

HWY 17 &
WASHINGTON ACRES RD,
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

NATIONAL
FLOOD HAZARD
ZONE MAP

PANEL:3720328200J
DATE:02/16/2007

Project Study Area

Drawn By:	Scale:
KMC	1 in = 200 ft
Approved By:	Date:
WBF	01/06/2023

ECS Project No.
49:19299

FIGURE 5

Client:

Project:

WASHINGTON ACRES SITE

HWY 17 &
WASHINGTON ACRES RD,
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

NOAA LIDAR
ELEVATION DATA

Drawn By:	Scale:
KMC	1 in = 200 ft
Approved By:	Date:
WBF	01/05/2023

ECS Project No.
49:19299

FIGURE 6

Client:

Project:

WASHINGTON ACRES SITE

HWY 17 &
WASHINGTON ACRES RD,
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

POTENTIAL WATERS OF THE US MAP

NOTES:
1. NO WATERS OF THE US WERE OBSERVED BY ECS ON JANUARY 6, 2023.

2. OUR FINDINGS HAVE NOT BEEN VERIFIED BY THE USACE AND NCDWR. THE DELINEATION FINDINGS ARE SUBJECT TO CHANGE BASED ON AGENCY VERIFICATION.

3. THIS MAP SHOULD BE USED FOR PRELIMINARY PLANNING PURPOSES.

Drawn By:	Scale:
KMC	1 in = 200 ft
Approved By:	**Date:**
WBF	01/09/2023

ECS Project No.
49: 19299

FIGURE 7

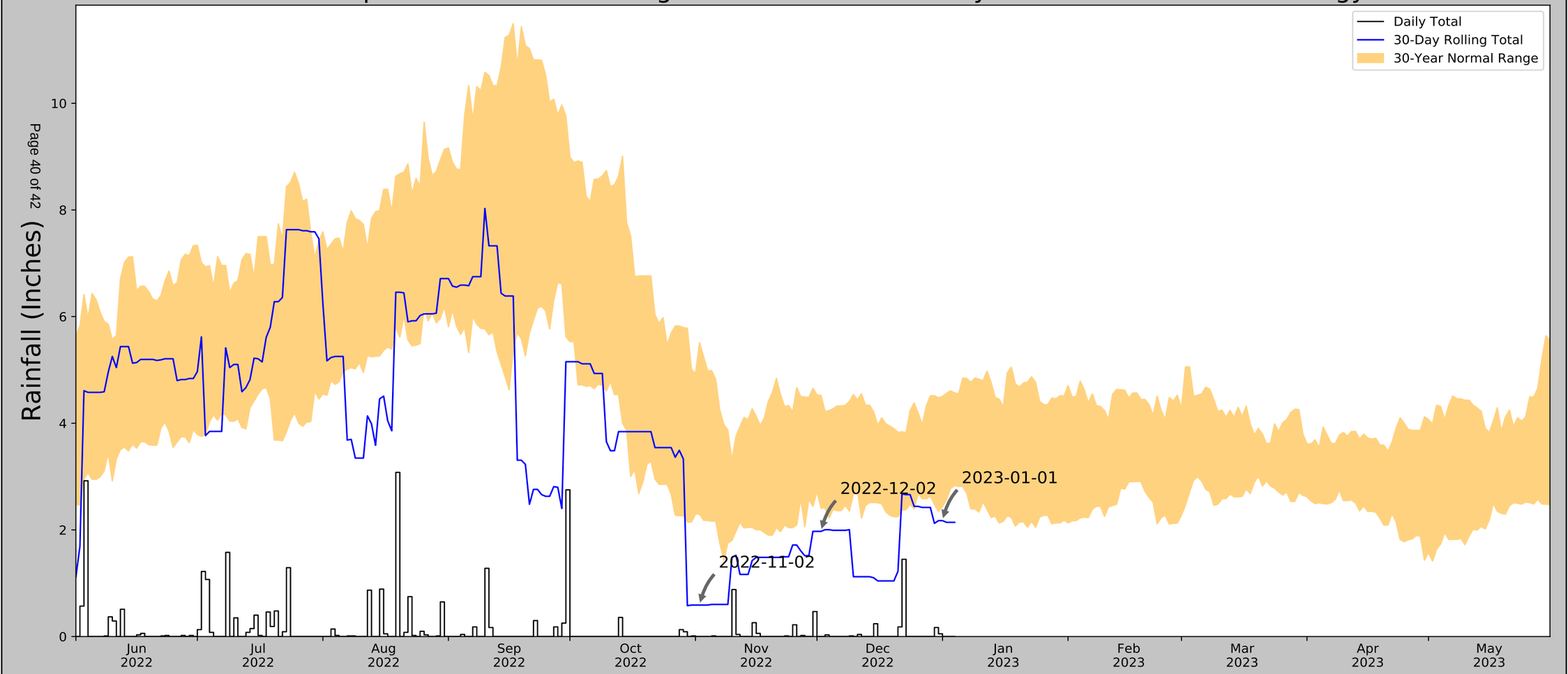
Appendix II: Photographic Log

1 - Typical view of the woods on site.

2 - Additional view of the upland woods on site.

Appendix III: Precipitation Data

Antecedent Precipitation vs Normal Range based on NOAA's Daily Global Historical Climatology Network



Coordinates	34.357, -77.722
Observation Date	2023-01-01
Elevation (ft)	52.61
Drought Index (PDSI)	Not available
WebWIMP H_2O Balance	Wet Season

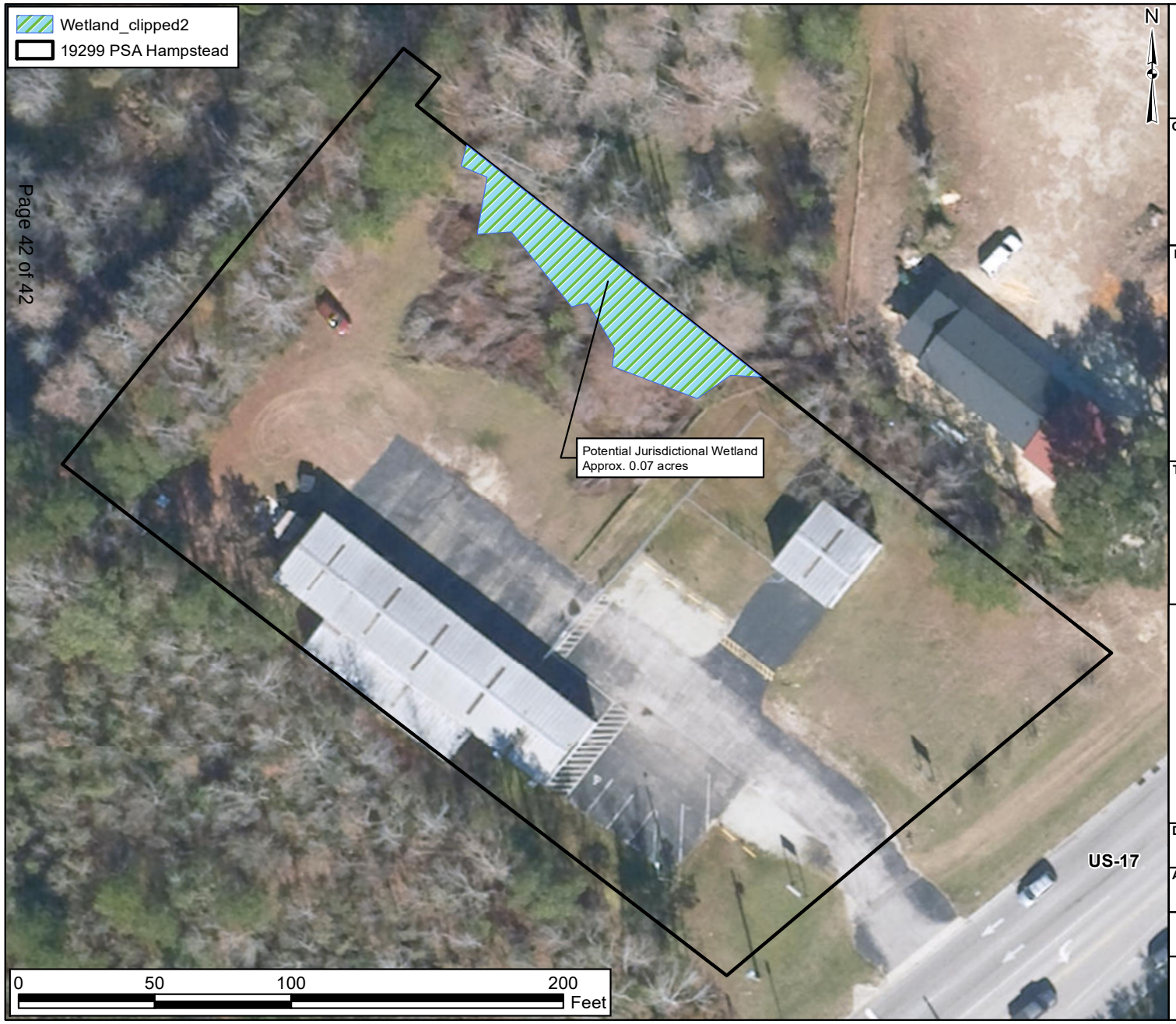
30 Days Ending	30th %ile (in)	70th %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2023-01-01	2.438583	4.504331	2.173228	Dry	1	3	3
2022-12-02	2.408268	4.522441	1.972441	Dry	1	2	2
2022-11-02	2.294488	5.512599	0.590551	Dry	1	1	1
Result							Drier than Normal - 6

Figure and tables made by the
Antecedent Precipitation Tool
Version 1.0

Written by Jason Deters
U.S. Army Corps of Engineers

Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days Normal	Days Antecedent
WILMINGTON INTL AP	34.2675, -77.8997	33.136	11.878	19.474	5.576	11353	90

ATTACHMENT 2:
Wetland Map



ECS

Client:

IMPECCABLE DEVELOPMENT

Project:

Hampstead Site

13821 US-17
HAMPSTEAD,
PENDER COUNTY,
NORTH CAROLINA

Title:

POTENTIAL WATERS OF THE US MAP

NOTES:
1. WATERS OF THE US WERE OBSERVED BY ECS ON NOVEMBER 15, 2022.

2. FEATURES DEPICTED ON THIS MAP HAVE NOT BEEN VERIFIED BY THE USACE OR NCDWR. THE DELINEATION FINDINGS ARE SUBJECT TO CHANGE BASED ON AGENCY VERIFICATION.

3. THIS MAP SHOULD BE USED FOR PRELIMINARY PLANNING PURPOSES.

Drawn By:	Scale:
KMH	1 in = 48 ft
Approved By:	**Date:**
	10/04/2023

ECS Project No.
49: 19299-B

FIGURE 7

Pender County
APPEAL 2024-12: Appeal of Administrative Decision

TO:	Board of Adjustment
FROM:	Taylor Davis
DATE:	March 20, 2024
SUBJECT:	APPEAL 2024-12: Appeal of Administrative Decision

SUMMARY:
Jeff Turpin, property owner and as manager of The JayTees Properties IV, LLC, is requesting an Appeal of an Administrative Decision made by the Pender County Planning and Community Development Department to deny two development permit applications. Master Development Plan MDP 2023-52 and Major Site Development Plan SDP 2023-349 were determined to be nonconforming to the Pender County Unified Development Ordinance and the Pender County Streets Plan.

The subject property is located off Headwaters Drive, roughly 420 feet east of the intersection of US Highway 17 and Headwaters Drive and adjacent to the existing Hampstead Station Development. The property can be further identified by Pender County PIN: 3282-85-8819-0000.

ACTION REQUESTED:
To hold a public hearing and consider the appeal.

ATTACHMENTS:
1. Staff Report
2. Attachment 1: Collector Street #4 - Pender County Streets Plan
3. Attachment 2: Denial Letter
4. Attachment 3: Herons Watch Approved Master Plan
5. Attachment 4: Steamer Properties, LLC - Major Site Application
6. Attachment 5: Steamer Properties, LLC - Site Plan
7. Attachment 6: Lanwillo Subdivision Map
8. Attachment 7: Hampstead Station Expansion - 1st Version of Site Plan
9. Attachment 8: WMPO Memo
10. Attachment 9: July 6th, 2023 - Technical Review Committee Meeting Sign-In Sheet
11. Attachment 10: Applicant Proposed Collector Road on Steamer Property Version #1

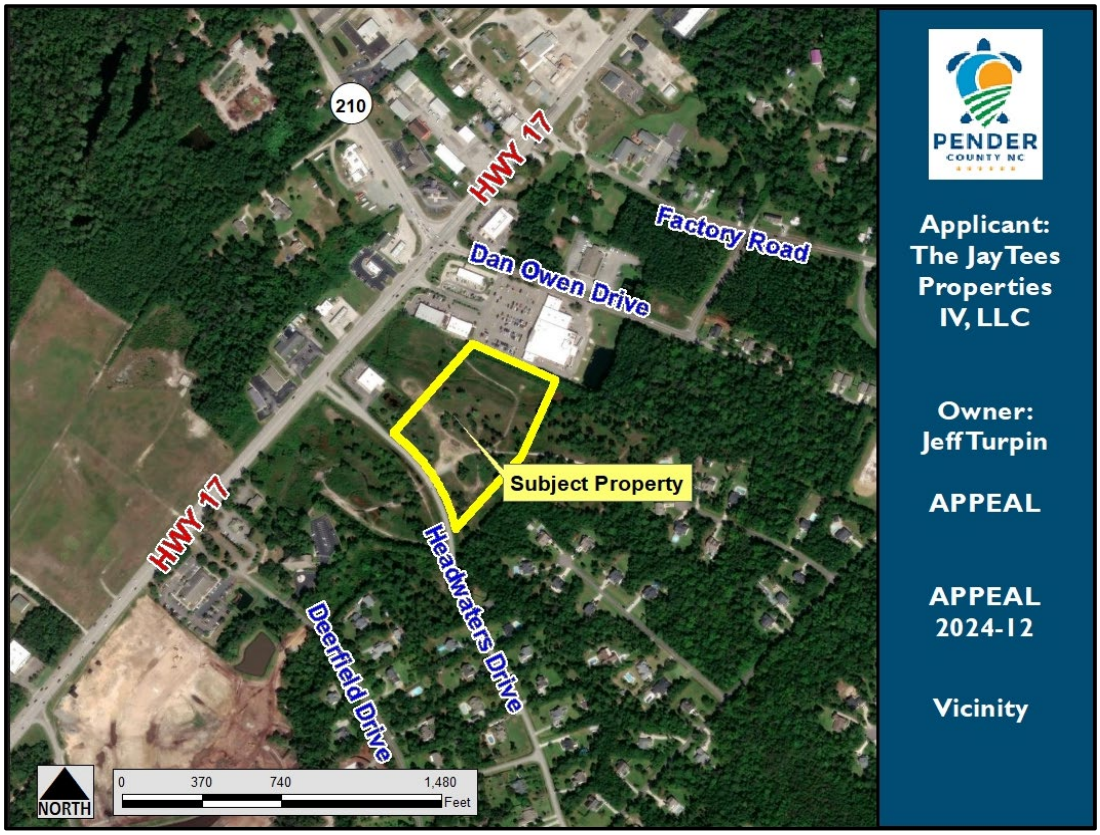
12. Attachment 11: Applicant Proposed Collector Road on Steamer Property Version #2
13. Attachment 12: Redrawn Collector Road Connection on Headwaters Drive
14. Attachment 13: Email from NCDOT District Engineer
15. Attachment 14: Section 7.5.1.D of the Pender County UDO

STAFF REPORT FOR APPEAL 2024-12
APPEAL OF ADMINISTRATIVE DECISION APPLICATION

APPLICATION SUMMARY	
Case Number	APPEAL 2024-12
Hearing Date	March 20th, 2024, Board of Adjustment
Applicant	The Jaytees Properties IV, LLC
Property Owner	Jeff Turpin
Parcel Identification Number	3282-85-8819-0000
Acreage	7.61
Township	Topsail
Zoning District	GB, General Business

APPEAL SUMMARY
Jeff Turpin, property owner and as manager of The JayTees Properties IV, LLC, is requesting an Appeal of an Administrative Decision made by the Pender County Planning and Community Development Department to deny two development permit applications. Master Development Plan MDP 2023-52 and Major Site Development Plan SDP 2023-349 were determined to be nonconforming to the Pender County Unified Development Ordinance and the Pender County Streets Plan.
LOCATION
The subject property is located off Headwaters Drive, roughly 420 feet east of the intersection of US Highway 17 and Headwaters Drive and adjacent to the existing Hampstead Station Development. The property can be further identified by Pender County PIN: 3282-85-8819-0000.

Below: Vicinity Map of the Area



BACKGROUND AND DESCRIPTION OF APPEAL

The Pender County Streets Plan, adopted in 2021, aims to determine the future transportation needs of the County, specifically in its southeastern portion where the subject parcel is located. This plan makes recommendations for the locations and potential alignments of future collector streets. Collector streets are defined as streets that connect local roads and neighborhoods to arterial roadways and are integral in reducing congestion on arterial roads such as US Highway 17. Examples of collector streets in this area include Country Club Drive, Sloop Point Loop Road, and Hoover Road.

As required by Article 7.5.1.A of the County's Unified Development Ordinance (UDO), the layout of streets as to arrangement, width, grade, character and location shall conform to… the Pender County Collector Street Plan. Using potential future travel demand and input received during public outreach and stakeholder engagement, the Collector Street Plan identified areas where collector streets should be located. Thus, if development is proposed on a parcel that is within an area where a collector street has been identified, the developer must build the portion of the collector street that falls within the bounds of their project. As development occurs within the areas identified in the Collector Street Plan, the broader location of the collector street is refined and development on subsequent parcels must properly align to

the portion of the street that is built. Pages 28 and 29 of the Collector Street Plan offer examples of how the development and alignment of collector streets is intended to work.

The subject property falls within an area that has been identified as requiring the development of a collector street, and thus is required to comply with the standards set forth in the Collector Street Plan as referenced in the UDO. The subject property is located within an area where the Collector Street Plan calls for a two-lane collector street to provide a parallel roadway to US Highway 17. The street should span approximately four miles at completion and connect Oakvale Drive to Corcus Ferry Road (Attachment 1) and would reduce congestion on US Highway 17 by providing an alternate means of travel within the area. The section of the collector street specific to this appeal will eventually connect Headwaters Drive to Dan Owen Drive.

As shown on the site plan, the applicant's proposed collector street does not properly align with the proposed collector street on the south side of Headwaters Drive. In discussions with technical staff from the North Carolina Department of Transportation (NCDOT) and the Wilmington Urban Area Metropolitan Planning Organization (WMPO), the applicant's proposed alignment would create conflicting left turns. As stated in an email from NCDOT District Engineer, Kirsten Spirakis, on November 27, 2023, "Based on GIS, it appears that there would only be about 200' between these two accesses. If left-turn lanes were required, then there is not room for adequate left-turn lane storage for back-to-back left-turns between the two intersections" (Attachment 13).

The UDO states in Section 7.5.1 that the layout of streets as to arrangement, width, grade, character, and location shall conform to the following: (1) Pender County collector street plan, (2) adjoining street systems, (3) existing, planned and proposed streets, (4) to provide for continuity in existing streets, (5) provide adequate right-of-way for collector streets and (6) reasonable access will be provided to adjacent properties for development. These six provisions emphasize the importance Pender County regulations place on street network connectivity.

Article 7.5.1 also discusses instances where the standards described above cannot be met. It reads, "In any instance that a site plan or development plan layout does not conform to the specific layout of roadways as proposed in an adopted County plan as referred above, then the applicant must demonstrate the conformance with the spacing standards and move the roadway as detailed below;

Zoning District	Intensity	Approximate Street Spacing
Environmental Conservation	Little to no development	N/A
Rural Agricultural	Less than 2 dwelling units per acre	3,000 to 6,000 feet apart
General Business, General Industrial, Industrial Transition, Manufactured Housing Community, Residential Performance	2-4 dwelling units per acre	1,500 to 3,000 feet apart

Residential Mixed, Office & Institutional, Planned Development	More than 4 dwelling units per acre/activity nodes	750 to 1,500 feet apart

The chart above notes that streets developed on property in the General Business zoning district shall be spaced approximately 1,500 to 3,000 feet apart. Per the applicant's site plan and the proposed location of the collector street on the south side of Headwaters Drive, this standard is not met.

It is also imperative that a collector street meet the design standards and requirements of the NCDOT so that the road may eventually be adopted into their road maintenance network. If a street is constructed that fails to comply to their design specifications, the road will not be accepted by NCDOT and the continued maintenance would fall on each individual landowner for which the road passes through, putting the collector road at risk of falling into disrepair with the passage of time or ownership changes.

On December 12th, 2023, Daniel Adams, Planning Director, issued a letter of denial to the applicant for two site development plan applications (Attachment 2). This letter constituted formal notice of denial by the Administrator for Master Development Plan 2023-52 and Major Site Development Plan 2023-349, commonly referred to as the Hampstead Station Expansion project, for failure to provide a site plan in conformance with the County's Unified Development Ordinance and the Pender County Streets Plan (referred to as the Collector Street Plan). Specifically, Article 7.5 of the UDO which details the requirements related to street design and states, "Layout of streets as to arrangement, width, grade, character, and location shall conform to the following, (1) Pender County Collector Street Plan, Pender County Transportation Plan or other approved State or Federal Transportation Improvement Plan" (7.5.1.A).

EVENTS LEADING TO DENIAL

Collector street alignment is dictated by the development plan that submitted first. In the case of Hampstead Station Expansion, a previously approved Master Development Plan MDP 2019-12 (Herons Watch) on the south side of Headwaters Drive proposed the collector street extend from Deerfield Drive to the property line of an adjacent approximately 8.3-acre parcel owned by Lanwillo Development Co. (Attachment 3). MDP 2019-12 received site plan approval on August 6th, 2019.

On June 21st, 2022, Steamer Properties, LLC submitted a Major Site Development Plan application for a 1.3-acre section of the +/- 8-acre Lanwillo parcel adjoining Herons Watch (Attachment 4). The design of their major site plan shows their portion of the collector street connecting to the Herons Watch section of the road and extending to Headwaters Drive along the Lanwillo and Steamer property lines (Attachment 5). It is to this alignment that the Hampstead Station Expansion site should be designed to make the connection to the previously proposed collector street location.

On February 14th, 2023, Lanwillo Development Co., subdivided their approximately 8-acre tract into two parcels, creating the 1.3-acre parcel now owned by Steamer Properties, LLC and identified by PIN: 3282-85-5442-0000 (Attachment 6).

On June 7th, 2023, the application packages for MDP 2023-52 and SDP 2023-349 were submitted simultaneously for the July 6th, 2023, Technical Review Committee meeting (Attachment 7). Prior to the

submittal of these applications, the applicant was made aware of the collector street requirement at this location and participated in discussions with members of Planning staff pertaining to the required road.

On July 3rd, 2023, in conjunction with planning staff's first review of the submitted site plan and prior to the July 6th, 2023, Technical Review Committee (TRC) meeting, comments from the WMPO were received by staff. The July 3rd WMPO memorandum included the following comment "Propose an appropriate collector road location that would allow for future collector road connections" (Attachment 8). The memorandum was provided to the applicant and his engineering firm for review and the comments were reiterated again at the July 6th, 2024, TRC meeting. The representative of the WMPO who issued the memorandum, Jamar Johnson, was in attendance, as well as the applicant/owner and his commercial real estate representative (Attachment 9). In subsequent reviews of the applicant's site plan by Planning staff, Mr. Johnsons' comments pertaining to the proposed collector road's location and alignment remained in the packet and were highlighted to indicate this was an issue that must be resolved prior to Master Development Plan or Major Site Plan approval. In total, there were five review packets provided to the applicant's representatives over the course of four months and all five packets contained the above comment.

It should be noted that while the Pender County Planning Department does not have the authority to enforce standards set forth by other state or local agencies, we do require that applications submitted to our Department meet such standards as determined by those agencies.

The applicant subsequently proposed a realignment of the collector street on the south side of Headwaters Drive on the Steamer Properties site. The proposed realignment featured a sharp curve from the Herons Watch street segment to the area of Headwaters Drive needed to make an alignment with the Hampstead Station Expansion collector location (Attachment 10). At this time, the applicant's section of the collector street was not located on the Hampstead Station Expansion property but was instead located on an adjoining narrow parcel also owned by Lanwillo Development Co. and ran along the exterior of the Hampstead Station Expansion site. Ultimately, NCDOT determined the curvature created by the relocated collector street to the southern boundary of the Steamer property did not meet the standards of their design manual.

The following month, the applicant proposed to staff a new collector street design for the Steamer property. This design saw the collector street on the Steamer site effectively cutting through the middle of the parcel thereby softening the resulting curve from the Herons Watch segment to Headwaters Drive in order to align with the Hampstead Station Expansion design (Attachment 11). This potential new layout was brought to NCDOT for consideration and at the September 6th, 2023, Traffic Impact Analysis (TIA) meeting, NCDOT informed planning staff that to make this alignment work for the Hampstead Station Expansion site, the connection to Headwaters Drive should be relocated to the Hampstead Station Expansion property. The revised connection would be made on the southeastern corner of the parcel with most of the proposed collector street remaining on the Lanwillo property.

In response to NCDOT's guidance, the collector street was redrawn to be shown intersecting the Hampstead Station Expansion property along the southeastern most corner of the parcel (Attachment 12). The applicant would be required to pave this section of the road and dedicate an easement for the remaining area where the road could not have been easily paved to the property line until the adjacent property was also developed and that section of the collector street completed.

This revision to the location of the collector street would have required a modification to the Steamer site, and based on conversations with the applicant, he was unable to reach an agreement with Steamer Properties, LLC to modify their parcel to accommodate the proposed collector street location.

NCDOT reevaluated the Hampstead Station Expansion site plan, this time considering the redrawn version with the original location of the collector street on the Lanwillo/Steamer property lines creating an offset alignment (the southern boundary option was not viable due to the sharp curve). On November 11th, 2023, staff received the following guidance from NCDOT taken from their manual. The standard given below can be found on page 40 of the *NCDOT Policy on Street and Driveway Access to North Carolina Highways:*

"Care should be taken to avoid creating incorrectly offset left turn conditions. Opposite side drives should be aligned directly across from existing/proposed opposite side streets and driveways. When it is necessary to offset driveways or streets, care should be taken to provide adequate separation for vehicular storage/queuing and maneuvering between access points" (Attachment 13)

It was determined by NCDOT the location of the proposed collector street on the Hampstead Station Expansion site would conflict with this guidance. Consequently, Staff and the applicant met on two more occasions to discuss potential alternatives which were then brought to NCDOT for consideration. Options considered included the offset alignment per section 7.5.1.D of the UDO (Attachment 14) or aligning the Hampstead Station Expansion parking lot entrance with the Lanwillo/Steamer collector street, essentially, using the development parking lot as a street. Both options were deemed unacceptable to NCDOT's standards, citing safety concerns, and therefore were not considered to be viable alternatives by planning staff.

ZONING ADMINISTRATOR'S CONCLUSION

It is the determination of the Zoning Administrator that the denial of Master Development Plan MDP 2023-52 and Major Site Plan SDP 2023-349 shall persist until a feasible alternative for the required collector street location and alignment which conforms to the Pender County UDO, the Pender County Streets Plan, and satisfies NCDOT standards, is found. This collector street should be located with regard to the previously approved and submitted site plan applications on the opposite side of Headwaters Drive and designed in a manner that is acceptable to the North Carolina Department of Transportation.

PENDER COUNTY UDO APPEAL OF ADMINISTRATIVE DECISION

3.16 APPEAL OF ADMINISTRATIVE DECISION

3.16.1 Applicability

As specified in N.C.G.S. 160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

3.16.6 Action by Board of Adjustment

A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement,

decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

C. If a motion to reverse or modify is not made or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.

D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

BOARD OF ADJUSTMENT ACTION FOR APPEAL OF ADMINISTRATIVE DECISION

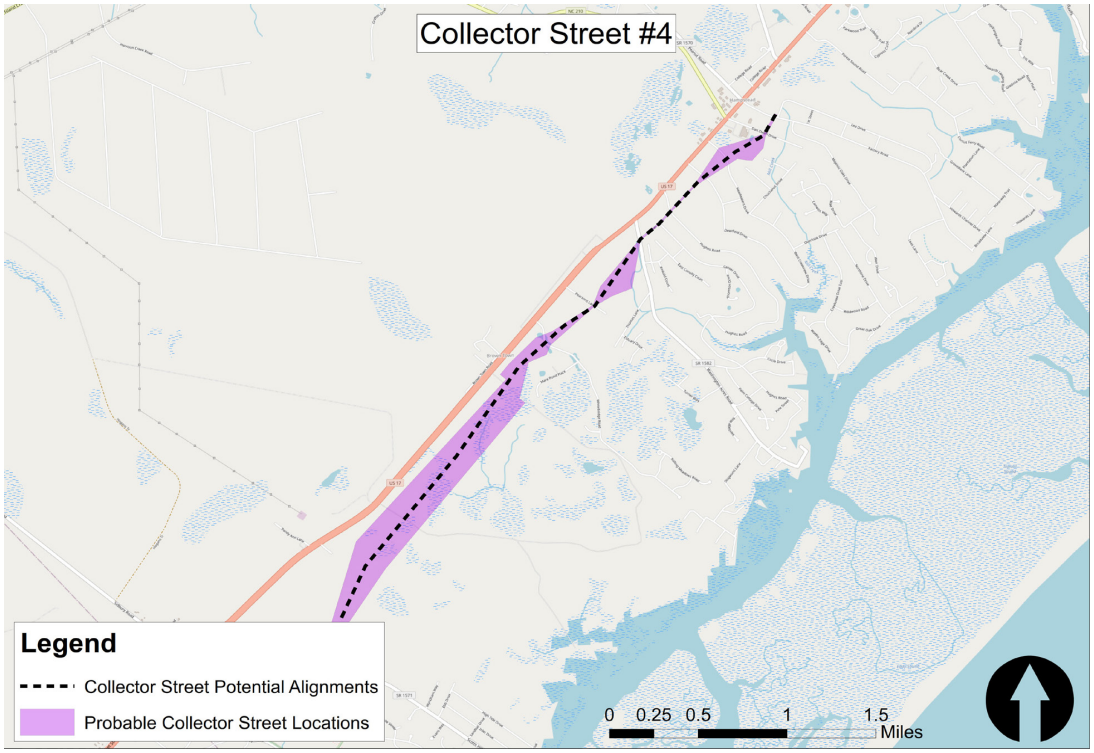
MOTION	SECONDED

AFFIRMED	REVERSED	MODIFY

Kipfer	Breuer	Keeler	ALT: Olsen	ALT: Snider

ATTACHMENT 1:

Collector Street #4 – Pender County Streets Plan



COLLECTOR STREET #4

PROJECT DETAILS	
From (Cross Street)	Oakvale Drive
To (Cross Street)	Corcus Ferry Road
Length	Approximately 4 miles
Description	This proposed two-lane collector street would provide a parallel roadway to US 17 and would provide a thoroughfare for several neighborhoods along US 17. By making this collector street, less strain would be placed on congested US 17. The first round of public engagement concluded that there was a major need for parallel routes to US 17.
Purpose	Local alternatives parallel to US 17 requested in the first round of public engagement.

ATTACHMENT 2:

Denial Letter

Pender County
Planning and Community Development

805 S. Walker Street
PO Box 1519
Burgaw, NC 28425

Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

December 12, 2023

Jeff Turpin
105 Island Drive
Wrightsville Beach, NC 28480

Mr. Turpin,

This letter serves as staff's denial of a development permit associated with a master development plan application (Case # MDP 2023-52) and a major site development plan application (Case # SDP 2023-349). The two applications were submitted concurrently and were thus reviewed by staff concurrently.

Staff finds that your proposed development design fails to provide a collector street in conformance with the County's Unified Development Ordinance and the Pender County Streets Plan (referred to as the Collector Street Plan). Specifically, Article 7.5 of the UDO details requirements related to street design and states that, "Layout of streets as to arrangement, width, grade, character, and location shall conform to the following, (1) Pender County Collector Street Plan, Pender County Transportation Plan or other approved State or Federal Transportation Improvement Plan" (7.5.1.A). The proposed site plan does not comply with the UDO and therefore the application is denied.

Per Article 3.16 of the County's UDO, you may appeal an administrative decision. Should you choose to appeal, the case will be heard by the Board of Adjustment. The appeal application can be found on the County's website, or I can provide you with a copy. Per Article 3.16.3 of the UDO, the appeal must be filed within 30 days of receipt of this decision.

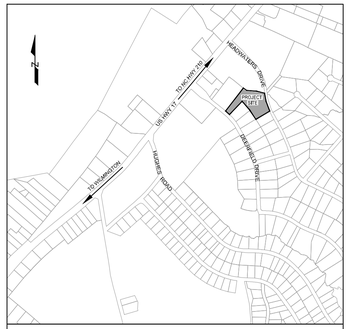
Please let me know if you have any questions or would like to discuss this matter further.

Sincerely,

Daniel Adams
Planning & Community Development Director

ATTACHMENT 3:

Herons Watch - Approved Master Development Plan



LOCATION MAP
SCALE: 1"=1,000'
NORTH

SITE INFORMATION

APPLICANT INFORMATION:	SOUTHEAST CUSTOM HOMES, INC. 126 N. CARDINAL DR., SUITE 101 WILMINGTON, NC 28405
OWNER:	SOUTHEAST CUSTOM HOMES, INC. 126 N. CARDINAL DR., SUITE 101 WILMINGTON, NC 28405
CURRENT LAND USE:	VACANT LAND
CAMA LAND USE PLAN DESIGNATION:	MIXED USE
EXISTING ZONING: PROPOSED ZONING:	PD - PLANNED DEVELOPMENT PD - PLANNED DEVELOPMENT
PIN:	3282-85-5029-0000 (+/- 4.169 ACRES)
TOWNSHIP:	TOPSAIL
DEED BOOK/ PAGE: PROPOSED USES:	3492 / 10 SFD- SINGLE FAMILY DWELLING ATTACHED TOWNHOUSE (SEC. 4.15.4) OFFICE / RETAIL AMENITY AREA
TOTAL SITE AREA:	+/- 4.169 ACRES

DIMENSIONAL REQUIREMENTS

SFD- SINGLE FAMILY TOWNHOUSE (SEC. 4.15.4)	
NUMBER OF UNITS:	15
TOTAL SF:	± 19,500 SF
TOWNHOUSE BUILDING*:	
FRONTYARD SETBACK:	5' MINIMUM
SIDEYARD SETBACK:	5' MINIMUM
CORNER SIDEYARD SETBACK:	5' MINIMUM
REAR SETBACK:	5' MINIMUM
CHORD:	30' MINIMUM
MAXIMUM BUILDING HEIGHT:	35'
STRUCTURE SEPARATION:	20' MINIMUM

* SETBACKS DO NOT APPLY TO INDIVIDUAL UNITS WITHIN BUILDING, ONLY EXTERIOR LIMITS OF BUILDING

OFFICE / RETAIL	
ENCLOSED FLOOR AREA	4,800 SF
FRONT YARD SETBACK:	5' MINIMUM
SIDEYARD SETBACK:	5' MINIMUM
CORNER SIDEYARD SETBACK:	5' MINIMUM
REAR SETBACK:	5' MINIMUM
CHORD:	30' MINIMUM
MAXIMUM BUILDING HEIGHT:	35'
STRUCTURE SEPARATION:	20' MINIMUM

OFFICE/RETAIL PARKING:	REQUIRED	PROVIDED
1 SAPCE / 300 SF ENCLOSED FLOOR AREA	16	16

BUFFER NOTES
1. SURROUNDING ADJACENT PROPERTIES ARE ZONED O&I, PD AND RP - SEE PLANS FOR SPECIFIC BUFFER TYPES AND LOCATIONS.

WETLAND PRESERVATION NOTES
1. THE DEVELOPER IS COMMITTED TO PROTECTING THE SITE'S EXISTING WETLANDS.
2. THE PROPOSED DESIGN DOES NOT ANTICIPATE IMPACTS TO ANY OF THE SITE'S EXISTING WETLANDS.
3. IN ADDITION TO PROVIDING AN ENVIRONMENTALLY SENSITIVE DESIGN, THE DEVELOPER WILL PROVIDE (1) SIGN AT THE REAR PROPERTY LINE OF EACH LOT THAT BORDERS WETLANDS TO INFORM THE HOMEOWNER'S OF THE WETLAND BOUNDARY
4. WETLAND JD IS CURRENTLY IN PROGRESS.

PHASING
1. THE DEVELOPMENT IS PLANNED TO BE CONSTRUCTED IN 1 PHASE.
2. THE AMENITY IS REQUIRED TO BE INSTALLED PRIOR TO THE COMPLETION OF THE DEVELOPMENT.

TRAFFIC IMPACTS
1. REFER TO TRIP GENERATION CALCULATIONS ON THIS SHEET.

NAICS

CODE	USE
53	REAL ESTATE AND RENTAL AND LEASING
54	PROFESSIONAL, SCIENTIFIC, & TECHNICAL SERVICES
55	MANAGEMENT OF COMPANIES AND ENTERPRISES
561	ADMINISTRATIVE AND SUPPORT SERVICES
8129	OTHER PERSONAL SERVICES
446	HEALTH AND PERSONAL CARE STORES
448	CLOTHING AND CLOTHING ACCESSORIES STORES
451	SPORTING GOODS, HOBBY, BOOK, AND MUSIC STORES
453	MISCELLANEOUS STORE RETAILERS
n/a	SINGLE FAMILY DEVELOPMENT - TOWNHOUSE (5+ ATTACHED)

LANDSCAPING
1. BUFFERS AND PARKING LOT LANDSCAPING SHALL BE PROVIDED IN COMPLIANCE WITH PENDER COUNTY UDO

APPROVED BY PENDER COUNTY UNIFIED DEVELOPMENT ADMINISTRATOR.

SIGNATURE: _____

DATE: _____

SITE PLAN VALID FOR TWO YEARS FROM APPROVAL DATE.

Certification of Submission
A copy of this plat has been submitted, approval is subject to review; this does not constitute an approval.

Pender County Utilities: _____ Date: _____
Pender County Environmental Health: _____ Date: _____
Pender County Addressing Coordinator: _____ Date: _____

Certificate of Preliminary Plat Approval
Preliminary Plat Approval by Pender County for a period of two (2) years subject to the Pender County Unified Development Ordinance requirements and conditions of approval.

Planning Staff: _____ Date: _____

SITE QUANTITIES:		
A	Total Acreage	4.169
B	Non-Residential Acreage (ROW)	0.605
C	Non-Residential Acreage (4,800sf Commercial)	0.11
D	Actual Active Open Space	0.225
E	Actual Passive Open Space	0.225

DENSITY CALCULATION (A-B-D-E = Developable Land)		
A	Total Acreage	4.169
B	Non-Residential Acreage (ROW)	0.605
C	Non-Residential Acreage (4,800sf Commercial)	0.11
D	Actual Active Open Space	0.225
E	Actual Passive Open Space	0.225
	Developable Land	3.004
	Proposed Units	**15**
	Density	**4.993342**

Use:	***Townhome***	
Land Use Code	***230***	
Number of stacks	15	
Weekday:		
T =	128	Avg.VTE
Weekday Peak AM:		
T =	11	Avg.VTE
Weekday Peak PM:		
T =	13	Avg.VTE

Use:	***General Office Building***	
Land Use Code	***710***	
Square Footage	4800	
Weekday:		
T =	192	Avg.VTE
Weekday Peak AM:		
T =	17	Avg.VTE
Weekday Peak PM:		
T =	60	Avg.VTE

STORMWATER
1. STORMWATER DESIGN SHALL BE COMPLIANT WITH PENDER COUNTY UDO
2. FULL PERMIT APPROVALS TO BE PROVIDED TO COUNTY WHEN RECEIVED
3. STORMWATER WILL BE HANDLED ON SITE IN COMPLIANCE WITH ALL STATE AND COUNTY STORMWATER STANDARDS.
4. PER PENDER COUNTY UDO, SECTION 7.9.1:
   A DRAINAGE PLAN THAT WILL INCLUDE ALL PORTIONS OF THE DEVELOPMENT SHALL BE SUBMITTED. THIS PLAN SHALL BE PREPARED AND SEALED BY A REGISTERED ENGINEER. THE PLAN AND FACILITIES SHALL PROVIDE FOR A DRAINAGE SYSTEM FOR THESE AREAS THAT WILL ACCOMMODATE THE TEN-YEAR STORM EVENT WITHOUT FLOODING OR SUBSTANTIAL PONDING OF WATER IN THE AREAS INCLUDED IN THE PLAN. THE PLAN MUST ALSO ACCOMMODATE ANY DISCHARGE FROM PROPERTIES IN UPLAND PORTIONS OF THE DRAINAGE BASIN THAT FLOWS THROUGH THE PROPERTY FOR THE SAME STORM EVENT FOR THE TYPE DEVELOPMENT FOR WHICH THAT PROPERTY IS ZONED. THE BOUNDARY OF ANY DRAINAGE AREA ON A PORTION OF THE SITE AND/OR UPLAND FROM THE SITE AND DRAINAGE AREAS BETWEEN STORMWATER DISCHARGE POINTS FROM THE SITE TO THE RECIPIENT PERENNIAL STREAM SHALL BE SHOWN ON A MAP (COPY OF 7.5 MIN. USGS QUAD OR SIMILAR MAP). ANY DRAINAGE FACILITY RECEIVING STORMWATER DISCHARGE FROM THE DEVELOPMENT SHALL HAVE THE CAPACITY TO CARRY THE ANTICIPATED STORMWATER FLOW FROM AREAS THAT DISCHARGE THROUGH THEM FOR THE 10 YEAR STORM EVENT FROM THE POINT OF DISCHARGE AT THE DEVELOPMENT TO THE RECIPIENT PERENNIAL STREAM WITHOUT OVER FLOWING THEIR BANKS. THE LOCATION, SIZE AND/OR CAPACITY OF ALL STRUCTURES INCLUDED IN THE DRAINAGE SYSTEM AND RECEIVING DISCHARGE FROM THE DEVELOPMENT TO THE RECIPIENT PERENNIAL STREAM SHALL BE SHOWN ON THE PLAN AND CALCULATIONS USED IN DESIGNING THE DRAINAGE SYSTEM SHALL BE SUBMITTED IN A LEGIBLE FORMAT. THIS PLAN MAY BE INCLUDED IN THE STREET AND DRAINAGE PLAN, STORMWATER MANAGEMENT PLAN OR ON THE PRELIMINARY PLAT, AS LONG AS THE DESIGN PROFESSIONAL CERTIFIES THAT THE SPECIFIC DRAINAGE PLAN SUBMITTED COMPLIES WITH THESE REQUIREMENTS AND THE INFORMATION REQUIRED IS SHOWN OR SUBMITTED.

STREETLIGHT NOTES
1. STREETLIGHT LOCATIONS SHOWN ON PLAN ARE PRELIMINARY, AND BASED ON PENDER UDO SPECIFICATIONS. FINAL DESIGN, LOCATIONS, AND CALCULATIONS WILL BE PROVIDED BY DUKE ENERGY.

HISTORICAL & ARCHAEOLOGY NOTES
1. NO KNOWN HISTORIC OR ARCHEOLOGICAL SITES EXIST ON ANY OF THE SUBJECT PARCELS.

FLOODPLAIN NOTES
1. THIS PARCEL IS IN FLOOD ZONE X, WHICH IS NOT A SPECIAL FLOOD HAZARD AREA, ACCORDING TO FEMA FLOOD PANEL 3720328200J WITH AN EFFECTIVE DATE OF FEBRUARY 16, 2007.

UTILITIES
1. ALL WATER UTILITIES WILL BE COORDINATED WITH PENDER COUNTY ENGINEERING & UTILITIES; AND SEWER UTILITIES WILL BE COORDINATED WITH PLURIS.

SIGNS
1. ALL PROPOSED SIGNS SHALL CONFORM TO PEDER COUNTY UDO 9.6.1 FOR PERMANENT SIGNS FOR SUBDIVISIONS AND RESIDENTIAL DEVELOPMENTS AND SHALL BE SUBMITTED UNDER SEPARATE PERMIT AS OUTLINED IN ARTICLE 9, SECTION 9.2.

HOMEOWNERS ASSOCIATION
1. PER PENDER COUNTY UDO 7.3, HOMEOWNERS ASSOCIATIONS SHALL BE REQUIRED FOR ALL DEVELOPMENTS WITH DEDICATED IMPROVEMENTS SUCH AS PRIVATELY MAINTAINED STREETS AND/OR OPEN SPACE DEDICATIONS AND MUST BE RECORDED ALONG WITH THE FIRST PHASE OF A FINAL PLAT TO ENCOMPASS THE ENTIRE DEVELOPMENT WITH AN OUTLINE OF AMENITIESLAND TRANSFERRED TO THE SAID HOA AT OR BEFORE 25% OF ALL UNITS ARE CONSTRUCTED.

BOUNDARY
1. SURVEY IS COMPLETE & TITLE SEARCH FOR EXISTING EASEMENTS IS UNDERWAY. FINAL PLAT WILL REFLECT ANY EASEMENT.
2. SURVEY COMPLETED ON AUGUST 14, 2015.

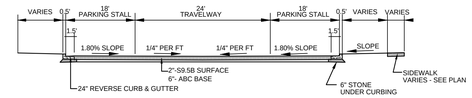
RECREATION UNIT NOTES
1. 15 DWELLING UNITS REQUIRE 1.0 RECREATION UNIT TOTALING $10,000 OR MORE. INSTALLATION OF THE PROPOSED ACTIVE RECREATION AREAS WILL FAR EXCEED THE $10,000, 1.0 UNIT REQUIREMENT. FOR FULL DETAILS OF PROPOSED ACTIVE RECREATION AREAS, REFER TO COST ESTIMATE PROVIDED WITH SUBMITTAL TO PENDER COUNTY.

PROJECT ROAD NOTES
1. ALL COLLECTOR ROADS WILL BE PUBLIC RIGHT OF WAYS CONSTRUCTED TO NCDOT SUBDIVISION ROADS MINIMUM CONSTRUCTION STANDARDS.
2. ALL PROPOSED INTERNAL ROADWAY INTERSECTIONS AND CONNECTIONS TO EXISTING ROADWAYS & THE PROJECT COLLECTOR ROAD WILL HAVE A 30' RADIUS MINIMUM.
3. STREET NAME SIGNS SHALL BE INSTALLED AS SOON AS ROADWAYS ARE ACCESSIBLE BY VEHICLE TRAFFIC TO INCLUDE DURING CONSTRUCTION AND MEET PENDER COUNTY STREET SIGN SPECIFICATIONS.
4. ADDRESSING WILL COMPLY WITH PENDER COUNTY UDO ARTICLE 11.
5. NO PROPOSED ROAD EXCEEDS 1 MILE IN LENGTH OR ACCESSES MORE THAN 200 LOTS. ALL ROADS WILL COMPLY WITH SECTION 7.5.3 OF THE PENDER COUNTY UDO.

OPEN SPACE KEY

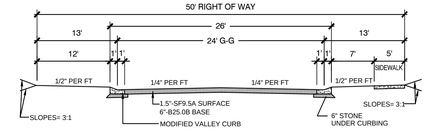
1	PASSIVE OPEN SPACE	±0.145 AC
2	PASSIVE OPEN SPACE	±0.08 AC
TOTAL PASSIVE OPEN SPACE :		±0.225 AC
AA	ACTIVE OPEN SPACE (SHEET P-2)	±0.225 AC
	TOTAL ACTIVE OPEN SPACE:	**±0.225 AC**
	TOTAL OPEN SPACE (ACTIVE & PASSIVE)	**±0.45 AC**

OPEN SPACE NOTES
PERCENT OF COMMON OPEN SPACE: 10% MIN.



PAVING NOTE: ALL PAVING THICKNESS WILL BE DETERMINED BASED ON SOILS DATA. NO TESTING HAS BEEN COMPLETED AT THIS TIME, SO A MINIMUM PAVING SECTION HAS BEEN PROVIDED AND WILL BE FURTHER EVALUATED WITH THE AVAILABILITY OF SOILS DATA.

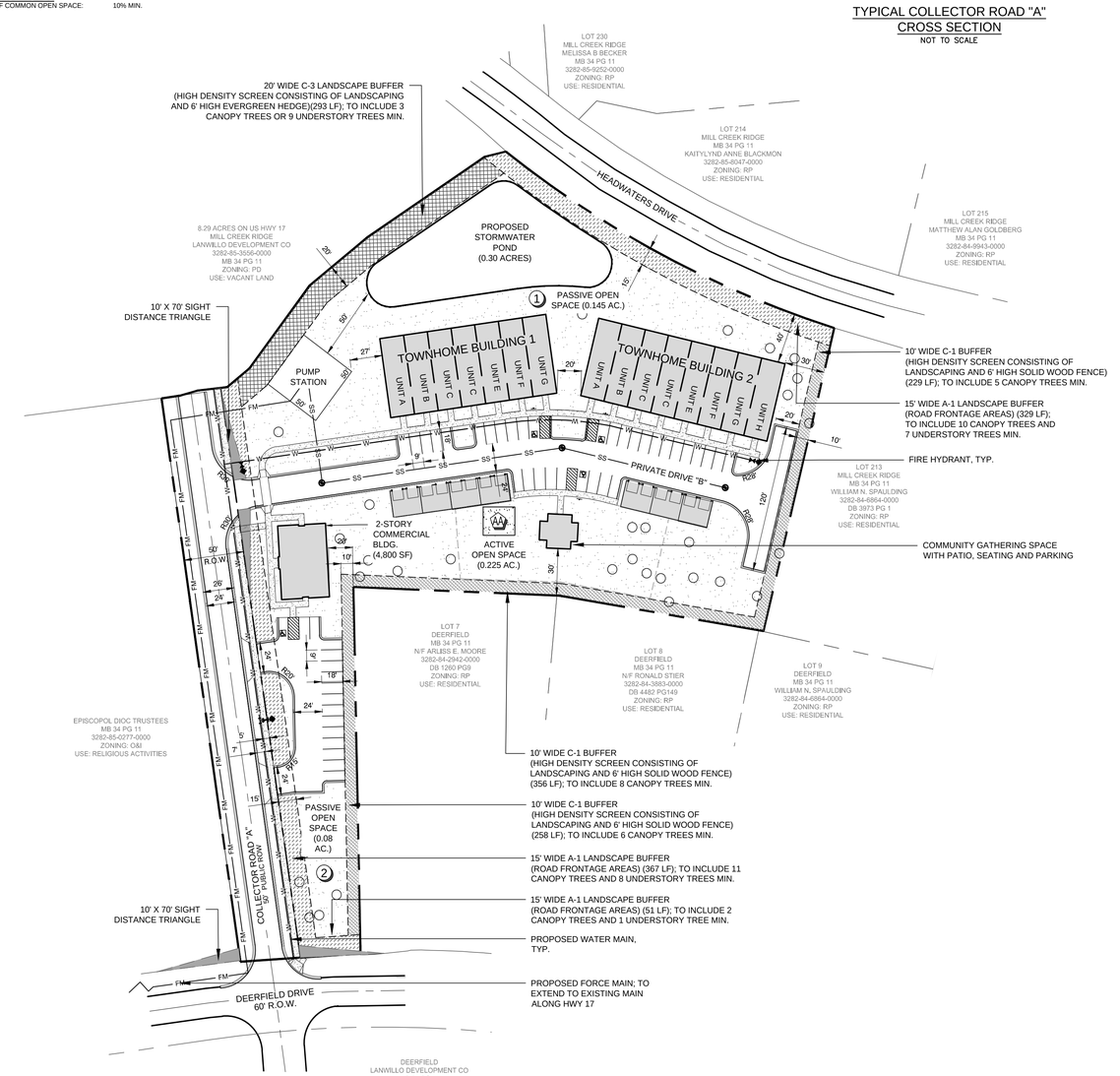
TYPICAL TOWNHOME DRIVE WITH PARKING CROSS SECTION
NOT TO SCALE



NOTES:
1. ALL PAVING THICKNESS WILL BE DETERMINED BASED ON SOILS DATA. NO TESTING HAS BEEN COMPLETED AT THIS TIME, SO A MINIMUM PAVING SECTION HAS BEEN PROVIDED AND WILL BE FURTHER EVALUATED WITH THE AVAILABILITY OF SOILS DATA.

2. THE SIDE OF THE ROAD BEST SUITED FOR SIDEWALK WILL BE EVALUATED PRIOR TO CONSTRUCTION. HOWEVER, CONSTRUCTION OF SIDEWALK WILL COMPLY WITH THIS SECTION.

TYPICAL COLLECTOR ROAD "A" CROSS SECTION
NOT TO SCALE



PRELIMINARY DESIGN - NOT RELEASED FOR CONSTRUCTION

REVISIONS:
REV. 1: REVISED PER TRC COMMENTS 7/12/19
REV. 2: REVISED PER STAFF COMMENTS 7/18/19

CLIENT INFORMATION:
Southeast Custom Homes
126 N. Cardinal Dr., Suite 101
Wilmington, NC 28405

PARAMOUNTE ENGINEERING
122 Cinema Drive
Wilmington, North Carolina 28403
(910) 791-6707 (O) (910) 791-6760 (F)
NC License #: C-2946

MDP SITE PLAN
HERON'S WATCH
TOPSAIL TOWNSHIP
PENDER COUNTY, NORTH CAROLINA

PROJECT STATUS
CONCEPTUAL LAYOUT:
PRELIMINARY PLAT:
FINAL DESIGN:
PRE-CONSTRUCTION:
PRE-CONSTRUCTION CONFERENCE:

DRAWING INFORMATION
DATE: 06/17/19
SCALE: 1" = 50'
DESIGNED: AME
DRAWN: AME
CHECKED:

SEAL
NORTH CAROLINA PROFESSIONAL SEAL 028647 ENGINEER TIMOTHY G. CLINKSCALES
07/12/19

MDP-1

PEI JOB#: 18316.PE

ATTACHMENT 4:

Steamer Properties, LLC - Major Site Application

Pender County
Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425

Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

MAJOR AND MINOR SITE DEVELOPMENT APPLICATION

SDP 2022-281

THIS SECTION FOR OFFICE USE			
Date: 6/21/2022	Permit Number:	Permit Fee:	Invoice Number:
*Zoning Approval ONLY: YES / NO		Final Zoning Compliance Approved: YES / NO / N/A	
Type of Site Development Plan:	☑ Major	☐ Minor	

SECTION 1: GENERAL INFORMATION

Applicant's Name:	Steamer Properties, LLC	Property Owner's Name:	Lanwillo Development Co.
Applicant's Address:	5006 Oleander Dr.	Property Owner's Address:	2325 Tattersalls Dr.
City, State, & Zip	Wilmington, NC 28403	City, State, & Zip	Wilmington, NC 28403
Phone Number:	(910)262-6265	Phone Number:	(910)619-0248
Email Address:	stan@bugnarug.com	Email Address:	lonnie@lonniewilliams-legal.com
Legal relationship of applicant to landowner:	Buyer		

SECTION 2: PROJECT INFORMATION

PIN (Property Id #):	3282-85-3556-0000	Total property acreage:	
Zoning:	PD	Acreage to be disturbed:	
Water Provider:	Pender County	Wastewater Provider:	
Directions to Site:	Hwy 17 N to Headwaters Dr. Turn Right on Headwaters Dr. Subject property will be on Right (SE corner of Hwy 17 & Headwaters Dr). Hampstead, NC		
Lot Size: +/- 1 acre	Sq Ft of Building: 2,000 SF	Building Height: 18'	
Setbacks	Front: 25'	Side: 10'	Rear: 10'
NAICS Code/Use:			
Business Name:	Bug N A Rug Exterminators		
Describe activities to be undertaken on project site:	Office for Pest Control Exterminating business		

Ownership:	Number of Employees:	Number of Members:	Seating Capacity:
☒ Private ☐ Public	5 (at this location)	N/A	N/A

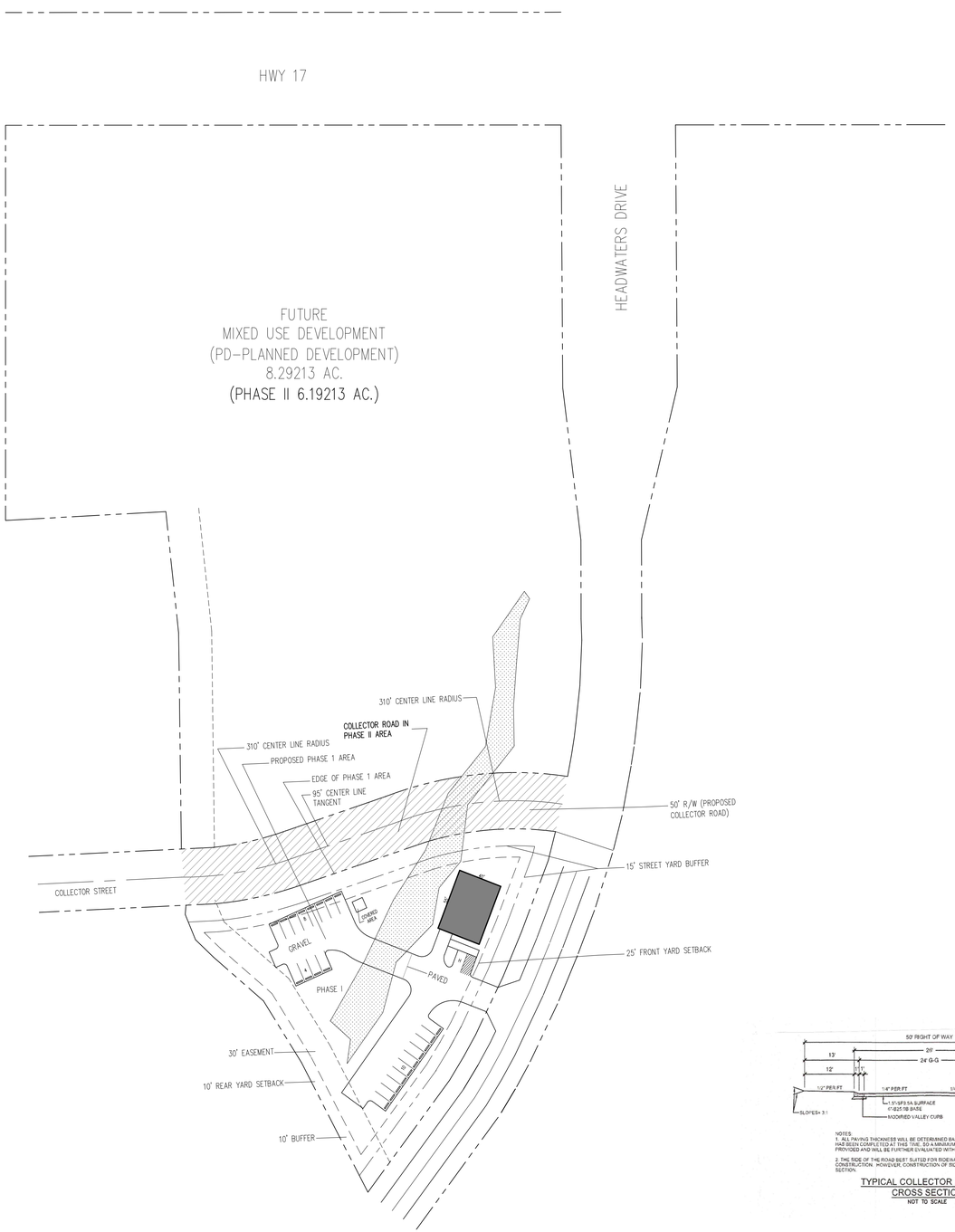
**If the applicant is not the owner of the property, a notarized letter from the property owner may be required*

*Zoning approval is for the use being proposed ONLY, other department approvals may be required i.e. Fire Marshal, Environmental Health, Permitting, etc...

SECTION 4: ADDITIONAL COMMENTS			
SECTION 5: SIGNATURES			
Applicant's Signature		**Date:**	6/1/22
Applicant's Name Printed	Stan Hollingsworth	**Date:**	6/1/22
Owner's Signature	DocuSigned by: LANWILLO DEVELOPMENT COMPANY / By: Lonnie B. Williams, Jr. - President 707960A251204...	**Date:**	6/1/2022
Owner's Name Printed	LANWILLO DEVELOPMENT COMPANY / By: Lonnie B. Williams, Jr. - President	**Date:**	
Planning Staff:	Justin Brantley	**Date:**	6/21/2022

ATTACHMENT 5:

Steamer Properties, LLC – Site Plan



SITE DATA TABLE

Owner:	Lanwillo Development Co.
Map #	P 130 198 010
Zone:	PD-Planned Development
Total Acreage:	8.29213 ac.
Phase 1:	Approx. 1.21 ac.
Proposed Use:	Exterminating & Pest Control (NAICS Code 561)
Parking Required:	1 Parking Space per 250 s.f.
Parking Required:	2,200 s.f. / 250 = 9 Spaces Required
Parking Provided:	23 Spaces including 1 ADA Space

Building Setback Proposed:

Street Yard Buffer (Typ A)	15'
Buffer Yard:	10'
Front Yard:	25'
Rear Yard:	10'

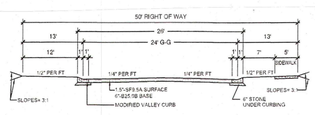
Impervious

Building:	2,200 S.F.
Sidewalk:	182 S.F.
Paved Parking:	7,349 S.F.
Covered Area:	100 S.F.
Total Impervious:	9,831 S.F.

Location of Water & Sewer: TBD

Note:

Property configuration for this site and for this Phase / Concept Master Development Plan is based on map of survey prepared by Johnie C. Garrason dated 1972.



NOTES:
1. ALL PAVING THICKNESS WILL BE DETERMINED BASED ON SOILS DATA. NO TESTING HAS BEEN COMPLETED AT THIS TIME. SO A MINIMUM PAVING SECTION HAS BEEN PROVIDED AND WILL BE FURTHER EVALUATED WITH THE AVAILABILITY OF SOILS DATA.

2. THE SIDE OF THE ROAD BEST SUITED FOR SIDEWALK WILL BE EVALUATED PRIOR TO CONSTRUCTION. HOWEVER, CONSTRUCTION OF SIDEWALK WILL COMPLY WITH THIS SECTION.

TYPICAL COLLECTOR ROAD "A"
CROSS SECTION
NOT TO SCALE

CONCEPT PLAN

50 25 0 50 100

SCALE: 1"=50'-0"

REVISIONS	DATE
WETLANDS	7-17-22
PARKING/WALK	7-29-22

HTCA
Howard T. Capps & Associates, Inc.
Land Planning Landscape Architecture
4106-108 Breezewood Drive
Wilmington, North Carolina 28412
Phone: (910) 284-1998

ADAMS SOUTHEASTERN CONSTRUCTION

Master Development Plan

Mixed Use District (Phase I)

Bug N A Rug

DESIGNED:	DRAWN:
H. Capps	R. Capps

DATE : 6-1-2022

SCALE : 1"=50'

JOB NO. : 476=0522

SHEET

L1

OF SHEETS

ATTACHMENT 6:

Lanwillo Subdivision Map

SURVEYORS CERTIFICATE I

I, VERNON DEREK DANFORD, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 3723, PAGE 232); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM THE INFORMATION FOUND IN BOOK AS , PAGE SHOWN ; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:10000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSURE NUMBER AND SEAL THIS 6TH DAY OF FEBRUARY A.D., 2023.

THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

VERNON DEREK DANFORD
N.C. PLS No. L-4528

NORTH CAROLINA PROFESSIONAL SEAL L-4528 LAND SURVEYOR VERNON DEREK DANFORD

SURVEYORS CERTIFICATE II

THE SUBDIVISION ON THIS PLAT DOES NOT CONTAIN SPECIAL FLOOD HAZARD AREAS AND IS NOT LOCATED IN A FLOODWAY AS DELINEATED BY THE FEDERAL MANAGEMENT AGENCY.

THE SUBDIVISION ON THIS PLAT DOES NOT CONTAIN AREAS OF ENVIRONMENTAL CONCERN AS DELINEATED BY THE NORTH CAROLINA RESOURCES COMMISSION.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 6TH DAY OF FEBRUARY, 2023.

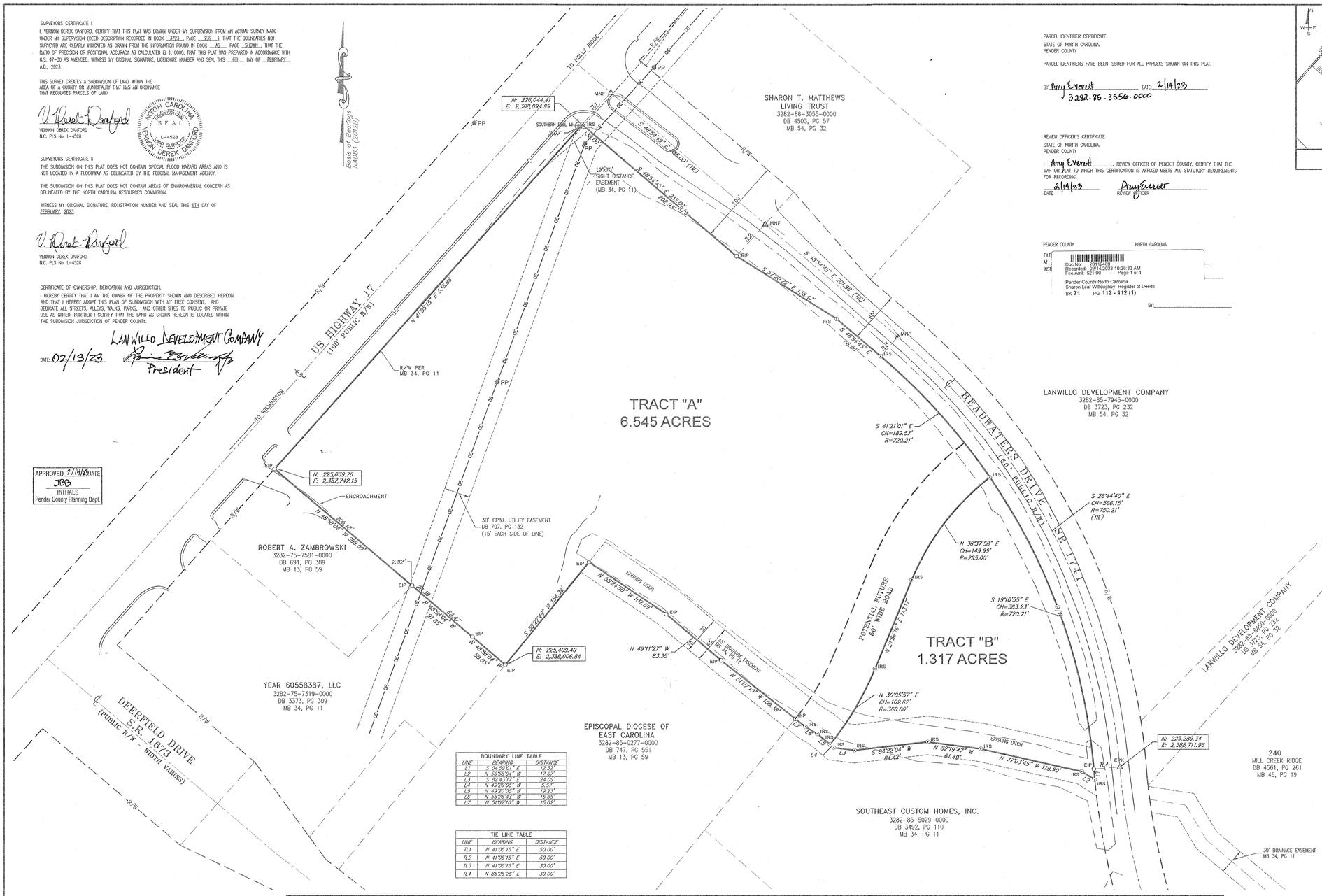
VERNON DEREK DANFORD
N.C. PLS No. L-4528

CERTIFICATE OF OWNERSHIP, DEDICATION AND JURISDICTION:

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT, AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS, AND OTHER SITES TO PUBLIC OR PRIVATE USE AS NOTED. FURTHER I CERTIFY THAT THE LAND AS SHOWN HEREON IS LOCATED WITHIN THE SUBDIVISION JURISDICTION OF PENDER COUNTY.

DATE: 02/13/23 LANWILLO DEVELOPMENT COMPANY
President

APPROVED 2/14/23 DATE
JBB
INITIALS
Pender County Planning Dept.



BOUNDARY LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 04°59'01" E	12.52'
L2	N 50°58'04" W	17.67'
L3	S 82°43'17" E	24.09'
L4	N 49°20'05" W	5.57'
L5	N 49°20'05" W	19.23'
L6	N 50°28'43" W	15.88'
L7	N 51°07'10" W	15.02'

TIE LINE TABLE		
LINE	BEARING	DISTANCE
TL1	N 41°05'15" E	50.00'
TL2	N 41°05'15" E	50.00'
TL3	N 41°05'15" E	30.00'
TL4	N 85°25'26" E	30.00'

PARCEL IDENTIFIER CERTIFICATE
STATE OF NORTH CAROLINA,
PENDER COUNTY

PARCEL IDENTIFIERS HAVE BEEN ISSUED FOR ALL PARCELS SHOWN ON THIS PLAT.

BY: Amy Everett DATE: 2/14/23
3282.85.3556.0000

REVIEW OFFICER'S CERTIFICATE
STATE OF NORTH CAROLINA,
PENDER COUNTY

I Amy Everett, REVIEW OFFICER OF PENDER COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE 2/14/23 REVIEW OFFICER Amy Everett

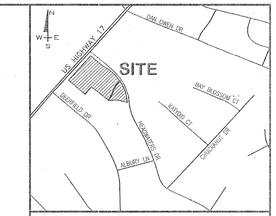
PENDER COUNTY NORTH CAROLINA

FILED
AT
INST

Doc No: 20012409
Recorded: 02/14/2023 10:36:33 AM
Fee Amt: $21.00 Page 1 of 1

Pender County North Carolina
Sharon Lear Willoughby, Register of Deeds
BK 71 PG 112 (1)

BY:



LOCATION MAP
NOT TO SCALE

LEGEND

- = EXISTING IRON PIPE (EIP)
- = EXISTING IRON REBAR (EIR)
- = EXISTING MONUMENT FOUND (ECM)
- = CONCRETE MONUMENT SET (CMS)
- = MAG NAIL FOUND (MNF)
- = MAG NAIL SET (MNS)
- = IRON PIPE SET (IPS)
- = IRON REBAR SET (IRS)
- = EXISTING SCRIBE IN CONCRETE (ESC)
- = SCRIBE IN CONCRETE SET (SCS)
- = NON-MONUMENTED POINT (NMP)
- = BENCHMARK LOCATION
- = CENTERLINE

R/W = RIGHT OF WAY

NOTES

1. THESE TRACTS ARE LOCATED IN ZONE "X" PER FIRS ON (EFFECTIVE) FIRM MAP NUMBER 3720328200J DATED: 02/16/2007 AND ZONE "X" PER FIRS ON (PRELIMINARY) FIRM MAP NUMBER 3720328200K DATED: 08/29/2014
2. THESE TRACTS ARE SUBJECT TO ALL EASEMENTS, RESTRICTIONS, OR COVENANTS OF RECORD.
3. THS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, WHICH MAY REVEAL ADDITIONAL CONVEYANCES, EASEMENTS OR RIGHT OF WAYS NOT SHOWN HEREON.
4. "BEST FIT MODEL" UTILIZED BASED UPON THE PREPONDERANCE OF EVIDENCE FOUND.
5. NC GRID BEARINGS DERIVED USING TOPCON UNIT, UTILIZING NORTH CAROLINA VRS SYSTEM.
6. ALL BEARINGS SHOWN ARE NC GRID (NAD83 2012B) EXCEPT AS SHOWN.
7. ALL PROPERTY CORNERS ARE IRON PIPES OR REBARS, UNLESS OTHERWISE NOTED. THE WOODEN STAKES SERVE TO PROTECT AND MARK THE AREA OF THE ACTUAL CORNERS, WHICH ARE TYPICALLY AT OR BELOW GROUND.
8. ALL DISTANCES ARE HORIZONTAL GROUND, IN US SURVEY FEET.
9. COMBINED FACTOR: 0.99999572.
10. ZONING = GD, PENDER COUNTY, NC.
11. ALL LOTS AS DEPICTED ON THE PLAT MEET OR EXCEED THE MINIMUM AREA DIMENSIONAL REQUIREMENTS OF THE ZONING DISTRICT IN WHICH LOCATED.

SURVEY REFERENCE	
DEED BOOK	PAGE
3723	232
707	132
3492	110
747	551
3373	309
691	309
4503	57
3723	232
MAP BOOK	PAGE
34	11
46	19
13	59
54	32

DANFORD & ASSOCIATES LAND SURVEYING, P.C.
FIRM LIC# C-2797
email: ddanford@danfordsurveying.com
4002 1/2 OLEANDER DRIVE SUITE 203 WILMINGTON, NC 28403
PHONE (910) 799-4916

MAP OF EXPEDITED SUBDIVISION OF
LANWILLO DEVELOPMENT COMPANY LANDS
8.29213 ACRES TRACT PER "MAP OF SURVEY OF MILL CREEK RIDGE AT DEERFIELD SECTION 5
MAP BOOK 34 PAGE 11
PARCEL ID:3282-85-3556-0000 DEED BOOK 3723 PAGE 232 TRACT 1
TOPSAIL TOWNSHIP PENDER COUNTY NORTH CAROLINA

FEBRUARY 6TH, 2023
50 0 25 50 100
1 INCH = 50 FEET
ONE FOOT CONTOUR INTERVAL – NAVD 88 DATUM
© DANFORD & ASSOCIATES LAND SURVEYING, PC

FB
8266-8109-HAMPSTEAD-DEERFIELD-MILL CREEK RIDGE-LANWILLO-BUG

MB 71 PG 112

ATTACHMENT 7:

Hampstead Station Expansion – 1st Version of Site Plan

PROJECT INFORMATION:

HAMPSTEAD STATION EXPANSION
NAISC CODES: 455110 – RETAIL STORES
713940 – FITNESS AND RECREATIONAL SPORTS CENTERS
722511 – FULL SERVICE RESTAURANTS MIXED RETAIL
STORES, RESTAURANTS & GYM
PIN: 3282–85–8819–0000
PENDER COUNTY

PROPERTY OWNER & DEVELOPER:
THE JAYTEES PROPERTIES IV, LLC
105 ISLAND DR.
WILMINGTON, NC 28480

ENGINEER:
RSC ENGINEERING, PLLC
15226 US HWY 17
HAMPSTEAD, NC 28443

SITE DATA:
REFERENCE: DB 4810, PG 351–353
GB (GENERAL BUSINESS)
SETBACKS: FRONT=50', SIDE=25', REAR=25'

IMPERVIOUS CALCULATIONS:
LOT AREA – 331,491 SF (7.61 AC)
BUILDING HEATED GROSS AREA = 48,000 SF
ASPHALT DRIVEWAY/PARKING = 118,964 SF
CONCRETE SIDEWALK = 20,684 SF
CONCRETE CURB = 16,412
CONCRETE DUMPSTER PADS = 814
TOTAL IMPERVIOUS AREA = 204,874 SF (61.8%)

PARKING: (TOTAL SPACES – 133)
BUILDING #1
- RESTAURANT: (2,800 SF)(1 SPACE/100 SF) = 28 PARKING SPACES
- GYM: (9,200 SF)(1 SPACE/250 SF) = 37 PARKING SPACES

BUILDING #2 (PROPOSED)
- RESTAURANT: (2,800 SF)(1 SPACE/100 SF) = 28 PARKING SPACES
- RETAIL: (9,200 SF)(1 SPACE/225 SF) = 41 PARKING SPACES

BUILDING #3
- RESTAURANT: (2,000 SF)(1 SPACE/100 SF) = 20 PARKING SPACES
- GYM: (10,000 SF)(1 SPACE/225 SF) = 44 PARKING SPACES

BUILDING #4 (PROPOSED)
- RESTAURANT: (2,800 SF)(1 SPACE/100 SF) = 28 PARKING SPACES
- RETAIL: (9,200 SF)(1 SPACE/225 SF) = 41 PARKING SPACES

TRIP CALCS:
DAILY TRIPS (ITE CODE)
RETAIL (820): 127.15 X (9.2+10+10+9.2) = 1,322
GYM (492): 32.93 X 9.2 = 303
RESTAURANTS (932): 42.94 X (2.8+2.8+2+2.8) = 1,649

TOTAL DAILY TRIPS: 3,274

PM PEAK TRIPS (ITE CODE)
- RETAIL (820): 3.75 X (9.2+10+10+9.2) = 144
- GYM (492): 4.05 X 9.2 = 37
- RESTAURANTS (932): 10.92 X (2.8+2.8+2+2.8) = 83

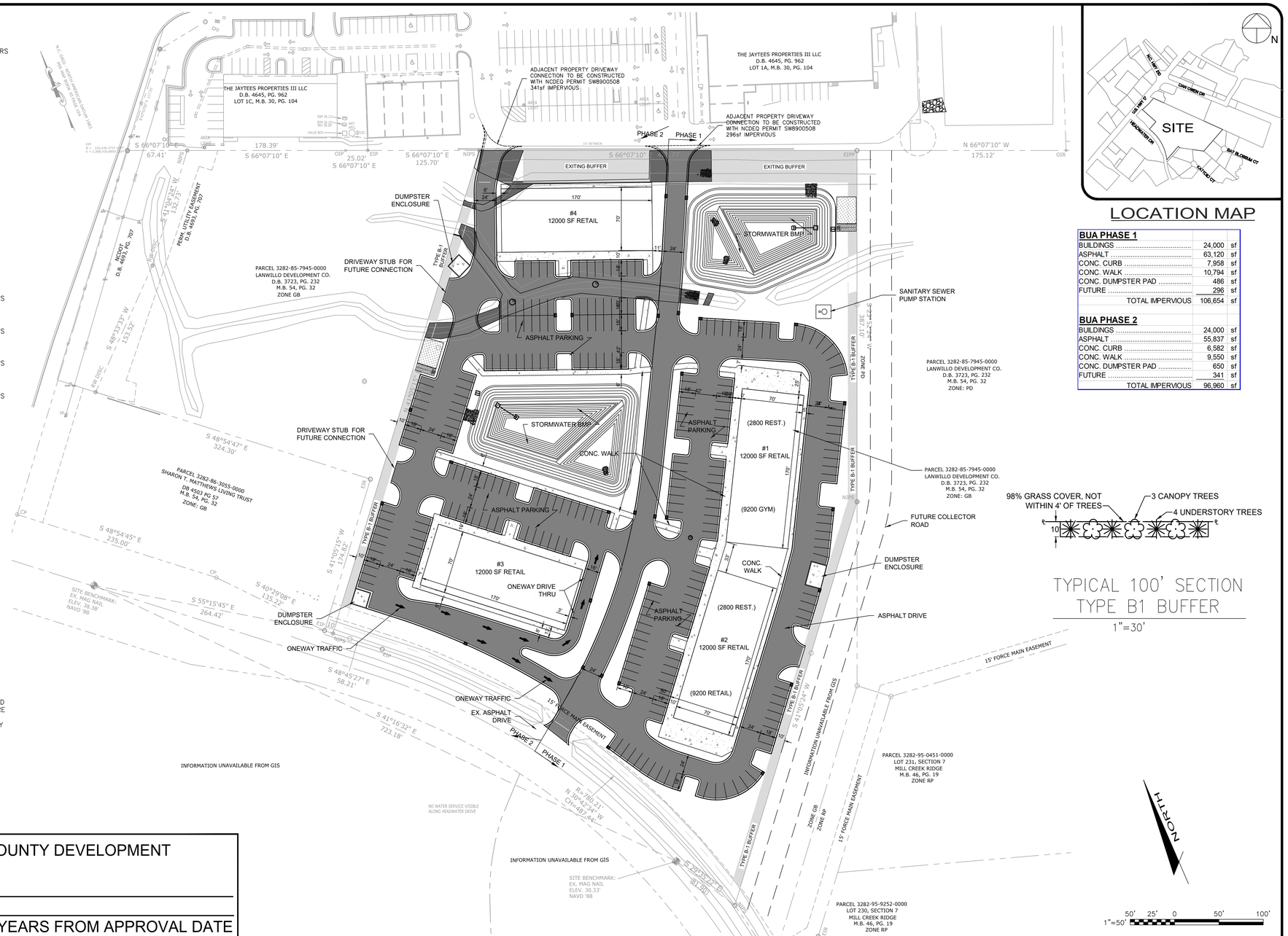
TOTAL RAW PM PEAK TRIPS: 264
*TOTAL ADJUSTED PM PEAK TRIPS: 173
FOR ALL 800 & 900 ARE ENTITLED TO "PASSBY" REDUCTION OF 60%)

UTILITIES:
WATER: PENDER COUNTY UTILITIES
605 E. FREMONT ST
BURGAW, NC 28245
(910)–259–1570

ELECTRIC: DUKE ENERGY
5700 HOLLY SHELTER RD
CASTLE HAYNE, NC 28429
(800)–419–6356

SEWER: PLURIS
1095 STATE HWY 210
SNEADS FERRY, NC 28460
(888)–758–7471

LANDSCAPING:
- ALL PROPERTY BOUNDARIES WILL HAVE TYPE B1 BUFFER INSTALLED EXCEPT ALONG THE NORTHERN PROPERTY BOUNDARY WHERE THERE IS AN EXITING BUFFER
- ALL INTERNAL ISLANDS WILL BE LANDSCAPED PER PENDER COUNTY UDO REQUIREMENTS



LOCATION MAP

BUA PHASE 1		
BUILDINGS	24,000	sf
ASPHALT	63,120	sf
CONC. CURB	7,958	sf
CONC. WALK	10,794	sf
CONC. DUMPSTER PAD	486	sf
FUTURE	296	sf
TOTAL IMPERVIOUS	106,654	sf

BUA PHASE 2		
BUILDINGS	24,000	sf
ASPHALT	55,837	sf
CONC. CURB	6,582	sf
CONC. WALK	9,550	sf
CONC. DUMPSTER PAD	650	sf
FUTURE	341	sf
TOTAL IMPERVIOUS	96,960	sf

TYPICAL 100' SECTION
TYPE B1 BUFFER
1"=30'

APPROVED BY THE PENDER COUNTY DEVELOPMENT ORDINANCE ADMINISTRATOR
ADMINISTRATOR SIGNATURE _____
APPROVAL DATE _____
SITE PLAN VALID FOR TWO (2) YEARS FROM APPROVAL DATE

REVISIONS

RSC Engineering, PLLC

DESIGN & MAINTENANCE OF ALTERNATIVE LAND USES

RSC ENGINEERING, PLLC
15226 US HWY 17
HAMPSTEAD, NORTH CAROLINA 28443
PHONE: 910.270.9599 ~ FAX: 910.270.9592
E-Mail: sonya@rscengineering.com

Hampstead Station Expansion Project

DEVELOPED BY
The JayTees Properties IV, LLC
105 Island Drive
Wrightsville Beach, NC 28480

MAJOR SITE DEVELOPMENT PLAN

DATE:	5/29/2023
SCALE:	1" = 50'
JOB #	22054020
DRAWN BY:	JDS
SHEET	C1

ATTACHMENT 8:

WMPO Memo

305 Chestnut Street
PO Box 1810
Wilmington, NC 28402
Ph: (910) 341-3258
Fax: (910) 341-7801
www.wmpo.org

MEMORANDUM

To: Pender County Technical Review Committee

Date: 7/3/23

Subject: Hampstead Station Expansion (MDP 2023-52 and SDP 2023-349)

Comments:

- Propose an appropriate collector road location that would allow for future collector road connections.
- Provide traffic controls at intersections that comply with the MUTCD.
- Show all crosswalks and curb ramps on the plans. Provide appropriate standard details.
- Provide ADA parking with access aisles as necessary. Provide standard details that comply with the 2010 ADA Standards for Accessible Design. Note: It is recommended to have the access aisle on the passenger side of ADA parking stalls because the wheelchair lift is typically installed on the passenger side of ADA vehicles.
- Provide sight triangles at driveway connection to Headwaters Dr that conform to AASHTO's Geometric Design of Highways and Streets requirements. No vertical obstructions may fall within the sight triangles. Note: Posted speed limit of Headwaters Dr is 25mph.

NCDOT Projects: N/A

WMPO 2045 Projects: N/A

Pender County CTP:
Pender County Collector Street Plan requires site to include a location for a future collector street connection. Per Pender County Planning Staff, a collector road is planned to connect Dan Owens Dr to Center Dr.

TIA: Development is currently under TIA review. All listed improvements on the TIA approval with conditions letter will be required of the development.

ATTACHMENT 9:

July 6th, 2023 - Technical Review Committee Meeting
Sign-In Sheet

7/06/2023 TRC		
[redacted]		
Name (Please Print)	**Address** (Email)	**Phone Number**/Agency
Daniel Adams	dadams@pendercountync.gov	910-259-0231 / PCD
Taylor Davis	tdavis@pendercountync.gov	910 259 1734 / PCD
Tommy Batson		PCEM
Angela Blake		PCEM
Amy Burton		PCFM
Alex Dowell		PCU
Katie Leubner		PCU
RICHARD ALBER	800 ENSIWOOD RD., #232 WILMINGTON, NC 28403	
Richard C. Alber III	Trey@wilmingtoncompostcompany.com	910-660-3445
Riley Alber	riley@wilmingtoncompostcompany.com	910-660-9117
Irene Lippard	raepcsl@bellsouth.net	910-251-8544
Jamar Johnson	jamar.johnson@wilmingtonnc.gov	910-343-3915/WMPO
Luke Yarborough	lyarborough@gmail.com	PCD
MELISSA BECKER	melissachc333@gmail.com	919.576-5899
Dale Becker	vbafan@yahoo.com	919795 8944
Brad Willey		910 523 3030
Craig Willey		

Continued on back →

Name	Address	Phone #
Jeff W Turpin	Jeff.Turpin1958@gmail.com	910-619-7941
Bryce Morrison	bryce@capefearcommercial.com	(910)367-3322
Rusty Windsor	rusty.windsor@kimely-horn.com	(912) 675-4191
Tim Long	tlong@logandevelopers.com	(910) 792-6472
Adam Moran	Pender Planning Staff	
Mike Dickson	Pender Addressing	910 259-1442

ATTACHMENT 10:

Applicant Proposed Collector Road on Steamer Property
Version #1

SURVEYORS CERTIFICATE I

I, VERNON DEREK DANFORD, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK __AS__, PAGE __SHOWN__); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM THE INFORMATION FOUND IN BOOK __AS__, PAGE __SHOWN__; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:10000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSURE NUMBER AND SEAL THIS __7TH__ DAY OF __JULY__ A.D., __2023__.

THIS PLAT OF SURVEY IS OF ANOTHER CATEGORY, SUCH AS A RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.

PRELIMINARY

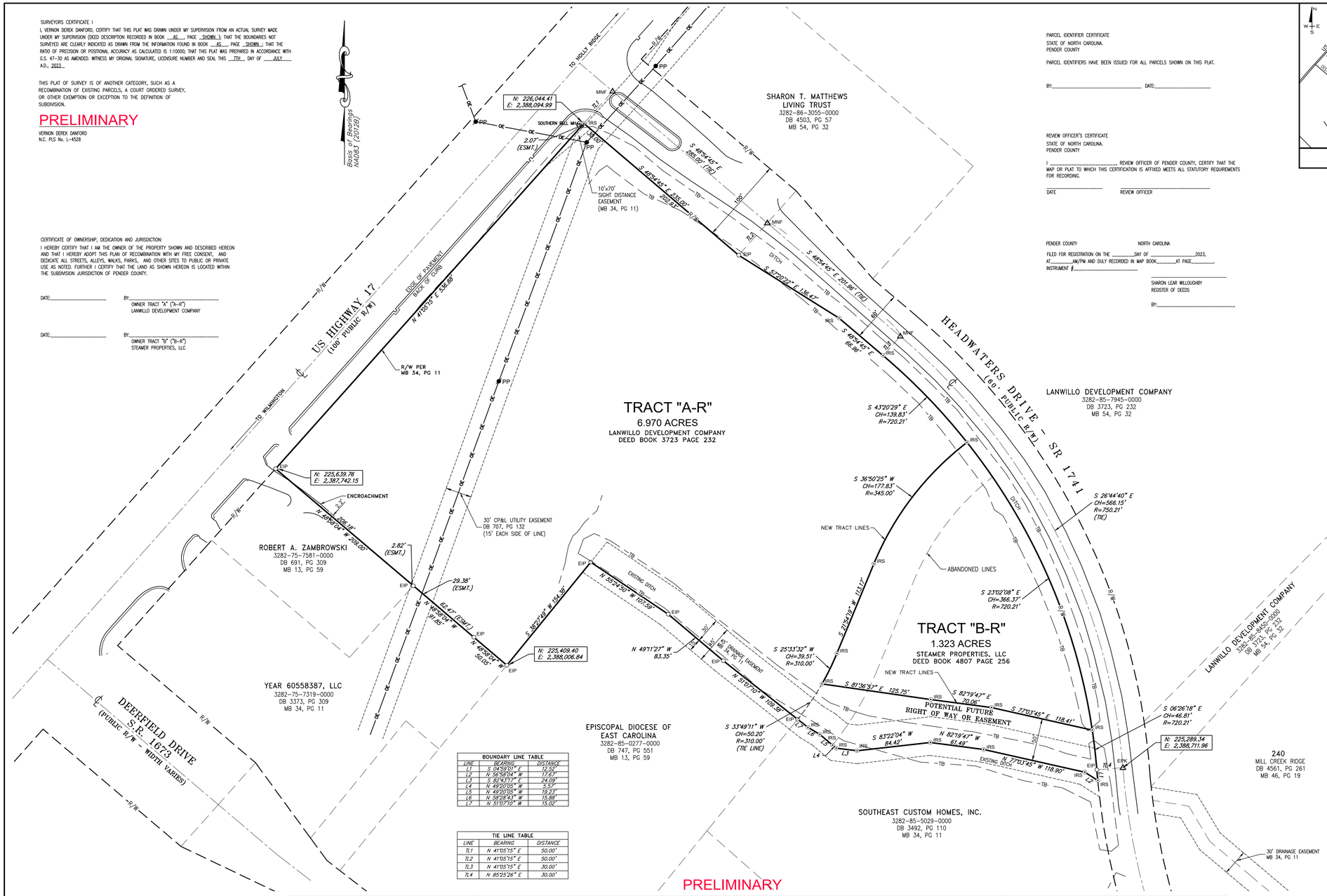
VERNON DEREK DANFORD
N.C. PLS No. L-4528

CERTIFICATE OF OWNERSHIP, DEDICATION AND JURISDICTION:

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF RECOMBINATION WITH MY FREE CONSENT, AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS, AND OTHER SITES TO PUBLIC OR PRIVATE USE AS NOTED. FURTHER I CERTIFY THAT THE LAND AS SHOWN HEREON IS LOCATED WITHIN THE SUBDIVISION JURISDICTION OF PENDER COUNTY.

DATE:_____ BY:_____
OWNER TRACT "A" ("A-R")
LANWILLO DEVELOPMENT COMPANY

DATE:_____ BY:_____
OWNER TRACT "B" ("B-R")
STEAMER PROPERTIES, LLC



PRELIMINARY

BOUNDARY LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 04°59'01" E	10.52'
L2	N 56°58'04" W	17.67'
L3	S 82°43'17" E	24.09'
L4	N 49°20'05" W	5.57'
L5	N 49°20'05" W	19.23'
L6	N 58°28'43" W	15.88'
L7	N 51°07'10" W	15.02'

TIE LINE TABLE		
LINE	BEARING	DISTANCE
TL1	N 41°05'15" E	50.00'
TL2	N 41°05'15" E	50.00'
TL3	N 41°05'15" E	30.00'
TL4	N 89°25'26" E	30.00'

PARCEL IDENTIFIER CERTIFICATE
STATE OF NORTH CAROLINA.
PENDER COUNTY

PARCEL IDENTIFIERS HAVE BEEN ISSUED FOR ALL PARCELS SHOWN ON THIS PLAT.

BY:_____ DATE:_____

REVIEW OFFICER'S CERTIFICATE
STATE OF NORTH CAROLINA.
PENDER COUNTY

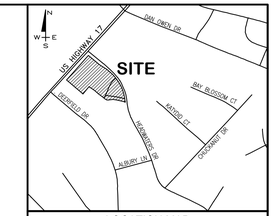
I _____, REVIEW OFFICER OF PENDER COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

_____ _____
DATE REVIEW OFFICER

PENDER COUNTY NORTH CAROLINA
FILED FOR REGISTRATION ON THE _____DAY OF _____2023,
AT_____AM/PM AND DULY RECORDED IN MAP BOOK_____AT PAGE_____,
INSTRUMENT #_____

_____
SHARON LEAR WILLOUGHBY
REGISTER OF DEEDS

BY:_____



LOCATION MAP
NOT TO SCALE

LEGEND

- = EXISTING IRON PIPE (EIP)
- = EXISTING IRON REBAR (EIR)
- = EXISTING MONUMENT FOUND (ECM)
- = CONCRETE MONUMENT SET (CMS)
- = MAG NAIL FOUND (MNF)
- = MAG NAIL SET (MNS)
- = IRON PIPE SET (IPS)
- = IRON REBAR SET (IRS)
- = EXISTING SCRIBE IN CONCRETE (ESC)
- = SCRIBE IN CONCRETE SET (SCS)
- = NON-MONUMENTED POINT (NMP)
- = BENCHMARK LOCATION
- = CENTERLINE
- R/W = RIGHT OF WAY
- TB = TOP OF BANK

PRELIMINARY

NOTES

1. THESE TRACTS ARE LOCATED IN ZONE "X" PER FRIS ON (EFFECTIVE) FIRM MAP NUMBER 3720328200J DATED: 02/16/2007 AND ZONE "X" PER FRIS ON (PRELIMINARY) FIRM MAP NUMBER 3720328200K DATED: 08/29/2014
2. THESE TRACTS ARE SUBJECT TO ALL EASEMENTS, RESTRICTIONS, OR COVENANTS OF RECORD.
3. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, WHICH MAY REVEAL ADDITIONAL CONVEYANCES, EASEMENTS OR RIGHT OF WAYS NOT SHOWN HEREIN.
4. "BEST FIT MODEL" UTILIZED BASED UPON THE PREPONDERANCE OF EVIDENCE FOUND.
5. NC GRID BEARINGS DERIVED USING TOPCON UNIT, UTILIZING NORTH CAROLINA VRS SYSTEM.
6. ALL BEARINGS SHOWN ARE NC GRID (NAD83 2012B) EXCEPT AS SHOWN.
7. ALL PROPERTY CORNERS ARE IRON PIPES OR REBARS, UNLESS OTHERWISE NOTED. THE WOODEN STAKES SERVE TO PROTECT AND MARK THE AREA OF THE ACTUAL CORNERS, WHICH ARE TYPICALLY AT OR BELOW GROUND.
8. ALL DISTANCES ARE HORIZONTAL GROUND, IN US SURVEY FEET.
9. COMBINED FACTOR: 0.99999572.
10. ZONING = GB, PENDER COUNTY, NC.
11. ALL TRACTS AS DEPICTED ON THE PLAT MEET OR EXCEED THE MINIMUM AREA DIMENSIONAL REQUIREMENTS OF THE ZONING DISTRICT IN WHICH LOCATED.

SURVEY REFERENCES	
DEED BOOK	PAGE
4807	256
3723	232
707	132
3492	110
747	551
3373	309
691	309
4503	57
3723	232
MAP BOOK	PAGE
71	112
34	11
46	19
13	59
54	32

DANFORD & ASSOCIATES LAND SURVEYING, P.C.
FIRM LIC# C-2797
email: ddanford@danfordsurveying.com
4002 1/2 OLEANDER DRIVE
SUITE 203
WILMINGTON, NC 28403
PHONE (910) 799-4916

FB _____
8266-8109-HAMPSTEAD-DEERFIELD-MILL CREEK RIDGE-LANWILLO-BUG

MAP OF RECOMBINATION OF
TRACT A & TRACT B
LANWILLO DEVELOPMENT COMPANY LANDS DIVISION MAP BOOK 71 PAGE 112
TRACT "A" DEED BOOK 3723 PAGE 232 PARCEL ID: 3282-85-1754-0000 LANWILLO DEVELOPMENT COMPANY
TRACT "B" DEED BOOK 4807 PAGE 256 PARCEL ID: 3282-85-5442-0000 STEAMER PROPERTIES, LLC
TOPSAIL TOWNSHIP PENDER COUNTY NORTH CAROLINA

JULY 7, 2023

50 0 25 50 100
1 INCH = 50 FEET

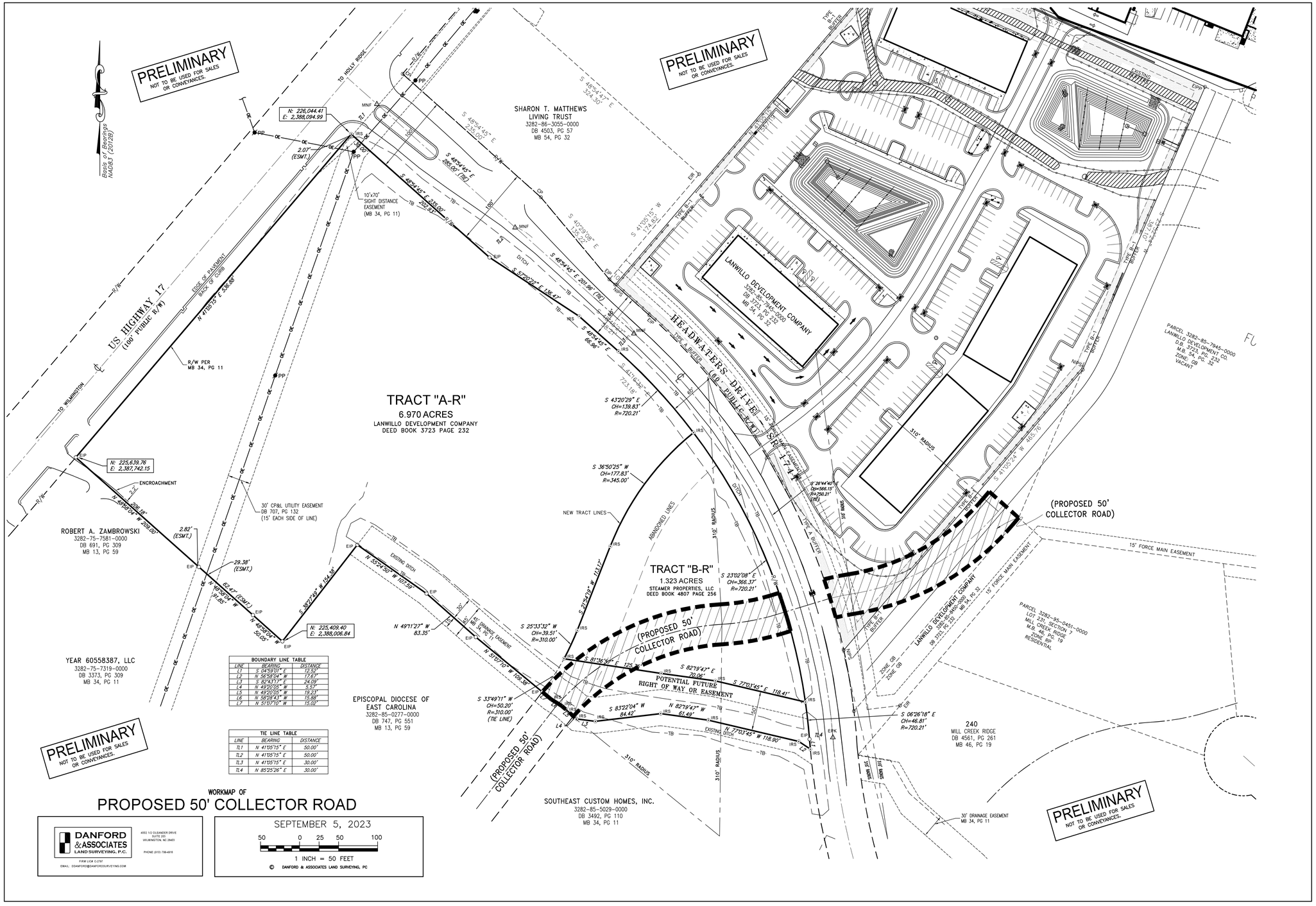
© DANFORD & ASSOCIATES LAND SURVEYING, PC

OWNER: TRACT "A" ("A-R")
LANWILLO DEVELOPMENT COMPANY
PO BOX 2088
WILMINGTON, NC 28402

OWNER: TRACT "B" ("B-R")
STEAMER PROPERTIES, LLC
2005 SPANISH WELLS DRIVE
WILMINGTON, NC 28405

ATTACHMENT 11:

Applicant Proposed Collector Road on Steamer Property
Version #2


PRELIMINARY
NOT TO BE USED FOR SALES OR CONVEYANCES.
Basis of Bearings NAD83 (2012B)
US HIGHWAY 17
(100' PUBLIC R/W)
TO WILMINGTON
TO HOLLY RIDGE
EDGE OF PAVEMENT
BACK OF CURB
R/W PER MB 34, PG 11
N: 226,044.41
E: 2,388,094.99
N: 225,639.76
E: 2,387,742.15
ENCROACHMENT
N: 225,409.40
E: 2,388,006.84
10'x70' SIGHT DISTANCE EASEMENT (MB 34, PG 11)
30' CP&L UTILITY EASEMENT DB 707, PG 132 (15' EACH SIDE OF LINE)
SHARON T. MATTHEWS LIVING TRUST
3282-86-3055-0000
DB 4503, PG 57
MB 54, PG 32
ROBERT A. ZAMBROWSKI
3282-75-7581-0000
DB 691, PG 309
MB 13, PG 59
YEAR 60558387, LLC
3282-75-7319-0000
DB 3373, PG 309
MB 34, PG 11
EPISCOPAL DIOCESE OF EAST CAROLINA
3282-85-0277-0000
DB 747, PG 551
MB 13, PG 59
SOUTHEAST CUSTOM HOMES, INC.
3282-85-5029-0000
DB 3492, PG 110
MB 34, PG 11
TRACT "A-R"
6.970 ACRES
LANWILLO DEVELOPMENT COMPANY
DEED BOOK 3723 PAGE 232
TRACT "B-R"
1.323 ACRES
STEAMER PROPERTIES, LLC
DEED BOOK 4807 PAGE 256
HEADWATERS DRIVE (60' PUBLIC R/W)
LANWILLO DEVELOPMENT COMPANY
3282-85-7945-0000
DB 3723, PG 232
MB 54, PG 32
(PROPOSED 50' COLLECTOR ROAD)
POTENTIAL FUTURE RIGHT OF WAY OR EASEMENT
15' FORCE MAIN EASEMENT
PARCEL 3282-85-7945-0000
LANWILLO DEVELOPMENT CO.
D.B. 3723, PG. 232
M.B. 54, PG. 32
ZONE SA, GB
VACANT
PARCEL 3282-85-0451-0000
LOT 231, SECTION 7
MILL CREEK RIDGE
M.B. 46, PG. 19
ZONE: BP
RESIDENTIAL
240
MILL CREEK RIDGE
DB 4561, PG 261
MB 46, PG 19
30' DRAINAGE EASEMENT MB 34, PG 11
310' RADIUS
NEW TRACT LINES
ABANDONED LINES
EXISTING DITCH
TYPE A BUFFER
TYPE B BUFFER
ZONE: GB
ZONE: BP
S 36°50'25" W CH=177.83' R=345.00'
S 43°20'29" E CH=139.83' R=720.21'
S 23°02'08" E CH=366.37' R=720.21'
S 26°44'40" E CH=366.15' R=720.21'
S 06°26'18" E CH=46.81' R=720.21'
S 25°33'32" W CH=39.51' R=310.00'
S 33°49'11" W CH=50.20' R=310.00' (TIE LINE)
N 41°05'25" W 465.76'
N 41°05'24" W 209.05'
N 41°05'15" E 536.60'
S 48°54'45" E 485.60' (TIE)
S 48°54'45" E 201.98' (TIE)
S 48°54'47" E 324.30'
S 48°54'45" E 425.00'
S 40°29'08" E 153.24'
S 41°05'15" W 174.62'
S 27°20'22" E 136.47'
S 48°54'45" E 66.98'
S 41°05'24" W 209.05'
S 41°05'24" W 97.85'
S 48°58'04" W 50.05'
S 55°24'50" W 107.59'
S 55°27'49" W 164.39'
N 49°11'27" W 83.35'
N 31°07'03" W 102.39'
S 21°54'19" W 113.17'
S 81°36'49" E 125.36'
S 82°19'47" E 20.06'
S 77°03'45" E 118.41'
S 77°03'45" W 118.90'
S 83°22'04" W 84.42'
N 82°19'47" W 61.49'
BOUNDARY LINE TABLE
LINE | BEARING | DISTANCE
L1 | S 04°59'01" E | 12.52'
L2 | N 56°58'04" W | 17.67'
L3 | S 82°47'17" E | 24.09'
L4 | N 49°20'05" W | 5.57'
L5 | N 49°20'05" W | 19.23'
L6 | N 58°59'43" W | 15.88'
L7 | N 51°07'10" W | 15.02'
TIE LINE TABLE
LINE | BEARING | DISTANCE
TL1 | N 41°05'15" E | 50.00'
TL2 | N 41°05'15" E | 50.00'
TL3 | N 41°05'15" E | 30.00'
TL4 | N 85°25'26" E | 30.00'
WORKMAP OF
PROPOSED 50' COLLECTOR ROAD
DANFORD & ASSOCIATES LAND SURVEYING, P.C.
4002 1/2 OLEANDER DRIVE
SUITE 201
WILMINGTON, NC 28403
PHONE (910) 799-4916
FIRM LIC# C-2797
EMAIL: DDANFORD@DANFORDSURVEYING.COM
SEPTEMBER 5, 2023
50 0 25 50 100
1 INCH = 50 FEET
© DANFORD & ASSOCIATES LAND SURVEYING, PC

ATTACHMENT 12:

Redrawn Collector Road Connection on Headwaters Drive

PROJECT INFORMATION:

HAMPSTEAD STATION EXPANSION
NAISC CODES: 455110 –RETAIL STORES
713940 –FITNESS AND RECREATIONAL SPORTS CENTERS
722511 –FULL SERVICE RESTAURANTS MIXED RETAIL
STORES, RESTAURANTS & GYM
PIN: 3282–85–8819–0000
PENDER COUNTY

PROPERTY OWNER & DEVELOPER:
THE JAYTEES PROPERTIES IV, LLC
105 ISLAND DR.
WILMINGTON, NC 28480

ENGINEER:
RSC ENGINEERING, PLLC
15226 US HWY 17
HAMPSTEAD, NC 28443

SITE DATA:
REFERENCE: DB 4810, PG 351–353
GB (GENERAL BUSINESS)
SETBACKS: FRONT=50', SIDE=25', REAR=25'

IMPERVIOUS CALCULATIONS:
LOT AREA –331,491 SF (7.61 AC)
BUILDING HEATED GROSS AREA = 48,000 SF
ASPHALT DRIVEWAY/PARKING = 118,957 SF
CONCRETE SIDEWALK = 20,344 SF
CONCRETE CURB = 17,376 SF
CONCRETE DUMPSTER PADS = 1,136 SF
TOTAL IMPERVIOUS AREA = 205,813 SF (62.1%)

PARKING: (TOTAL SPACES = 267)
BUILDING #1
- RESTAURANT: (5,110 SF)(1 SPACE/100 SF) = 51 PARKING SPACES
- RETAIL: (5,110 SF)(1 SPACE/225 SF) = 22 PARKING SPACES
- OFFICE: (1,680 SF)(1SPACE/300 SF) = 6 PARKING SPACES

BUILDING #2 (PROPOSED)
- RESTAURANT: (1,750 SF)(1 SPACE/100 SF) = 18 PARKING SPACES
- RETAIL: (10,150 SF)(1 SPACE/225 SF) = 45 PARKING SPACES

BUILDING #3
- RESTAURANT: (3,460 SF)(1 SPACE/100 SF) = 34 PARKING SPACES
- RETAIL: (8,470 SF)(1 SPACE/225 SF) = 38 PARKING SPACES

BUILDING #4 (PROPOSED)
- RETAIL: (11,900 SF)(1 SPACE/225 SF) = 53 PARKING SPACES

TRIP CALCS:
DAILY TRIPS (ITE CODE)
- RETAIL (820): 127.15 X 35.6 = 4,525
- RESTAURANTS (932): 42.94 X 10.29 = 441
- OFFICE (710): 11.01 X 1.7 = 18

TOTAL DAILY TRIPS: 4,984

AM PEAK TRIPS (ITE CODE)
- RETAIL (820): 1.0 X 35.6 = 36
- RESTAURANTS: (932): 11.52 X 10.29 = 118
- OFFICE (710): 1.55 X 1.7 = 3

TOTAL AM PEAK TRIPS: 157

PM PEAK TRIPS (ITE CODE)
- RETAIL (820): 3.75 X 35.6 = 134
- RESTAURANTS (932): 10.92 X 10.29 = 112
- OFFICE (710): 1.49 X 1.7 = 3

TOTAL RAW PM PEAK TRIPS: 249

*TOTAL ADJUSTED PM PEAK TRIPS: 150
FOR ALL 800 & 900 ARE ENTITLED TO "PASSBY"REDUCTION OF 60%)

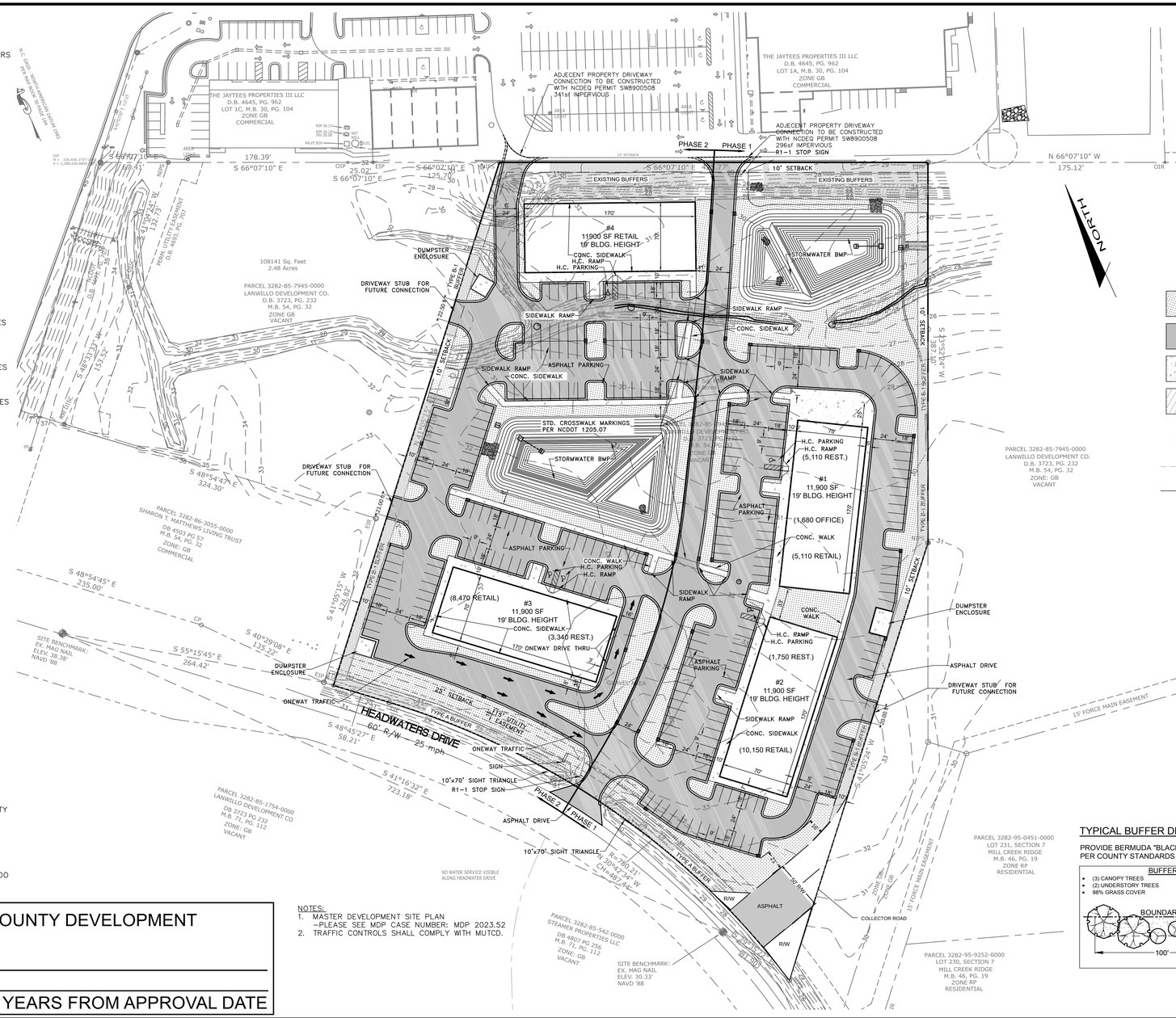
UTILITIES:
WATER: PENDER COUNTY UTILITIES
605 E. FREMONT ST
BURGAW, NC 28245
(910)–259–1570

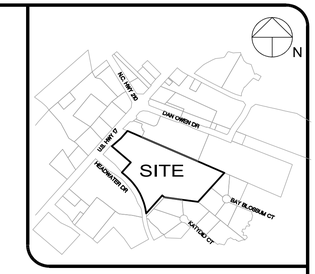
ELECTRIC: DUKE ENERGY
5700 HOLLY SHELTER RD
CASTLE HAYNE, NC 28429
(800)–419–6356

SEWER: PLURIS
1095 STATE HWY 210
SNEADS FERRY, NC 28460
(888)–758–7471

LANDSCAPING:
- ALL PROPERTY BOUNDARIES WILL HAVE TYPE A1 & B1 BUFFER INSTALLED EXCEPT ALONG THE NORTHERN PROPERTY BOUNDARY WHERE THERE IS AN EXISTING BUFFER
- ALL INTERNAL ISLANDS WILL BE LANDSCAPED PER PENDER COUNTY UDO REQUIREMENTS
- FOR EXISTING BUFFER, THE EXISTING VEGITATION MEETS THE STANDARDS OF THE BUFFER REQUIREMENTS.
- SEE LANDSCAPE PLAN FOR DETAILS

SIGN:
PROPOSED SIGN – BASE 2'x10' – HEIGHT 25' – FACE 133sf
ALL SIGNS WILL COMPLY WITH ARTICLE 9 OF THE PENDER COUNTY UDO





LOCATION MAP
NTS

LEGEND

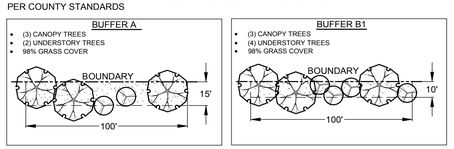
- GRASS / LANDSCAPED AREAS
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- WETLANDS
- SAND FILTER / LEVEL SPREADER / VEGETATED FILTER
- 51 EX. CONTOUR
- 51 PROPOSED CONTOUR
- RIP-RAP OUTLET PROTECTION
- STORM INLET
- STORM MANHOLE

BUA PHASE 1		
BUILDINGS	24,000	sf
ASPHALT	65,033	sf
CONC. CURB	7,958	sf
CONC. WALK	10,042	sf
CONC. DUMPSTER PAD	486	sf
FUTURE	296	sf
TOTAL IMPERVIOUS	107,815	sf

BUA PHASE 2		
BUILDINGS	24,000	sf
ASPHALT	55,837	sf
CONC. CURB	6,582	sf
CONC. WALK	9,550	sf
CONC. DUMPSTER PAD	650	sf
FUTURE	341	sf
TOTAL IMPERVIOUS	96,960	sf

TYPICAL BUFFER DETAILS

PROVIDE BERMUDA "BLACK JACK" SEED TO ESTABLISH 98% COVERAGE PER COUNTY STANDARDS



1"=50' 50' 25' 0 50' 100'

APPROVED BY THE PENDER COUNTY DEVELOPMENT ORDINANCE ADMINISTRATOR
ADMINISTRATOR SIGNATURE _____
APPROVAL DATE _____
SITE PLAN VALID FOR TWO (2) YEARS FROM APPROVAL DATE

NOTES:
1. MASTER DEVELOPMENT SITE PLAN
–PLEASE SEE MDP CASE NUMBER: MDP 2023.52
2. TRAFFIC CONTROLS SHALL COMPLY WITH MUTCD.

REVISIONS

2023–02–16	ADDED LANDSCAPE ISLANDS TO PARKING AND REVISED IMPERVIOUS AREA TABLE
2023–04–28	REMOVED ADJECENT PROPERTY DRIVEWAY CONNECTIONS, REVISED IMPERVIOUS TABLE

RSC Engineering, PLLC
DESIGN & MAINTENANCE OF ALTERNATIVE LAND USES
RSC ENGINEERING, PLLC
15226 US HWY 17
HAMPSTEAD, NORTH CAROLINA 28443
PHONE: 910.270.9599 ~ FAX: 910.270.9592
E–Mail: sonya@rscengineering.com

NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 23044 10/19/23 ANTHONY C. BRAMAN

Hampstead Station Expansion Project
DEVELOPED BY
The JayTees Properties IV, LLC
105 Island Drive
Wrightsville Beach, NC 28480

MAJOR SITE DEVELOPMENT PLAN

DATE:	4/5/2023
SCALE:	1" = 50'
JOB #	22054020
DRAWN BY:	JAR
SHEET	C1

ATTACHMENT 13:

Email from NCDOT District Engineer

From: Spirakis, Kirsten L
To: Taylor Davis; Sokolik-Porch, Tanya M
Cc: Scott James; Jamar Johnson; Daniel Adams
Subject: [External]RE: [External]RE: [External] FW: Collector Road / Driveway Connection - Hampstead Station Expansion
Date: Monday, November 27, 2023 5:25:50 PM
Attachments: image005.png
image006.png
image007.png
image008.png
image009.png

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Based on GIS, it appears that there would only be about 200' between these two accesses. If left-turn lanes were required, then there is not room for adequate left-turn lane storage for back-to-back left-turns between the two intersections.

See pages 40, of the *NCDOT Policy on Street and Driveway Access to North Carolina Highways*.

- "Care should be taken to avoid creating incorrectly offset left turn conditions. Opposite side drives should be aligned directly across from existing/proposed opposite side streets and driveways. When it is necessary to offset driveways or streets, care should be taken to provide adequate separation for vehicular storage/queuing and maneuvering between access points."

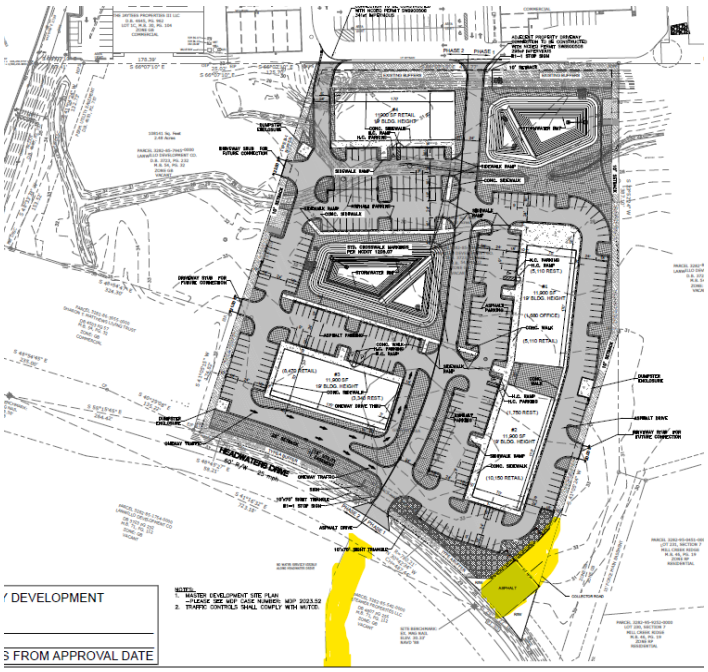
Kirsten L. Spirakis, PE
District Engineer
Division 3 | District 1
910-467-0500

From: Taylor Davis <tdavis@pendercountync.gov>
Sent: Monday, November 27, 2023 3:08 PM
To: Spirakis, Kirsten L <klspirakis@ncdot.gov>; Sokolik-Porch, Tanya M <tmsokolik-porch@ncdot.gov>
Subject: RE: [External]RE: [External] FW: Collector Road / Driveway Connection - Hampstead Station Expansion

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon,

Wanted to clarify, if the developer moves forward with a collector road design wherein the alignments are offset as depicted below, would this create a "conflicting left turn" situation you mentioned in the previous email preventing DOT approval?



Thank you,

Taylor Davis (she/her)
(910) 259-1734
Current Planner
Pender County Planning and Community Development

From: Spirakis, Kirsten L <klspirakis@ncdot.gov>
Sent: Tuesday, November 21, 2023 4:01 PM
To: Taylor Davis <tdavis@pendercountync.gov>; Jamar Johnson <jamar.johnson@wilmingtonnc.gov>; Scott James <Scott.James@wilmingtonnc.gov>; Sokolik-Porch, Tanya M <tmsokolik-porch@ncdot.gov>
Cc: Daniel Adams <dadams@pendercountync.gov>
Subject: [External]RE: [External] FW: Collector Road / Driveway Connection - Hampstead Station Expansion

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Taylor,
Your email noted "potential alignments", but it appears that numbers 1 and 2 describe the same option (let me know if I am missing something) – the collector road as proposed would align with the Hampstead Station Expansion site access, and so to continue on the collector road, you need to turn east on Headwaters Dr then left onto the offset collector that will connect to Dan Owen Dr at Safe Passage Way.

In general, our access comments are to align a proposed access (new roadway or driveway) with an opposing existing access. If this cannot be achieved, then we require that the offset is such that conflicting left turns are not introduced. With closely spaced accesses that have a poor offset, there is not room for adequate left-turn lane storage between intersections. See pages 40, of the *NCDOT Policy on Street and Driveway Access to North Carolina Highways*.

- "Care should be taken to avoid creating incorrectly offset left turn conditions. Opposite side drives should be aligned directly across from existing/proposed opposite side streets and driveways. When it is necessary to offset driveways or streets, care should be taken to provide adequate separation for vehicular storage/queuing and maneuvering between access points."

Please let us know should you have any questions.

Kirsten L. Spirakis, PE
District Engineer
Division 3 | District 1
910-467-0500

From: Taylor Davis <tdavis@pendercountync.gov>
Sent: Tuesday, November 21, 2023 11:47 AM
To: Spirakis, Kirsten L <klspirakis@ncdot.gov>; Jamar Johnson <jamar.johnson@wilmingtonnc.gov>; Scott James <Scott.James@wilmingtonnc.gov>; Sokolik-Porch, Tanya M <tmsokolik-porch@ncdot.gov>
Cc: Adams; Daniel <dadams@pendercountync.gov>
Subject: [External] FW: Collector Road / Driveway Connection - Hampstead Station Expansion

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning,

Just wanted to follow up on this discussion for the Hampstead Station Expansion project and the proposed locations of the collector road alignments. Any suggestions you can offer or comment on the potential alignments suggestions below would be greatly appreciated.

Thank you,

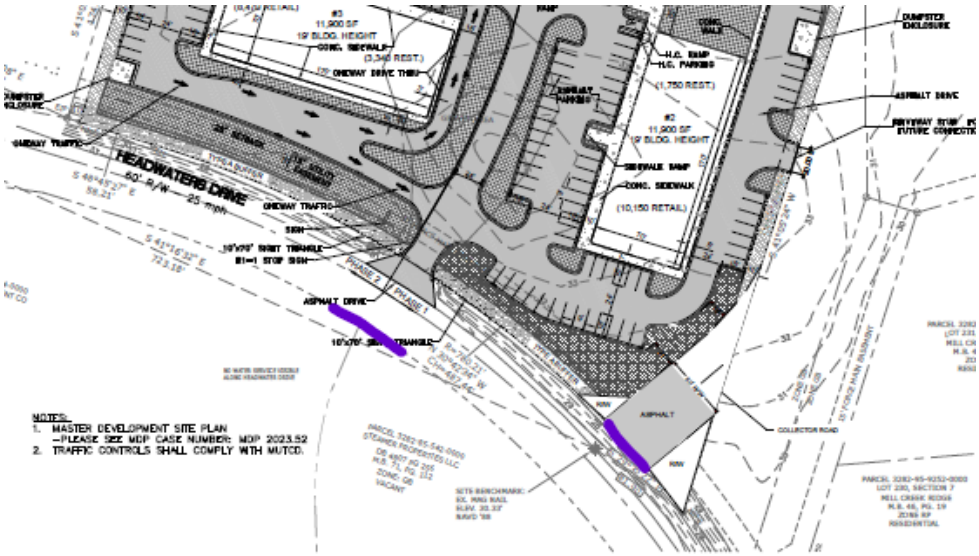
Taylor Davis (she/her)
(910) 259-1734
Current Planner
Pender County Planning and Community Development

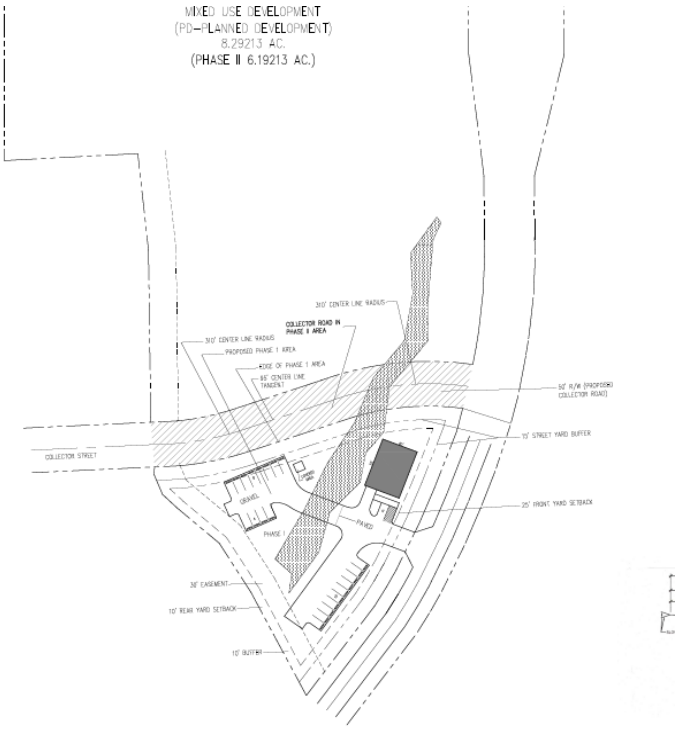
From: Taylor Davis
Sent: Wednesday, November 15, 2023 2:07 PM
To: Scott James <scott.james@wilmingtonnc.gov>; Jamar Johnson <jamar.johnson@wilmingtonnc.gov>; Kirsten Spirakis <klspirakis@ncdot.gov>; Tanya Sokolik-Porch <tmsokolik-porch@ncdot.gov>
Subject: Collector Road / Driveway Connection - Hampstead Station Expansion

Good afternoon,

After meeting with the developer of this site and considering the complications that have arisen with the proposed collector street location, we wanted to run a few different options by both groups of possible adjustments. The collector street when completed should connect N Marisol Pathway to Safe Passage Way.

1. The UDO states "When such intersections cannot be aligned, they shall be offset centerline to centerline by not less than 125 ft." Our question is, would DOT be agreeable to an offset alignment connection from the proposed collector street location here in purple. The problem with the current proposed location of the road on the smaller triangle parcel, is that a road cutting through the middle in order to make a perfect alignment would render a good bit of the property useless and the landowner is unwilling to develop if that's what will be required.





2. Could the collector street run up the property line of the small triangle parcel and align with the driveway of the development. Obviously, this would create a situation wherein people would attempt to use the drive aisle of the shopping center as a road to cut through and mechanisms would need to be utilized to stifle drivers speeding through a pedestrian area. I'm also unsure how this would get us to our goal of connecting to Safe Passage. I think it would end up being another offset connection.

If you have any other suggestions, please let us know, this is a tricky one for sure.

Thank you,

Taylor Davis, Current Planner (she/her)
(910) 259-1734
Pender County Planning & Community Development
805 S. Walker Street,
Burgaw, NC 28425
www.pendercountync.gov

Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

ATTACHMENT 14:

Section 7.5.1.D of the Pender County UDO

for an exception when no other alignment can be made on site without equal or greater wetland impacts.

ii) Identified Areas of Environmental Concern (AEC) that lie within the identified path of the collector street;

iii) An adjacent property connection cannot be made due to existing conditions that would create a street slope greater than a 4:1 ratio.

iv) Existing railroad crossings, structures, conservation easements or buildings that are not part of the development plan located on the subject property or adjacent property that create a barrier in the identified path of the Collector Street and no other arrangement can be made. Evidence shall be presented from the appropriate agency showing that the crossing(s) cannot be made;

v) Significant Trees, as defined (Section 8.1.3.A.2), are located on the subject property and alternative location for collector street construction cannot be made. A significant tree survey shall be submitted demonstrating the general location, species and size.

vi) The identified Collector Street will lineally connect into an existing roadway network that is, an existing private street, was not constructed to NCDOT standards, or would create conditions inconsistent with the collector street classification. Alternative roadway design shall be submitted to make connections with the existing or planned roadway network to the Administrator for review and approval.

2) Adjoining street systems,

3) Existing, planned and proposed streets, topographic, drainage and other natural features of the property,

4) To provide for continuity in existing streets and proposed streets,

5) Provide adequate right-of-way for collector streets,

6) Reasonable access will be provided to adjacent properties for development.

B. Spite strips along development boundaries preventing access to streets from adjacent properties are prohibited.

C. Street Alignment – local residential street intersections should be directly aligned if possible.

D. When such intersections cannot be aligned, they shall be offset centerline to centerline by not less than 125 ft. Intersections of Collector streets as defined herein or shown on the Pender County Collector Street Plan, Pender County Transportation Plan or other approved State Transportation Improvement Plan.

E. Streets should intersect as nearly as possible at right angles.

F. Permanent dead end streets (cul-de-sacs) or temporary dead end (stub) streets shall be no longer than 1,000 ft. unless it is demonstrated by the developer that the configuration of the property prevents its development without longer streets to provide access to the lots and common area to be subdivided.

G. Temporary dead end or stub streets between 150 and 1,000 feet in length shall provide turn around capabilities to meet one of the following requirements:

1) A cul de sac with at least 90-feet of right of way including 80-feet of pavement

2) A T/hammerhead intersection (Figure G1)

3) A Y intersection (Figure G2)

4) A T intersection (Figure G3)

Pender County
Amendments to the Rules of Procedure

TO:	Board of Adjustment
FROM:	Daniel Adams
DATE:	March 20, 2024
SUBJECT:	Amendments to the Rules of Procedure

SUMMARY:
Over the past several months, the Board of Adjustment has considered amending the Rules of Procedure. At the February 21, 2024, meeting of the Board, the amendments below were discussed and are being brought back before the Board for a vote.

Staff is proposing the following language to be added to the Board of Adjustment's Rules of Procedure:

Article IV. Meetings

I. Participants of the hearing shall submit evidence, including photos, videos, and other documentation, to the Secretary five days prior to the hearing upon which the evidence is related. This will allow time for staff to distribute the evidence to known participants and to prepare reasonable accommodation for the presentation of the evidence (e.g., display of video). The Board shall have the discretion to accept or deny evidence into the record that is presented at the hearing.

J. The Board, at the discretion of the Chairman, may limit the time that members of the public may speak during public comment. A general guideline is that speakers have a three-minute limit if they are only representing themselves and a five-minute limit if they are speaking on behalf of an organized group, such as a homeowner's association.

Staff is also proposing to update the applicable references to the North Carolina General Statutes found within the Rules of Procedure. All proposed changes are marked in red on the attached document.

ACTION REQUESTED:
Consideration of the proposed amendments to the Rules of Procedure.

ATTACHMENTS:
1. Amended Rules of Procedure

STATE OF NORTH CAROLINA
COUNTY OF PENDER

BEFORE THE ZONING
BOARD OF ADJUSTMENT

RULES OF PROCEDURE

I. General Rules

Pursuant to the provisions of North Carolina General Statutes (N.C.G.S) 160D-302, 403(b), 405, 406, 702, 705, and 1405 and the provisions of the Pender County Unified Development Ordinance (UDO), incorporated herein by reference, these rules of procedure shall govern all matters before the Board until further amended.

II. Members – Officers – Duties

A. The Board of Adjustment shall have the membership and serve the terms specified in Section 2.4.1, Board of Adjustment, of the Pender County UDO.

B. Chairman. The Chairman shall be elected by the full membership of the Board, including alternate members, from among the regular members of the Board. The term of office shall be one (1) year and until their successor is elected, beginning on January 1, and they shall be eligible for re-election. The Chairman shall decide on all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chairman shall appoint any committees found necessary to investigate any matters before the Board.

C. Vice-Chairman. A Vice-Chairman shall be elected by the Board from among its regular members and alternate members in the same manner and for the same term as the Chairman. They shall serve as acting Chairman in the Chairman's absence, and at such times they shall have the same powers and duties as the Chairman.

D. Alternate Members of the Board shall attend all meetings of the Board, regular, and special, to replace any absent member or members unable to participate due to a conflict. At any meeting in which they are called to sit on the Board, they shall have the same powers and duties as regular members.

E. All members, regular and alternate, sit at the pleasure of the Board of Commissioners and subject to removal at any time.

F. Secretary. The Administrator, or their designee from the Planning Staff, shall serve as Secretary to the Board of Adjustment. The Secretary, subject to the direction of the Chairman and the Board, shall keep all records, shall conduct all correspondence of the Board, shall arrange for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the Board of its decision in such cases, and shall generally supervise the clerical work of the Board. The Secretary shall keep the minutes of every Board meeting in a permanent volume. The minutes shall show the record of all important facts pertaining to each meeting and hearing, every resolution or on the final determination of any question or matter before the Board, indicating the names of members who voted, and who are absent and fail to vote.

III. Rules of Conduct for Members

A. Members of the Board may be removed for cause, including violation of the rules stated below.

B. Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board. Upon the failure of a member, regular or alternate, to attend three (3) consecutive meetings, this shall require the Board upon a majority vote to declare the position vacant and request the Board of Commissioners to fill the vacancy. It may be the option of the Board to not remove a member due to extraordinary conditions such as sickness.

C. No Board member shall take part in the hearing, consideration, or determination of any case in which he has a conflict of interest. Board members shall reveal any potential conflict and if it might influence their judgement, or would give the appearance of impropriety, and may ask to be excused from voting on the issue. The Board of Adjustment may allow them to abstain by majority vote.

D. Board Members shall make every effort not to discuss any case pending before the Board with any parties before the case is heard. The Administrator may prepare and submit materials to the Board regarding the actions of the Planning Department. In the event a case involves an appeal of the actions of or interpretation of the Administrator, the Board shall refrain from discussing the merits of the case with the Administrator prior to the hearing, provided that the Board may consider materials prepared by the Planning Department in the ordinary course of business.

E. Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto before that case is determined. Violation of this rule may be cause for dismissal from the Board.

IV. Meetings

A. Regular Meeting. The Regular Meeting of the Board shall be held on the third Wednesday of each month at the place as may be designated by the Chairman from time to time for convenience of members and parties.

B. Special Meeting. The Chairman may call a Special Meeting of the Board at any time. At least forty-eight (48) hours written notice of this Special Meeting shall be given by the Chairman, Secretary, or Clerk to each member of the Board.

C. All notices of all meetings shall be made to the public and media as required by provisions of N.C.G.S. 160D-406(b).

D. Cancellation of Meetings. If there is no business before the Board upon appeals and applications for variances, the Chairman or his designee may cancel the meeting by giving verbal and written notice to each member and alternate, by the Friday proceeding the regularly scheduled meeting, or forty-eight (48) hours notice canceling a Special Meeting.

E. Quorum. A quorum shall consist of four (4) members of the Board.

F. Final Action. Final action on matters before the Board shall be as required in N.C.G.S. 160D-406(i-j) and Section 2.4.1 of the Pender County UDO. No final action can be taken on a variance without the concurring vote of four-fifths (4/5's) of the members of the Board. All other quasi-judicial matters require a simple majority vote by members of the Board.

G. Any member present eligible to vote and failing to vote such vote shall be in the affirmative of a motion and as properly seconded.

H. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) call to order; (b) roll call; (c) approval of minutes of the previous meeting; (d) hearing of cases; (e) reports of committees; (f) unfinished business; (g) new business; (h) adjournment.

I. Participants of the hearing shall submit evidence, including photos, videos, and other documentation, to the Secretary five days prior to the hearing upon which the evidence is related. This will allow time for staff to distribute the evidence to known participants and to prepare reasonable accommodation for the presentation of the evidence (e.g., display of video). The Board shall have the discretion to accept or deny evidence into the record that is presented at the hearing.

J. The Board, at the discretion of the Chairman, may limit the time that members of the public may speak during public comment. A general guideline is that speakers have a three-minute limit if they are only representing themselves and a five-minute limit if they are speaking on behalf of an organized group, such as a homeowner's association.

V. Appeals

A. Procedure for Filing Appeals. No appeal shall be heard by the Board unless notice thereof is filed within thirty (30) days after the interested party or parties receive notice of the order, requirement, decision, or determination by the Administrator. The applicant must file his application for a hearing with the Administrator, who shall act as Clerk for the Board in receiving this notice. All applications shall be made on the form furnished for that purpose and as approved by the Board, and all information required thereon shall be complete before an appeal may be considered as having been filed.

Upon receipt of an Appeal, and as soon as possible, the Administrator shall serve on the appellant/applicant and or his representative, the written factual basis, and legal reasons for the determination of the Administrator with a copy of these rules of procedure and notice of hearing.

B. Hearing.

(1) Such matter shall be scheduled for the next regular meeting of the Board or as soon thereafter as the schedule of the Board permits. Where special or exigent circumstances exist, and upon application to the Chairman, a Special Meeting may be called to determine the matter.

(2) Notice. The Board shall give public notice of the hearing in a newspaper generally circulated in Pender County by advertisement published at least ten (10) days before the date of the hearing.

Such notice shall state the location of the building or lot, the general nature of the question involved in the appeal, and the time and place of the hearing.

Notice shall also be sent to adjacent/abutting landowners as disclosed by public record and posted on the site in accordance with N.C.G.S. 160D-406(b).

(3) Conduct of the Hearing. Any party may appear in person, by agent, or by attorney at the hearing. The order of business for each hearing shall be as follows: (a) the Chairman or such person as he shall direct, shall give a preliminary statement of the cases; (b) the applicant shall present the evidence and arguments in support of his application; (c) persons opposed to granting the application shall present the evidence and arguments against the application; (d) both sides shall be permitted to present rebuttals to opposing evidence and arguments. Witnesses may be called, and actual evidence may be submitted, but the Board shall not be limited to consideration of such evidence as would be admissible in a court of law. The Members of the Board may view the premises before the hearing, but the facts indicated by such inspection shall be disclosed at the public hearing and made a part of the record. All witnesses before the Board shall be placed under oath, and the opposing party may cross-examine them.

The Chair of the Board or any Member acting as Chair and Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board as outlined in N.C.G.S. 160D-406(f).

(4) Rehearings. An application for a rehearing may be made in the same manner as an application for an original hearing. Evidence in support of the application shall initially be limited to what is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The Board shall deny the application for rehearing if, from the record, it finds that there has been no substantial change in facts, evidence, or conditions. If the Board finds that a change has occurred, it shall thereupon treat the request in the same manner as any other application.

VI. <u>Variance</u>

Applications for a variance must be filed with the Administrator or their agent and must meet all submission requirements as outlined in Section 3.14.7 of the Pender County UDO. As required by N.C.G.S. 160D-406(i), no final action shall be taken a variance without the concurring vote of four-fifths (4/5's) of the members of the Board.

VII. Decisions

A. Time. Decisions by the Board shall be made not later than sixty (60) days from the close of the hearing, unless extraordinary conditions exist as determined by the Board, in which the Board shall render their decision not later than ninety (90) days from the close of the hearing.

B. Form. The Board's final decision shall be shown in the record of the case as entered in the Board's minutes and signed by the Secretary and the Chairman on approval of the minutes by the Board. Such record shall show the reasons for the determinations, with a summary of the evidence introduced and the Findings-of-Fact made by the Board. When a variance is granted, the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal application was based and which the Board finds to exist. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appeal from. When a variance is granted, the record shall state in detail any facts that support findings required to be made before such variance is issued. The record shall state in detail what, if any, conditions and safeguards the Board imposes in connection with granting of a variance. A separate record of decision in each case shall be prepared, filed in the Pender County Planning & Community Development Department, and furnished to the parties as specified in the Section 3.14.7 Pender County UDO.

C. Expiration of Permits. Unless otherwise specified, any order or decision of the Board granting an appeal, or a variance shall expire if the applicant does not obtain a building permit for such use within two (2) years from the date of the decision.

D. Notice and Public Record of Decision. The Secretary shall give written notice of the decision in the case to the appellant and/or the applicant and to every aggrieved party who has filed a written request for such notice with the Secretary or the Chairman of the Board when the hearing is held. Such notice may be delivered either by personal service or by registered mail or certified mail, return receipt requested. A copy of the decision shall also be filed in the Pender County Planning & Community Development Department, as specified in the Pender County UDO. The decision shall be a public record, available for inspection at all reasonable times.

VIII. Amendments

These rules may be amended from time to time. Amendments in writing may be proposed by any member or any other person at a Regular Meeting of the Board. No

action shall be taken upon such amendment until the next Regular Meeting of the Board. No amendment may be adopted unless adopted by an affirmative vote of no less than four (4) members.

Dated this ____ day of _____ 2024 (amended)

_____

Chairman

ATTEST: _____

Secretary