

Pender County Planning and Community Development

Planning Division

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



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www.pendercountync.gov

AGENDA

**Pender County Board of Adjustment Meeting
March 20, 2013 9:00 a.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina**

Call to Order: Chairman Ferrante

Invocation:

Roll Call: Chairman Ferrante

Pender County Board of Adjustment Members:

Ferrante: _____ Pullen: _____ Kane: _____ Newton: _____ Thompson: _____

Alternates:

Peters: _____

1. Adoption of the Agenda:

2. Adoption of the Minutes: November 14, 2012

3. Public Comment

** Public Hearing Open**

4. **Variance:** Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a ten foot (10') variance from the required thirty foot (30') front yard setback in the RP, Residential Performance Zoning District as prescribed by the Pender County Unified Development Ordinance Section 4.14, Zoning District Dimensional Requirements. The property is located along Mason Court (Lot 33 Section 1 of Majestic Oaks) in Hampstead and may be identified by Pender County PIN: 3292-22-9265-0000. The property is zoned RP, Residential Performance Zoning District.
5. **Variance:** Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a ten foot (10') variance from the required thirty foot (30') front yard setback in the RP, Residential Performance Zoning District as prescribed by the Pender County Unified Development Ordinance Section 4.14, Zoning District Dimensional Requirements. The property is located along Mason Court (Lot 32 Section 1 of Majestic Oaks) in Hampstead and may be identified by Pender County PIN: 3292-22-8321-0000. The property is zoned RP, Residential Performance Zoning District.

6. Variance: Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a ten foot (10') variance from the required 30 foot front yard setback and a five foot (5') variance from the required 25 foot rear yard setback in the RP, Residential Performance Zoning District as prescribed by the Pender County Unified Development Ordinance Section 4.14, Zoning District Dimensional Requirements. The property is located along Weir Drive (Lot 43 Section 1 of Majestic Oaks) in Hampstead and may be identified by Pender County PIN: 3292-32-1712-0000. The property is zoned RP, Residential Performance Zoning District.

** Public Hearing Closed**

7. Discussion Items:

- a. BOA Members
- b. Planning Staff

8. Adjournment:

PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: March 20, 2013
Applicant: Terra- Novo, LLC
Property Owner: Hampstead Land Group, LLC
Case Number: 10871

Property Location and Description: The subject property is Lot 33, Section 1 of Majestic Oaks, as shown on Map Book 0045, Page 0119(see Exhibit 1), recorded at the Pender County Register of Deeds on September 26, 2007 and may be identified by Pender County PIN 3292-22-9265-0000.

Zoning District of Property: The property is zoned RP, Residential Performance District.

Variance Requested: Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a 10 foot variance from the 30 foot front yard setback (see Exhibit 2), required in the RP, Residential Performance District, as prescribed by the *Pender County Unified Development Ordinance Section 4.14*.

BACKGROUND AND DESCRIPTION OF VARIANCE:

Majestic Oaks is a major subdivision, with Phase 1 recorded on September 26, 2007. This subdivision was reviewed and approved under the *Pender County Zoning Ordinance* and *Subdivision Ordinance*. The zoning at the time of approval was R-20C, Residential Conventional, please see Table 1 below.

The *Pender County Unified Development Ordinance*, effective July 1, 2010, amended the R-20C Residential Conventional Housing District, to the RP, Residential Performance District. This included amending the required yard setbacks, found in *Section 4.14, Zoning District Dimensional Requirements*. The change of zoning classification with the adoption of the new ordinance reduced the minimum lot acreage requirement from 20,000 ft² to 15,000 ft², in the RP, Residential Performance District.

	Zoning Ordinance	UDO
	<i>R-20C</i>	<i>RP</i>
Front Yard	30 Feet	30 Feet
Side Yard	20 feet	10 Feet
Rear Yard	25 Feet	25 Feet

The applicant is requesting a 10 foot variance from the 30 foot front yard setback, to allow additional separation between the existing structure located on Lot 28 and the future structure on lot 33.

The rear property line of Lot 33 adjoins the side property line of Lot 28 (328 Weir Drive). According to Pender County Central Permitting, a Zoning Determination ,Permit Number 082252, (see Exhibit 3), was issued for a single family residential structure on September 11, 2008, prior the codification of the *Pender County UDO*.

ZONING ADMINISTRATOR'S CONCLUSION:

Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a 10 foot Variance from the 30 foot front yard setback required in the RP, Residential Performance District, as prescribed by the *Pender County Unified Development Ordinance Section 4.14*.

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 elsewhere in this Ordinance.

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) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
 - 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
 - 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
 - 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
 - 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
 - 6) That the variance will not result in the expansion of a nonconforming use.
 - 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.
- 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.

4.7.1 RP: Residential Performance

The Residential Performance District is intended to allow a variety of residential uses and densities and also limited commercial activities as well as agritourism. Existing or new agricultural and farm uses shall be allowed on undeveloped land prior to development.

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	100 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. 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	40 ⁽⁸⁾	30	(1)		50 ⁽⁸⁾	50	50	100	(1)	30

5.3.2 Residential Uses

A. Residential Principal Structure

- 1) In any residential district, up to three residential structures are permitted, on a single lot provided a plat drawn to scale by a licensed registered surveyor is submitted showing that all yards and other requirements of this Ordinance have been met for each structure.

Appendix A

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

LOT: A designated parcel, tract, or area of land established or to be established by plat or subdivision or previously established as a recorded lot.

1. **LOT AREA:** The total area within the lot lines of a lot.
2. **LOT, CORNER:** A lot abutting two or more streets at their intersection.
3. **LOT COVERAGE:** The total built upon area, including all non-pervious surface materials.
4. **LOT LENGTH:** The distance between the front lot line and the rear lot line measured at the maximum distance.
5. **LOT LINE, FRONT:** The line separating a lot from a street right-of-way.
6. **LOT LINE, REAR:** The lot line opposite and parallel to the front lot line or within 45° of being parallel to the front lot line.
7. **LOT LINE, SIDE:** Any lot line other than front or rear lot lines.
8. **LOT OF RECORD:** A lot for which a plat or survey description has been legally recorded with the Pender County Register of Deeds.
9. **LOT, PIPESTEM:** A residential lot fronting on a public or a private street in which access is provided by a narrow strip of land, referred to as the "pipestem driveway yard," which is less than the minimum required front yard width, and located between adjoining residential lots fronting on the same street.
10. **LOT WIDTH:** The horizontal distance between side lot lines measured at the front yard setback line.

SETBACK: The required distance between a building or structure and a lot line.

1. **SETBACK, FRONT YARD:** The required distance between a street right-of-way line and the front line of a building or structure.
2. **SETBACK, REAR YARD:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
3. **SETBACK, SIDE YARD:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

STRUCTURE:

1. Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."
2. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/does not** result from extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, granting the variance requested **will/will not** confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that a literal interpretation of the provisions of this ordinance **would/would not** deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that the requested variance **will/will not** be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This conclusion is based on the following FINDINGS OF FACT:
5. It is the Board's CONCLUSION that, the special circumstances **are/are not** the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

Board Action:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

Kane: _____ **Thompson:** _____ **Ferrante:** _____ **Newton:** _____ **Pullen:** _____

Alternates:

Peters: _____

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE

Application No.	VA 10871	Date	2.4.2013
Application Fee	\$ 250.00	Receipt No.	130221

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Terra-Novo, LLC	Owner's Name:	Hampstead Land Group, LLC
Applicant's Address:	3201 Wickford Dr.	Owner's Address:	1712 Eastwood Road, Suite 203
City, State, & Zip	Wilmington, NC 28409	City, State, & Zip	Wilmington, NC 28403
Phone Number:	910-279-4489	Phone Number:	910-279-4489

Legal relationship of applicant to land owner: Consultant

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3292-22-9265-0000	Total property acreage:	0.46 acres
Zoning Classification:	RP	Variance Size:	10 Feet
Variance Location & Address	33 Mason Court, Hampstead, NC 28443		
Describe Variance and amount or type requested:	See Attached description.		

SECTION 3: SIGNATURES

Applicant's Signature	MSR U	Date:	2/4/13
Owner's Signature		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

<input checked="" type="checkbox"/>	VA Fees \$250	Total Fee Calculation \$
Payment Method :	Cash : <input checked="" type="checkbox"/> \$ _____ Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input checked="" type="checkbox"/> Check # 20273
Application received by:		Date:
Application completeness approved by:	Ashley Frank	Date: 2.5.2013
Date scheduled for public hearing:	March 20, 2013	

Lot 33 (PIN 3292-22-9265-000)
Variance Description

The adjacent property behind Lot 33 faces Weir Drive and has a 10' side yard setback. The Developer is requesting a reduction in the front setback requirement from 30' to 20' to provide additional rear yard area and better home spacing to adjacent properties.



Applicant:
Terra-Novo, LLC

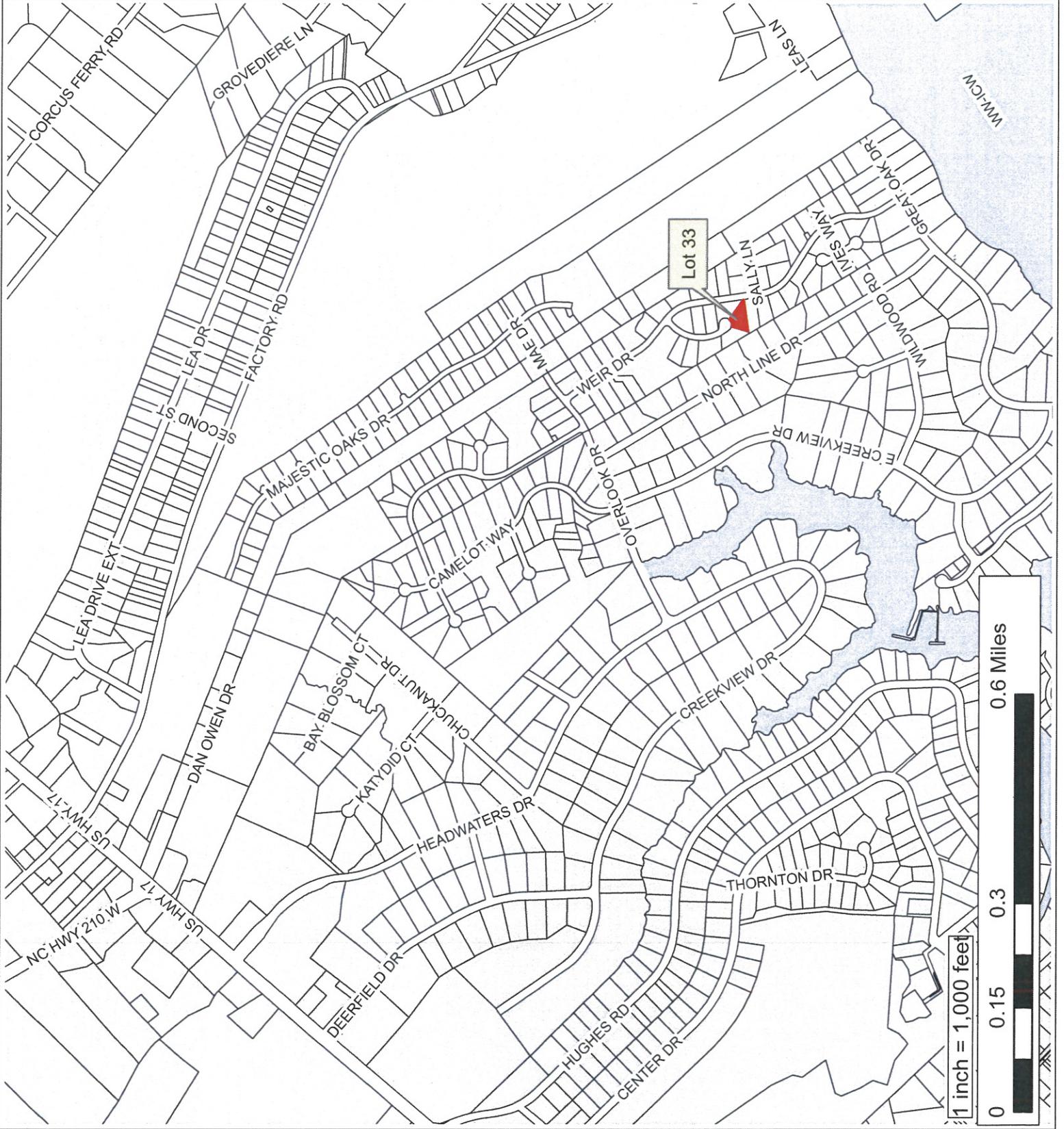
Owner:
Hampstead
Land Group, LLC

Variance

Case Number:
10871



VICINITY





Applicant:
Terra- Novo, LLC

Owner:
Hampstead
Land Group, LLC

Variance

Case Number:
10871

 Subject Property



2012 Aerial





Applicant:
Terra- Novo, LLC

Owner:
Hampstead
Land Group, LLC

Variance

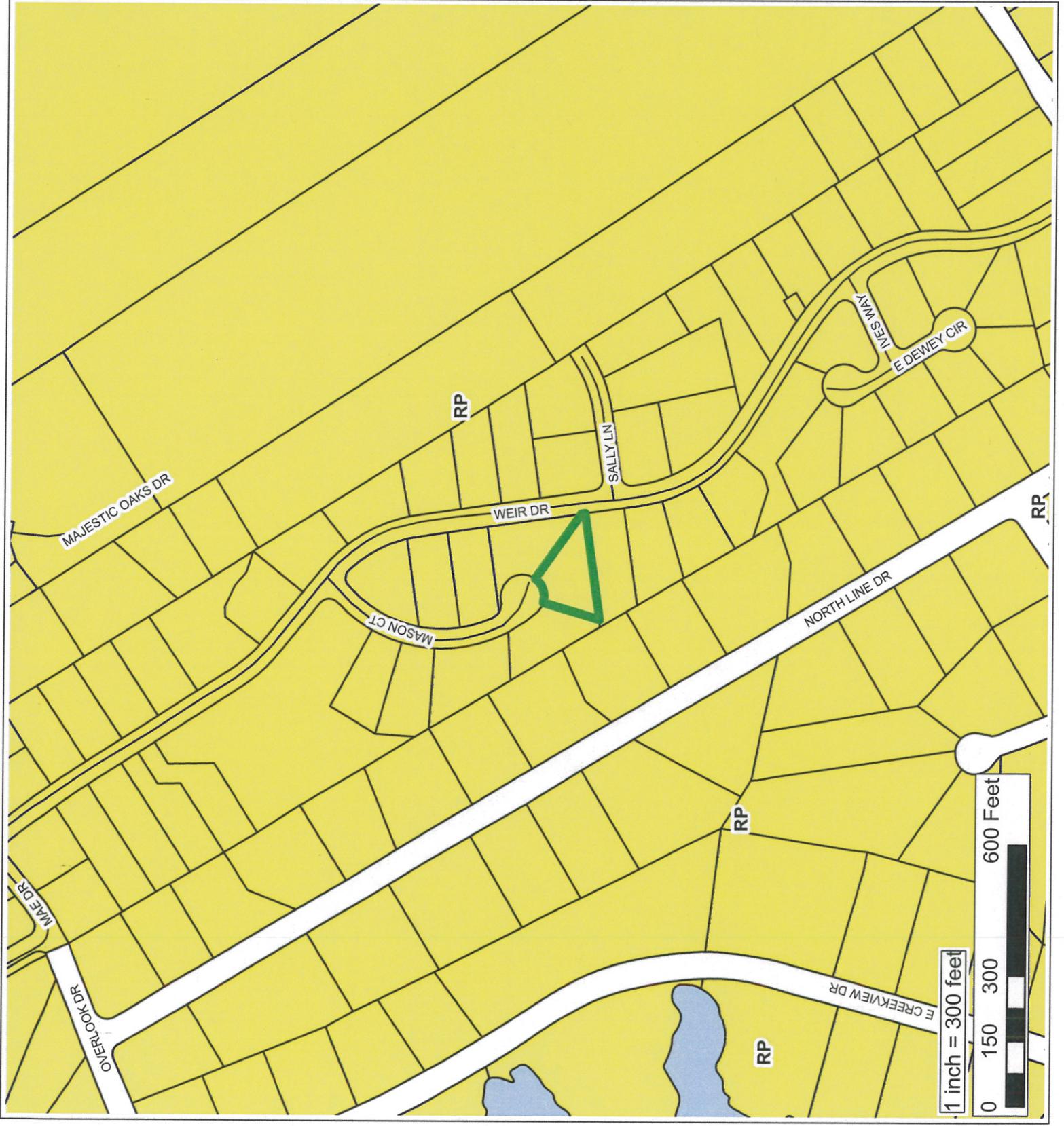
Case Number:
10871

Legend

- Subject Parcel
- Zoning Classification
- UDO Zoning
 - General Business (GB)
 - General Industrial (GI)
 - Industrial Transition (IT)
 - Office & Institutional (OI)
 - Rural Agricultural (RA)
 - Planned Development (PD)
 - Residential Performance (RP)
 - Environmental Conservation (EC)
 - Incorporated Areas (INCORP)
 - Manufactured Home Park (MH)
 - Residential Mixed (MIF)



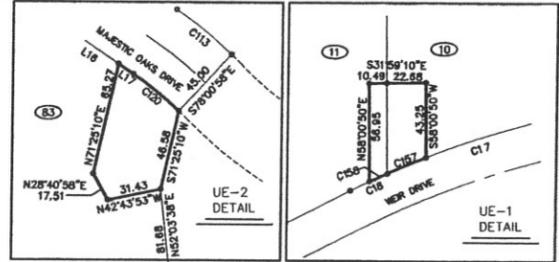
ZONING





LEGEND:
 EP - EXISTING IRON PIPE
 ES - EXISTING IRON STAKE
 ECM - EXISTING CONCRETE MONUMENT
 404 WETLANDS AS DESIGNATED AND CONTROLLED BY USACE

BERT L. LEA, JR., et al
 DB 941, PG 310
 PIN 3292-34-9089-0000

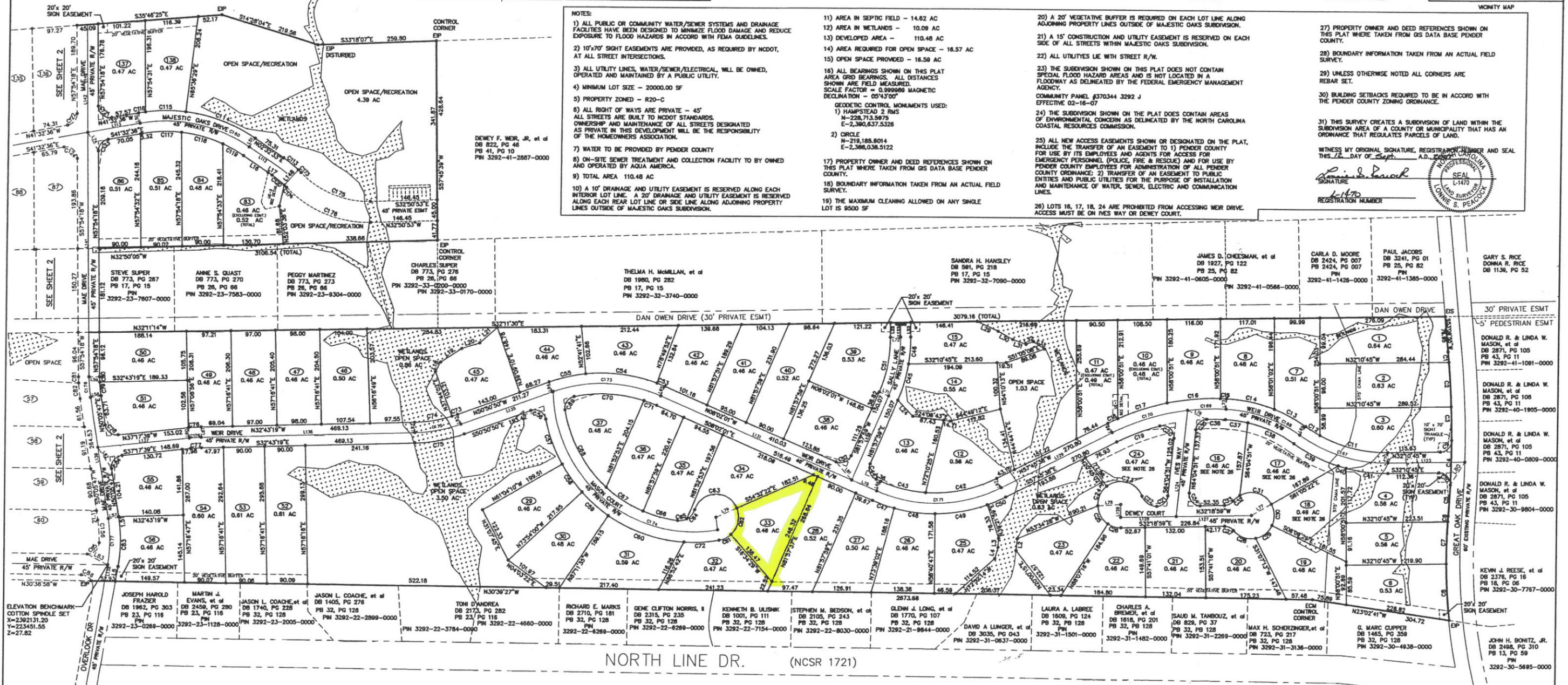
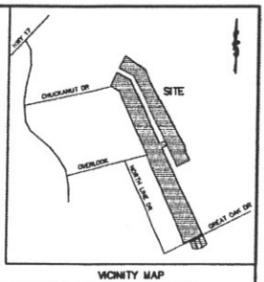


LOT #	USABLE AREA EXC. WETLANDS	LOT #	USABLE AREA EXC. WETLANDS
1	19,587 SF	12	19,150 SF
2	26,078 SF	14	19,042 SF
3	23,022 SF	16	19,046 SF
4	19,087 SF	19	20,194 SF
5	19,121 SF	23	20,326 SF
6	21,804 SF	24	19,453 SF
7	20,888 SF	46	19,042 SF
8	19,248 SF	52	25,938 SF
9	19,851 SF	121	18,169 SF

REFERENCES:
 PB 18, PG 8
 PB 26, PG 66
 PB 26, PG 97
 PB 26, PG 84
 PB 26, PG 85
 PB 25, PG 82

SURVEYOR'S STATEMENT TO WHOM IT MAY CONCERN:
 THIS PLAN IS A CORRECT REPRESENTATION OF LAND SURVEYED; HOWEVER A NORTH CAROLINA LICENSED ATTORNEY SHOULD BE CONSULTED CONCERNING CORRECT OWNERSHIP, WIDTH AND LOCATION OF EASEMENTS, ANY CEMETERIES OR FAMILY BURIAL GROUNDS NOT SHOWN ON RECORDED MAPS OR DEEDS MADE AVAILABLE TO THIS SURVEYOR BY THE RECENT OWNERS AT THE TIME OF THIS SURVEY AND OTHER TITLE QUESTIONS REVEALED BY TITLE EXAMINATION. NO RESPONSIBILITY OF ANY NATURE IS ASSUMED BY THIS SURVEYOR FOR ANY CONDITIONS WHICH MAY PRESENTLY EXIST BUT ARE UNKNOWN, SUCH AS: CEMETERIES, FAMILY BURIAL GROUNDS, TOXIC OR HAZARDOUS WASTE MATERIAL, WETLANDS, AND/OR FLOOD AREA, ETC.

ALL MARKERS (COTTON SPINDLES) REQUIRED BY THIS ORDINANCE AND NCGS 36-32.1-4 HAVE BEEN INSTALLED.
 Signature: *Brandy Davis*
 REGISTRATION NUMBER: 1-1470



- NOTES:
- 1) ALL PUBLIC OR COMMUNITY WATER/SEWER SYSTEMS AND DRAINAGE FACILITIES HAVE BEEN DESIGNED TO MINIMIZE FLOOD DAMAGE AND REDUCE EXPOSURE TO FLOOD HAZARDS IN ACCORD WITH FEMA GUIDELINES.
 - 2) 10'-7'0" SIGHT EASEMENTS ARE PROVIDED, AS REQUIRED BY NCDOT, AT ALL STREET INTERSECTIONS.
 - 3) ALL UTILITY LINES, WATER/SEWER/ELECTRICAL, WILL BE OWNED, OPERATED AND MAINTAINED BY A PUBLIC UTILITY.
 - 4) MINIMUM LOT SIZE - 2000.00 SF
 - 5) PROPERTY ZONED - R20-C
 - 6) ALL RIGHT OF WAYS ARE PRIVATE - 45'
 - 7) ALL STREETS ARE BUILT TO NCDOT STANDARDS. OWNERSHIP AND MAINTENANCE OF ALL STREETS DESIGNATED AS PRIVATE IN THIS DEVELOPMENT WILL BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.
 - 8) ON-SITE SEWER TREATMENT AND COLLECTION FACILITY TO BE OWNED AND OPERATED BY AQUA AMERICA.
 - 9) WATER TO BE PROVIDED BY PENDER COUNTY
 - 10) A 10' DRAINAGE AND UTILITY EASEMENT IS RESERVED ALONG EACH INTERIOR LOT LINE. A 20' DRAINAGE AND UTILITY EASEMENT IS RESERVED ALONG EACH REAR LOT LINE OR SIDE LINE ALONG ADJOINING PROPERTY LINES OUTSIDE OF MAJESTIC OAKS SUBDIVISION.
 - 11) AREA IN SEPTIC FIELD - 14.82 AC
 - 12) AREA IN WETLANDS - 10.09 AC
 - 13) DEVELOPED AREA - 110.48 AC
 - 14) AREA REQUIRED FOR OPEN SPACE - 18.57 AC
 - 15) OPEN SPACE PROVIDED - 18.59 AC
 - 16) ALL BEARINGS SHOWN ON THIS PLAT AREA GRID BEARINGS. ALL DISTANCES SHOWN ARE FIELD MEASURED.
 SCALE FACTOR = 0.999989 MAGNETIC DECLINATION = 05°43'00"
 GEODETIC CONTROL MONUMENTS USED:
 1) HAMPSTEAD 2 R/S
 N-228,713.5973
 E-2,380,637.5328
 2) CIRCLE
 N-219,188.8014
 E-2,388,038.5122
 - 17) PROPERTY OWNER AND DEED REFERENCES SHOWN ON THIS PLAT WERE TAKEN FROM GIS DATA BASE PENDER COUNTY.
 - 18) BOUNDARY INFORMATION TAKEN FROM AN ACTUAL FIELD SURVEY.
 - 19) THE MAXIMUM CLEANING ALLOWED ON ANY SINGLE LOT IS 9500 SF
 - 20) A 20' VEGETATIVE BUFFER IS REQUIRED ON EACH LOT LINE ALONG ADJOINING PROPERTY LINES OUTSIDE OF MAJESTIC OAKS SUBDIVISION.
 - 21) A 15' CONSTRUCTION AND UTILITY EASEMENT IS RESERVED ON EACH SIDE OF ALL STREETS WITHIN MAJESTIC OAKS SUBDIVISION.
 - 22) ALL UTILITIES LIE WITH STREET R/W.
 - 23) THE SUBDIVISION SHOWN ON THIS PLAT DOES NOT CONTAIN SPECIAL FLOOD HAZARD AREAS AND IS NOT LOCATED IN A FLOODWAY AS DELINEATED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
 COMMUNITY PANEL #370344 3292 J
 EFFECTIVE 02-16-07
 - 24) THE SUBDIVISION SHOWN ON THE PLAT DOES CONTAIN AREAS OF ENVIRONMENTAL CONCERN AS DELINEATED BY THE NORTH CAROLINA COASTAL RESOURCES COMMISSION.
 - 25) ALL NEW ACCESS EASEMENTS SHOWN OR DESIGNATED ON THE PLAT, INCLUDE THE TRANSFER OF AN EASEMENT TO 1) PENDER COUNTY FOR USE BY ITS EMPLOYEES AND AGENTS FOR ACCESS FOR EMERGENCY PERSONNEL (POLICE, FIRE & RESCUE) AND FOR USE BY PENDER COUNTY EMPLOYEES FOR ADMINISTRATION OF ALL PENDER COUNTY ORDINANCE; 2) TRANSFER OF AN EASEMENT TO PUBLIC ENTITIES AND PUBLIC UTILITIES FOR THE PURPOSE OF INSTALLATION AND MAINTENANCE OF WATER, SEWER, ELECTRIC AND COMMUNICATION LINES.
 - 26) LOTS 16, 17, 18, 24 ARE PROHIBITED FROM ACCESSING WEIR DRIVE. ACCESS MUST BE ON IVES WAY OR DEWEY COURT.
 - 27) PROPERTY OWNER AND DEED REFERENCES SHOWN ON THIS PLAT WERE TAKEN FROM GIS DATA BASE PENDER COUNTY.
 - 28) BOUNDARY INFORMATION TAKEN FROM AN ACTUAL FIELD SURVEY.
 - 29) UNLESS OTHERWISE NOTED ALL CORNERS ARE REBAR SET.
 - 30) BUILDING SETBACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE.
 - 31) THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE SUBDIVISION AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 12 DAY OF Sept. A.D. 2007
 Signature: *Brandy Davis*
 REGISTRATION NUMBER: 1-1470

PARCEL IDENTIFIER CERTIFICATE
 PARCEL IDENTIFIERS HAVE BEEN ISSUED FOR ALL PARCELS SHOWN ON THIS PLAT.
 3292-23-4508-0000
 3292-24-7313-0000
 Signature: *Brandy Davis* DATE: 09/25/07

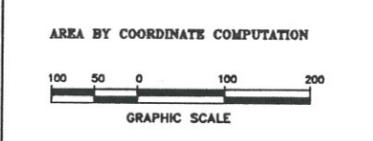
CERTIFICATE OF FINAL PLAT APPROVAL
 FINAL PLAT APPROVED UNDER THE PENDER COUNTY SUBDIVISION ORDINANCE:
 Signature: *John A. IDR* DATE: 9/25/07

THE SUBDIVISION STREETS SHOWN THIS FINAL PLAT OF MAJESTIC OAKS SUBDIVISION (SHEETS 1 AND 2) MAJESTIC OAKS DRIVE, OVERLOOK DRIVE, WEIR DRIVE, MASON COURT, SALLY LANE AND DEWEY COURT, MAE COURT, AND FREDERICK DRIVE WERE DESIGNED AND BUILT TO NCDOT SPECIFICATIONS.
 Signature: *Don Hamilton* DATE: 9/15/07

CERTIFICATE OF OWNERSHIP, DEDICATION AND JURISDICTION
 I (WE) HEREBY CERTIFY THAT I AM (WE ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY (OUR) CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER AREAS TO PUBLIC OR PRIVATE USE AS NOTED. FURTHER, I (WE) CERTIFY THAT THE LAND AS SHOWN HEREON IS LOCATED WITHIN THE SUBDIVISION JURISDICTION OF PENDER COUNTY.
 Signature: *Deuce Investments, Inc.* DATE: 9-13-07
 Signature: *Brandy Davis* DATE: 9-13-07

NOTE:
 LOTS 16, 17, 18, 24 ARE PROHIBITED FROM ACCESSING WEIR DRIVE. ACCESS MUST BE ON IVES WAY OR DEWEY COURT.

OWNER:
 DEUCE INVESTMENTS, INC.
 P.O. BOX 595
 SELMA, NC 27576
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-24-7313-0000
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-23-4508-0000
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-23-5891-0000



STATE OF NORTH CAROLINA Pender COUNTY
 I, *Brandy Davis*, certify that this plat was drawn under my supervision from an actual survey made under my supervision or deed description recorded in Book *119*, page *51*, that the boundaries not surveyed are shown on broken lines plotted from information found in *119*, page *51*; that the error closure is as set by lot and degree and amended.
 Witness my original signature, registration number and seal this *12* day of *Sept*, A.D. 2007.
 Signature: *Brandy Davis* DATE: 09/25/07

STATE OF NORTH CAROLINA Pender COUNTY
 I, *Brandy Davis*, Review Officer of Pender County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
 Signature: *Brandy Davis* DATE: 09/25/07

STATE OF NORTH CAROLINA Pender COUNTY
 Filed for Registration at 9:15 AM
 Sept 26 2007
 Register of Deeds Office
 Recorded in Book *45* Page *119* SL *14*
 Signature: *Janice M. Swain* REGISTER OF DEEDS

SOUTHWIND
 SURVEYING AND ENGINEERING, INC.
 201 ELEN ROAD
 GARNER, N.C. 27529
 919-773-0183
 919-773-0148 (FAX)

MAJESTIC OAKS
 SECTION 1
 SHEET 1 OF 2
 TOWNSHIP TOPSAIL COUNTY PENDER STATE NC
 SURVEYED BY LP DRAWN BY LFH
 DATE 09-08-07 SCALE 1" = 100' DRAWING NO. H05-5016

Exhibit 1

Zoning Permit for Lot 28 Weir Drive

Planning and Zoning PENDER COUNTY, North Carolina

805 S. Walker St.
Burgaw, NC 28425

Planning and Zoning
910-259-1202



Zoning/Development Permit

Page # 1

CERTIFICATION OF ZONING, SUBDIVISION, SPECIAL USES, SOIL EROSION and EXEMPTIONS

CA Approved : No **Zoning Determination Only**

Tax Geo Pin#: 32922291860000
Tax. Rec. # :

Zoning Permit Date: 09112008
Permit/Receipt # : 082252
User ID : GG32
Code Violation : N

* Permitted Use Description of Work:
SINGLE FAMILY RESIDENTIAL

* NOTE: Use Must be listed in the Pender County Zoning Ordinance's 'Table of Permitted Uses'.

Description of Work :

SFR 49x55 w attached garage, porches & decks

Type of Structure / Use : RESIDENTIAL SINGLE FAMILY

Structure Height Limit : 35 Feet

Mfg. Home Mfg. Date : 0/00/00 Existing Structure On Site: Yes - No - 1

Site Address: Str.# & Name: WEIR DR LOT # 28 City: HAMPSTEAD

Property Owner: Name: HOMES BY GREG JOHNSON INC
Str # / Name: 612 POWELL ST
City, State, Zip: SMITHFIELD NC 27577 Telephone:

Applicant: Relation : AGENT
Name: SMITH ELLA
Contact: HOMES BY GREG JOHNSON INC
Str # / Name: POWELL ST 612
City, State, Zip: SMITHFIELD NC 27577 Telephone: 376-4019

Subdivision Name: Plat Bk. & Page #: Deed Bk. & Pg : / Township: TOPSAIL
Section: Lot: 28

Section A: Zoning Determinations

Zone Dist : R20C Req. Setbacks: Front: 30 Rear: 25 Side: 20
Minimum Lot Size: 20000 Flood Zone #: BFE: Panel #:

The Proposed Activity is allowed by the Pender County Zoning Ordinance. The Type Permit noted above is issued subject to the Project complying with the determinations and conditions herein and the information contained in the application submitted by the applicant. When Zoning Determinations are issued a Final Zoning Permit must be obtained prior to the beginning of site construction.

Determination Made By : GG Date : 9/11/08 CBRA: Yes - No - 1 0/00/00

Section B: Conditions of Permit

Required:	Completed:
Subject To Compliance With All Local, State And Federal Regulations.	1
Compliance With The Site Plan And Application Submitted For This Permit.	1
Compliance With The Set Backs Noted.	1
Foundation Survey Required.	1

6 Fourteen (14) days after Footing Inspection or setup on site.

Site Directions:

lot 28 majestic oaks, Factory Rd to Subd.

Zoning Det. By : GG Date : 9/11/08 Zoning Fee : 15.00 Check # : 32762
Final Zoning By : Date : 0/00/00 Total Zoning Fee : 15.00 Check # :

* Fee is Non-Refundable

Zoning Notes :

DWQ certification in file for sewer - water provided by county
Foundation Survey Required

Exhibit 3



Planning and Zoning
PENDER COUNTY, North Carolina

805 S. Walker St.
Burgaw, NC 28425

Planning and Zoning
910-259-1202

Zoning/Development Permit

Page # 2

CERTIFICATION OF ZONING, SUBDIVISION, SPECIAL USES, SOIL EROSION and EXEMPTIONS

Zoning Determination Only

Tax Geo Pin#: 32922291860000
Tax. Rec. # :

Zoning Permit Date: 09112008
Permit #: 082252
User ID : GG32
Code Violation : N

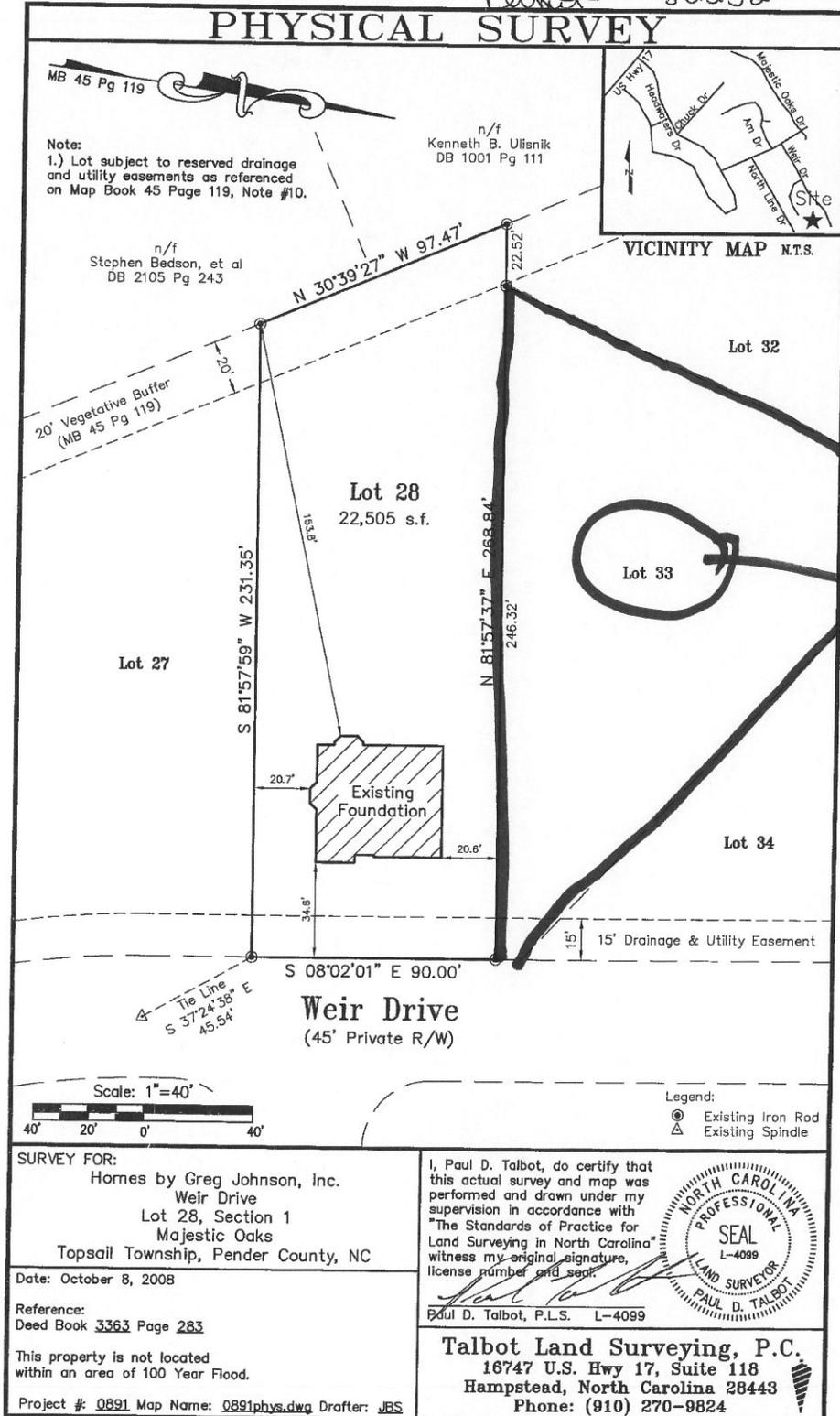
Permit valid for twelve (12) months from date of issuance

Ella Smith
Applicant Signature

9-11-08
Date

Foundation Survey Lot 28 Weir Drive

Permit # 82252



PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: March 20, 2013
Applicant: Terra- Novo, LLC
Property Owner: Hampstead Land Group, LLC
Case Number: 10872

Property Location and Description: The subject property is Lot 32, Section 1 of Majestic Oaks, as shown on Map Book 0045, Page 0119 (see Exhibit 1), recorded at the Pender County Register of Deeds on September 26, 2007 and may be identified by Pender County PIN 3292-22-8321-0000.

Zoning District of Property: The property is zoned RP, Residential Performance District.

Variance Requested: Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a 10 foot variance from the 30 foot front yard setback (see Exhibit 2), required in the RP, Residential Performance District, as prescribed by the *Pender County Unified Development Ordinance Section 4.14*.

BACKGROUND AND DESCRIPTION OF VARIANCE:

Majestic Oaks is a major subdivision, with Phase 1 recorded on September 26, 2007. This subdivision was reviewed and approved under the *Pender County Zoning Ordinance* and *Subdivision Ordinance*. The zoning at the time of approval was R-20C, Residential Conventional, please see Table 1 below.

The *Pender County Unified Development Ordinance*, effective July 1, 2010, amended the R-20C Residential Conventional Housing District, to the RP, Residential Performance District. This included amending the required yard setbacks, found in *Section 4.14, Zoning District Dimensional Requirements*. The change of zoning classification with the adoption of the new ordinance reduced the minimum lot acreage requirement from 20,000 ft² to 15,000 ft², in the RP, Residential Performance District.

Table 1

	Zoning Ordinance	UDO
	<i>R-20C</i>	<i>RP</i>
Front Yard	30 Feet	30 Feet
Side Yard	20 feet	10 Feet
Rear Yard	25 Feet	25 Feet

The applicant is requesting a ten foot (10') variance from the required thirty foot (30') front yard setback due a twenty (20') drainage easement and vegetative buffer running parallel to the rear property line, as shown in Map Book 0045, Page 0119, recorded at the Pender County Register of Deeds on September 26, 2007. Staff researched the minutes from the initial Preliminary Plat approval from the Pender County Planning Board October 5, 2005 (see exhibit 3) and could not find a reference to the vegetative buffer. However the buffer is shown on the final plat as both a twenty foot (20') vegetative, utility and drainage easements (see exhibit 1). The original staff report from the October 5, 2005 Pender County Planning Board has also been included as Exhibit 4.

ZONING ADMINISTRATOR'S CONCLUSION:

Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a 10 foot Variance from the 30 foot front yard setback required in the RP, Residential Performance District, as prescribed by the *Pender County Unified Development Ordinance Section 4.14*.

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 elsewhere in this Ordinance.

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) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
 - 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
 - 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
 - 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
 - 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
 - 6) That the variance will not result in the expansion of a nonconforming use.
 - 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.
- 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.

4.7.1 RP: Residential Performance

The Residential Performance District is intended to allow a variety of residential uses and densities and also limited commercial activities as well as agritourism. Existing or new agricultural and farm uses shall be allowed on undeveloped land prior to development.

4.14 Zoning District Dimensional Requirements

Dimensional Requirements Table

Dimensional Standards (9)	RA	RP	RM	MH	GB	OI	IT	GI	PD	FC
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	100 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. 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	40 ⁽⁸⁾	30	(1)		50 ⁽⁸⁾	50	50	100	(1)	30

5.3.2 Residential Uses

A. Residential Principal Structure

- 1) In any residential district, up to three residential structures are permitted, on a single lot provided a plat drawn to scale by a licensed registered surveyor is submitted showing that all yards and other requirements of this Ordinance have been met for each structure.

Appendix A

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

LOT: A designated parcel, tract, or area of land established or to be established by plat or subdivision or previously established as a recorded lot.

1. **LOT AREA:** The total area within the lot lines of a lot.
2. **LOT, CORNER:** A lot abutting two or more streets at their intersection.
3. **LOT COVERAGE:** The total built upon area, including all non-pervious surface materials.
4. **LOT LENGTH:** The distance between the front lot line and the rear lot line measured at the maximum distance.
5. **LOT LINE, FRONT:** The line separating a lot from a street right-of-way.
6. **LOT LINE, REAR:** The lot line opposite and parallel to the front lot line or within 45° of being parallel to the front lot line.
7. **LOT LINE, SIDE:** Any lot line other than front or rear lot lines.
8. **LOT OF RECORD:** A lot for which a plat or survey description has been legally recorded with the Pender County Register of Deeds.
9. **LOT, PIPESTEM:** A residential lot fronting on a public or a private street in which access is provided by a narrow strip of land, referred to as the "pipestem driveway yard," which is less than the minimum required front yard width, and located between adjoining residential lots fronting on the same street.
10. **LOT WIDTH:** The horizontal distance between side lot lines measured at the front yard setback line.

SETBACK: The required distance between a building or structure and a lot line.

1. **SETBACK, FRONT YARD:** The required distance between a street right-of-way line and the front line of a building or structure.
2. **SETBACK, REAR YARD:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
3. **SETBACK, SIDE YARD:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

STRUCTURE:

1. Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."
2. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/does not** result from extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. This conclusion is based on the following FINDINGS OF FACT:

2. It is the Board's CONCLUSION that, granting the variance requested **will/will not** confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:

3. It is the Board's CONCLUSION that a literal interpretation of the provisions of this ordinance **would/would not** deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:

4. It is the Board's CONCLUSION that the requested variance **will/will not** be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This conclusion is based on the following FINDINGS OF FACT:

5. It is the Board's CONCLUSION that, the special circumstances **are/are not** the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

Board Action:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

Kane: _____ **Thompson:** _____ **Ferrante:** _____ **Newton:** _____ **Pullen:** _____

Alternates:

Peters: _____

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE

Application No.	✗ 10872	Date	2.4.2013
Application Fee	\$ 250.00	Receipt No.	130 220

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Terra-Novo, LLC	Owner's Name:	Hampstead Land Group, LLC
Applicant's Address:	3201 Wickford Dr.	Owner's Address:	1712 Eastwood Road, Suite 203
City, State, & Zip	Wilmington, NC 28409	City, State, & Zip	Wilmington, NC 28403
Phone Number:	910-279-4489	Phone Number:	910-279-4489

Legal relationship of applicant to land owner: Consultant

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3292-22-8321-0000	Total property acreage:	0.47 acres
Zoning Classification:	RP	Variance Size:	10 Feet
Variance Location & Address	32 Mason Court, Hampstead, NC 28443		
Describe Variance and amount or type requested:	See Attached description.		

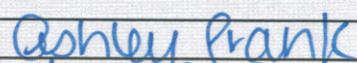
SECTION 3: SIGNATURES

Applicant's Signature		Date:	2/4/13
Owner's Signature		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

<input checked="" type="checkbox"/>	VA Fees \$250	Total Fee Calculation \$
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: 2.5.2013
Date scheduled for public hearing:	March 20, 2013	

Lot 32 (PIN 3292-22-8321-000)
Variance Description

Lot 32 includes a 20' drainage and utility easement along the rear property line. The Developer is requesting a reduction in the front setback requirement from 30' to 20' to move the home away from the easement area and to provide additional rear yard area.



Applicant:
Terra-Novo, LLC

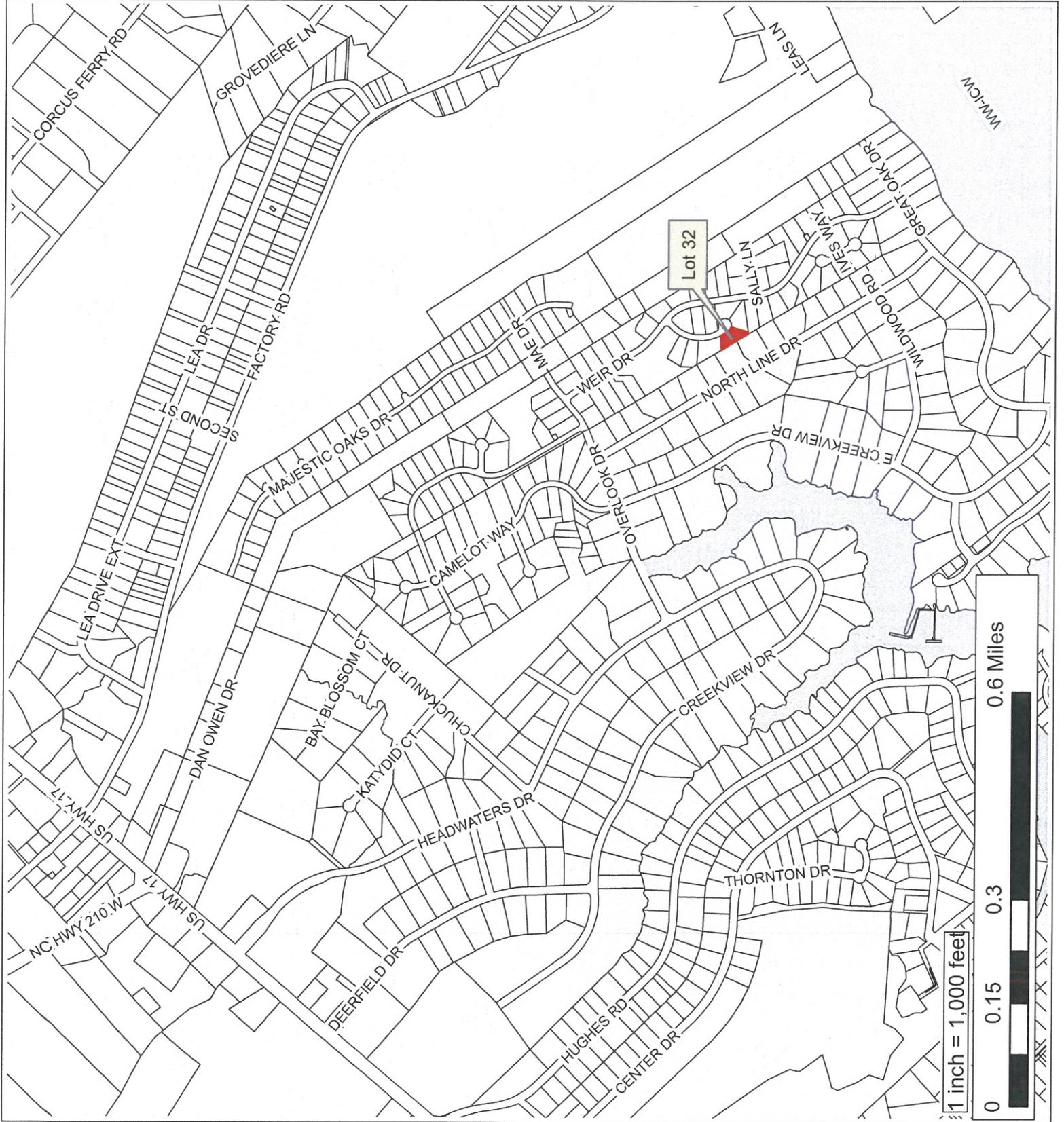
Owner:
Hampstead
Land Group, LLC

Variance

Case Number:
10872



VICINITY





Applicant:
Terra- Novo, LLC

Owner:
Hampstead
Land Group, LLC

Variance

Case Number:
10872

 Subject Property



2012 Aerial





Applicant:
Terra- Novo, LLC

Owner:
Hampstead
Land Group, LLC

Variance

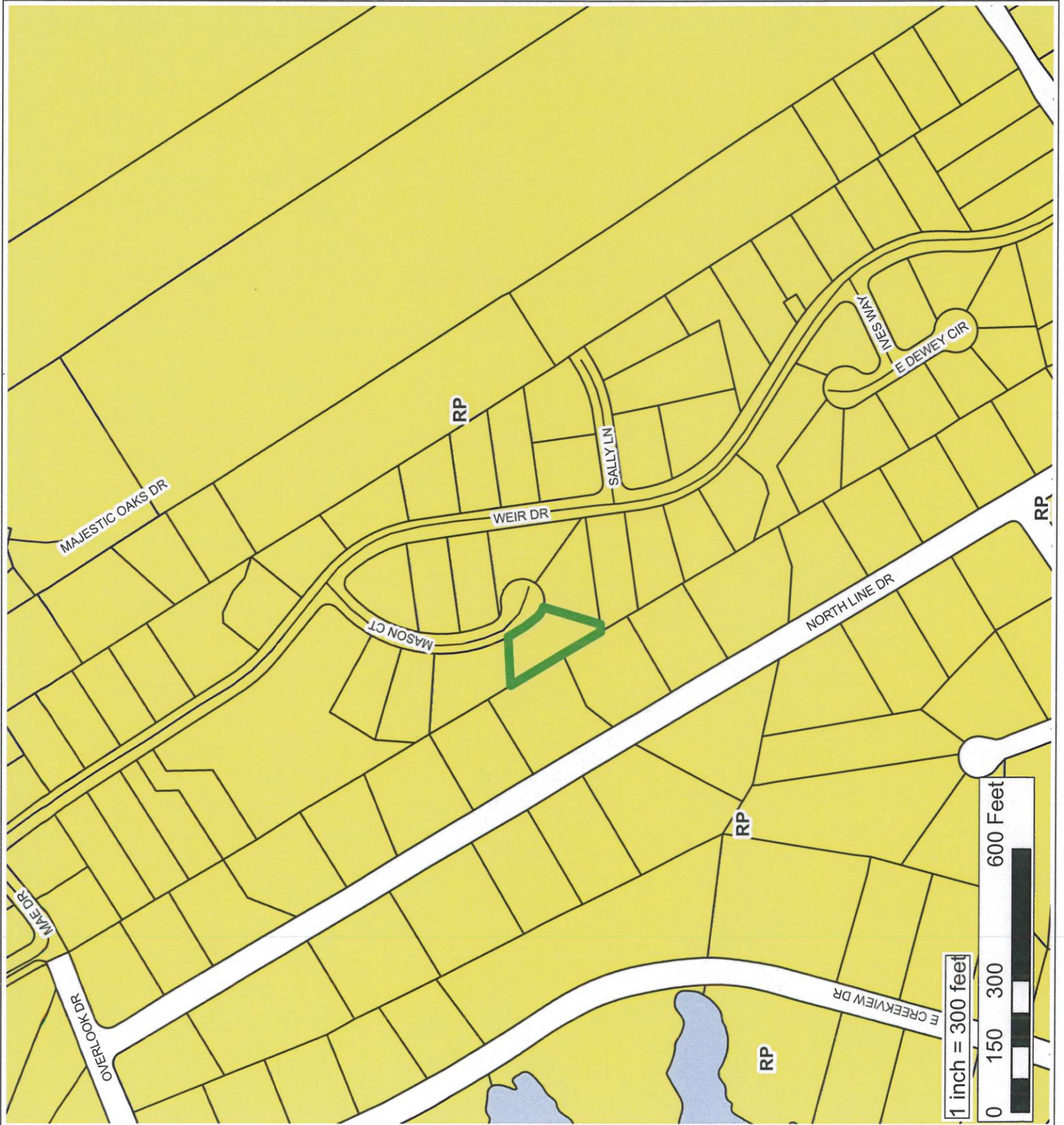
Case Number:
10872

Legend

-  Subject Parcel
- Zoning Classification**
- UDO Zoning**
-  General Business (GB)
-  General Industrial (GI)
-  Industrial Transition (IT)
-  Office & Institutional (OI)
-  Rural Agricultural (RA)
-  Planned Development (PD)
-  Residential Performance (RP)
-  Environmental Conservation (EC)
-  Incorporated Areas (INCORP)
-  Manufactured Home Park (MH)
-  Residential Mixed (MF)

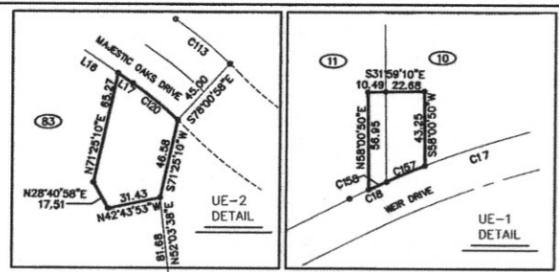


ZONING



LEGEND:
 EP - EXISTING IRON PIPE
 ES - EXISTING IRON STAKE
 ECM - EXISTING CONCRETE MONUMENT
 404 WETLANDS AS DESIGNATED AND CONTROLLED BY USACE

BERT L. LEA, JR., et al
 DB 941, PG 310
 PIN 3292-34-9089-0000



LOT #	USABLE AREA EXC. WETLANDS	LOT #	USABLE AREA EXC. WETLANDS
1	19,587 SF	12	19,150 SF
2	26,078 SF	14	19,042 SF
3	23,022 SF	18	19,046 SF
4	19,087 SF	19	20,194 SF
5	18,121 SF	23	20,325 SF
6	21,804 SF	24	19,453 SF
7	20,888 SF	46	19,042 SF
8	19,248 SF	52	25,936 SF
9	19,951 SF	121	19,169 SF
11	21,103 SF		

REFERENCES:
 PB 18, PG 6
 PB 26, PG 66
 PB 28, PG 97
 PB 36, PG 84
 PB 26, PG 65
 PB 25, PG 82
 SEE EASEMENT W/ER TO HANSLEY DB 750, PG 650
 SEE EASEMENT HANSLEY TO WER DB 750, PG 654
 SEE EASEMENT HAMPSTEAD CENTER ASSOCIATION TO DEUCE INVESTMENTS, INC. DB 3241, PG 98

SURVEYOR'S STATEMENT TO WHOM IT MAY CONCERN:
 THIS PLAT IS A CORRECT REPRESENTATION OF LAND SURVEYED; HOWEVER A NORTH CAROLINA LICENSED ATTORNEY SHOULD BE CONSULTED CONCERNING CORRECT OWNERSHIP, WIDTH AND LOCATION OF EASEMENTS, ANY CEMETERIES OR FAMILY BURIAL GROUNDS NOT SHOWN ON RECORDED MAPS OR DEEDS MADE AVAILABLE TO THIS SURVEYOR BY THE RECENT OWNERS AT THE TIME OF THIS SURVEY AND OTHER TITLE QUESTIONS REVEALED BY TITLE EXAMINATION. NO RESPONSIBILITY OF ANY NATURE IS ASSUMED BY THIS SURVEYOR FOR ANY CONDITIONS WHICH MAY PRESENTLY EXIST BUT ARE UNKNOWN, SUCH AS CEMETERIES, FAMILY BURIAL GROUNDS, TOXIC OR HAZARDOUS WASTE MATERIAL, WETLANDS, AND OR FLOOD AREA, ETC.

ALL MARKERS (COTTON SPINDLES) REQUIRED BY THIS ORDINANCE AND NCOS 39-32.1-4 HAVE BEEN INSTALLED.

Brandy Davis
 SIGNATURE
 L-1470
 REGISTRATION NUMBER

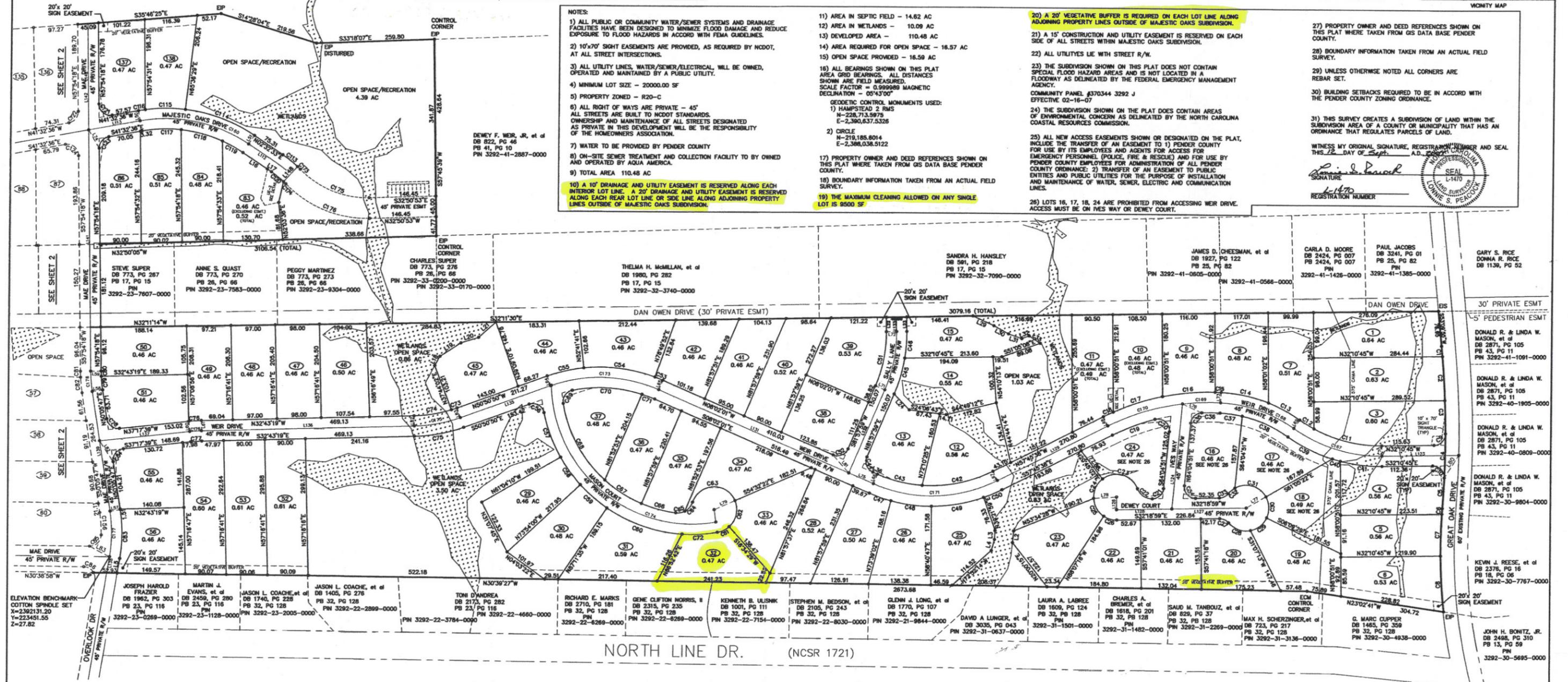


NOTES:
 1) ALL PUBLIC OR COMMUNITY WATER/SEWER SYSTEMS AND DRAINAGE FACILITIES HAVE BEEN DESIGNED TO MINIMIZE FLOOD DAMAGE AND REDUCE EXPOSURE TO FLOOD HAZARDS IN ACCORD WITH FEMA GUIDELINES.
 2) 10'x70' SIGHT EASEMENTS ARE PROVIDED, AS REQUIRED BY NCDOT, AT ALL STREET INTERSECTIONS.
 3) ALL UTILITY LINES, WATER/SEWER/ELECTRICAL, WILL BE OWNED, OPERATED AND MAINTAINED BY A PUBLIC UTILITY.
 4) MINIMUM LOT SIZE - 20000.00 SF
 5) PROPERTY ZONED - R20-C
 6) ALL RIGHT OF WAYS ARE PRIVATE - 45'
 ALL STREETS ARE BUILT TO NCDOT STANDARDS. OWNERSHIP AND MAINTENANCE OF ALL STREETS DESIGNATED AS PRIVATE IN THIS DEVELOPMENT WILL BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.
 7) WATER TO BE PROVIDED BY PENDER COUNTY
 8) ON-SITE SEWER TREATMENT AND COLLECTION FACILITY TO BE OWNED AND OPERATED BY AQUA AMERICA.
 9) TOTAL AREA 110.48 AC
 10) A 10' DRAINAGE AND UTILITY EASEMENT IS RESERVED ALONG EACH INTERIOR LOT LINE. A 20' DRAINAGE AND UTILITY EASEMENT IS RESERVED ALONG EACH REAR LOT LINE OR SIDE LINE ALONG ADJOINING PROPERTY LINES OUTSIDE OF MAJESTIC OAKS SUBDIVISION.
 11) AREA IN SEPTIC FIELD - 14.82 AC
 12) AREA IN WETLANDS - 10.09 AC
 13) DEVELOPED AREA - 110.48 AC
 14) AREA REQUIRED FOR OPEN SPACE - 18.57 AC
 15) OPEN SPACE PROVIDED - 18.59 AC
 16) ALL BEARINGS SHOWN ON THIS PLAT AREA GRID BEARINGS. ALL DISTANCES SHOWN ARE FIELD MEASURED.
 SCALE FACTOR = 0.999989 MAGNETIC DECLINATION = 05°43'00"
 GEODETIC CONTROL MONUMENTS USED:
 1) HAMPSTEAD 2 RMS
 N-228,713.9979
 E-2,390,637.5328
 2) CIRCLE
 N-219,185.8014
 E-2,388,038.5122
 17) PROPERTY OWNER AND DEED REFERENCES SHOWN ON THIS PLAT WHERE TAKEN FROM GIS DATA BASE PENDER COUNTY.
 18) BOUNDARY INFORMATION TAKEN FROM AN ACTUAL FIELD SURVEY.
 19) THE MAXIMUM CLEANING ALLOWED ON ANY SINGLE LOT IS 9500 SF

20) A 20' VEGETATIVE BUFFER IS REQUIRED ON EACH LOT LINE ALONG ADJOINING PROPERTY LINES OUTSIDE OF MAJESTIC OAKS SUBDIVISION.
 21) A 15' CONSTRUCTION AND UTILITY EASEMENT IS RESERVED ON EACH SIDE OF ALL STREETS WITHIN MAJESTIC OAKS SUBDIVISION.
 22) ALL UTILITIES LIE WITH STREET R/W.
 23) THE SUBDIVISION SHOWN ON THIS PLAT DOES NOT CONTAIN SPECIAL FLOOD HAZARD AREAS AND IS NOT LOCATED IN A FLOODWAY AS DELINEATED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
 24) THE SUBDIVISION SHOWN ON THE PLAT DOES NOT CONTAIN AN ENVIRONMENTAL CONCERN AS DELINEATED BY THE NORTH CAROLINA COASTAL RESOURCES COMMISSION.
 25) ALL NEW ACCESS EASEMENTS SHOWN OR DESIGNATED ON THE PLAT, INCLUDE THE TRANSFER OF AN EASEMENT TO 1) PENDER COUNTY FOR USE BY ITS EMPLOYEES AND AGENTS FOR ACCESS FOR EMERGENCY PERSONNEL (POLICE, FIRE & RESCUE) AND FOR USE BY PENDER COUNTY EMPLOYEES FOR ADMINISTRATION OF ALL PENDER COUNTY ORDINANCE; 2) TRANSFER OF AN EASEMENT TO PUBLIC UTILITIES AND PUBLIC UTILITIES FOR THE PURPOSE OF INSTALLATION AND MAINTENANCE OF WATER, SEWER, ELECTRIC AND COMMUNICATION LINES.
 26) LOTS 16, 17, 18, 24 ARE PROHIBITED FROM ACCESSING WEIR DRIVE. ACCESS MUST BE ON IVES WAY OR DEWEY COURT.
 27) PROPERTY OWNER AND DEED REFERENCES SHOWN ON THIS PLAT WHERE TAKEN FROM GIS DATA BASE PENDER COUNTY.
 28) BOUNDARY INFORMATION TAKEN FROM AN ACTUAL FIELD SURVEY.
 29) UNLESS OTHERWISE NOTED ALL CORNERS ARE REBAR SET.
 30) BUILDING SETBACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE.
 31) THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE SUBDIVISION AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 12 DAY OF Sept. A.D. 2007

Brandy Davis
 SIGNATURE
 L-1470
 REGISTRATION NUMBER



PARCEL IDENTIFIER CERTIFICATE
 PARCEL IDENTIFIERS HAVE BEEN ISSUED FOR ALL PARCELS SHOWN ON THIS PLAT.
 3292-23-4508-0000
 3292-24-7313-0000
Brandy Davis 09/25/07
 TAX SUPERVISOR DATE

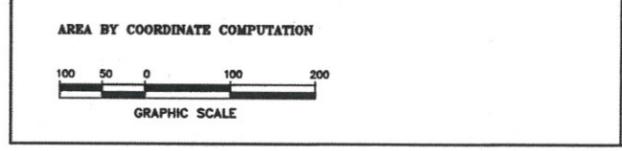
CERTIFICATE OF FINAL PLAT APPROVAL
 FINAL PLAT APPROVED UNDER THE PENDER COUNTY SUBDIVISION ORDINANCE:
John J. IDR 9/21/07
 PLAT DIRECTOR DATE

THE SUBDIVISION STREETS SHOWN THIS FINAL PLAT OF MAJESTIC OAKS SUBDIVISION (SHEETS 1 AND 2); MAJESTIC OAKS DRIVE, OVERLOOK DRIVE, WEIR DRIVE, MASON COURT, SALLY LANE AND DEWEY COURT, MAE COURT, AND FREDERICK DRIVE WERE DESIGNED AND BUILT TO NCDOT SPECIFICATIONS.
Don Hamilton PE 9/15/07
 DON HAMILTON, PE DATE

CERTIFICATE OF OWNERSHIP, DEDICATION AND JURISDICTION
 I (WE) HEREBY CERTIFY THAT I AM (WE ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY (OUR) CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER AREAS TO PUBLIC OR PRIVATE USE AS NOTED. FURTHER, I (WE) CERTIFY THAT THE LAND AS SHOWN HEREON IS LOCATED WITHIN THE SUBDIVISION JURISDICTION OF PENDER COUNTY.
 DEUCE INVESTMENTS, INC. 9-13-07
 OWNER DATE
 BY: *James M. Sweeney*, PLS, V.PRES. 9-13-07
 OWNER DATE

NOTE:
 LOTS 16, 17, 18, 24 ARE PROHIBITED FROM ACCESSING WEIR DRIVE. ACCESS MUST BE ON IVES WAY OR DEWEY COURT.

OWNER:
 DEUCE INVESTMENTS, INC.
 P.O. BOX 986
 SELMA, NC 27576
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-24-7313-0000
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-23-4508-0000
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-23-5891-0000



STATE OF NORTH CAROLINA Pender COUNTY
 I, *Brandy Davis*, certify that this plat was drawn under my supervision from an actual survey made under my supervision or dead description recorded in Book *45*, page *119*, that the boundaries not surveyed are shown as broken lines plotted from information found in *Book 45, page 119*.
 I, *Brandy Davis*, certify that this plat was prepared in accordance with G.S. 47-28.
 Witness my original signature, registration number and seal this *09/25/07* day of *Sept*, A.D. 2007.
Brandy Davis
 Land Surveyor

STATE OF NORTH CAROLINA Pender COUNTY
 I, *Brandy Davis*, Review Officer of Pender County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
Brandy Davis 09/25/07
 REVIEW OFFICER DATE

STATE OF NORTH CAROLINA Pender COUNTY
 Filed for Registration at 9:15A.M.
 Sept 26 2007
 Register of Deeds Office
 Recorded in Book *45*, Page *119*, SL *104*
 JAMES M. SWEENEY BY *Brandy Davis*
 REGISTER OF DEEDS

SOUTHWIND
 SURVEYING AND ENGINEERING, INC.
 201 GLEN ROAD
 GARNER, N.C. 27529
 919-773-0183
 919-773-0148 (FAX)
 SURVEYING/ENGINEERING/AND DEVELOPMENT

MAJESTIC OAKS
 SECTION 1
 SHEET 1 OF 2
 TOWNSHIP TOPSAIL COUNTY PENDER STATE NC
 SURVEYED BY LP DRAWN BY LPH
 DATE 09-06-07 SCALE 1" = 100' DRAWING NO. HOS-5016

Exhibit 1

Pender County Planning Board Meeting Minutes
October 4, 2005
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

The Pender County Planning Board held its regular monthly meeting on Tuesday, October 4, 2005 at the Pender County Conference Room, 805 South Walker Street, Burgaw, NC.

Call to Order: Chairman Walton called the meeting to order at 7:05 p.m.

Roll Call: MEMBERS PRESENT: Mark Walton, Leslie Green, Burt Millette, Rick Garrett, Kevin Reynolds, Karen Gonzales, Charles Newman
MEMBER ABSENT: Christopher Smith

Approval of Minutes: Karen Gonzales made the motion to approve the September 6, 2005 minutes. Leslie Green seconded the motion and the vote was unanimous.

Subdivision Review

Majestic Oaks, Preliminary Plat Approval – Linwood Jones, applicant and agent for owner, Dewey F. Weir, Jr. are requesting Preliminary Plat Approval for Majestic Oaks located between Factory Road and Great Oak Drive, off of Dan Owens Drive in Hampstead, N.C. The property is zoned R-20C, Residential and the applicant is proposing a total of 156 lots on 110.48 acres. Proposed water service will be provided by Pender County. An on-site community sewer facility is proposed. 20,000-sq./ft. minimum lot sizes are required. This development requires a total of 16.572 acres of open space and the applicant is currently proposing 11.49 acres of open space to be dedicated and reserved for the residents of the development and ownership transferred to the Homeowners Association.

Planning Staff recommendation is submitting the preliminary plat layout for Planning Board approval. Based on the current submission, Planning Staff cannot recommend approval at this time. If the Planning Board chooses to approve the subdivision formal approval will not be effective until all requirements of preliminary submission as prescribed in the subdivision ordinance are complete, the submission shows compliance with all subdivision requirements and the Planning Director has signed a copy of the Preliminary Plat. The approval is also subject to *Items to be Considered By the Planning Board, Conditions 1-16*.

Stephen Carpenter reviewed the case with the Planning Board stating that the staff is not recommending denial but they can't recommend approval given the fact that Majestic Oaks doesn't have the correct amount of open space required. There was miscommunication concerning open space but this can be handled through subsequent submissions if the Board chooses to approve the subdivision.

Chairman Mark Walton asked if the Board could approve the subdivision without the required open space and if they will have to come back before the board.

Stephen explained that it could be approved in-house and this would be the only time the board would see this. PD is different you see the Preliminary and the Final Plat, you don't see the final plat for the subdivision. All conditions will be in the final stages before approval. It's a normal practice in R20 With Preliminary Plats the board approves the preliminary plat, the staff approves the final plat with

conditions and the point of final plat, if everything is not met, then another set of conditions will be added.

Chairman Walton asked the applicants if they had any comments.

Attorney Trey Thurman stated that he would prefer if citizens wanting to speak would sign up.

Attorney Rick v. Biberstein spoke on behalf of the applicant Linwood Jones and Dewey Weir. They intend to comply with the open space, it was a miscalculation based on a misunderstanding of the requirements. The intent is to comply with the ordinance. He stated that most of the items on the requirement list have already been completed even though most of the items are not required at this stage.

Burt Millette made the statement that this was the same submission given to the board a few months ago when the applicant was requesting a rezoning to PD and the board unanimously turned down the submission based on the density of the subdivision and the endangerment to the wetlands. The applicant was looking for Planned Development so that he could put in a private sewage plant. We're looking at the same thing, a very high density with over 100 homes. If this is approved tonight it will be telling the Board of Commissioners that the Planning Board approves a private sewage plant.

Attorney Thurman addressed the board with legal advice. The subdivision ordinance states that if it meets the checklist it has to get approval even if everybody in the room, other than the applicant, thinks it's a horrible idea, or the county can be sued and a judge approves it for the county.

Chairman Walton asked for clarification, as to there being no provision concerning off-site septic systems listed in the Subdivision Ordinance or is it legal under the subdivision ordinance to have an off-site sewerage plant.

Stephen Carpenter stated that the client has one of three options, they can install septic tanks, community septic systems, or they can connect to a public utility.

Rick Garrett asked if the residents will go through Factory Road to access major thoroughfares. Where is Overlook Drive going to access.

It was explained that Overlook Dr, Creekview Drive connects to Headwaters Drive. There is no connection to the subdivision but the applicant has left connector stubs so that when the remainder of the subdivision is developed there will be some continuity.

There was a lengthy discussion of the stub streets, new streets, connector streets, and open space discharging into wetlands and items to be considered by the Planning Board.

Leslie Green made the motion to approve the preliminary plat, seconded by Kevin Reynolds. The vote was not unanimous. Rick Garrett voted against.

Public Hearing Zoning Map Amendment - Caison Properties, LLC, applicant and owner, has requested a rezoning of 18.22 acres from R-20, Residential to PD, Planned Development. The property is located on the northeast side of Sloop Point Rd between Alldia Ct and Bay Harbor Dr approx. 1/2 mile from US Hwy 17 in Hampstead, NC.

STAFF REVIEW FOR PLANNING BOARD APPROVAL MAJESTIC OAKS, PRELIMINARY PLAT

The applicant is requesting approval for the Preliminary Plat of Majestic Oaks. The applicant is proposing a total of 156 lots on 110.48 acres. Proposed water service will be provided by Pender County. An on-site community sewer facility is proposed. 20,000-sq./ft. minimum lot sizes are required. This development requires a total of 16.572 acres of open space and the applicant is currently proposing 11.49 acres of open space to be dedicated and reserved for the residents of the development and ownership transferred to the Homeowners Association.

STAFF RECOMMENDATION:

Planning Staff is submitting the preliminary plat layout for Planning Board approval. Based on the current submission, Planning Staff cannot recommend approval at this time. If the Planning Board chooses to approve the subdivision formal approval will not be effective until all requirements of preliminary submission as prescribed in the subdivision ordinance are complete, the submission shows compliance with all subdivision requirements and the Director has signed a copy of the Preliminary Plat. The approval is also subject to the following conditions:

Mandatory Items:

1. All requirements of the Pender County Subdivision Ordinance for Preliminary Plats, including items 1 thru 13 pages 22, 23 & 24 have been submitted to and approved by the Director.
2. The submission and plat complies with all requirements of the Pender County Subdivision Ordinance, Zoning Ordinance, other Pender County Ordinances and State Regulations.
3. Total and usable lot area should be shown for each lot.
4. A total of 16.57 acres of open space should be provided.
5. The plat should clearly designate **Wetlands, Areas of Environmental Concern, CAMA Setbacks, Flood Prone Areas** (as shown on FEMA maps), marshes, swamps, ponds, lakes, streams, and any other natural features on or affecting the site. If no Wetlands, AEC's or Flood Prone Areas exist on the site a note to that affect shall appear on the plat.
6. The plat should clearly designate Hydric Soils (Bohicket Silty Clay Loam, Carteret Fine Sand, Chewacla Loam, Croatan Muck, Dorovan Muck and Muckalee Loam) as shown on the NRCS county soil survey maps or from a Soil Suitability Analysis prepared by a licensed Soil Scientist. If no hydric soils exist on the site a note to that affect shall appear on the plat.
7. The plat should show all proposed storm water retention facilities, if none state such.
8. The location of street signs and approximate finish grades should be provided for all proposed streets.
9. Drainage easements should be clearly designated.
10. The plat should indicate the location and dimensions of existing and proposed right-of-ways & easements for utility, drainage or other facilities or structures. Easements with a width of 20' from center or 10' from the edge of all drainage facilities included on required drainage plans shall be shown for any such facilities not in public street right-of-way.
11. A drainage plan that will include all portions of the development shall be submitted. This plan shall be prepared and sealed by a registered surveyor or 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 storm water 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 storm water discharge from the development shall have the capacity to carry the anticipated storm water 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 overflowing 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, storm water 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 as noted.

12. A detailed description of any proposed waste water system and system maintenance arrangements and procedures to serve lots that are not suitable for traditional on site septic systems, along with a map showing the proposed location of the off site components of the system, including lines should be submitted.
13. All designated public streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards.
14. An approved NCDOT driveway permit for connection to Factory Road should be submitted.
15. Approval from the Division of Coastal Management if the development is located in an Area of Environmental Concern.
16. Sediment & Erosion Control Plans as approved by Land Quality (with letter of approval).
17. Storm water management plan as approved by the Water Quality Division (with letter of approval).
18. Approval of Wetlands Delineation by USACE.
19. Wetlands fill authorization or permit if construction or fill in wetlands is involved.
20. The plat for this development should be resubmitted with all map changes and approved by the Director within 30 days of approval.

Items To Be Considered By The Planning Board

1. When any portion of the development is in a Special Flood Hazard Area, as defined in the Pender County Flood Ordinance, as amended, and set out in the FEMA Rate Index Maps, one (1) permanent monument in each subdivision is required to have its elevation recorded on the final plat. ****PLEASE NOTE**** - New Pender County FIRMS are now available for review and are required to be used as best available data.
2. Base Flood Elevation(s) shall be determined and shown along with the SFHA boundary on the plat. ****PLEASE NOTE**** - New Pender County FIRMS are now available for review and are required to be used as best available data.
3. A statement from a Registered Professional shall be provided that "all public or community water/sewer systems and drainage facilities are designed to minimize flood damage and reduce exposure to flood hazards in accord with FEMA Guidelines."
4. The subdivision shall not block or obstruct the natural drainage of any adjoining area.
5. Lot lines should be configured to avoid natural drainage areas.
6. Mae Court should be extended, or a stub street should be provided, to allow for interconnectivity with the approved subdivision road of Maplewood Manor.

7. Lots that have double frontage on streets shall be prohibited except where it provides separation of residential development from traffic arteries. A buffer of at least 10 feet in width with no right of access abutting Mae Court shall be provided for lots 48 and 43. A buffer of at least 10 feet in width with no right of access abutting Weir Drive shall be provided for lots 9, 10, 11, 17, 22, 23, 24, 25 and 26.
8. Drainage easements along natural drainage ways shall extend at least 10 ft. beyond the top of the bank of the channel.
9. Overlook Drive shall be extended to the north to allow for access to adjacent property.
10. Sight easements as required in the NCDOT Secondary Roads Standards shall be provided at all street intersections.
11. All utility lines including water and sewer lines that are located in any public or private street shall be owned, operated and maintained by a public utility or a public entity.
12. All utility lines including water and sewer lines that are located in any access easement shall be owned, operated and maintained by a public utility or a public entity, unless the line is a service connection to a public utility or a public entity water or sewer line.
13. All utility lines located in a public or private street shall meet NCDOT requirements for encroachment of such lines.
14. A DWQ, *Aquifer Protection Agency* approved permit for waste water treatment, spray irrigation, and effluent disposal should be provide for any waste water disposal on, in, adjacent or near any delineated wetlands.
15. Water System Requirements:
 - a. Construction plans sealed by a registered engineer, as approved by DENR,
 - b. Acceptance of operation and maintenance of the system by Pender County,
 - c. Certification that the system will be owned by Pender County with conditional acceptance of ownership.
16. Sewer System Requirements:
 - a. Construction plans sealed by a registered engineer, as approved by DENR,
 - b. Approval by Pender County Environmental Health,
 - c. Acceptance of operation and maintenance of the system by a licensed Public Utility,
 - d. Certification that the system will be owned by a Public Utility with conditional acceptance of ownership.

Informational Notes for Developer:

1. A copy of the preliminary plat signed by EMC representative approving the street names will be required to be submitted within 30 days of preliminary plat approval.
2. Any reduction in open space will require planning board approval.
3. Water, waste water, and sewer system easements and/or facilities cannot be counted toward open space.
4. The applicant should be aware of certifications required for drainage plans, facilities and other improvements in the development. The certification forms are found on the Pender County Website.
5. Any changes in the development name or road names after approval by the planning board will require an additional review fee paid in full.

PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: March 20, 2013
Applicant: Terra- Novo, LLC
Property Owner: Hampstead Land Group, LLC
Case Number: 10873

Property Location and Description: The subject property is Lot 43, Section 1 of Majestic Oaks, as shown on Map Book 0045, Page 0119 (see Exhibit 1), recorded at the Pender County Register of Deeds on September 26, 2007 and may be identified by Pender County PIN 3292-32-1712-0000.

Zoning District of Property: The property is zoned RP, Residential Performance District.

Variance Requested: Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a ten foot (10') variance from the required 30 foot front yard setback and a five foot (5') variance from the required 25 foot rear yard setback (see Exhibit 2), required in the RP, Residential Performance District, as prescribed by the *Pender County Unified Development Ordinance Section 4.14*.

BACKGROUND AND DESCRIPTION OF VARIANCE:

Majestic Oaks is a major subdivision, with Phase 1 recorded on September 26, 2007. This subdivision was reviewed and approved under the *Pender County Zoning Ordinance* and *Subdivision Ordinance*. The zoning at the time of approval was R-20C, Residential Conventional, please see Table 1 below.

The *Pender County Unified Development Ordinance*, effective July 1, 2010, amended the R-20C Residential Conventional Housing District, to the RP, Residential Performance District. This included amending the required yard setbacks, found in *Section 4.14, Zoning District Dimensional Requirements*. The change of zoning classification with the adoption of the new ordinance reduced the minimum lot acreage requirement from 20,000 ft² to 15,000 ft², in the RP, Residential Performance District.

	Zoning Ordinance	UDO
	<i>R-20C</i>	<i>RP</i>
Front Yard	30 Feet	30 Feet
Side Yard	20 feet	10 Feet
Rear Yard	25 Feet	25 Feet

The applicant is requesting a ten foot (10') variance from the required 30 foot front yard setback and a five foot (5') variance from the required 25 foot rear yard setback, to allow additional separation from the future structure and Dan Owen Drive.

Dan Owen Drive is a thirty foot (30') private access easement as shown on Map Book 0017, Page 0015 (see Exhibit 3), recorded at the Pender County Register of Deeds on December 6, 1978. Dan Owen Drive is also referenced in Deed Book 3577, Page 0338 (see Exhibit 4), of Tract 7 of the Lena Sanders Hansley Estate. The rear property line of Lot 43 of Majestic Oaks adjoins Dan Owen Drive, Tract 7 of the Lena Sanders Hansley Estate, both tracts are currently vacant.

ZONING ADMINISTRATOR'S CONCLUSION:

Terra- Novo, LLC, applicant, on behalf of Hampstead Land Group, LLC, owner, is requesting a ten foot (10') variance from the required 30 foot front yard setback and a five foot (5') variance from the required 25 foot rear yard setback (see Exhibit 2), required in the RP, Residential Performance District, as prescribed by the *Pender County Unified Development Ordinance Section 4.14*.

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 elsewhere in this Ordinance.

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) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
 - 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
 - 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
 - 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
 - 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
 - 6) That the variance will not result in the expansion of a nonconforming use.
 - 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.
- 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.

4.7.1 RP: Residential Performance

The Residential Performance District is intended to allow a variety of residential uses and densities and also limited commercial activities as well as agritourism. Existing or new agricultural and farm uses shall be allowed on undeveloped land prior to development.

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	100 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. 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	40 ⁽⁸⁾	30	(1)		50 ⁽⁸⁾	50	50	100	(1)	30

5.3.2 Residential Uses

A. Residential Principal Structure

- 1) In any residential district, up to three residential structures are permitted, on a single lot provided a plat drawn to scale by a licensed registered surveyor is submitted showing that all yards and other requirements of this Ordinance have been met for each structure.

7.2 Lot Design

7.2.1 Requirements

- All lots not designated as open space, recreation, street or other reserved area shall meet all area, usable area, size, dimensional, yard and density requirements contained in Article 4, Zoning Districts and Zoning Map.
- All new lots not designated as open space, recreation, street or other reserved area that front on a public or private street shall meet minimum lot width requirements.
- No more than three lots may be created that are provided access by a single access easement. All lots or parcels shall meet the minimum access requirements established in this Ordinance.
- Access easements may not be included to meet any minimum lot area or dimension requirements for a lot or right of way.

7.4 Access

7.4.1 Requirements

- All lots shall have direct or indirect access to a public street, private street, or private access easement.
- Every structure erected or moved in all residential districts shall be on a lot adjacent to or having access to a public right of way, street, or road not less than thirty (30) feet in width. When the lot is not adjacent to the public road, the easement must be a minimum of twenty (20) feet wide.
- Required access must provide a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.
- Proposed public and private access off of an existing state maintained road shall be required to apply for a NCDOT Driveway Permit.

- E. Nonresidential developments applying for access to a collector street shall review internal circulation and access points to determine possible impacts to the surrounding properties and street system.
- F. A cross access corridor may be required to provide common access and circulation among adjoining parcels in order to assist in local traffic movement in nonresidential developments.

Appendix A

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

LOT: A designated parcel, tract, or area of land established or to be established by plat or subdivision or previously established as a recorded lot.

1. **LOT AREA:** The total area within the lot lines of a lot.
2. **LOT, CORNER:** A lot abutting two or more streets at their intersection.
3. **LOT COVERAGE:** The total built upon area, including all non-pervious surface materials.
4. **LOT LENGTH:** The distance between the front lot line and the rear lot line measured at the maximum distance.
5. **LOT LINE, FRONT:** The line separating a lot from a street right-of-way.
6. **LOT LINE, REAR:** The lot line opposite and parallel to the front lot line or within 45° of being parallel to the front lot line.
7. **LOT LINE, SIDE:** Any lot line other than front or rear lot lines.
8. **LOT OF RECORD:** A lot for which a plat or survey description has been legally recorded with the Pender County Register of Deeds.
9. **LOT, PIPESTEM:** A residential lot fronting on a public or a private street in which access is provided by a narrow strip of land, referred to as the "pipestem driveway yard," which is less than the minimum required front yard width, and located between adjoining residential lots fronting on the same street.
10. **LOT WIDTH:** The horizontal distance between side lot lines measured at the front yard setback line.

SETBACK: The required distance between a building or structure and a lot line.

1. **SETBACK, FRONT YARD:** The required distance between a street right-of-way line and the front line of a building or structure.
2. **SETBACK, REAR YARD:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
3. **SETBACK, SIDE YARD:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

STRUCTURE:

1. Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."
2. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/does not** result from extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. This conclusion is based on the following FINDINGS OF FACT:

2. It is the Board's CONCLUSION that, granting the variance requested **will/will not** confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:

3. It is the Board's CONCLUSION that a literal interpretation of the provisions of this ordinance **would/would not** deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:

4. It is the Board's CONCLUSION that the requested variance **will/will not** be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This conclusion is based on the following FINDINGS OF FACT:

5. It is the Board's CONCLUSION that, the special circumstances **are/are not** the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

Board Action:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

Kane: _____ **Thompson:** _____ **Ferrante:** _____ **Newton:** _____ **Pullen:** _____

Alternates:

Peters: _____

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE

Application No.	VA Case # 10873	Date	2.4.2013
Application Fee	\$ 250.00	Receipt No.	130222

SECTION 1: APPLICANT INFORMATION

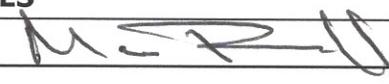
Applicant's Name:	Terra-Novo, LLC	Owner's Name:	Hampstead Land Group, LLC
Applicant's Address:	3201 Wickford Dr.	Owner's Address:	1712 Eastwood Road, Suite 203
City, State, & Zip	Wilmington, NC 28409	City, State, & Zip	Wilmington, NC 28403
Phone Number:	910-279-4489	Phone Number:	910-279-4489

Legal relationship of applicant to land owner: Consultant

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3292-32-1712-0000	Total property acreage:	0.46 acres
Zoning Classification:	RP	Variance Size:	10 Feet
Variance Location & Address	43 Weir Drive, Hampstead, NC 28443		
Describe Variance and amount or type requested:	See Attached description.		

SECTION 3: SIGNATURES

Applicant's Signature		Date:	2/4/13
Owner's Signature		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

<input checked="" type="checkbox"/> VA Fees \$250	Total Fee Calculation \$ 250.00						
Payment Method :	<table style="width: 100%;"> <tr> <td style="width: 33%;">Cash : <input type="checkbox"/> \$ _____</td> <td style="width: 33%;">Credit Card: <input type="checkbox"/> Master Card</td> <td style="width: 33%;">Check: <input checked="" type="checkbox"/> Check # 20274</td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> Visa</td> <td></td> </tr> </table>	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card	Check: <input checked="" type="checkbox"/> Check # 20274		<input checked="" type="checkbox"/> Visa	
Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card	Check: <input checked="" type="checkbox"/> Check # 20274					
	<input checked="" type="checkbox"/> Visa						
Application received by:	Date:						
Application completeness approved by: Ashley Franic	Date: 2.4.2013						
Date scheduled for public hearing: 2.20.2013 March 20, 2013							

Variance Checklist

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete--the list maybe compiled from the public PC terminal in the Pender County Tax Office).
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	<u>Variance Description</u> : Written description of the Variance requested meeting the approval criteria described on pages 1 & 2.
<input checked="" type="checkbox"/>	<p><u>Project Map(s)</u>—Applicant shall supply 15 (11"x17") project maps at a readable scale, clearly showing the following (as applicable):</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Property Location <input type="checkbox"/> Building Separation Distances <input checked="" type="checkbox"/> Dimensions of Property <input type="checkbox"/> Proposed Building Height <input checked="" type="checkbox"/> Building Distances From Property Lines (Front, Sides, Rear) <input type="checkbox"/> Location of All Existing Utilities On-Site <input type="checkbox"/> Existing Structures <input checked="" type="checkbox"/> Acreage of Property <input type="checkbox"/> Any Proposed Structures <input type="checkbox"/> Additional Information Pertinent to the Variance Request (Pictures, Other Permits, etc.)
<p>RETURN COMPLETED APPLICATION TO: Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425</p>	

Print Form

Lot 43 (PIN 3292-32-1712-000)
Variance Description

Lot 43 is adjacent on the rear, to Dan Owen Drive which is a 30' private easement. The Developer is requesting a reduction in the front setback requirement from 30' to 20' and a reduction in the rear setback requirement from 25' to 20' to move the home away from the private easement and to provide additional rear yard area.



Applicant:
Terra- Novo, LLC

Owner:
Hampstead
Land Group, LLC

Variance

Case Number:
10873

 Subject Property



2012 Aerial

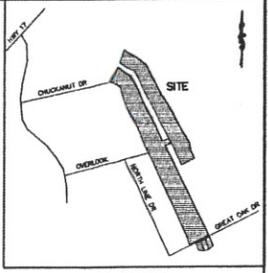




LEGEND:
 EIP - EXISTING IRON PIPE
 EIS - EXISTING IRON STAKE
 ECM - EXISTING CONCRETE MONUMENT
 404 WETLANDS AS DESIGNATED AND CONTROLLED BY USACE

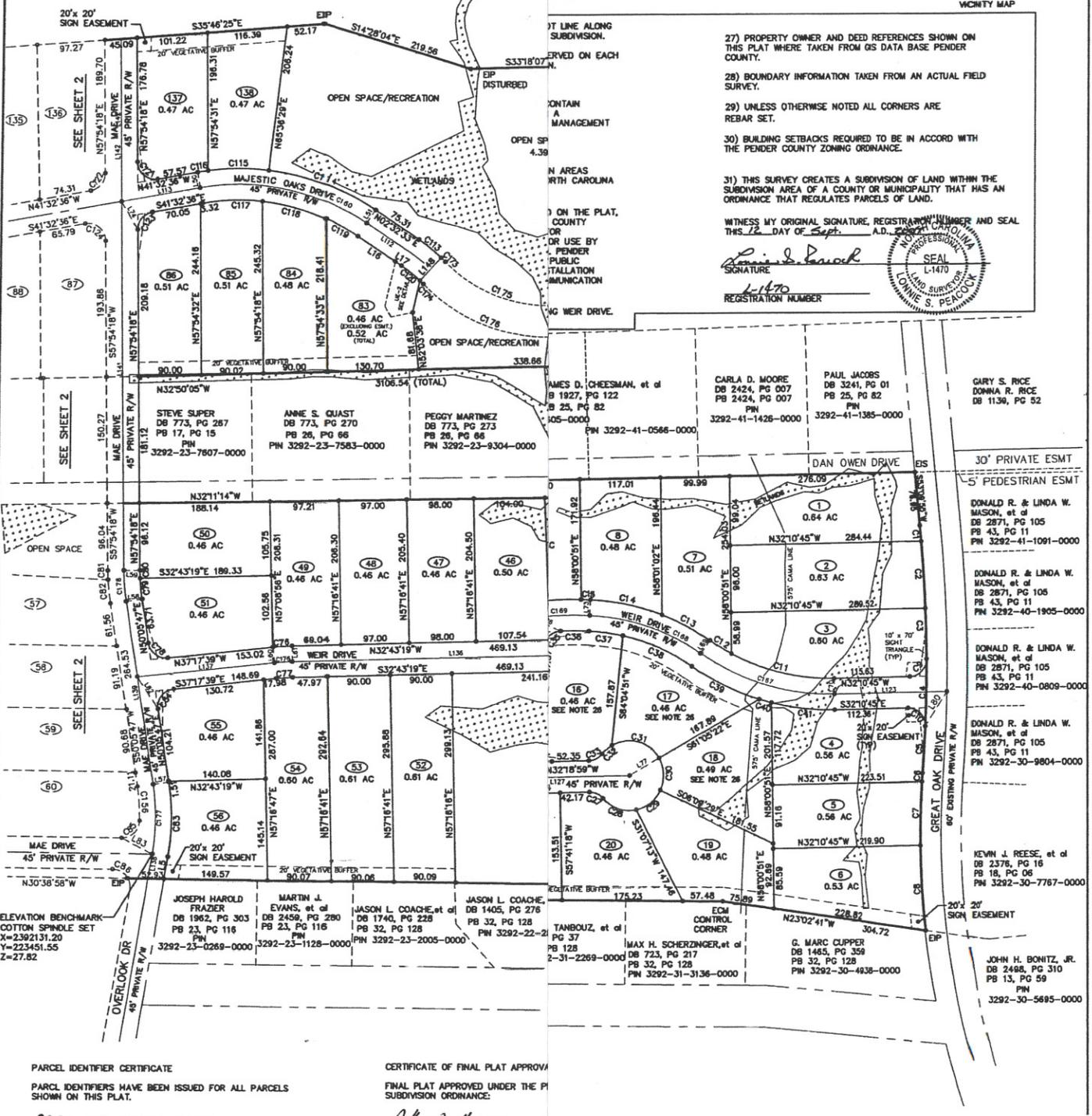
BERT L. LEA, JR., et al
 DB 941, PG 310
 PIN 3292-34-9089-000L

BYOR'S STATEMENT TO WHOM IT MAY CONCERN:
 THIS PLAT IS A CORRECT REPRESENTATION OF LAND SURVEYED; HOWEVER, THE SURVEYOR HAS NOT BEEN ADVISED OF ANY UNRECORDED EASEMENTS, ANY CEMETERIES, OR ANY OTHER TITLE QUESTIONS REVEALED BY TITLE EXAMINATION. NO LIABILITY OF ANY NATURE IS ASSUMED BY THIS SURVEYOR FOR ANY TITLES WHICH MAY PRESENTLY EXIST BUT ARE UNKNOWN, SUCH AS: INTERESTS, FAMILY BURIAL GROUNDS, TOXIC OR HAZARDOUS WASTE MATERIAL, AND/OR FLOOD AREA, ETC.



RECORDERS (COTTON SPINDLES) REQUIRED BY THIS ORDINANCE
 PGS 39-32.1-4 HAVE BEEN INSTALLED.

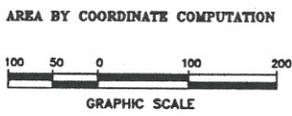
Bert L. Lea, Jr. 1-1470
 SIGNATURE REGISTRATION NUMBER



PARCEL IDENTIFIER CERTIFICATE
 PARCEL IDENTIFIERS HAVE BEEN ISSUED FOR ALL PARCELS SHOWN ON THIS PLAT.
 3292-23-4508-0000
 3292-24-7313-0000
Bert L. Lea, Jr. 09/25/07
 SIGNATURE DATE

CERTIFICATE OF FINAL PLAT APPROVAL
 FINAL PLAT APPROVED UNDER THE PROVISIONS OF THE SUBDIVISION ORDINANCE.
[Signature] 9/25/07
 SURVEYOR DIRECTOR DATE

OWNER:
 DEUCE INVESTMENTS, INC.
 P.O. BOX 965
 SELMA, NC 27576
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-24-7313-0000
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-23-4508-0000
 DB 2871, PG 107 PB 41, PG 10 PIN 3292-23-5891-0000



WIND
 SURVEYING AND LAND DEVELOPMENT
 201 GLEN ROAD
 GARNER, N.C. 27529
 919-773-0185
 919-773-0148 (FAX)

MAJESTIC OAKS
 SECTION 1
 SHEET 1 OF 2

TOWNSHIP	TOPSAIL	COUNTY	PENDER	STATE	NC
SURVEYED BY LP		DRAWN BY LPH			
DATE	09-08-07	SCALE	1" = 100'	DRAWING NO. HOS-5018	

Exhibit 1

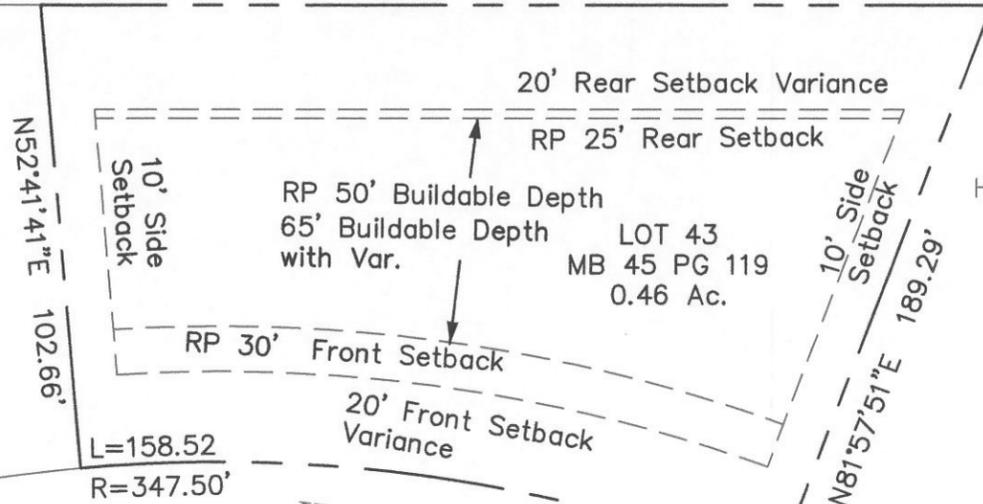
MCMILLAN DARREL K TRUSTEES et al

PIN: 3292-32-3740-0000

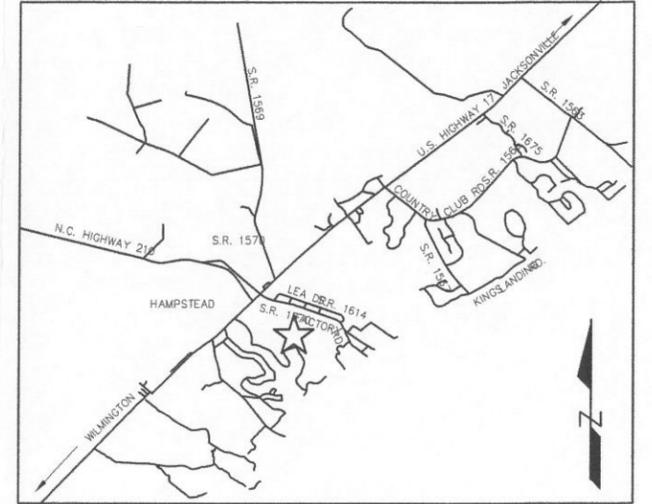
DAN OWEN DR. 30' PRIVATE ESMT

S32°11'30"E 212.44'

VAZQUEZ SANTIAGO X et al
LOT 44
MB 45, PG 119
PIN: 3292-32-0817-0000



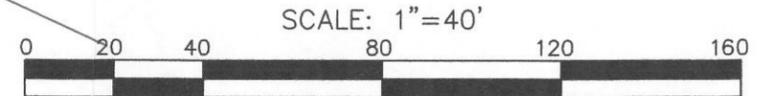
HAMPSTEAD LAND GROUP LLC
LOT 42
MB 45, PG 119
PIN: 3292-32-1588-0000



HAMPS
PIN:

POPELLA JOHN D et al
LOT 37
MB 45, PG 119
PIN: 3292-22-9648-0000

HAMPSTEAD LAND GROUP LLC
LOT 36
MB 45, PG 119
PIN: 3292-22-9547-0000



PEI JOB#: 11114.PE

Lot 43

SEAL

Variance Request MAJESTIC OAKS, Lot 43

TOPSAIL TOWNSHIP PENDER COUNTY, NC

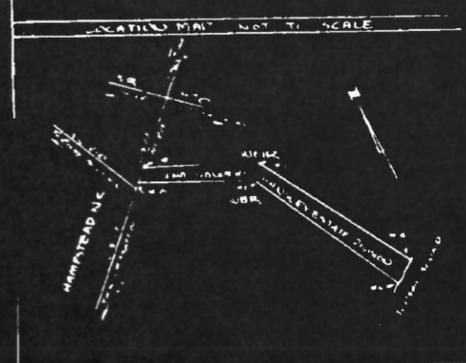
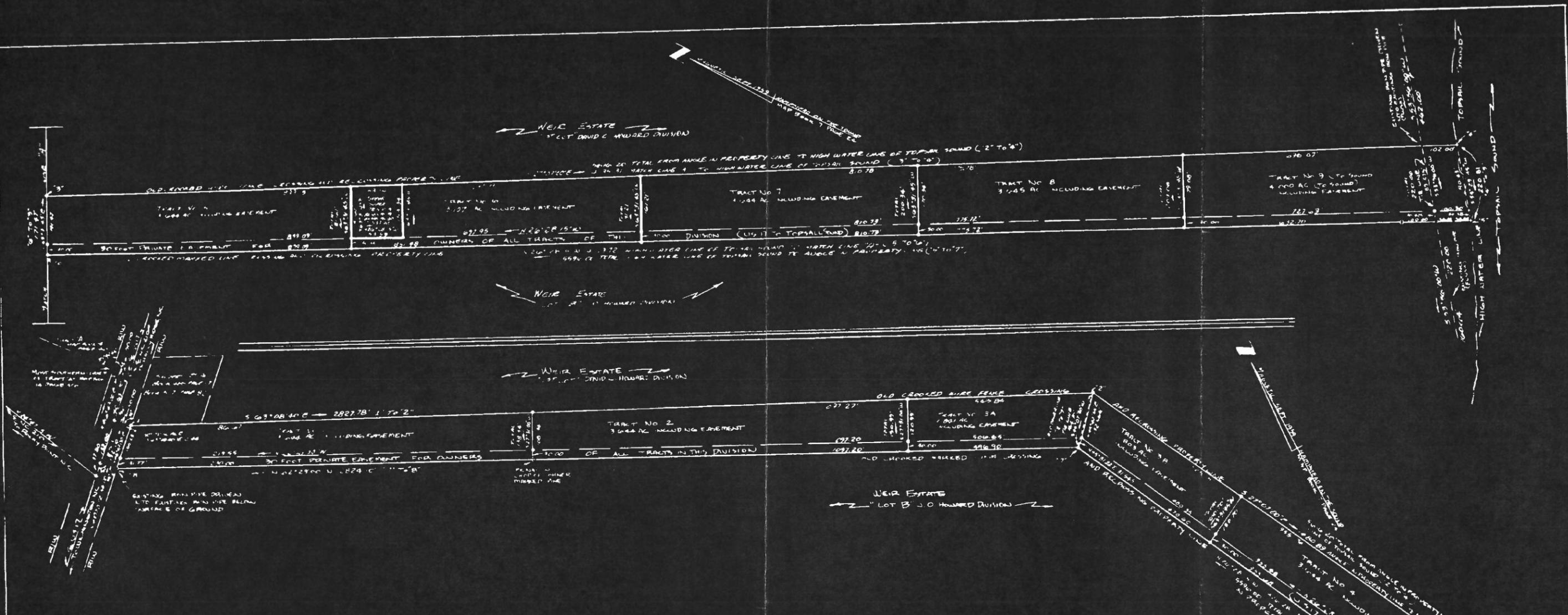
PARAMOUNTE
ENGINEERING, INC
WILMINGTON, NC FAYETTEVILLE, NC
5911 Oleander Drive, Suite 201
Wilmington, North Carolina 28403
(910) 791-6707 (O) (910) 791-6760 (F)
NC License #: C-2846

CLIENT INFORMATION:

HAMPSTEAD LAND GROUP, LLC
1712 EASTWOOD ROAD
WILMINGTON, NC 28403

REVISIONS:

Exhibit 2



MAP OF SURVEY FOR
DIVISION OF LANDS OF
LENA SANDERS HANSLEY ESTATE
TENDER COUNTY NORTH CAROLINA
SCALE 1"=40'

James C. Garrison
REGISTERED LAND SURVEYOR NO. 11647
WILMINGTON, NC 28401



I, JAMES C. GARRISON, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME FROM AN ACTUAL SURVEY BY ME THAT THE BOUNDARIES SHOWN ON THIS MAP ARE THOSE DESCRIBED IN THE REFERENCE LISTED UNDER LEGEND AND NOTES, AS SHOWN ON THIS MAP, THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:115,000. THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED AND I TREAT MY HAND AND SEAL THIS 22ND DAY OF JULY 1977 A.D.

James C. Garrison
REGISTERED LAND SURVEYOR NO. 11647
WILMINGTON, NC 28401

NOTARY PUBLIC
STATE OF NORTH CAROLINA
I, *James C. Garrison*, NOTARY PUBLIC OF NEWHANOVER COUNTY, DO HEREBY CERTIFY THAT THE ABOVE DESCRIBED MAP IS THE TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED IN THE OFFICE OF THE CLERK OF COURTY AT 2:22 (AM PM) AND WAS RECORDED IN MAP BOOK 17 AT PAGE 15.

WILMINGTON, NC 28401
TENDER COUNTY, REGISTER OF DEEDS

LEGEND AND NOTES

1. ALL POINTS, MONUMENTS, MARKERS, ETC. SHOWN ON THIS MAP ARE AS SHOWN ON THE ORIGINAL SURVEY RECORDS.
2. THIS DIVISION IS A REDUCTION OF A SURVEY MADE BY JAMES C. GARRISON FOR THE ESTATE OF LENA SANDERS HANSLEY.
3. DEED BOOK 480 PAGE 10
4. DEED BOOK 487 PAGE 10
5. DEED BOOK 488 PAGE 10
6. DEED BOOK 489 PAGE 10
7. ALL REFERENCED ARE TO TENDER COUNTY RECORDS
8. CLERK OF COURTY 78 5 P 19
9. DEED BOOK 454 PAGE 19
10. DEED BOOK 555 PAGE 80

FILED

BK 3577PG338

2009 FEB 13 PM 2:53

FAYE TEACHEY PREVATT
REGISTER OF DEEDS
PENDER COUNTY N.C.

Exhibit 4

J
PIN # 339.15-3765-000
293-39-3740-000
DATE 2/13/09 INT. *

Revenue - 0
STATE OF NORTH CAROLINA

COUNTY OF PENDER

WARRANTY DEED

PIN:

This Instrument prepared by: David G. Wall

THIS WARRANTY DEED made this the 21st day of January, 2009, by and between the following: THELMA H. McMILLAN and husband, DARREL K. McMILLAN, of the State of Utah, hereinafter referred to as Grantors to DARREL K. McMILLAN and THELMA H. McMILLAN, as Trustees of the DARREL K. and THELMA H. McMILLAN FAMILY TRUST, as established in the State of Utah on or about March 7, 2007, hereinafter referred to as Grantee:

WITNESSETH:

That the Grantors, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations to them in hand paid by the Grantee, the receipt whereof is hereby acknowledged, have given, granted, bargained, sold and conveyed and confirmed unto the Grantee, its successors and assigns, premises in Topsail Township, Pender County, North Carolina, and more particularly described as follows:

Lying and being in Topsail Township, Pender County, North Carolina, and being more particularly described as follows:

FIRST TRACT

BEING all of Tract No. 3A, containing 1.841 acres, and Tract No. 3B, containing 1.803 acres, as shown on a map entitled "Map of Survey for Lena Sanders Hansley Estate" as surveyed by Johnie C. Garrason, Registered Land Surveyor No. L-1347, and as recorded in Map Book 17, Page 15, of the Pender County Registry, and together with and subject to the rights of egress and ingress from US 17 to Topsail Sound over a 30-foot private easement as shown on the plat of survey hereinabove referred to and to which plat of survey reference is hereby made for a more complete and accurate description of the property herein described.

And being those same tracts of land as were previously conveyed to Thelma H. McMillan and husband, Darrel K. McMillan, by Deed from Beulah C. Garrason, Widow, said Deed being dated December 7, 1978, and of record in Deed Book 556, Page 2, Pender County Registry.



✓ Sandra Hansley
POB 1493
Elizabeth town NC
28337

js

3

SECOND TRACT

BEING all of Tract No. 7, containing 3.644 acres, as shown on a map entitled "Map of Survey for Lena Sanders Hansley Estate" as surveyed by Johnie C. Garrason, Registered Land Surveyor No. L-1347, and as recorded in Map Book 17, Page 15, of the Pender County Registry, and together with and subject to the rights of egress and ingress from US 17 to Topsail Sound over a 30-foot private easement as shown on the plat of survey hereinabove referred to and to which plat of survey reference is hereby made for a more complete and accurate description of the property herein described.

And being that same tract of land as was previously conveyed to Thelma H. McMillan and husband, Darrel K. McMillan, by Deed from Thelma H. McMillan, and others, said Deed being dated August 19, 2002, and of record in Deed Book 1980, page 282, Pender County Registry.

TO HAVE AND TO HOLD THE above described premises, with all the appurtenances thereunto belonging, or in any wise appertaining, unto the Grantee, its successors and assigns in fee simple forever.

And the Grantors covenant that they are seized of said premises in fee, and have the right to convey the same in fee simple; that said premises are free from encumbrances; and that they will warrant and defend the title to the same against the lawful claims of all persons whomever.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, the day and year first above written.

Thelma H. McMillan (SEAL)
THELMA H. McMILLAN

Darrel K. McMillan (SEAL)
DARREL K. McMILLAN

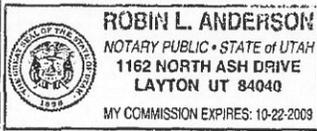
AS A GENERAL RULE, AN INSTRUMENT AFFECTING REAL ESTATE SHOULD BE REGISTERED IMMEDIATELY; IF NOT REGISTERED, OTHER PERSONS MAY OBTAIN PRIORITY. A DEED OF GIFT NOT REGISTERED WITHIN TWO (2) YEARS FROM THE DATE OF EXECUTION BECOMES VOID. IF YOU DO NOT INTEND TO REGISTER THIS INSTRUMENT IMMEDIATELY, YOU SHOULD DISCUSS THE MATTER WITH YOUR ATTORNEY.

THE ATTORNEY PREPARING THIS INSTRUMENT HAS NOT EXAMINED THE TITLE TO THE PROPERTY DESCRIBED IN THIS DEED

STATE OF Utah
COUNTY OF Salt Lake

I, Robin L. Anderson, a Notary Public of said County, do hereby certify that THELMA H. McMILLAN and husband, DARREL K. McMILLAN, of the State of Utah, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein described.

Witness my hand and notarial seal, this the 29th day of January, 2009.



Robin L. Anderson
NOTARY PUBLIC

My Commission Expires:

10-22-2009