

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

Application Information Conditional Rezoning – Hawthorne at Headwaters

Case Number: REZONE 2024-75

Application Type: Conditional Rezoning

Applicant: Equitas Law Partners, LLP

Owner: Hawthorne Headwaters Apartments, LLC

Location: The subject site is located east of US Highway 17 between Deerfield Drive and Hughes Road in the Topsail Township.

Property ID #(s): 3282-74-4446-0000, 3282-73-9756-0000

Description: Conditional Rezoning request to add 84 apartment units to the Hawthorne at Headwaters development bringing the total number of apartment units to 258. The proposal also unifies the apartment development with the single family homes located further east on the site so that the apartment development and single family home development will be viewed as one project.

Current Zoning: PD, Planned Development & RM-CD4, Residential Mixed-Conditional District 4

Proposed Zoning: Conditional Zoning District

Technical Review Committee Meeting: August 1st, 2024

Board of County Commissioners/Planning Board Meeting: TBD

Application Materials

Application
Narrative
Site Plan

APPLICATION

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

Conditional Zoning Map Amendment Submission (Conditional Rezoning)

Applications will be considered for review by Staff only when deemed complete. The application will be regarded as incomplete until the following items are received by the Planning and Community Development Staff.

1. **Pre-submittal Meeting**
Date of Meeting 6.21.2024
2. **Signed Application**
3. **Payment**
\$500 for the first 5 acres; \$10/ acre thereafter up to 1,000 acres; \$5 per acre thereafter
4. **Generalized Site Development Plan**
All applications which specify an intended use must include a generalized site development plan drawn to a suitable scale, supporting information and text which specifies the use or uses intended for the property and any development standards to be approved concurrently with the rezoning application.
5. **Narrative**
A description and/or statement of the present and proposed land use classification and stating why the request is being made and any information that is pertinent to the case.
6. **Public Input Meeting Report**
A meeting summary shall be submitted in accordance with the Unified Development Ordinance. This item is not required at the time of application submittal but must be received by the Administrator prior to any public hearings are noticed.
7. **Digital Submission**
For all documents submitted in paper copy, a digital copy shall be sent via email or digital drive.
8. **Adjacent Property List**
A list of names and addresses, as obtained from the county tax listings and tax abstract, to the owners of all properties located within 500-feet of the perimeter of the project bounds.
9. **Adjacent Property Envelopes**
The applicant shall provide two sets of business envelopes addressed to each of the owners of all properties located within 500-feet of the perimeter of the project bounds and accompanied with the amount of postage required for first class postage. No return address shall be placed on the envelopes at the time of submission.

I certify that all information presented in this application is accurate to the best of my knowledge.

Signature of Applicant

A handwritten signature in blue ink, appearing to read "Samuel B. Potter", written over a horizontal line.

Printed Name

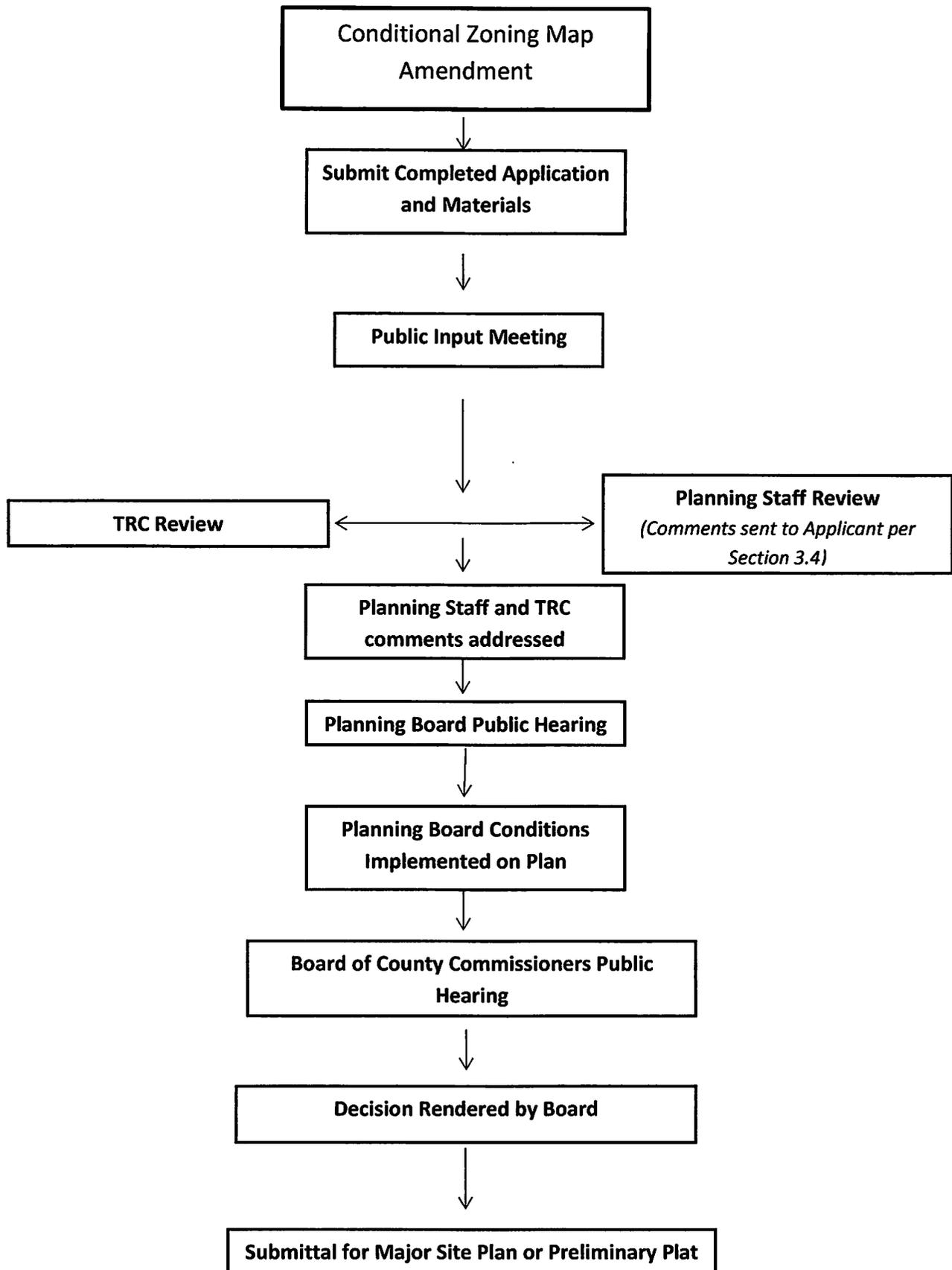
Samuel B. Potter

Date

7/3/24

Staff Initials: _____

Date: _____



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

CONDITIONAL REZONING

Intent

- A. Conditional zoning districts hereby included are to allow for the consideration of certain uses that are permitted uses in the underlying zoning district but due to their nature may not be appropriate for a particular location.
- B. A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses on small and large scale projects.
- C. Although, it is not intended to be used for speculative purposes, a conditional zoning district applicant may include as part of the application, a list of uses which will not be developed on the property.
- D. All uses listed as part of any application must be in the same format and description as listed in the Table of Permitted Uses.
- E. The following zoning district categories are approved to be assigned conditional zoning districts: PD, RP, RM, GB, OI, IT, IG (Reference Article 4 for Zoning District Descriptions).

Application

Except as provided herein, all applications to establish a conditional zoning district must follow the regulations prescribed in this section in addition to the standard rezoning process as described in Section 3.3, Rezoning of this Ordinance.

Public Input Meeting

Prior to scheduling a public hearing on the rezoning application, **the applicant must conduct one public input meeting and file a report of the results with the Administrator.**

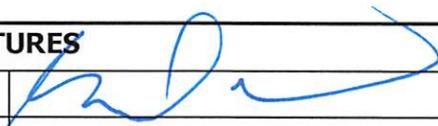
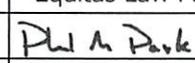
- 1. The report for the public hearing will include a summary of the public input meeting.
- 2. The applicant shall mail a notice for the public input meeting to adjoining property owners not less than ten (10) days prior to the scheduled meeting.
- 3. The notice shall include the time, date and location of the meeting as well as a description of the proposal.
- 4. The applicant's report of the meeting shall include:
 - a. A copy of the letter announcing the meeting.
 - b. A list of adjoining property owners contacted.
 - c. An attendance roster.
 - d. A summary of the issues discussed.
 - e. The results of the meeting including changes to the project's proposal, if any.

Review

When evaluating an application for the creation of a conditional zoning district, the Planning Board and Board of Commissioners shall consider the following:

- 1. The application's consistency to the general policies and objectives of the adopted Land Use Plan.
- 2. The potential impacts and/or benefits on the surrounding area, adjoining properties.
- 3. The report of results from the public input meeting.

APPLICATION FOR CONDITIONAL REZONING

THIS SECTION FOR OFFICE USE			
Application No.	ZMA-CD	Date	
Application Fee	\$	Invoice Number:	
Pre-Application Conference		Hearing Date	
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Equitas Law Partners LLP	Owner's Name:	Hawthorne Headwaters Apartments LLC
Applicant's Address:	330 Military Cutoff Rd., Ste A2	Owner's Address:	806 Green Valley Rd., Ste 311
City, State, & Zip	Wilmington NC 28405	City, State, & Zip	Greensboro NC 27408
Phone Number:	(910) 500-1532	Phone Number:	(910) 500-1532
Email Address:	sam@equitaslp.com	Email Address:	sam@equitaslp.com
Legal relationship of applicant to landowner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3282-74-4446-0000 3282-73-9756-0000	Total property acreage:	39.52
Current Zoning District:	RP	Proposed Zoning District:	CD
Project Address or Location:	Hwy 17, between Hughes Rd. & Deerfield Dr.		
Proposed Uses to be Considered (Include NAICS Code):			
Proposed rezoning to CD to provide approximately 294 unit apartments and 49 single family homes			
Proposed Uses to be Eliminated from Consideration (Include NAICS Code):			
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	
Applicant's Name Printed	Equitas Law Partners LLP	Date:	
Owner's Signature		Date:	03/07/24
Owner's Name Printed	Hawthorne Headwaters Apartments LLC	Date:	
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Rezoning 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 Planning Board or other authorized person agrees to table or delay the hearing. 4. All fees are non-refundable 5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda 			

Conditional (Zoning Map) Amendment Checklist

<input checked="" type="checkbox"/>	Signed application form					
<input checked="" type="checkbox"/>	Application fee					
<input checked="" type="checkbox"/>	A list of names and addresses, as obtained from the county tax listings & tax abstract, all adjacent property owners, including property owners directly across any road or road easement, & owners of the property under consideration for rezoning.					
<input checked="" type="checkbox"/>	Two (2) business size envelopes legibly addressed with first class postage for each of the adjacent and abutting property owners on the above list.					
<input checked="" type="checkbox"/>	Accurate legal description or a map drawn to scale showing the property boundaries that are to be rezoned, in sufficient detail to for the rezoning to be located on the Official Zoning Map.					
<input checked="" type="checkbox"/>	12 (11"x17") map copies to be distributed to the Planning Board					
<input checked="" type="checkbox"/>	20 (11"x17") map copies to be distributed to the Board of Commissioners					
<input checked="" type="checkbox"/>	Digital (.pdf) submission of all application materials					
<input type="checkbox"/>	Public Input Meeting Report (Section 3.4.3 or see Public Input Meeting on the first page of this application)					
<input checked="" type="checkbox"/>	A description and/or statement of the present and proposed zoning regulation or district boundary and stating why the request is being made and any information that is pertinent to the case. If the owner and applicant are different, the letter must be signed by both parties.					
<input checked="" type="checkbox"/>	All applications which specify an intended use must include a generalized site development plan drawn to a suitable scale, supporting information and text which specifies the use or uses intended for the property and any development standards to be approved concurrently with the rezoning application					
<input checked="" type="checkbox"/>	<p>A generalized site development plan shall include the following items:</p> <ul style="list-style-type: none"> <input type="checkbox"/> A vicinity map drawn to a suitable scale which illustrates adjacent or nearby roadways, railroads, waterways & public facilities. <input type="checkbox"/> A (metes and bounds) boundary of the parcel or portion of the parcel to be rezoned and developed. <input type="checkbox"/> All existing easements, reservations and rights of way. <input type="checkbox"/> Delineation of all Areas of Environmental Concern including but not limited to federal jurisdictional wetlands. <input type="checkbox"/> For residential uses, the number of units, heights and a generalized location. For non-residential uses, the height, approximate footprint and location of all structures. <input type="checkbox"/> If a known use is proposed: Traffic impact report, parking and circulation plans illustrating dimensions, intersections and typical cross sections. <input type="checkbox"/> All proposed setbacks, buffers, screening and landscaping. <input type="checkbox"/> Phasing. <input type="checkbox"/> Signage. <input type="checkbox"/> Outdoor lighting. <input type="checkbox"/> Current zoning district designation and current land use status. <input type="checkbox"/> Other information deemed necessary by the Administrator, Planning Board, or Board of Commissioners, including but not limited to a Traffic Impact Analysis or other report from a subject matter expert. 					
Office Use Only						
<table style="width: 100%; border: none;"> <tr> <td style="border: none;">ZMA-CD Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)</td> <td style="border: none; text-align: right;">Total Fee Calculation: \$</td> </tr> </table>		ZMA-CD Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)	Total Fee Calculation: \$			
ZMA-CD Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)	Total Fee Calculation: \$					
Attachments Included with Application: (Please include # of copies)						
CD /other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N
Payment Method:	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input type="checkbox"/> Check # _____		
Application received by:					Date:	
Application completeness approved by:					Date:	
Dates scheduled for public hearing:			<input type="checkbox"/> Planning Board:		<input type="checkbox"/> Board of Commissioners:	

NARRATIVE

Narrative
Hawthorne Headwaters Apartments LLC
Rezoning

The Property

Applicant and Owner request that the subject properties be rezoned to a Conditional District for approximately thirty-nine and a half acres (39.5) along Highway 17 (“the Property”). The Property consists of two tracts of land as shown on the Application for Conditional Rezoning.

Current Zoning and Future Land Use Plan

The Property is currently zoned Planned Development, with the front parcel being located in the Regional Mixed-Use classification of the Future Land Use Plan and the back parcel is in the Coastal Residential classification of the Future Land Use Plan.

History of the Property

A portion of the Property was originally the subject of a rezoning effort in 2021. At the time, Pender County planning staff made the following recommendation:

Planning Staff is submitting the proposal for Board of Commissioners disposition. The request for Conditional Zoning Map Amendment is compliant with the Pender County Unified Development Ordinance. The request is consistent with the Future Land Use Map, as well as three (3) goals, two (2) objectives, and five (5) policies within the Pender 2.0 Comprehensive Land Use Plan, while conflicting with one (1) objective and two (2) policies within the Plan.

At the April 7, 2021 meeting of the Pender County Planning Board, the Board voted unanimously to recommend denial of the petition as presented in this report. While the request on balance is consistent with the Pender 2.0 Comprehensive Land Use Plan, its inconsistencies lie in the infrastructure needed to support such a proposal. Based upon the initial review of the proposal by various entities through the Technical Review Committee, Pender County Schools communicated to Planning Staff that the school system does not currently have the capacity to serve the proposed development, nor are there any plans currently adopted to increase capacity in the system at this time.

While the Pender 2.0 Comprehensive Land Use Plan supports the development types proposed in this request in this location, much of that support is qualified by ensuring that appropriate infrastructure is available or planned to be available to support that development. Therefore, Planning Staff respectfully recommend denial of the request based on the conditions outlined in this report. Staff have also provided draft conditions for a motion to approve.

In essence, Pender County planning staff recommended denial of the proposed rezoning because there was not capacity within the school system for the children who would live on the Property.

That condition has changed, since 2021, as there is a new school being constructed to serve this area.

Owner withdrew its rezoning request in 2021, prior to the Pender County Commissioners voting on the proposal. Owner subsequently had a “by-right” project approved for the Property. The “by-right” approval provided for 174 apartments, with commercial property located along Highway 17.

Current Proposed Plan

After the introduction of a new school to serve the area, the reason for past opposition to increased residential units on the Property has been remedied. During Applicant’s initial meeting with Pender County planning staff to discuss this proposal, staff expressed concern that the number of units being sought (294) was the same amount previously recommended for denial in 2021. Applicant and Owner have revised the site plan to reduce the total number of apartment units to two-hundred, fifty-eight (258) to accommodate this concern.

In addition to the apartment development, the Property also contains forty-eight (48) approved single family residences. This rezoning does not propose changing the current approved single-family properties. Instead, Applicant and Owner are combining the apartment and single-family projects for this rezoning as the properties are under common ownership and being constructed at the same time. Owner intends to operate both the apartments and the single-family homes as one “rental community”, with shared amenities and interconnectivity. Viewing these properties as one project both acknowledges this reality and is a practical view.

Finally, the Future Land Use classification for the Property and the proposed project’s compliance with the Future Land Use Plan and Comprehensive Land Use Plan remain from the original rezoning request in 2021.

SITE PLAN

HEADWATERS APARTMENTS & COTTAGES

HWY 17 AND HUGHES ROAD
PENDER COUNTY, NORTH CAROLINA

REZONING SUBMITTAL

JULY 2024

APPLICANT:
HAWTHORNE HEADWATERS APARTMENTS, LLC
806 GREENVALLEY ROAD, STE 311
GREENSBORO, NC 27408

NOTICE REQUIRED

ALL EXISTING UNDERGROUND UTILITIES SHALL BE PHYSICALLY LOCATED PRIOR TO THE BEGINNING OF ANY CONSTRUCTION IN THE VICINITY OF SAID UTILITIES.

CONTRACTORS SHALL NOTIFY OPERATORS WHO MAINTAIN UNDERGROUND UTILITY LINES IN THE AREA OF PROPOSED EXCAVATION AT LEAST TWO WORKING DAYS, BUT NOT MORE THAN TEN WORKING DAYS PRIOR TO COMMENCEMENT OF EXCAVATION OR DEMOLITION.

CONTACT "CAROLINA ONE CALL" AT
1-800-632-4949

CONTACT THESE UTILITIES

PENDER COUNTY PLANNING AND COMMUNITY DEVELOPMENT
805 S Walker St, Burgaw, NC 2842
ATTN: DANIEL ADAMS
PH: 910-259-1274

DUKE ENERGY
1451 Military Cutoff Rd., Wilmington, NC 28403
ATTN: ROBERT WALKER - DISTRIBUTION ENGINEERING
PH: 910-602-4326
ATTN: JON MARSTON - ENGINEERING TECHNOLOGIST
PH: 919-583-2096

PENDER COUNTY UTILITIES (WATER)
605 E Fremont St, Burgaw, NC 28425
PH: 910-259-0212

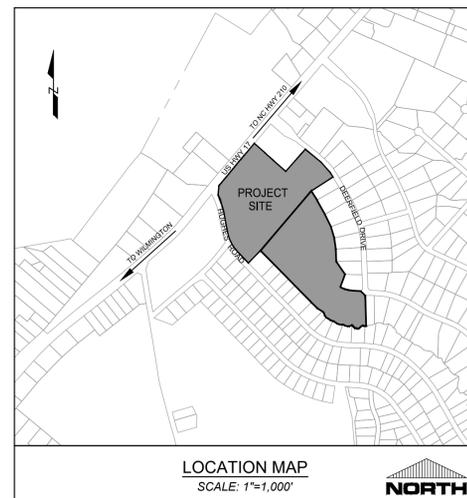
AT&T
102 N 4th Street, Wilmington, NC 28401
ATTN: DONNA WHITE - PLANNING & ENGINEERING DESIGN
PH: 910-341-7664

PIEDMONT NATURAL GAS
1321 S 10th St, Wilmington, NC 28401
ATTN: CARL PAQUET
PH: 910-350-2242

TIME WARNER CABLE
932 Inspiration Drive, Wilmington, NC 28403
PH: 910-763-4638

OLD NORTH STATE WATER COMPANY (SEWER)
4700 Homewood Court, Suite 108, Raleigh, NC, 27609
ATTN: MICHAEL MYERS
PH: 252-235-4900

POLICE - FIRE - RESCUE
EMERGENCY DIAL 911



HEADWATERS APARTMENTS & COTTAGES
REZONING SUBMITTAL

PROJECT # 20358.PE

JULY 5, 2024

SHEET INDEX

SHEET NUMBER	SHEET TITLE
	COVER SHEET
EX-A	BOUNDARY EXHIBIT
C-1 - C-2	SITE PLAN

PROJECT CONSULTANTS

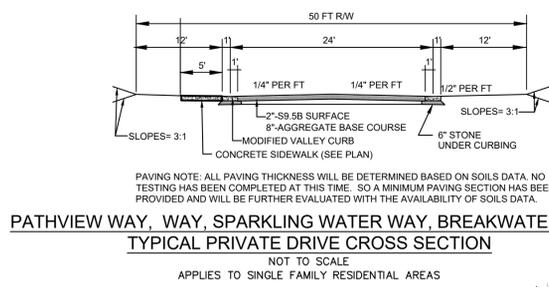
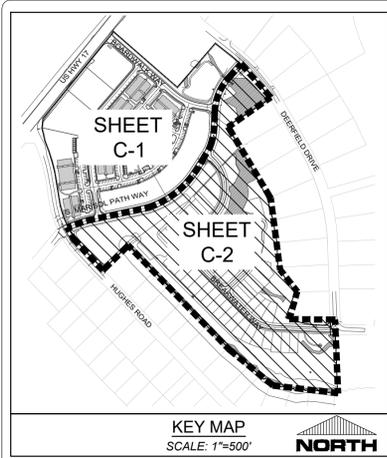
APPLICANT	ENGINEER/ LAND PLANNER/ LANDSCAPE ARCHITECT	SURVEYOR
HAWTHORNE HEADWATERS APARTMENTS LLC 806 GREEN VALLEY ROAD, STE 311 GREENSBORO, NC 27408	PARAMOUNTE ENGINEERING, INC. 122 CINEMA DRIVE WILMINGTON, NC 28403 CIVIL: TIM CLINKSCALES, PE (910-791-6707) LANDSCAPE ARCHITECT: JIM CIRELLO, RLA (910-791-6707)	PARAMOUNTE ENGINEERING, INC. 122 CINEMA DRIVE WILMINGTON, NC 28403 JOSH TAYLOR, PLS (910-791-6707)

PRELIMINARY DESIGN - NOT RELEASED FOR CONSTRUCTION

PREPARED BY:

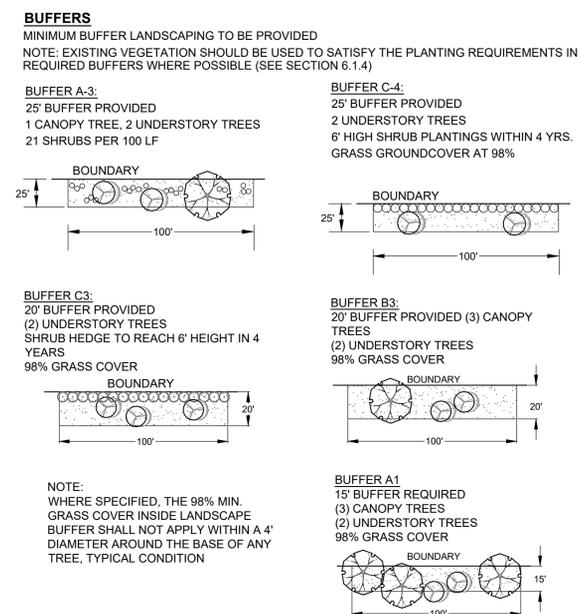
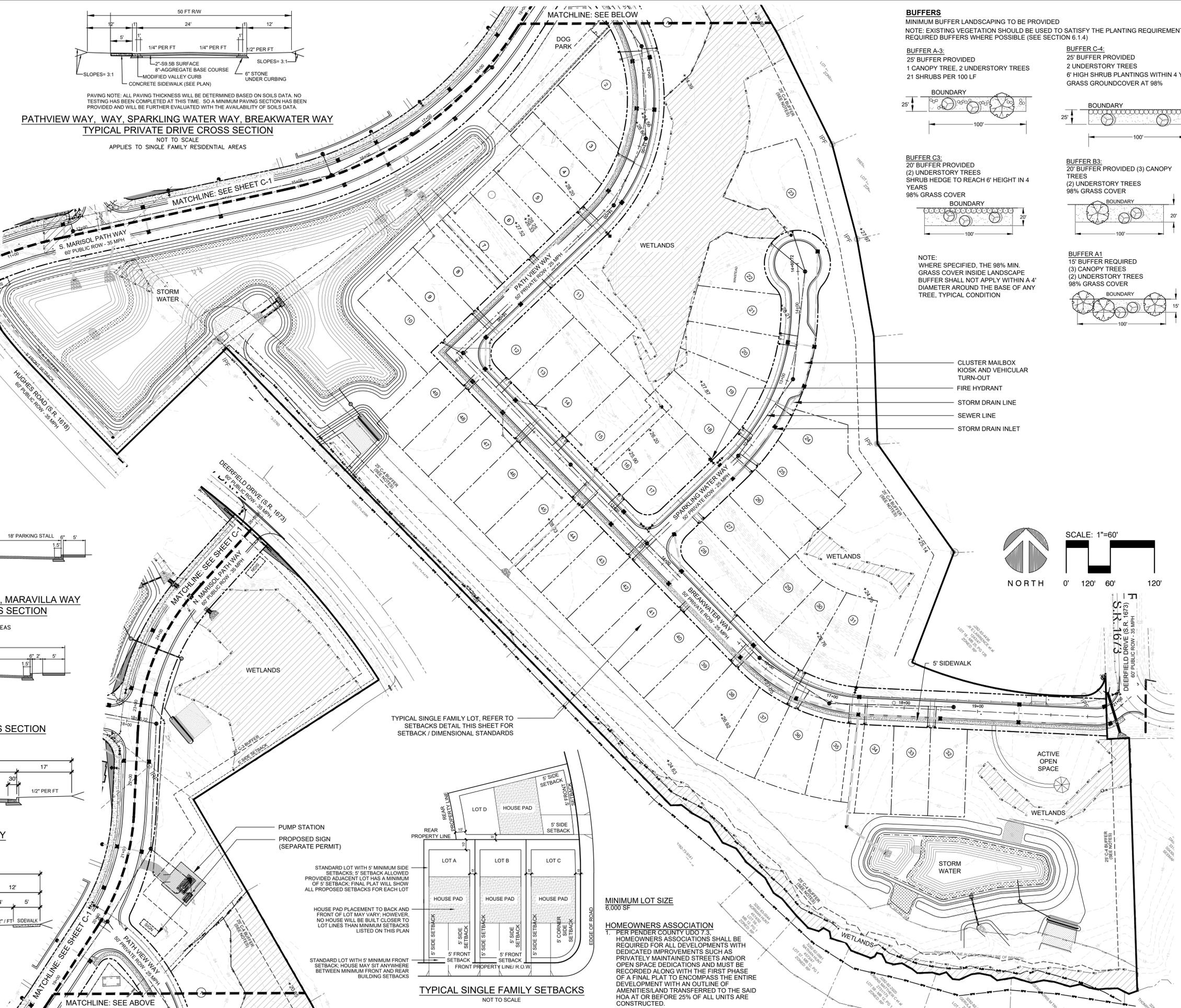
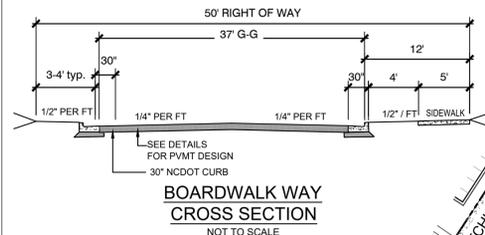
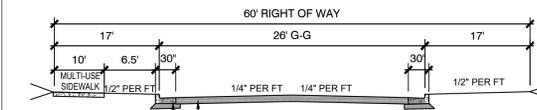
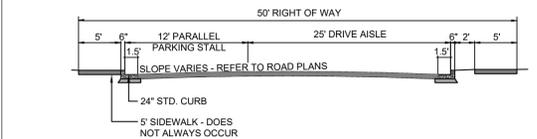
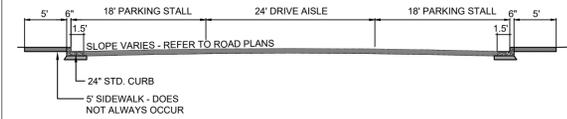
PARAMOUNTE
ENGINEERING, INC.
122 Cinema Drive Wilmington, North Carolina 28403
(910) 791-6707 (O) (910) 791-6760 (F)
NC License #: C-2846



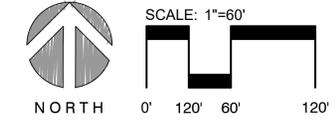


PROJECT ROAD NOTES

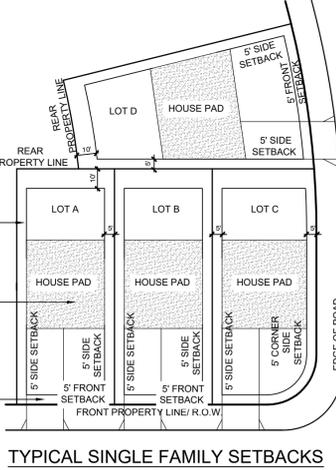
1. ALL COLLECTOR ROADS WILL BE PUBLIC RIGHT OF WAYS CONSTRUCTED TO NCDOT SUBDIVISION ROADS MINIMUM CONSTRUCTION STANDARDS AND IN COORDINATION WITH PENDER COUNTY COLLECTOR STREETS PLAN.
2. ALL PROPOSED INTERNAL ROADWAY INTERSECTIONS AND CONNECTIONS TO EXISTING ROADWAYS & THE PROJECT COLLECTOR ROAD WILL HAVE A 30' RADIUS MINIMUM. ALL OTHER RADII ON THE PROJECT WILL BE 25' MIN OR AS OTHERWISE DICTATED BY TRUCK MOVEMENTS.
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. ALL SIGNAGE AND PAVEMENT MARKINGS IN THE PUBLIC ROW WILL COMPLY WITH THE MUTCD.
5. SIDEWALKS WILL BE LOCATED ON ONE SIDE OF ALL ROADS EXCEPT THE MAIN COLLECTOR ROAD.
6. COLLECTOR ROAD SIDEWALKS WILL BE BUILT TO THE COUNTY'S COLLECTOR STREET STANDARDS AS DESIGNATED IN PENDER COUNTY COLLECTOR STREET PLAN. SIDEWALKS SHALL MEET ALL APPLICABLE ADA REQUIREMENTS.
7. 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.



- CLUSTER MAILBOX
- KIOSK AND VEHICULAR TURN-OUT
- FIRE HYDRANT
- STORM DRAIN LINE
- SEWER LINE
- STORM DRAIN INLET



TYPICAL SINGLE FAMILY LOT. REFER TO SETBACKS DETAIL THIS SHEET FOR SETBACK / DIMENSIONAL STANDARDS



MINIMUM LOT SIZE
6,000 SF

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 AMENITIES/LAND TRANSFERRED TO THE SAID HOA AT OR BEFORE 25% OF ALL UNITS ARE CONSTRUCTED.

REVISIONS:

CLIENT INFORMATION:
HAWTHORNE HEADWATERS APARTMENTS LLC
806 GREEN VALLEY ROAD, STE. 311
GREENSBORO, NC 27408

PARAMOUNT ENGINEERING
122 Cinema Drive
Wilmington, North Carolina 28403
(910) 791-6707 (O) (910) 791-6700 (F)
NC License #: C-2846

SITE PLAN
HAWTHORNE HEADWATERS
NEW HANOVER COUNTY
NORTH CAROLINA

PROJECT STATUS
CONCEPTUAL LAYOUT:
PRELIMINARY LAYOUT:
RELEASED FOR CONST:

DRAWING INFORMATION
DATE: 07/05/2024
DESIGNED: 17-00
DRAWING: 17-00
CHECKED:

SEAL

C-2

PEI JOB#: 00000.00

PRELIMINARY DESIGN - NOT RELEASED FOR CONSTRUCTION