

Pender County Planning and Community Development

Planning Division

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



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

AGENDA

**Pender County Board of Adjustment Meeting
November 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:** October 16, 2013

3. Public Comment:

Public Hearing Opened

4. Variance:

John J Burney III, applicant and owner, is requesting a thirteen foot (13') variance from the required thirty five foot (35') maximum building height in the RA, Rural Agricultural Zoning District as prescribed by the Pender County Unified Development Ordinance Section 4.14, Zoning District Dimensional Requirements. The subject property located at 11870 Shaw Highway, Holly Township, NC. The property is zoned RA, Rural Agricultural District and may be identified as PIN 3322-93-4021-0000.

5. Variance:

Stroud Engineering, applicant, on behalf of Parks Family Forestry LLC, owner, is requesting a variance to allow for the construction of seven (7) single family residential driveways on Island Creek Road (NCSR 1002) for individual residential lots. Specifically, the applicant is requesting relief from Section 7.2.6 addressing Design Standards for Lots on Thoroughfares as prescribed by the Pender County Unified Development Ordinance. The subject property is located on the north side of Island Creek Road just east of the New Hanover County line, west of Hunter Court (Wood Cliff Estates), Rocky Point. The property is zoned RA, Rural Agricultural District and may be identified as PIN 3252-97-7356-0000.

6. Variance:

Coleman Parks, applicant, on behalf of Washington Acres Inc., owner, is requesting two separate variances to allow for the construction of two individual residential driveways to be located on proposed Lots 92 and 93 of the conditionally approved Master Plan Community of Hampstead Landing. Specifically, the applicant is requesting relief from §7.2.6 and 7.2.7 of the Pender County Unified Development Ordinance which addresses individual lot access on Thoroughfares and Collector Streets. The subject property is located off of US Highway 17 along Washington Acres Drive, Hampstead. The property is zoned RP, Residential Performance District and may be identified as PIN 3282-71-0479-0000.

** Public Hearing Closed**

7. Adoption of the 2014 Meeting Dates:

8. Discussion Items:

a. BOA Members:

b. Planning Staff:

9. Adjournment:

PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: November 20, 2013
Applicant: John J Burney III
Property Owner: John J Burney III
Case Number: 11043

Property Location and Description: The subject property is located at 11870 Shaw Highway, Holly Township, NC and may be identified by Pender County 3322-93-4021-0000.

Zoning District of Property: The property is zoned RA, Rural Agricultural District.

Variance Requested: John J Burney III, applicant and owner, is requesting a thirteen foot (13') variance for the property located at 11870 Shaw Highway, Holly Township, NC, which may be identified by Pender County Pin: 3322-93-4021-0000. The applicant is applying for relief from the maximum height requirement within the Pender County Unified Development Ordinance (UDO) §4.14 Zoning District Dimensional Requirements, which states that the maximum height permitted in the RA Rural Agricultural district is thirty-five feet (35').

BACKGROUND AND DESCRIPTION OF VARIANCE:

The subject property is currently 247.61 acres in area and hosts a single family structure located near the center of the parcel. The pheasant tower is located near the eastern quarter quadrant of the tract in question, approximately 2,000 ft from the single family structure located on site. Please see Exhibit 1 (Applicant's site map).

The subject property is bound to the north by three vacant tracts participating in the State of North Carolina's Present Use Value Program. The subject parcel is bounded to the east by a tract housing a manufactured home and to the southeast by a tract housing a single-family residence. The parcels directly to the south and west are two heavily wooded 74.46 acre and 2,007.32 acre tracts owned by the State of North Carolina.

- The Pheasant Shooting Tower, constructed in the Summer of 2012, stands at approximately (48') above ground level, according to the applicant's submitted documents.
- However, the formal process to begin compliance began in April 2013 when the applicant was attempting to obtain a building permit for another structure on-site.
- According to internal staff discussion, it was determined that the tower was originally discovered by Code Enforcement around September of 2012.
- According to submitted documents, representatives of Planning, Building Inspections, Code Enforcement, Permitting and the Flood Plain Administrator convened on November 1, 2012 to discuss the subject tower.
- The applicant obtained a conditioned Special Use Permit (SUP) Case No. 10987 (Exhibit 2) approval on August 19, 2013. The approval was contingent upon an approved Variance stating, "6.Approval for the use and location of the Pheasant Tower shall be contingent upon an approved height variance for said tower." Therefore, the applicant is requesting a 13' thirteen foot variance from the maximum height requirement in the Rural Agricultural (RA) zoning district.

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

According to the narrative, the applicant contends that the proposed building height is necessary due safety and the size of the cleared shooting area. The applicant's application stated that, "The birds need to be released at a certain altitude so that the shooters will not be shooting level, whatsoever."

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

The applicant's application states that, "unnecessary hardship would result from not being able to use the tower, due to it's zoning as a permitted use through the Special Use Permit (SUP) process."

- 3) *The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship.*
- 4) *The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.*

The applicant's application further states, "The requested variance is consistent with the spirit and the intent of the ordinance due to the fact that the property is zoned RA (Rural Agricultural) and a special use permit has been approved by the Pender County Board of Commissioners allowing the shooting preserve due to the fact that Amusements and Recreation Industries are permitted via special use permit in the RA zoning district. Also, in line with the spirit and purpose is that the shooting preserve and property adjoins the Holly Shelter Game Lands, which comprises over 50,000 acres of public hunting land and opportunities."

ZONING ADMINISTRATOR'S CONCLUSION:

John J Burney III, applicant and owner, is requesting a thirteen foot (13') variance for the property located at 11870 Shaw Highway, Holly Township, NC, which may be identified by Pender County 3322-93-4021-0000. The applicant is applying for relief from the maximum height requirement within the Pender County Unified Development Ordinance (UDO) §4.14 Zoning District Dimensional Requirements, which states that the maximum height permitted in the RA Rural Agricultural district is thirty-five feet (35').

RELEVANT UDO PROVISIONS:

3.14 VARIANCE

3.14.1 Applicability

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

3.14.7 Findings

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

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

Appendix A

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

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. (See Figure 4.1)
3. **LOT COVERAGE:** The total built upon area, including all non-pervious surface materials.
4. **LOT, INTERIOR:** A lot other than a corner lot. (See Figure 4.1)
5. **LOT LENGTH:** The distance between the front lot line and the rear lot line measured at the maximum distance.
6. **LOT LINE, FRONT:** The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot, either side abutting a street may be considered to be the front, provided the structure to be located on the lot is situated to meet the required front, side and rear yards for the zoning district in which the lot is located. (See Figure 4.1)
7. **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. (See Figure 4.1)
8. **LOT LINE, SIDE:** Any lot line other than front or rear lot lines. (See Figure 4.1)
9. **LOT OF RECORD:** A lot for which a plat or survey description has been legally recorded with the Pender County Register of Deeds.
10. **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.
11. **LOT, THROUGH:** A lot, other than a corner lot, with frontage on more than one street. These lots may also be called "double frontage lots". (See Figure 4.1)
12. **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 the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, granting the hardship **does/ does not** result from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that the hardship **did/ did not** result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that the requested variance **is/ is not** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

Board Action:

Motion: _____ **Seconded:** _____

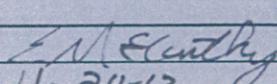
Approved: _____ **Denied:** _____ **Unanimous:** _____

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

Alternates:

Peters: _____

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA	Date	10-7-13
Application Fee	\$ 250.00	Receipt No.	
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	John Jay Burney III	Owner's Name:	John Jay Burney III
Applicant's Address:	2144 Echo Lane	Owner's Address:	2144 Echo Lane
City, State, & Zip	Wilmington, NC 28403	City, State, & Zip	Wilmington, N.C. 28403
Phone Number:	910-471-9436 (cell)	Phone Number:	910-471-9436 (cell)
Legal relationship of applicant to land owner: The owner (same)			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3361-13-7426-0000	Total property acreage:	247.61 ac
Zoning Classification:	RA-Rural Agricultural	Variance Size:	60 feet +/-
Variance Location & Address	11870 Shaw Hwy, Burgaw, N.C., 28425 Tower is located on Maple Hill Rd. side of property		
Describe Variance and amount or type requested:	Relief from the 35 foot max height requirement		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	10-1-13
Owner's Signature		Date:	10-1-13
NOTICE TO APPLICANT:			
<ol style="list-style-type: none"> 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:	10-7-13
Date scheduled for public hearing:	11-20-13		

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 four identified findings for variance approval described on page 1 of this application and in the Pender County Unified Development Ordinance (Section 3.14.7.A.).
<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 checked="" 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 checked="" type="checkbox"/> Existing Structures <input checked="" type="checkbox"/> Acreage of Property <input checked="" type="checkbox"/> Any Proposed Structures <input checked="" 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>	

3.14.7 Findings

1.) The special or unique circumstances or conditions or practical difficulties exist due to the main fact of SAFETY. The pheasant tower built on my farm or zoned shooting preserve is on four 50 foot telephone poles augured in the ground 10 feet. There are four security cables fascine on all four corners. The top of platform is 40 feet with an 8x8 box built on top. Total footage or height is 48 feet. Four sections of steps are built to walk to the top of the platform. A pulley system is engineered to carry the crates of birds to a trap door built in floor. The tower was constructed to release pheasants for a controlled shoot for club members and their quest. The structure does not have any utilities hooked up or involved in operation. Unnecessary hardship would result from not being able to use tower, due to it's a zoned, special use permitted, and licensed shooting preserve and Pheasant tower shoots are half of the shooting opportunities and half of the revenue center.

2.) The main reason for the height requirements is due to safety and acreage of shooting field. There are ten hay bales in a complete circle around tower in the middle of 7 to 8 acres. These are ten shooting stations. The height needed for this situation is 50 feet. Tower is 48 feet. The reason is the birds released need to be at a certain altitude, so the shooters will not be shooting level, what so ever. They are situated in a shooting circle. If the field was any larger, the tower would be required to be higher in order to work safely.

3.) Not sure how to answer this correctly. N/A possibly.

4.) The request variance is consistent with the spirit and the intent of the ordinance due to fact that the property is zoned RA (Rural Agricultural) and a special use permit has been approved by Pender County Board of Commissioners allowing the shooting preserve due to the fact that Amusements and Recreation

Industries are permitted via special use Permit in the RA zoning district. Also in line with the spirit and purpose is that the shooting preserve and property adjoins the Holly Shelter Game Lands, which comprises of over 50,000 acres of public hunting land and opportunities. It is also in the spirit of all other active North Carolina shooting preserves list of activities. Again the height variance request is needed to insure that public safety is secured and substantial justice is achieved due to shooting stations are arranged in a circle.

The first time I realized I was in violation of a variance code is when I submitted construction plans for a building to be built on my farm. This was in the month of April 2013. Scott Henry handed me a letter or print out addressing the tower structure. (Attached). This is the first notice that made me aware of the height requirements. I never received any thing by mail. Mr. Henry will concur with this. I understand I should have gone thru proper agencies and permitting now, but my father was an atty and had always informed me a building permit was not required on structures related to farming and hunting on our farm as long as it didn't have heat and air. Also, it is not something I tried to hide. I have now gone thru the proper permitting process and Pender Co. has issue me a zoning permit. The Pheasant tower is 48 feet tall to the top of an 8 by 8 box. There are four 50 foot power poles augured 10 feet in the ground, with a plat form built at 40 feet. An 8 foot tall box is built on top of the plat form. Requesting a variance of only 13 feet. Most other preserve's Pheasant towers are 70 to 90 feet tall.



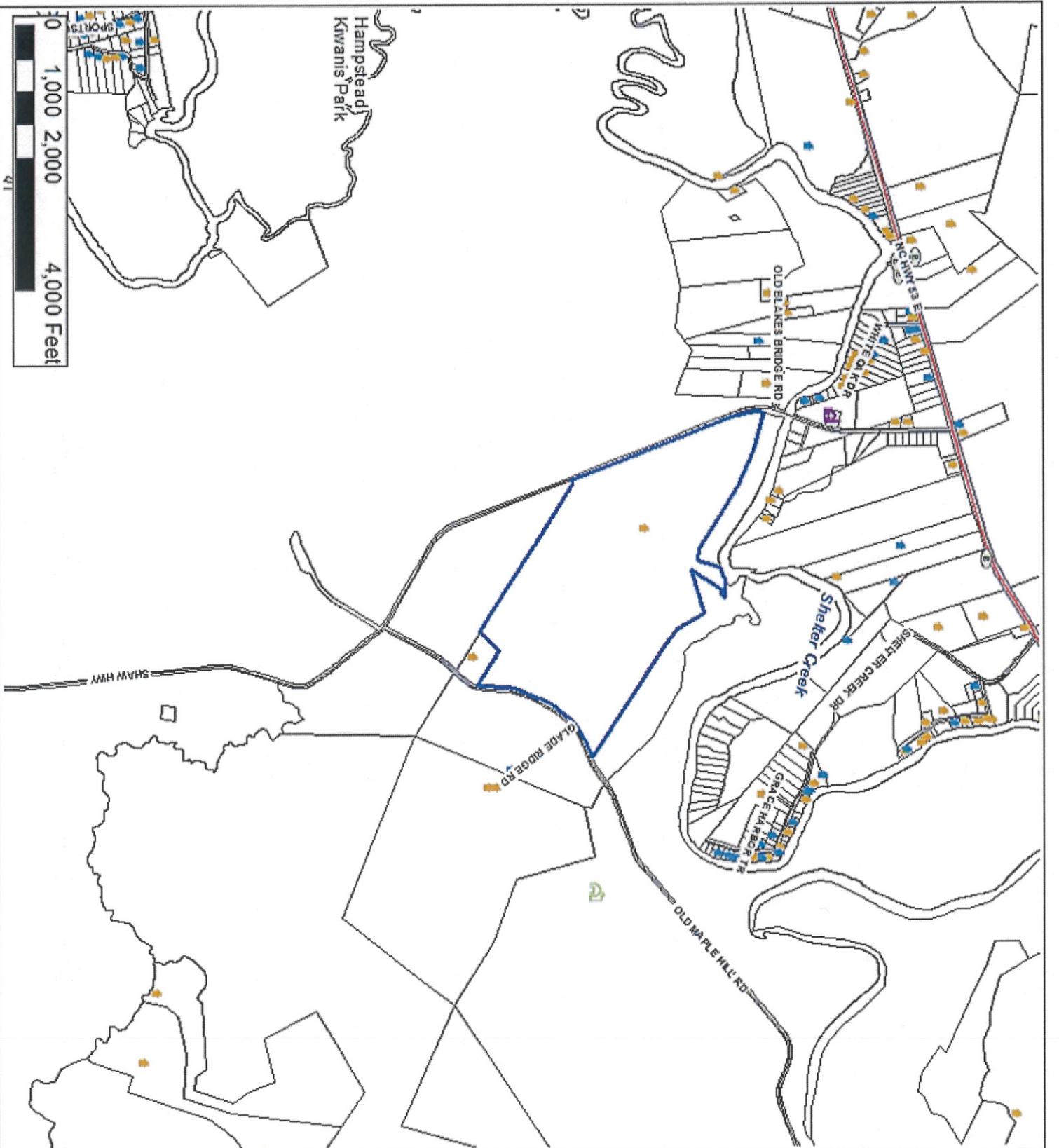
Applicant:
John J Burney III

Owner:
John J Burney III

Variance
#11043

Legend

-  Subject Parcel
- Structure Type**
-  Business
-  Church
-  Farm Use
-  House
-  Manufactured Home





Applicant:
John J Burney III

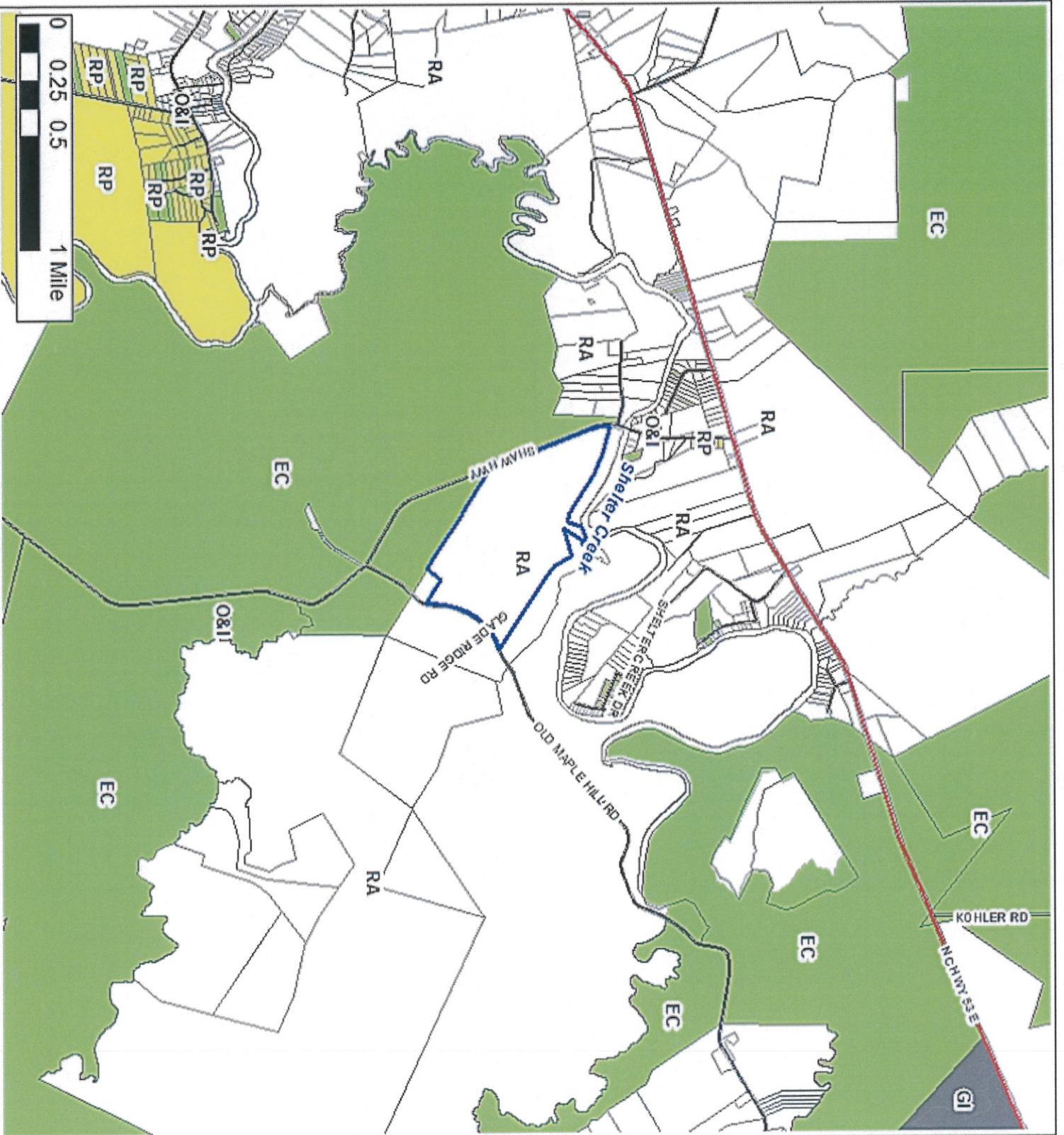
Owner:
John J Burney III

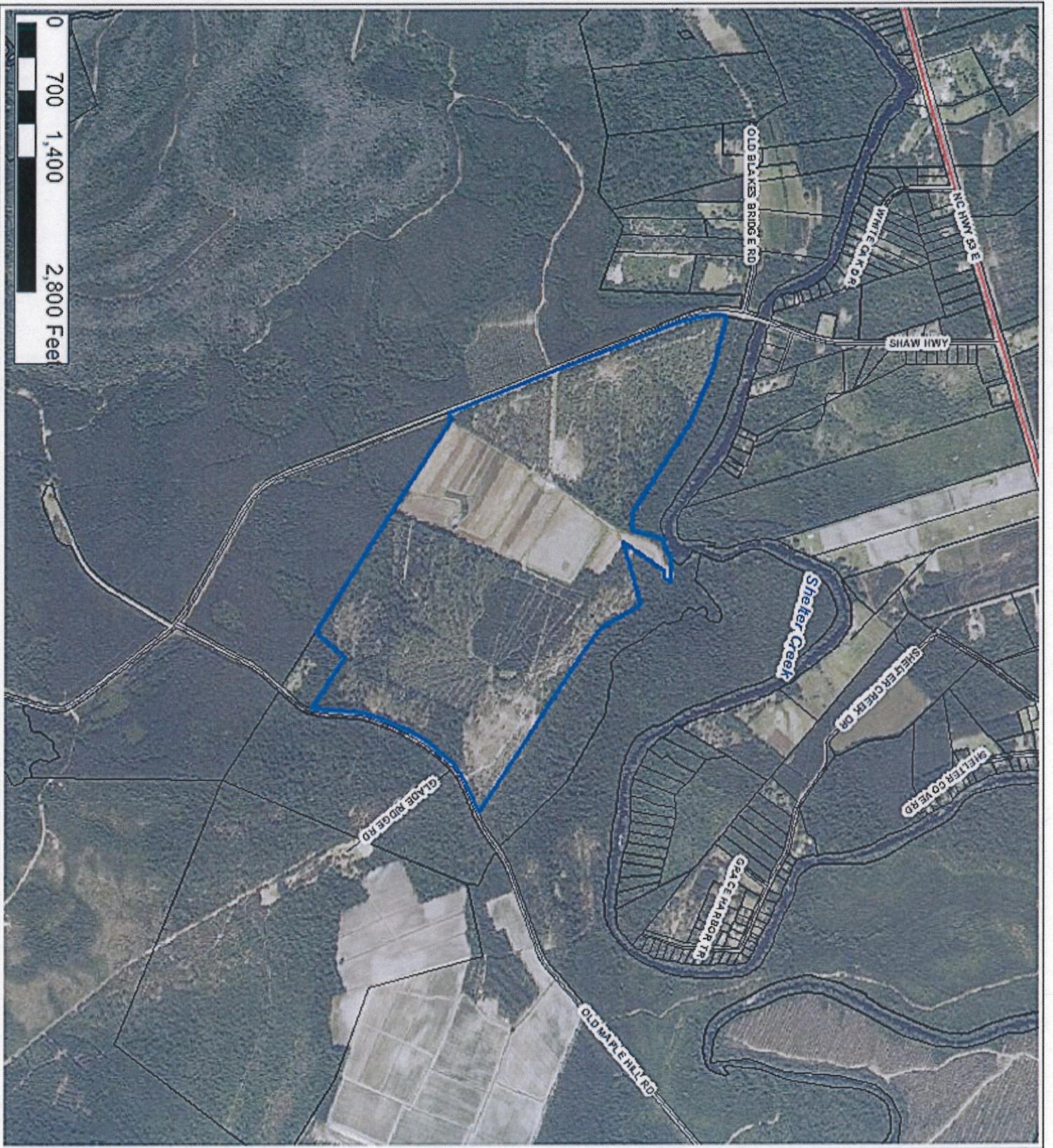
Variance
#11043

- Zoning Classification**
- 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 (IN/CORP)
 - Manufactured Home Park (MH)
 - Reestablished (RE)



ZONING





Applicant:
John J Burney III

Owner:
John J Burney III

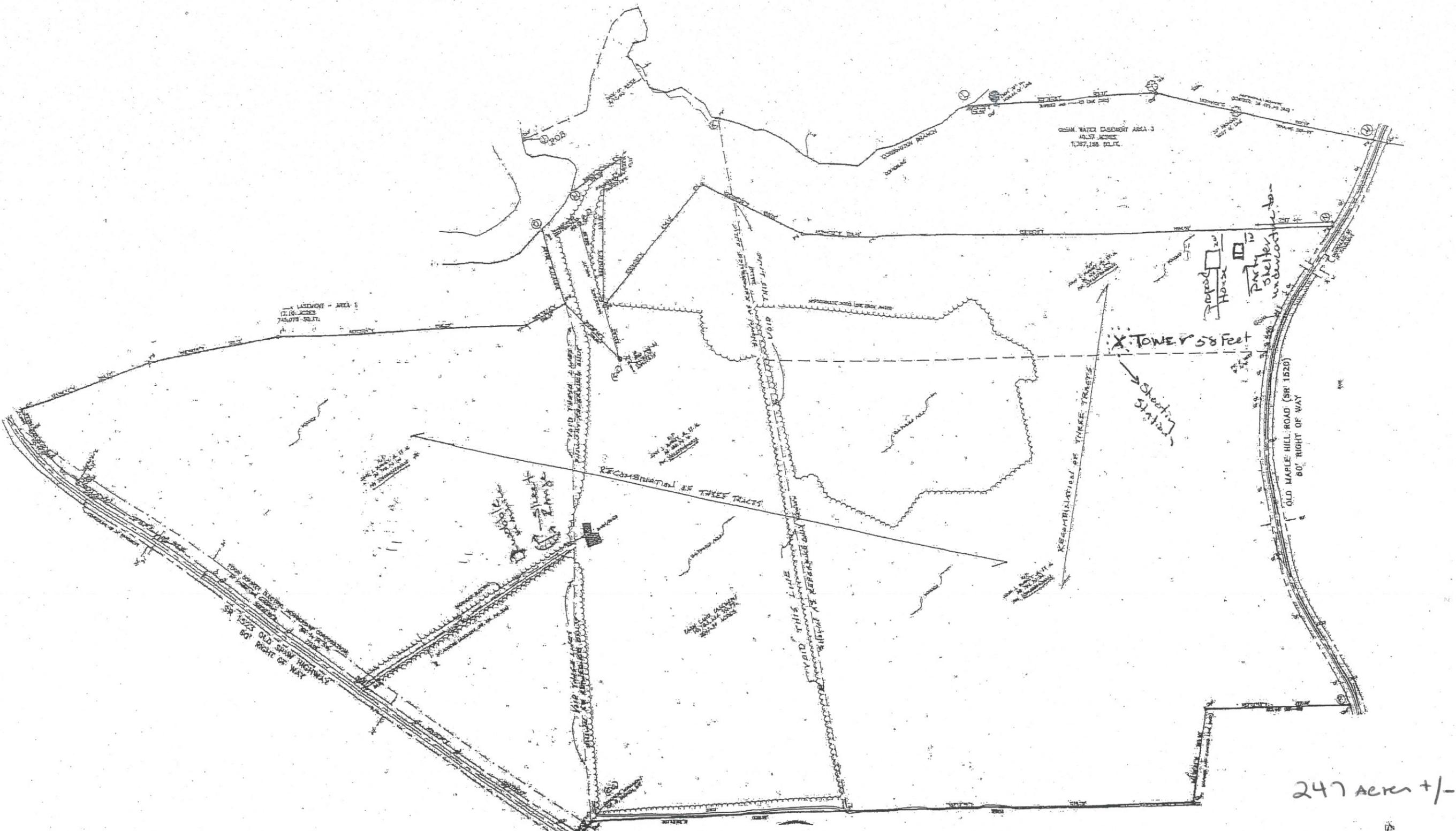
Variance
#11043

Legend

 Subject Parcel



2012 Aerial



Holly Shelter Game Lands
NC Wildlife Commission

247 acres +/-

PH 10/22

(DWN)
(BYW)



REQUEST FOR BOARD ACTION

ITEM NO. 21.

DATE OF MEETING: August 19, 2013

REQUESTED BY: Ed McCarthy, Planner II, Planning & Community Development

SHORT TITLE: Resolution Authorizing Approval of a Special Use Permit (SUP) for the Operation of a Private Recreation Club, Including a Pheasant Shooting Tower.

BACKGROUND: Burney Wing and Gun Club, applicant, on behalf of John J Burney, owner, is requesting approval of a Special Use Permit for the use of a private recreation club, including a pheasant tower, which stands approximately sixty feet (60') tall. The property is located on the western side of Old Maple Hill Road, approximately 1,600 feet north of the intersection of Shaw Highway and Old Maple Hill Road. The property may be identified as Pender County PIN 3361-13-7426-0000. The property is zoned RA, Rural Agricultural, and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses, All Other Amusement and Recreation Industries are permitted via Special Use Permit in the RA zoning district.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for the operation of a private recreation club, including a pheasant shooting tower.

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

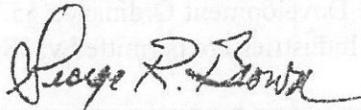
the Board hereby approved a special use permit for the operation of a private recreation club, including a pheasant shooting tower as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS: The motion includes the following for skeet shooting: No operating hours on Sunday; no set time for mornings Monday through Saturday; and 7:00 p.m. cut-off time Monday through Saturday.

MOVED Ward SECONDED Tate

APPROVED X DENIED UNANIMOUS

YEA VOTES: Brown ___ McCoy ___ Tate ___ Ward ___ Williams ___


George R. Brown, Chairman 8/19/2013
Date


ATTEST 8/19/2013
DATE

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: August 19, 2013
Applicant: Burney Wing and Gun Club
Property Owner: John J Burney
Case Number: 10987

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the use of a private recreation club, including a pheasant tower, which stands approximately sixty feet (60') tall.

Property Record Number and Location: The property is located on the western side of Old Maple Hill Road approximately 1,600 feet north of the intersection of Shaw Highway and Old Maple Hill Road. The property may be identified as Pender County PIN 3361-13-7426-0000. There is one tract associated with this request totaling approximately 247.61 acres.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural, and All Other Amusement and Recreation Industries are permitted via Special Use Permit in the RA zoning district.

PROJECT DESCRIPTION:

Burney Wing and Gun Club, applicant, on behalf of John J Burney, owner, is requesting approval of a Special Use Permit for the use of a private recreation club, to include hunting, skeet shooting and a pheasant shooting tower, which stands approximately sixty feet (60') tall. The property is located on the western side of Old Maple Hill Road approximately 1,600 feet north of the intersection of Shaw Highway and Old Maple Hill Road. The property may be identified as Pender County PIN 3361-13-7426-0000. The property is zoned RA, Rural Agricultural, and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses, All Other Amusement and Recreation Industries are permitted via Special Use Permit in the RA zoning district.

According to the applicant's submitted documents, the site will be used as a private club operation, with available activities to include (dove, deer, duck and turkey) hunting, a pheasant shooting tower and two skeet shooting ranges. In addition, the applicant intends to remodel the existing farm house into a clubhouse and bring the existing pheasant tower into compliance, as it was constructed without approvals from the Planning and Community Development Department.

The subject parcel is approximately 247.61 acres in area and has a single family structure located near the center of the parcel. The pheasant tower is located near the eastern quarter quadrant of the tract in question, approximately 2,000 ft from the single family structure located on site. According to the applicant, "Pheasant Tower- Starts Oct and runs to March with two tower shoots a month for a total of 12 throws. Usually starts around 2:00 pm, shooting for around an hour a shoot and then serve oysters and cook the pheasants killed along with a social gathering around the outside fire pit." This particular area is bordered by a significant amount of vegetation, as shown on the 2012 aerials. The pheasant shooting tower is the only activity on site allowed for non-member use. One must be a private club member in order to participate in any of the other activities (deer, turkey, dove hunting, skeet shooting etc.), detailed below.

The two (2) skeet shooting ranges are located near the center of the property and are open from September through February. The hours of operation run from approximately 9:00 a.m.-11a.m. and 3:00 p.m.-6:00 p.m, and generally on Saturdays and Sundays.

According to the applicant, the hunting activities are as follows:

1. Dove Hunting: Would begin September 1st and would continue every Saturday through the end of first season; which is customarily the first Saturday in October. The dove hunting area is shown on the provided site plan
2. Deer Hunting: Starts in middle of October till January 1st.
3. Still Hunting: Would be available only on Tuesdays, Thursdays and Saturdays, mainly during the afternoon in marked deer stands.
4. Duck Hunting: Would begin the 2nd Saturday in November and continue through the end of January. Hunting time would be Saturday mornings located around the duck impoundment.
5. Turkey Hunting: Is available in April on the entire tract. Hunting days would be on Wednesday and Saturdays.

The property houses six (6) deer stands, with the closest stand located approximately 500' from the nearest residential property line. To date, there are 22 club members and no paid employees, however, the applicant may hire maintenance staff at a later date.

Prior to the issuance of final zoning approval, a site development plan must be submitted and approved in accordance with applicable provisions of the Pender County Unified Development Ordinance. In addition, all other applicable permits and approvals must be obtained including inspections and health department regulation compliance.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
MISCELLANEOUS USES											
All Other Amusement & Recreation Industries	71399	S					P	P		P	

EVALUATION:

- A. **Public Notifications:** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice*. Adjacent property owners were notified by first class mail.
- B. **Basis for Granting SUP:** See attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. **Unified Development Ordinance Compliance:** The property is currently zoned RA, Rural Agricultural, All Other Amusement & Recreation Industries are permitted in the RA zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.
- D. **2010 Comprehensive Land Use Plan Compliance:** The subject property is classified as Conservation in the *2010 Comprehensive Land Use Plan*. The Conservation land use classification designates areas that are owned in fee simple or have protective easements. These areas represent areas of special significance and unique characteristics that make them worthy of preservation. Current conservation areas are typically owned by Federal or State agencies or private conservation groups and are often designated as Areas of Environmental Concerns (AECs).

Currently, conservation areas comprise approximately 131,393 acres (24.7%) of the land area within the Pender County zoning jurisdiction.

E. The SUP request may be supported by the following within the *2010 Comprehensive Land Use Plan*:

- **Policy 10A.1.7** – *Protection enhance and encourage a high quality of life, including the conservation and management of natural and man-made resources as an effective component of an economic development diversification strategy.*
- **Policy 10A.1.8** – *The County shall seek to foster a travel and tourism (including ecotourism) industry that is compatible with a high quality of life- as a means to facilitate diversification in the local economy.*

F. Existing Land Use in Area: The properties to the north and northeast are primarily wooded conservation tracts. The land to the west and southwest include heavily wooded gameland tracts owned by the State of North Carolina. The parcels to the south and southeast include two heavily wooded tracts with a single residential home and a trailer on each parcel, respectively.

G. Site Access Conditions: The proposed use lies on a tract adjacent to Shaw Hwy and Maple Hill School Road.

H. Conditions To Consider In Issuing the Special Use Permit For This Project:

1. The project shall comply with all requirements of the Pender County Unified Development Ordinance.
2. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
3. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
4. The applicant shall meet all other local, state and federal regulations.
5. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit.
6. Approval for the use and location of the Pheasant Tower shall be contingent upon an approved height variance for said tower.

Attachment A

3.12.3 Procedures for Reviewing Applications

- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.

- G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
 2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
 3. The proposed use shall not constitute a nuisance or hazard;
 4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
 5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
 6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
 7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
 8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

3.12.4 General Provisions Concerning Special Use Permits

A. Compliance With Other Codes - Granting of a Special Use Permit does not exempt the applicant from complying with all of the requirements of building codes and other Ordinances.

B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this Ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified. After a public hearing has been held, the Board of Commissioners may revoke the Special Use Permit upon finding any of the following:

- 1) That the approval was obtained by fraud.
- 2) That the use for which such approval was granted is not being executed.
- 3) That the use for which such approval was granted has ceased to exist or has been suspended for one year.
- 4) That the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval.
- 5) That the permit granted is in violation of an Ordinance or Statute.
- 6) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

C. Expiration - Unless a request for additional time is granted or approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void if final Zoning Approval has not been issued for the project within 24 months after the Notice of Approval of the Special Use Permit has been served on the applicant. The Administrator may provide one extension of the expiration date by no more than 6 months, for complex projects requiring major state or federal permits, upon receipt of a written request for such extension by the applicant detailing the reasons for delay in completion of the requirements for the Zoning Approval.

D. Duration of Special Use - Any conditions imposed on a special use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Pender County UDO 3-28 Article 3 – Review Procedures Special Use Permit or subsequently changed or amended by the Board of Commissioners after application to the Board of Commissioners and a public hearing.

E. Conditions and Guarantees - Prior to the granting of any special use, the Board of Commissioners may stipulate such conditions and restrictions upon the establishment, location, or construction, maintenance, and operation of the special use as it deems necessary for the protection of the public and to secure compliance with the standards and requirements specified in this Ordinance. In all cases in which special uses are granted, the Board of Commissioners shall require such evidence and guarantees as it may deem necessary to assure that conditions stipulated in connection therewith are being and will be complied with.

1) Such conditions may include a time limitation.

2) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six (6) feet before the use requested is initiated".

3) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m."

F. Filing of Special Use - The Administrator shall file the approved or disapproved application forms with the decision of the Board of Commissioners.

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

H. Revisions - Major revisions to a Special Use Permit must be submitted to the Board of Commissioners. All legal notice and application fee requirements must be met for major revisions. Revisions that are considered minor revisions to an approved Special Use Permit may be reviewed and approved by the Administrator after basic submission requirements have been completed. All revisions approved by the Administrator must meet the original conditions of the permit as approved by the County Commissioners and current provisions of the Zoning Ordinance. The addition of an accessory structure less than 1000 sq. ft., addition of parking or other ancillary facilities or uses or the addition of similar product lines are examples of revisions that may be considered minor revisions.

PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: November 20, 2013

Applicant: Stroud Engineering

Property Owner: Parks Family Forestry, LLC

Case Number: 11050

Property Location and Description: The subject property is located on Island Creek Road (NCSR 1002) in Rocky Point, as referenced on Deed Book 4005, Page 128 (Exhibit 1), recorded at the Pender County Register of Deeds on December 15, 2011 and may be identified by Pender County PIN: 3252-97-7356-0000. The subject property is located on the north side of Island Creek Road just east of the New Hanover County line, west of Hunter Court (Wood Cliff Estates) Rocky Point.

Zoning District of Property: The property is zoned RA, Rural Agriculture Zoning District.

Variance Requested: Stroud Engineering, applicant, on behalf of Parks Family Forestry, LLC owner, is requesting a variance from the Design Standards for Lots on Thoroughfares, as outlined in the *Pender County Unified Development Ordinance (UDO)* in Section 7.2.6.; specifically prohibiting Major or Minor Subdivisions designed with individual residential lots accessing on Principal Arterial, Minor Arterial, or Major Collector roads or streets.

BACKGROUND

Island Creek Road Classification

The Wilmington Metropolitan Planning Organization (WMPO) is responsible for regional transportation planning within the Wilmington Metropolitan Area; included in this planning area is Island Creek Road (NCSR 1002). Island Creek Road (NCSR 1002) begins in the area of Castle Hayne in New Hanover County, where it is named Holly Shelter Road and classified as a Major Collector by the WMPO. In Castle Hayne, there's full movement interchange between Holly Shelter Road and Interstate 40. The road's name changes to Island Creek Road when it crosses the bridge over Island Creek and enters Pender County. Island Creek Road ends where it merges with NC 210 about 2.7 miles northeast of the New Hanover County border. There are no controlled or signalized intersections along Island Creek Road within Pender County.

The *Thoroughfare Plan for Pender County* published by the NCDOT identified Island Creek Road as a Minor Collector Street in 1997. In May 2007, the WMPO published the *Coastal Pender County Collector Street Plan*. Island Creek Road was also classified as a Minor Collector Street (Exhibit 2). The plan recommends a reclassification study and submittal to NC Department of Transportation and the Federal Highway Administration (FHWA) for review of Island Creek Road as it may *function* as an arterial roadway, but is still classified as a Minor Collector Street. In the *Cape Fear Commutes 2035 Transportation Plan* (Appendix 8, Figure 14) also published by the WMPO, Island Creek Road is identified as a Major Collector and can be seen in Exhibit 3. Currently, Island Creek Road (NCSR 1002) is classified as a Major Collector. Pender County has adopted all aforementioned WMPO planning documents, and considers these plans recommendations for all transportation planning.

Minor Subdivision

This variance is for the creation of seven (7) driveways on for eight (8) potential new lots plus a remnant for the remainder of the subject property; nine (9) total lots, seen in Exhibit 4. Currently, this project qualifies as a Minor Subdivision. Minor Subdivisions are defined in the *Pender County Unified Development Ordinance* Section 3.9.1 as; consisting of ten (10) lots or less and shall follow the preliminary plat review process.

Environmental Concerns

Wetlands

Currently, no wetland delineation or Jurisdictional Determination (J.D.) has been submitted to Pender County Planning Staff for proof of environmental concerns on the subject property. The applicant has submitted a preliminary wetlands map for the subject property, Exhibit 4. Further investigations or these documents to identify regulated wetlands would be necessary for future action on the site.

Flood

There is a portion of the property that is located within the "Approximate Zone AE" and another portion of the property located within the "Zone X" Special Flood Hazard Area, according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number 3720325200K, Panel Number 3252 and Map Number 3720326200K, Panel, Number 3262.

CAMA

There is a potential for this property to have navigable (by canoe/kayak) inland waters. These inland waters would be required to meet CAMA standards; a necessary buffer of thirty (30) feet landward of the normal high water line for the AEC Public Trust Shoreline.

DESCRIPTION OF VARIANCE

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

According to the applicant in Exhibit 5; driveway access to these properties from the internal road network of a possibly future subdivision would require crossing a regulated wetland. The impacts associated with the construction of a road or driveway across the wetland are unconsidered unnecessary hardship given the existing state road frontage. This hardship would be the burden of the subdivider, as well as, the environment.

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

According to the applicant in Exhibit 5; this hardship is a result of the topography being challenging as proposed driveway would descend into and through the wetlands. The subdivider has compiled where possible to access lot 8 fronting Island Creek Road from a possible future subdivision road entrance location. The required fording off the wetland in other locations to accomplish the same access would be both a regulatory, as well as cost, hardship.

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

According to the applicant in Exhibit 5; the prohibition of driveways along collector roads was not known at the time of the property was purchased or planned out.

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

According to the applicant in Exhibit 5; granting of this requested variance would result in development no different than that already existing up and down Island Creek Road. The lots created by the allowance of this request will be otherwise consistent with Pender County ordinances.

ZONING ADMINISTRATOR'S CONCLUSION

Stroud Engineering, applicant, on behalf of Parks Family Forestry, LLC owner, is requesting a variance from the Design Standards for Lots on Thoroughfares, as outlined in the *Pender County Unified Development Ordinance (UDO)* in Section 7.2.6., specifically prohibiting Major or Minor Subdivisions designed with individual residential lots accessing on Principal Arterial, Minor Arterial, or Major Collector roads or streets.

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

UDO DEFINITIONS

Major Subdivision: Proposed subdivisions consisting of eleven (11) lots or more are classified as Major Subdivisions and are required to follow the Master Development Plan review process found in Figure 2 and 3 at the end of Section 3.4. All major subdivisions shall include a preliminary and final plat. Upon approval of the Master Development Plan by the Planning Board, the applicant may proceed with the preparation of the preliminary plat.

Minor Subdivision: Proposed subdivisions of ten (10) lots or less, except family and three lot divisions are classified as a minor subdivision and shall follow the preliminary plat review process. Proposed minor subdivisions located in PD, Planned Development district must follow the Master Development Plan review process which requires Planning Board approval.

Arterial Highway: A street so classified by the North Carolina Division of Highways or by the standards of Pender County which collects and distributes traffic to and from collector streets.

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 the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:

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

3. It is the Board's CONCLUSION that the hardship **did/ did not** result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

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

Board Action:

Motion: _____ Seconded: _____

Approved: _____ Denied: _____ Unanimous: _____

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

Alternates:

Peters: _____



B4005 P0128 12-19-2011 12:55:39.000
Faye Teachey Prevatte PROF
Pender County, NC Register of Deeds page 1 of 3

NORTH CAROLINA GENERAL WARRANTY DEED

DRAFTED BY: ✓ HUNTER & PRICE, P. A., P.O. BOX 277, KENANSVILLE, NC 28349

Parcel: 3252-97-7356-0000 ✓

Tax: \$00.00

THE ATTORNEY PREPARING THIS INSTRUMENT HAS MADE NO RECORD SEARCH OR TITLE EXAMINATION AS TO THE PROPERTY HEREIN DESCRIBED UNLESS THE SAME IS SHOWN BY HIS WRITTEN AND SIGNED CERTIFICATE

THIS DEED made this 15th day of December, 2011, by and between

GRANTOR

GRANTEE

LAWRENCE PARKS
and wife,
DEANNA PARKS

108 Wisteria Court
Wallace, NC 28466

PARKS FAMILY FORESTY, LLC

2021-A Corporate Drive
Wilmington, NC 28405

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Pender County, North Carolina and more particularly described as follows:

2



That certain tract bounded by Island Creek to the west and Holly Shelter Road to the South, and being one of the "two tracts" comprising the following described property;

TRACT NO. 2 (MAP NO. 008)
THE WESTBROOK ORRELL TRACTS

Two tracts together totaling 800.47 acres more or less and shown on a map of International Paper Company Property recorded in Map Book 3, Page 35 of the Pender County Registry. This property was acquired by International Paper Company by deed recorded in Book 262, Page 430 of the Pender County Registry. For an additional back reference see deed to IP Timberlands Operating Company, Ltd. in Book 673, Page 214 of the Pender County Registry.

Less and except the following tract:

The Westbrook-Orrell Tract

The "Westbrook Orrell Tract" totaling 671.86 acres more or less and shown on a map of International Paper Company Property recorded in Map Book 3, Page 35 of the Pender County Registry. This property was acquired by International Paper Company by deed recorded in Book 262, Page 430 of the Pender County Registry. For an additional back reference see deed to IP Timberland Operating Company, Ltd. in Book 673, Page 214 of the Pender County Registry.

This is a portion of the same land conveyed to Wachovia Bank of North Carolina, N.A., as Ancillary Trustee for Wachovia Bank of Georgia, N.A., as Trustee of the Wachovia Emerging Growth Timberland Fund, by Special Warranty Deed from McTeer Real Estate Company, Inc., dated August 12, 1994 and recorded in Book 995 at Page 294 of the Pender County Registry.

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name) LAWRENCE PARKS (SEAL)

By: _____ DEANNA PARKS (SEAL)



State of North Carolina

County of Duplin

I, the undersigned Notary Public of the County or City of Duplin and State aforesaid, certify that LAWRENCE PARKS and DEANNA PARKS personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

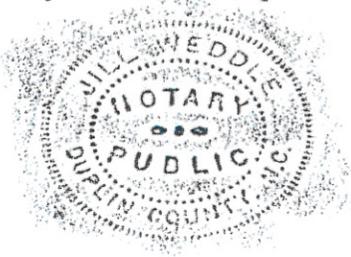
Witness my hand and Notarial stamp or seal this 15th day of December, 2011.

Jill Weddle

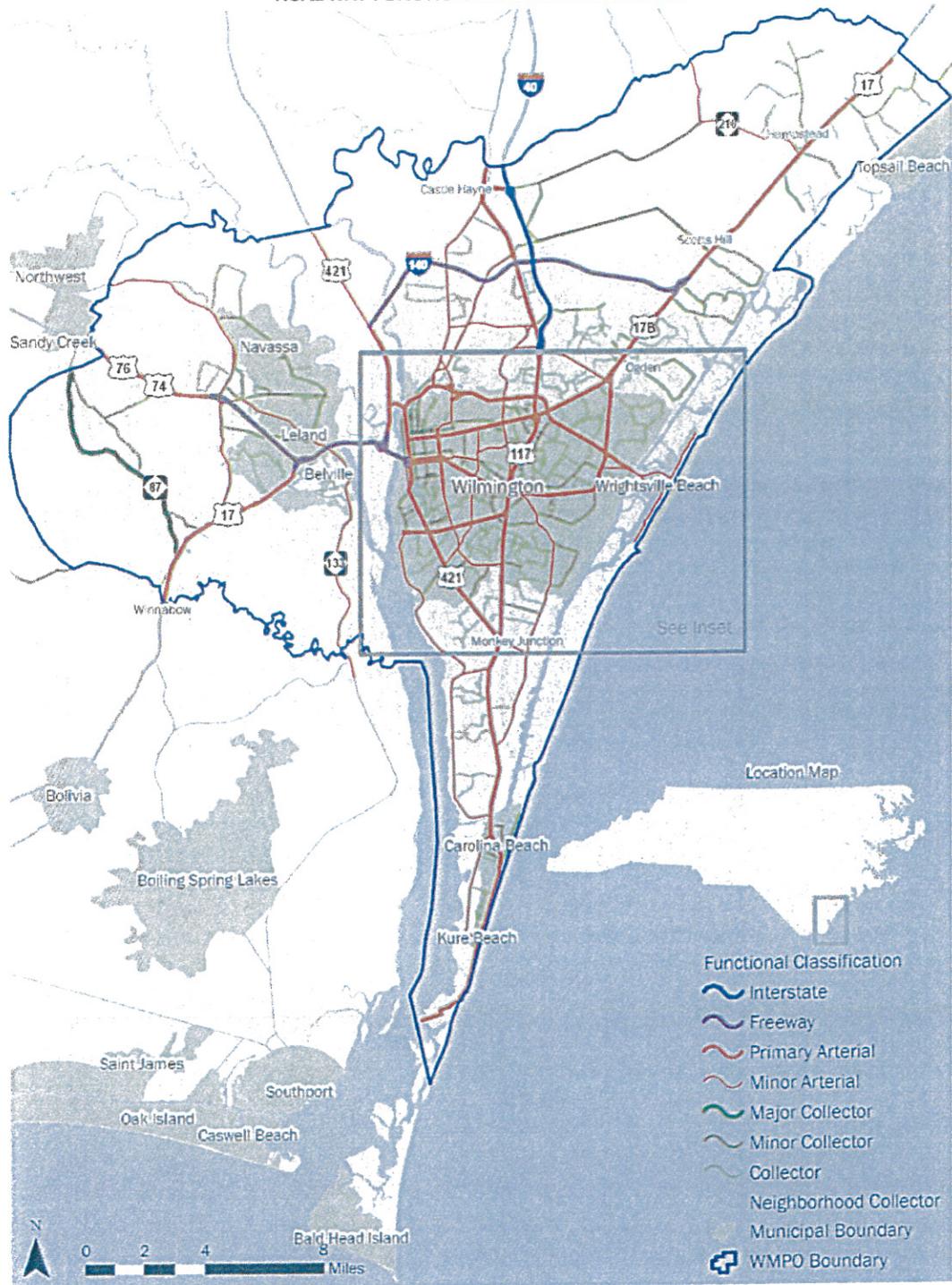
Jill Weddle, Notary Public

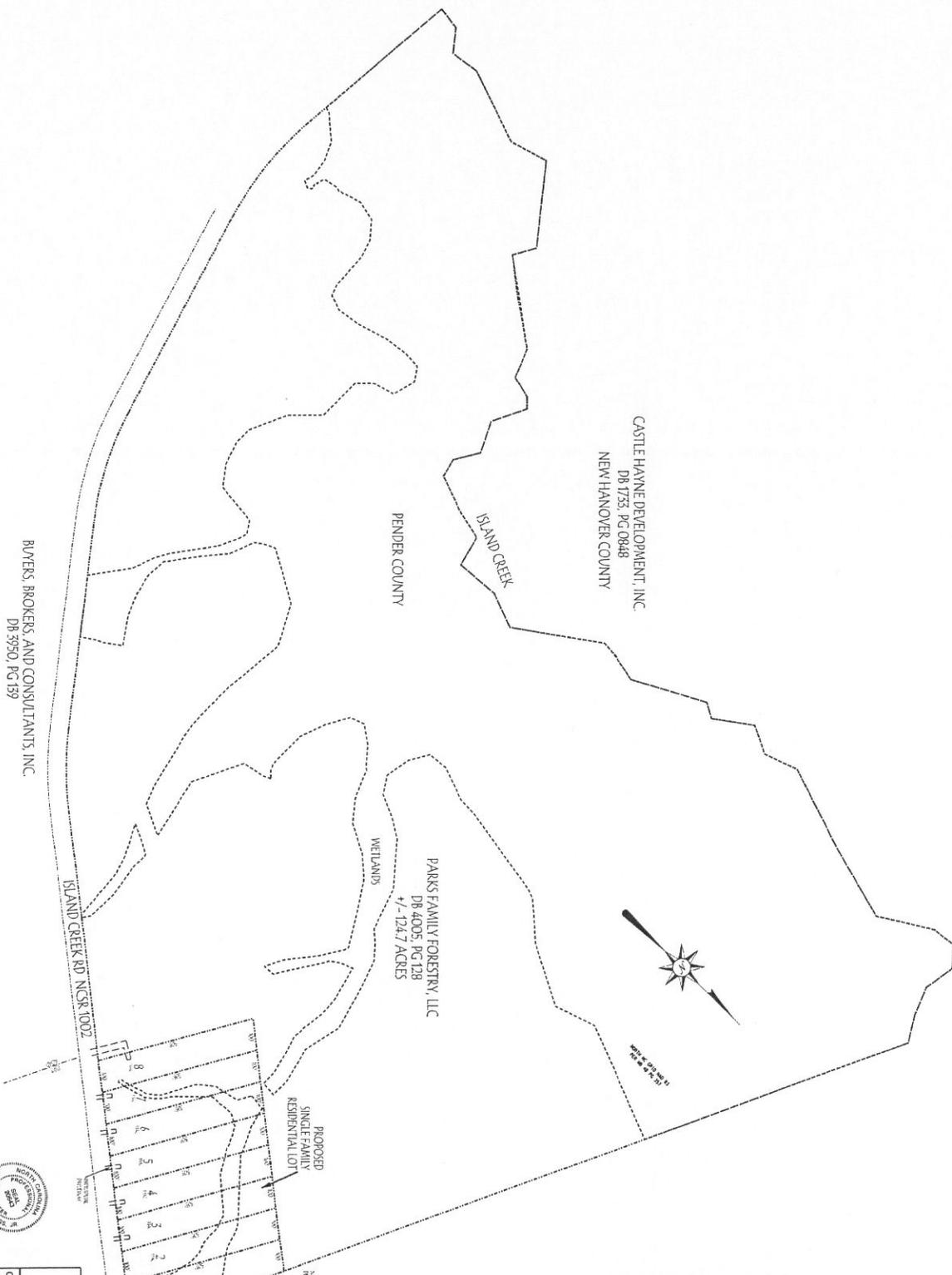
(Seal)

My Commission Expires: 03/28/2014



**FIGURE 14
ROADWAY FUNCTIONAL CLASSIFICATION MAP**





PROJECT NO.: 2M1103
 DRAWING NO.: M2/MASTER/2M1103/00N/ISLANDCREEK.DWG

RIVERS, BROKERS, AND CONSULTANTS, INC.
 DB 3750, PG 159

CASTLE HAYNE DEVELOPMENT, INC.
 DB 1733, PG 0948
 NEW HANOVER COUNTY

PARKS FAMILY FORESTRY, LLC
 DB 4005, PG 128
 +/- 124.7 ACRES

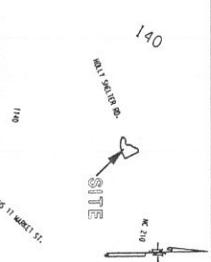


- SITE DATA**
1. PROPERTY OWNER IS PARKS FAMILY FORESTRY, LLC
 2. SITE ADDRESS = ISLAND CREEK ROAD
 3. PIN = 3252-97-1356-0000
 4. PROPERTY AREA IS 124.69 ACRES
 5. ZONE = RP
 6. NO CMAA ACT ON PROPERTY.
 8. CMAA LAND CLASS =
 9. NO CONSERVATION RESERVE ON PROPERTY.
 10. NO RECREATION, HABITAT SITES OR BIRDBAL GROUND.
 12. NO PROTECTED SPECIES OR HABITAT.
 13. NO THROUGH-ARCS, HOLES OR TRAILS.
 14. CARE FEAR RIVER BASIN, BARBAROS CREEK
- SHEAM CLASSIFICATION = C15W

LEGEND

-----	PROJECT BOUNDARY
-----	WETLAND AREA
-----	LOT LINE

SCALE 1" = 5000'
 VICINITY MAP



Island Creek Rd.
 SHEET PLAN

OWNER: PARKS FAMILY FORESTRY, LLC
 ADDRESS: 2021-A CORPORATE DRIVE
 WILMINGTON, NC 28405

STROUD ENGINEERING, P.A.
 1801 BIRCHWOOD DRIVE
 WILMINGTON, NC 28405

DESIGNED: JMF
 DRAWN: KEN
 APPROVED: JMF
 DATE: 10/16/2011
 SCALE: 1" = 150'
 SHEET 1 OF 1


STROUD ENGINEERING, P.A.

CONSULTING ENGINEERS
 102-D CINEMA DRIVE
 WILMINGTON, NORTH CAROLINA 28403
 (910) 815-0775

**Island Creek Road Subdivision
 Variance Application Narrative**

Sept. 7, 2013

Overview:

The subdivider proposes to add eight lots on Island Creek Road for new homesites on useable upland soils. These lots are adjacent existing platted lots. Long Range Planning, MPO, has classified Island Creek Road to be a collector. As such, Pender County Ordinance will not allow driveway access to Island Creek Road to serve new properties. New properties should provide a single driveway and a road for the new lots to access. The proposed properties have difficulty providing any access other than to Island Creek Road. The following is an address to the required findings of fact to support the proposed variance aimed at allowing individual driveway access off this collector classified road.

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; **Driveway access to these properties from the internal road network of a possibly future subdivision would require crossing a regulated wetland. The impacts associated with the construction of a road or driveway across the wetland are unconsidered unnecessary hardship given the existing state road frontage. This hardship would be the burden of the subdivider, as well as, the environment.**

- 2) The hardship results from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; **This hardship is a result of the topography being challenging as a proposed driveway would descend into and through the wetlands. The subdivider has complied where possible to access lot 8 fronting Island Creek Road from a possible future subdivision road entrance location. The required fording off the wetland in other locations to accomplish the same access would be both a regulatory, as well as a cost, hardship.**

- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship; **The prohibition of driveways along collector roads was not known at the time the property was purchased or planned out.**

- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. **Granting of this requested variance would result in development no different than that already existing up and down Island Creek Road. The lots created by the allowance of this request will be otherwise consistent with Pender County ordinances.**



Applicant:
Stroud Engineering

Owner:
Parks Family Forestry, LLC

Variance
11050

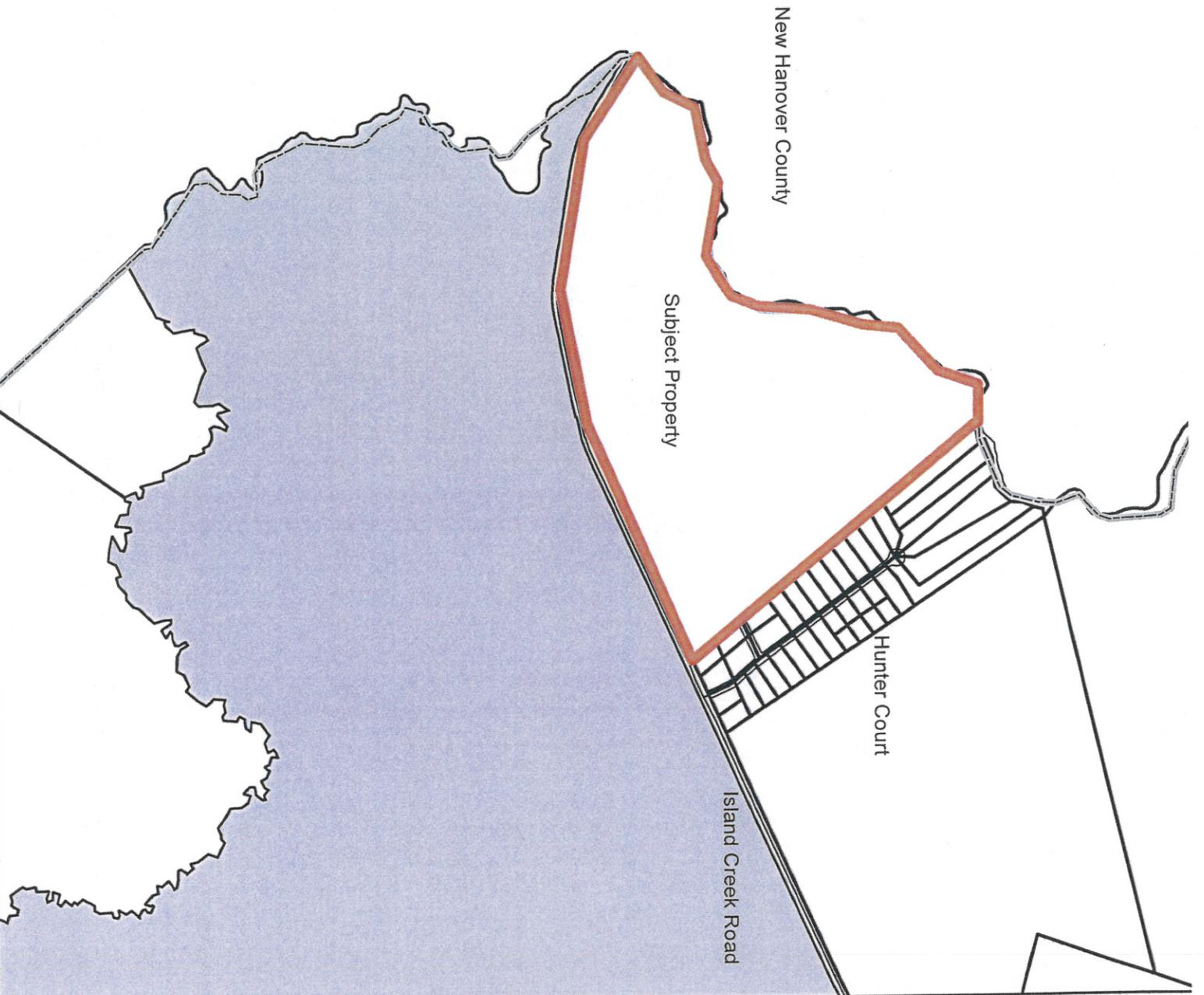
Vicinity





Applicant:
Stroud Engineering

Owner:
Parks Family Forestry, LLC
Variance
11050



Legend

- | | |
|---|----------------------------|
|  | Environmental Conservation |
|  | General Business |
|  | General Industrial |
|  | INCORP |
|  | Industrial Transition |
|  | Office & Institutional |
|  | Planned Development |
|  | Rural Agriculture |
|  | Rural Performance |





Applicant:
Stroud Engineering

Owner:
Parks Family Forestry, LLC

Variance
11050

2012 Aerial





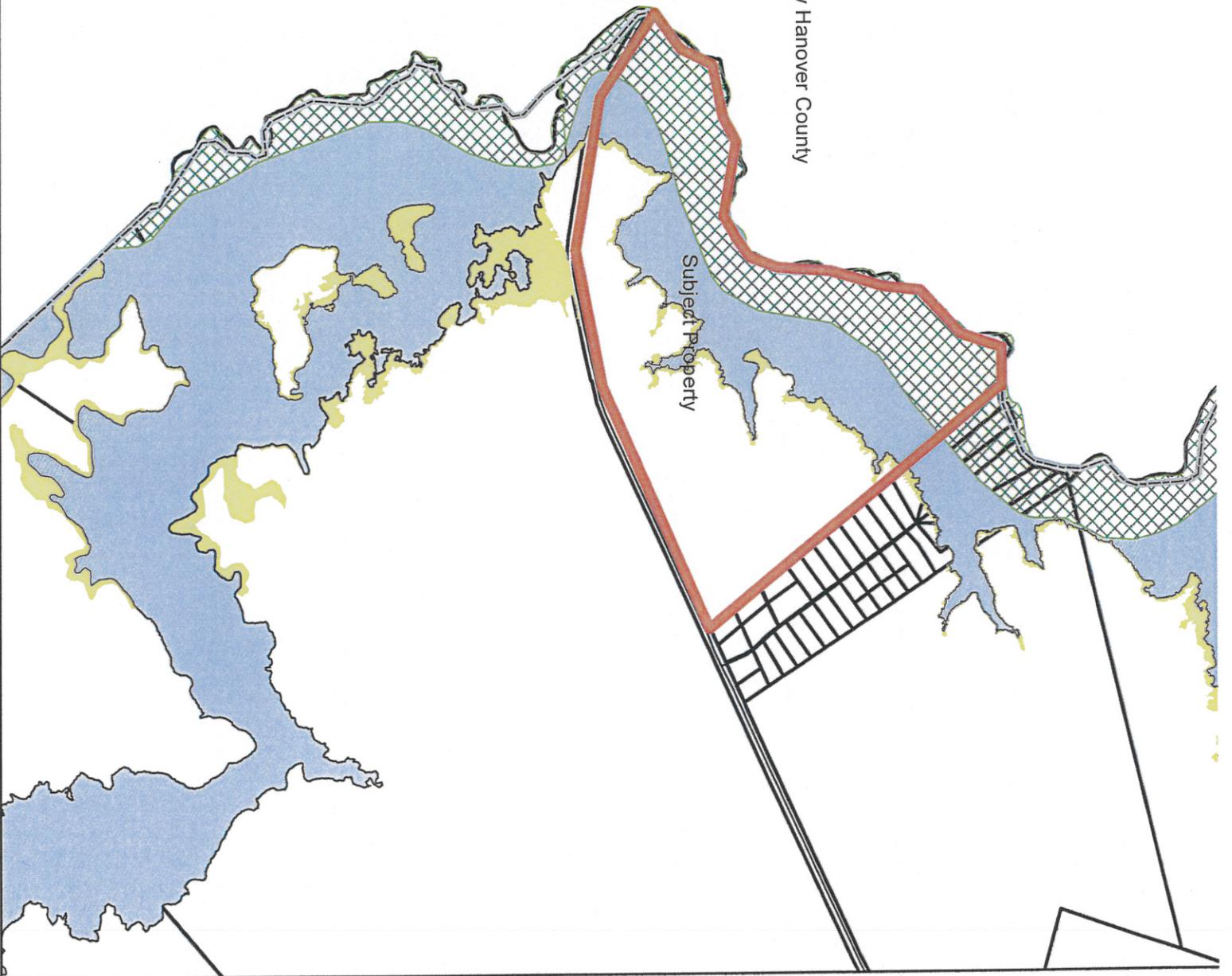
Applicant
Stroud Engineering

Owner:
Parks Family Forestry, LLC

Variance
11050

New Hanover County

Subject Property



Legend

FLOODZONE

-  A
-  AE
-  AEFW
-  SHADED X
-  VE



PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: November 20, 2013

Applicant: Coleman Parks

Property Owner: Washington Acres Inc.

Case Number: 11048

Property Location and Description: The subject property is located on Washington Acres Road (NCSR 1582) in Hampstead, as referenced on Deed Book 3996, Page 0299 (Exhibit 1), recorded at the Pender County Register of Deeds on December 01, 2011 and may be identified by Pender County PIN 3282-71-0479-0000. The subject property is located on the east side of Washington Acres Road, near the intersection of Thomas Lane and Washington Acres Road.

Zoning District of Property: Coleman Parks, applicant, on behalf of Washington Acres Inc., owner, is requesting two separate variances to allow for the construction of two individual residential driveways to be located on proposed Lots 92 and 93 (Exhibit 2), of the conditionally approved Master Plan Community of Hampstead Landing. Specifically, the applicant is requesting relief from §7.2.6 and 7.2.7 of the Pender County Unified Development Ordinance which addresses individual lot access on Throughfares and Collector Streets.

BACKGROUND

The subject property was approved as part of a major subdivision known as Hampstead Landing on July 10, 2012. The Pender County Planning Board granted conditional Master Plan approval for a subdivision not to exceed 100 plus lots.

The Final Preliminary Plat for Hampstead Landing was submitted to Pender County Planning and Community Development on August 6, 2013(Exhibit 3); the submittal was considered incomplete, however, staff completed a cursory review of the submittal. As prescribed by the Pender County Unified Development Ordinance Planning Section 3.10.1 Major Subdivisions, specifically 3.10.3.D; “Major subdivision plans must meet all the requirements prescribed in Section 6.4, Preliminary Plat Contents and Section 6.5, Final Plat Contents.” The proposal submitted to Planning Staff did not meet the criteria establish in Section 6.4, Preliminary Plat Contents. Staff provided the applicant’s engineer with all outstanding items that needed to be addressed prior to the Final Preliminary Plat approval (Exhibit 4). Staff noted that lots 82-91 and 92-93 would need an alternative access point.

A revised Preliminary Plat was submitted to staff on October 4, 2013 (Exhibit 5), which specifically addressed the accessing of lots 82-91 were now utilizing an internal road network and no longer accessing directly off of Washington Acres Road and showing Lots 92 and 93 as future development.

Washington Acres Road Classification

Washington Acres Road is approximately 3,200 feet south of the NC Highway 210/US Highway 17 intersection in Hampstead. Washington Acres Road is located within the Wilmington Metropolitan Planning Organization (WMPO) boundary. Currently Washington Acres Road is full movement intersection; there is no controlled or signalization on Washington Acres Road.

The Wilmington Metropolitan Planning Organization (WMPO) is responsible for regional transportation planning within the Wilmington Metropolitan Area; included in this planning area is the Coastal Pender Area, including Washington Acres Road (NCSR 1002). According to the Cape Fear Commutes 2035 Transportation Plan, the functional classification of Washington Acres Road is a collector road (Exhibit 6).

Functional classification is the process by which roads, streets, and highways are grouped into classes according to the character of service they provide. Individual roads and streets do not serve travel independently but as part of a network of roads through which the traffic moves. Collector street systems are defined by the Federal Highway Administration as; providing land access service and traffic circulation within residential neighborhoods, commercial and industrial areas. It differs from the arterial system in that facilities on the Collector Street System may penetrate residential neighborhoods, distributing trips from the arterials through the area to the ultimate destination. In rural areas, the collectors are further divided into Major and Minor Collectors

According to the Pender County Unified Development Ordinance, Section 7.2.6 Lots on Throughfares;

“Major or minor subdivisions shall not be approved that provide for individual residential lots to access Principal Arterial, Minor Arterial or Major Collector roads or streets as shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State Transportation Improvement Plan.”

According to the Pender County Unified Development Ordinance, Section 7.2.7 Lots on Collector Streets;

“Major subdivisions shall not be approved that provide for individual residential lots to access Minor Collector roads or streets as shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State of Federal Transportation Improvement Plan.”

DESCRIPTION OF VARIANCE (Exhibit 7- Applicant’s Narrative)

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

According to the applicant; driveway access to these properties from an internal road network of Hampstead Landing would require crossing a regulator wetland. The impacts associated with the construction of a road or driveway across the wetland is considered an unnecessary hard given the existing state road frontage. The hardship would be the burden of the subdivider as well as the environment

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

According to the applicant; the hardship is a result of the topography being challenging as a proposed driveway would descend into and through the wetlands. The subdivider has complied where possible to access other lots fronting Washington Acres Road from the subdivision road network. The required fording off the wetland in this location to accomplish the same access would be both a regulatory as well as a cost, hardship.

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

According to the applicant; the prohibition of driveways along collector roads was not known at the time of the property was purchased or planned out.

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

According to the applicant; granting of this requested variance would result in development no different than that already existing up and down Washington Acres Road. The lots created by the allowance of this request will be otherwise consistent with Pender County ordinances.

ZONING ADMINISTRATOR'S CONCLUSION:

Coleman Parks, applicant, on behalf of Washington Acres Inc., owner, is requesting two separate variances to allow for the construction of two individual residential driveways to be located on proposed Lots 92 and 93 of the conditionally approved Master Plan Community of Hampstead Landing. Specifically, the applicant is requesting relief from §7.2.6 and 7.2.7 of the Pender County Unified Development Ordinance which addresses individual lot access on Thoughtfares and Collector Streets.

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

3.10 MAJOR SUBDIVISION

3.10.1 Intent

Proposed subdivisions consisting of eleven (11) lots or more are classified as Major Subdivisions and are required to follow the Master Development Plan review process found in Figure 2 and 3 at the end of Section 3.4. All major subdivisions shall include a preliminary and final plat. Upon approval of the Master Development Plan by the Planning Board, the applicant may proceed with the preparation of the preliminary plat.

3.10.2 Pre-application Conference

- A. Applicants proposing a major subdivision site plan shall request a pre-application conference with the Administrator prior to submitting the documents for review.
 - 1) The purpose of the pre-application conference shall be to discuss the proposal in relation to the requirements of all adopted Land Use Plans and Unified Development Ordinance and to obtain advice on the preparation of the preliminary plan.
 - 2) If applicable, the applicant shall provide a copy of the approved Master Development Plan for discussion at the pre-application conference.

3.10.3 Review

- A. Completed plats, application, fees and other required data must be submitted 45 days before a scheduled Planning Board meeting.
- B. When required submission material is submitted as noted above, it shall be placed on the next scheduled Planning Board agenda, if applicable.
- C. The Administrator will forward the Major Subdivision application and site plan to the Technical Review Committee for review. The TRC shall make recommendations concerning whether the plan meets the requirements and or plans of their particular state agency, county department or utility authority
- D. Major subdivision plans must meet all the requirements prescribed in Section 6.4, Preliminary Plat Contents and Section 6.5, Final Plat Contents.
- E. The preliminary plat must be submitted in digital format to the Administrator within the time frame indicated above. The digital submission of the plat will be considered proprietary information. The digital layout will be made available to the Tax Supervisor for parcel update and the digital submission may be returned to the person submitting it.
- F. The plat will be reviewed for compliance with this Ordinance.
- G. Due to the subdivision of land for residential purposes a portion of land must be dedicated to open space by means of providing recreational area to the residents or payments in lieu of dedication to the County. Open space requirements may be referenced in Section 7.6, Open Space.
- H. Planning Board will take action on the plat submission within 65 days after completed submission.
- I. Planning Board Master Development Plan approval shall be valid for two years. If all conditions of preliminary plat are met and a phase of the final plat is recorded, the preliminary plat status shall remain valid perpetually for all remaining phases.
- J. Preliminary plat approval constitutes approval of the layout and authorizes the developer to proceed with construction of the subdivision and improvements in accord with the approved plat, conditions attached to the approval, and submittal of required permits.
- K. All conditions of preliminary plat approval must be completed and submitted within two (2) years of the approval date.
- L. If a preliminary plat is not approved, the reasons for disapproval must be specified and provided to the developer in writing. Disapproval of a preliminary plat may be appealed to the Pender County Board of Commissioners.
- M. A preliminary plat will not be scheduled for review that is incomplete or does not have the required documents submitted with it.

6.4 PRELIMINARY PLAT CONTENTS

Preliminary plats not illustrating or containing the following data shall be returned to the developer or his authorized agent for completion and resubmission.

A. The preliminary plat shall be prepared in accordance with the following specifications:

- 1) The plat must be prepared by an authorized Licensed Professional.
- 2) The name of the subdivision.
- 3) The name(s), address(es), and telephone number(s) of the owner(s), registered land surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the registered land surveyor(s).
- 4) A sketch vicinity map at an appropriate scale, showing the relationship between the subdivision and the surrounding area.
- 5) The exact boundary lines of the tract to be developed fully dimensioned by bearings and distances, and the location of intersecting boundary lines of adjoining lands.
- 6) Scale at 1" = 50' or larger, denoted both graphically and numerically.
- 7) North arrow in accordance with the Standards of Practice for Land Surveyors.
- 8) Approved road names.
- 9) Landscaping and Buffers shall be shown on the site plan and adhere to the landscaping standards set forth in Article 8, Landscaping and Buffers.
- 10) All subdivided land and parcels shall comply with Section 7.2, Lot Design.
- 11) Homeowners Association shall be required for all major residential subdivisions with privately maintained streets, open space, and any other dedicated land as stated in Section 7.3, Homeowners Association Requirements.
- 12) Street layout and access shall conform to Section 7.4, Access and Section 7.5, Street Design.
- 13) Calculated open space requirements must adhere to Section 7.6, Open Space.
- 14) The location, purpose, and dimensions of areas to be used for purposes other than residential;
- 15) The names of current owners of adjacent landowners along with PIN, current uses, other legal reference where applicable, shall be shown.
- 16) The location and measurements of all proposed minimum building setback lines.
- 17) The location and dimensions of all proposed and existing rights-of-way, utility or other easements, riding trails, pedestrian or bicycle paths, natural buffers, and areas if any to be dedicated to public use with the purpose of each stated.
- 18) Existing traffic counts for road(s) and intersection(s) studied and dates/times counts were conducted.
- 19) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
- 20) Based on estimated traffic counts, a Traffic Impact Analysis may be required stating the dates and times counts were conducted for the proposed development.
- 21) Right-of-way lines and pavement widths of all roads and the location and width of all adjacent roads and easements.
- 22) Property lines, buildings or other structures, water courses, railroads, bridges, culverts, storm drains, and corporate limits, township boundaries, and county lines.
- 23) Sufficient survey to determine readily and reproduce on the ground every straight or curved boundary line, road line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the center line of curved roads and curved property lines that are not the boundary of curved roads. All dimensions shall be in accordance with the Standards and Practices of Land Surveyors.
- 24) The accurate locations and descriptions of all monuments, markers, and control points.

- 25) The blocks lettered alphabetically throughout the entire subdivision and the lots numbered consecutively throughout each block.
- 26) The date of the survey and the plan preparation; with spaces per subsequent revision.
- 27) The name of the township, county, and state in which the subdivision is located.
- 28) Deed book and reference of ownership acquisition.
- 29) Certificate of approval by the Pender County Addressing Coordinator for proposed road names.
- 30) Compliance with all applicable requirements of this Ordinance.
- 31) Agreement with the most recently adopted CAMA Land Use Plan and any other applicable adopted land use document(s). Reference of recently approved MDP.
- 32) For non-residential and multifamily projects, the location of trash handling, recycling, grease bins, and other waste-related facilities employed in the normal operation of the use.
- 33) The location and design of parking areas and pedestrian and vehicular access points.
- 34) That the design of traffic patterns, traffic control measures and street pavement areas, including plan profiles and cross section views, and with provisions for maintaining traffic flows for both public use as well as emergency management services are consistent with the requirements of this Ordinance.
- 35) Compliance with site construction specifications.
- 36) Stormwater facilities, water supply, sanitary sewer service, fire protection and hydrants, street signs, and street lighting designed in conformance with department standards, specifications and guidelines; Plan profile and cross section of drainage and utility services and
- 37) Other proposed easements or dedications as required.

B. Additional materials to be submitted with the preliminary plat:

- 1) Soil suitability analysis indicating the suitability of the property for individual septic tanks or an Improvement Authorization Permit for each lot unless community sewer is available and a conditioned approval for connection is submitted. The soil suitability analysis of the property shall also indicate the suitability of the soil for the type structures proposed.
- 2) Sufficient information shall be provided so that a corner of the property can be located on the ground and found with a measurement from the intersection of two state maintained roads.
- 3) A copy of the Preliminary Plat with the street names as approved by the Pender County Addressing Coordinator or his/her designee.
- 4) Verification of receipt of the preliminary plat of the development by the Pender County Health Department.
- 5) Verification of receipt of the preliminary plat of the development by the NCDOT District Engineer or his designee.
- 6) General description and map of the proposed drainage for the subdivision shall include the following:
 - a) The boundaries of all drainage basins that flow through the property from upstream.
 - b) All drainage facilities that flow through the property and receive any stormwater discharge from upstream.
 - c) The boundaries of all drainage basins that receive discharge from the property that is located from the discharge point on the property to the recipient perennial stream.
 - d) All drainage facilities that receive stormwater discharge from the property from the discharge point to the recipient perennial stream.
 - e) This information can be described in a narrative submission and shown on a copy of a USGS 7.5 Minute Quad or other similar topographical map (11 X 17 map submission).
 - f) Detailed description of any proposed waste water system and system maintenance arrangements and procedures to serve lots that are not suitable for traditional onsite septic systems, along with a map showing the proposed location of the offsite components of the system, including lines.
 - g) When any development proposes private streets a description of the method to provide Pender County Emergency Service personnel and vehicles immediate access shall be submitted.

- h) When any street layout or geometric design does not specifically meet the NCDOT Secondary Road Standards or the adopted Pender County Private Street Standards, a narrative explanation, justification detailed drawing of the design shall be submitted for review.
- i) When the subdivision entrance does not connect to a NCDOT maintained road, recorded documents shall be submitted that confirm the property and the proposed lots have access to a NCDOT maintained road by a public or private street that meets the standards of this Ordinance.
- j) The Administrator or the Planning Board may request additional information be submitted that is pertinent to review of the proposed subdivision for compliance with the provisions of this Ordinance or other Pender County Ordinances.

C. The Following Material May Be Submitted As a Condition of Approval of the Preliminary Plat, When Approved By the Planning Board or Administrator

- 1) Approval by NCDOT of connection of subdivision roads with DOT maintained roads (Driveway Permit).
- 2) Street construction & street drainage plans as approved by DOT District Engineer with letter of approval (for public streets).
- 3) Street construction & street drainage plans in accord with DOT submittal requirements, design and construction standards or in accord with Section 7.5, Street Design, private street standards. The plans must be signed and sealed by a registered surveyor or engineer. A letter from the design professional will accompany the plans certifying that they meet the NCDOT submittal requirements, design and construction standards or Private Street Standards, Pender County (for private streets).
- 4) One or both of the following items will be required for any development utilizing a community water or wastewater system:
 - a) Water System:
 - i) Construction plans sealed by a registered engineer, as approved by DENR,
 - ii) Acceptance of operation and maintenance of the system by a Public or Community Water system as defined in this Ordinance,
 - iii) Certification that the system will be owned by a Public or Community Water system as defined in this Ordinance with conditional acceptance of ownership or certification that the system will be owned by a homeowners association established under the provisions of this Ordinance.
 - b) Wastewater system
 - i) Construction plans sealed by a registered engineer, as approved by DENR, acceptance of operation and maintenance of the system by a Public or Community Water system as defined in this Ordinance
 - ii) Certification that the system will be owned by a Public or Community Water system as defined in this Ordinance with conditional acceptance of ownership or certification that the system will be owned by a homeowners association established under the provisions of this Ordinance.
 - c) Approval from the Division of Coastal Management when the development is located in an Area of Environmental Concern.
 - d) Sediment & Erosion Control Plans as approved by Land Quality (with letter of approval).
 - e) Stormwater management plan as approved by the Water Quality Division (with letter of approval).
 - f) Approval of Wetlands Delineation by the Army Corps of Engineers (USACE) (if wetlands in development).
 - g) Wetlands fill authorization or permit if construction in wetlands is involved.
 - h) A drainage plan that will include all portions of the development shall be submitted. This plan shall be prepared and sealed by a registered engineer. The plan and facilities shall provide for a drainage system for these areas that will accommodate the ten-year storm event without flooding or substantial ponding of water in the areas included in the plan. The plan must also accommodate any discharge from properties in upland portions of the drainage basin that flows through the property for the same storm event for the type development for which that property is zoned. The boundary

of any drainage area on a portion of the site and/or upland from the site and drainage areas between stormwater discharge points from the site to the recipient perennial stream shall be shown on a map (copy of 7.5 min. USGS Quad or similar map). Any drainage facility receiving stormwater discharge from the development shall have the capacity to carry the anticipated stormwater flow from areas that discharge through them for the 10 year storm event from the point of discharge at the development to the recipient perennial stream without 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, stormwater management plan or on the preliminary plat, as long as the design professional certifies that the specific drainage plan submitted complies with these requirements and the information required is shown or submitted.

- i) When any proposed subdivision of land with lots or areas other than open space where structures are prohibited is located in a "Designated Floodway," a "No Rise Certification" prepared by a Registered Engineer shall be submitted for the development.
- j) When a proposed subdivision is located in a SFHA the Base Flood Elevation (BFE) shall be determined and shown along with the SFHA boundary on the Preliminary Plat. In SFHA's where the BFE has not been previously determined, the Developer shall be responsible for providing the BFE as determined by a Registered Professional in the manner prescribed by FEMA Regulations.
- k) When a proposed subdivision is located within a SFHA and any water or sewer systems are not located on the site of the structure served, a statement from the Registered Professional responsible for design of the offsite system shall be provided that "all public or community (offsite) sewer and water systems and drainage facilities are designed to minimize flood damage and reduce exposure to flood hazards in accord with FEMA Guidelines."

7.2.6 Lots on Thoroughfares

Major or minor subdivisions shall not be approved that provide for individual residential lots to access Principal Arterial, Minor Arterial or Major Collector roads or streets as shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State Transportation Improvement Plan.

7.2.7 Lots on Collector Streets

Major subdivisions shall not be approved that provide for individual residential lots to access Minor Collector roads or streets as shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State of Federal Transportation Improvement Plan.

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 the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:

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

3. It is the Board's CONCLUSION that the hardship **did/ did not** result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

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

Board Action:

Motion: _____ **Seconded:** _____

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

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

Alternates:

Peters: _____

Faye Teachey Preatte
12-01-2011 13:50:09.000 Register of Deeds
NC REVENUE STAMP: \$ 1.00 Pender County, NC
(#33371)

PIN # 3282-71-2892 (000) & others
DATE 12-1-11 INT. JK

PREPARED BY CHARLES T. BUSBY, P. O. BOX 818, HAMPSTEAD, NORTH CAROLINA 28443

NORTH CAROLINA

**DEED IN LIEU OF
FORECLOSURE**

PENDER COUNTY

Revenue: \$ 1.00
PIN: 3282-71-2892-0000 AND OTHERS

THIS DEED made this 22 day of November, 2011, by and between GRAYSTONE HOMES, LLC, a North Carolina Limited Liability Company, P.O. Box 1069, Hampstead, North Carolina 28443, Party of the First Part; to WASHINGTON ACRES, INC., a North Carolina Corporation, 10270 S. Progress Way, Parker, Colorado 80134, Party of the Second Part;

WITNESSETH:

That the party of the first part, for and in consideration of the acknowledgement by the party of the second part of the full satisfaction of all obligations secured by the deed of trust for the benefit of Washington Acres, Inc., securing indebtedness in the amount of \$2,000,000.00, recorded in Book 3496 at page 327, Pender County, has and by these presents does grant, bargain, sell and convey unto the party of the second part in fee simple, those certain parcels of land situated in Topsail Township, Pender County, North Carolina and more particularly described as follows:

Parcel One

TRACT C, containing 109.86 acres, as depicted on map entitled "MAP OF SURVEY OF WASHINGTON ACRES SECTION 9" recorded in Map Book 22 at page 16, to which reference is made for complete description;

LESS AND EXCEPT the following:

- 1. The property depicted on map recorded in Map Book 34 at page 85;



2. The property depicted on map recorded in Map Book 39 at page 93;
3. The property depicted on map of Graystone, Phase 1, recorded in Map Book 46 at page 40;
4. The property described in the deed recorded in Book 1027 at page 171; and
5. The property described in the deed recorded in Book 1510 at page 320.

The net area in Parcel One is approximately 82.20 acres.

Parcel Two

Lots 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118 and 119 as depicted on plat entitled "WASHINGTON ACRES - SECTION 9" recorded in Map Book 22 at page 16, to which reference is made for complete description.

TOGETHER WITH a right of ingress and egress for the Grantee, his family and household guests over and across the tract of land designated as TRACT "A", Section 1 as shown on map of Washington Acres, Section 1, recorded in Map Book 6 at page 39, Pender County.

Parcels One and Two being a portion of the property conveyed to Graystone of Pender, LLC by deed recorded in Book 3496 at page 322, and to Graystone Homes, LLC by deed recorded in Book 3849 at page 131.

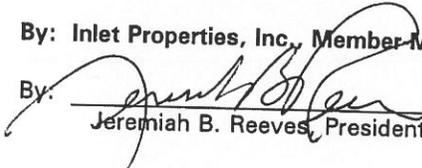
EXCEPT FROM this conveyance are all water rights conveyed to Hammock Watch HOA, Inc. by deed recorded in Book 3874 at page 65.

TO HAVE AND TO HOLD the aforesaid parcels of land and all privileges and appurtenances thereto belonging to the party of the second part, its successors and assigns, in fee simple.

IN WITNESS WHEREOF, the party of the first part has caused this instrument to be signed in its name by its authorized Member-Manager as of the day and year first above written.

GRAYSTONE HOMES, LLC

By: Inlet Properties, Inc., Member-Manager

By: 
Jeremiah B. Reeves, President



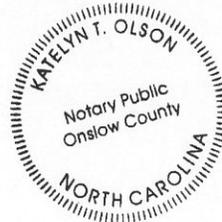
NORTH CAROLINA

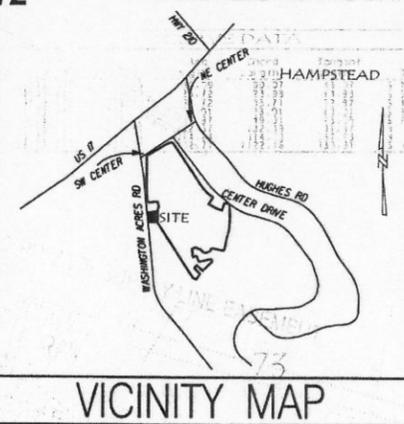
PENDER COUNTY

I, the undersigned Notary Public, do hereby certify that Jeremiah B. Reeves appeared before me this day and acknowledged that he is President of Inlet Properties, Inc., Member-Manager of GRAYSTONE HOMES, LLC, a North Carolina Limited Liability Company and that he, as President of Inlet Properties, Inc. acting as indicated, and being authorized to do so, executed the foregoing on behalf of the company.

WITNESS my hand and notarial seal this 22 day of November, 2011.

My Commission expires: 1/20/2016 Katelyn T. Olson
Notary Public





Curve No.	Name	Delta	Radius	Arc Length	Chord Length	Tangent Length	Chord Direction
1	1	4° 36' 00"	1122.16	80.09	80.07	45.07	78° 30' 30"
2	2	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
3	3	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
4	4	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
5	5	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
6	6	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
7	7	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
8	8	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
9	9	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"
10	10	1° 30' 00"	248.20	23.72	23.71	12.88	92° 05' 00"

- LEGEND**
- WETLAND
 - EASEMENT
 - PROJECT BOUNDARY
 - EX. CONTOUR
 - PROPOSED ELEVATION
 - SILT FENCE
 - CONVEYANCE SWALE
 - DISTURBED AREA
 - RIP RAP APRON
 - PROPOSED WATER
 - EXISTING WATER

NOTES:
 1. DRIVEWAYS ARE PROPOSED FOR SINGLE FAMILY DEVELOPMENT ON LOTS 92 & 93.
 2. WASHINGTON ACRES ROAD CONSIDERED COLLECTOR STREET BY LONG RANGE PLANNING, MPO.
 3. DRIVEWAYS REQUIRED TO PROCURE DRIVEWAY PERMIT FROM NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, NCDOT.

SURVEY REFERENCE

DEED BOOK 1664 PAGE 261
MAP BOOK 27 PAGE 261
MAP BOOK 24 PAGE 95
MAP BOOK 28 PAGE 20
MAP BOOK 26 PAGE 21
MAP BOOK 34 PAGE 85
MAP BOOK 36 PAGE 146
MAP BOOK 37 PAGE 18
MAP BOOK 39 PAGE 93

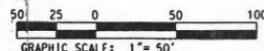
VARIANCE APPLICATION PLAN FOR
HAMPSTEAD LANDING
 LOTS 92 & 93

TOPSAIL TOWNSHIP PENDER COUNTY NORTH CAROLINA

OWNER: HAMPSTEAD LANDING DEVELOPMENT, LLC
 ADDRESS: PO BOX 1270 JACKSONVILLE, NC 28541
 PHONE: (803) 957-0359

DESIGNED: DLM
 DRAWN: DLM
 APPROVED: JHF
 DATE: 10/7/2013
 SCALE: 1" = 50'
 1 OF 1

STROUD ENGINEERING, P.A.
 1020 CHENA DRIVE
 WASHINGTON, NC 28403
 (910) 85-0775
 NC ENGINEERING FIRM # C-6047



PROJECT NO. 1 PW-231 DRAWING NAME: 1. HAMPSTEAD LANDING LOTS 92 & 93 VARIANCE PLAN.DWG

Exhibit #3

SITE DATA

PROJECT NO.	17-0003
DATE	1/17/2013
SCALE	1" = 100'
SHEET NO.	1 OF 1

LEGEND

- WETLAND
- UPLAND
- PROJECT BOUNDARY
- EXIST. CENTERLINE
- PROPOSED ELEVATION
- SILT FENCE
- CONFORMANCE CHALK
- OBSTACLE AREA
- RIP RAP ZONE
- PROPOSED WATER
- EXISTING WATER

SHEET INDEX

SHEET NO.	TITLE
1	GENERAL NOTES
2	STORMWATER AND SEPTIC CONTROL
3	UTILITY AND PUBLIC WATER SYSTEM
4	PROPOSED ELEVATION
5	CONFORMANCE CHALK
6	OBSTACLE AREA
7	RIP RAP ZONE
8	PROPOSED WATER
9	EXISTING WATER
10	DETAILS

CURVE DATA

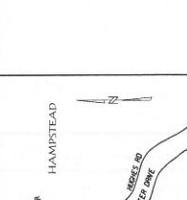
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1+00.00	1+00.00	1+00.00	1+00.00	1+00.00	1+00.00	0.00	0.00

STANDARD REFERENCE

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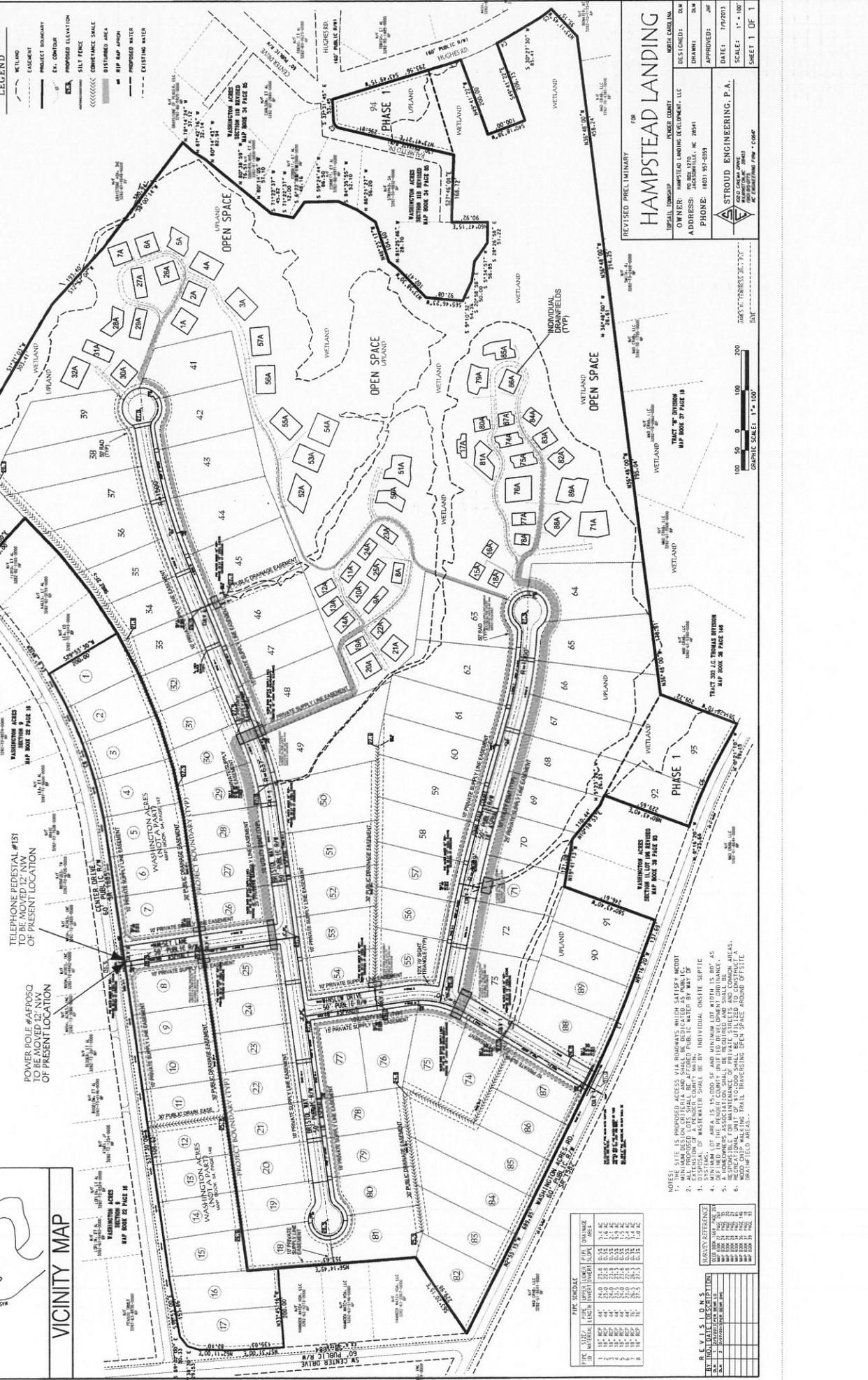
TELEPHONE PEDESTAL #131 TO BE MOVED 12' NW OF PRESENT LOCATION

POWER POLE #A902 TO BE MOVED 12' NW OF PRESENT LOCATION



REVISIONS

NO.	DATE	DESCRIPTION
1	1/17/2013	ISSUED FOR PERMIT
2	1/17/2013	ISSUED FOR PERMIT
3	1/17/2013	ISSUED FOR PERMIT
4	1/17/2013	ISSUED FOR PERMIT
5	1/17/2013	ISSUED FOR PERMIT
6	1/17/2013	ISSUED FOR PERMIT
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95	1/17/2013	ISSUED FOR PERMIT



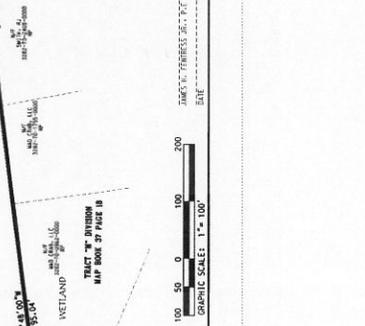
HAMPTSTEAD LANDING

REVISED PRELIMINARY

OWNER: HAMPTSTEAD LANDING DEVELOPMENT, LLC
 ADDRESS: 7018 W. 17TH ST., NC 28414
 PHONE: (803) 991-2035

DESIGNED BY: [Firm Logo]
 DRAWN BY: [Firm Logo]
 APPROVED BY: [Firm Logo]
 DATE: 1/17/2013
 SCALE: 1" = 100'

PROJECT NO.: 17-0003
 SHEET 1 OF 1



NOTES:

- MINIMUM DESIGN CRITERIA FOR WETLANDS SHALL BE AS PER 15A NCAC 2B.0101.
- ALL WETLANDS SHALL BE MAINTAINED AND NOT DRAINED BY ANY MEANS.
- DISPOSAL OF WASTEWATER SHALL BE BY INDIVIDUAL ON-SITE SEPTIC.
- MINIMUM LOT AREA IS 30,000 SF AND MINIMUM LOT WIDTH IS 80' AS SHOWN ON THIS PLAN. ALL LOTS SHALL BE 100' WIDE AT THE FRONT.
- A HOMEOWNERS ASSOCIATION SHALL BE REQUIRED AND SHALL BE FORMED WITHIN 90 DAYS OF THE COMMENCEMENT OF CONSTRUCTION.
- REGULATORY AGENCIES SHALL BE NOTIFIED AND SHALL BE PROVIDED A COPY OF THIS PLAN.

STANDARD REFERENCE

ITEM	SIZE	TYPE	LENGTH	AREA
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38	18"	PIPE	44'	1

Exhibit #4

Ashley Frank

From: Ashley Frank
Sent: Tuesday, August 13, 2013 12:23 PM
To: Jimmy Fentress (jfentress@stroudengineer.com)
Subject: Hampstead Landing

Jimmy,

After a cursory review of Hampstead Landing, submitted August 6, 2013; staff has found the submittal to be incomplete. The following items must be addressed prior to the Final Preliminary Plat being approved. The Pender County Unified Development Ordinance (UDO) Section 6.4 specifically addresses the requirements of Final Preliminary Plat.

Please submit or address following items for Final Preliminary Plat approval:

1. Homeowners Association shall be required for all major residential subdivisions with privately maintained streets, open space, and any other dedicated land as stated in Section 7.3, Homeowners Association Requirements. **FYI- HOA documents are required at time of recordation of Final Plat.**
2. All subdivided land and parcels shall comply with Section 7.2, Lot Design. **Lots 82-91 and Lots 92-93 currently are accessed off of Washington Acres Road which is classified as a Collector Street by the 2007 Coastal Pender Collector Street Plan. Lots would need to access the development internally or by alley access.**
3. Street layout and access shall conform to Section 7.4, Access and Section 7.5, Street Design. **Please provide documentation from the NC DOT that the Preliminary Plan Street Construction and Drainage Plans have been approved.**
4. Calculated open space requirements must adhere to Section 7.6, Open Space. **Please show the open space calculation for both active and passive open space areas. Also Lot 94 was initially shown as Open Space on the MDP.**
5. The location, purpose, and dimensions of areas to be used for purposes other than residential; **Please show separation between the off-site drainfields and open space.**
6. Existing traffic counts for road(s) and intersection(s) studied and dates/times counts were conducted.
7. Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual. **This note is for #5 and #6- Please add traffic counts and traffic peak data to the plat.**
8. Property lines, buildings or other structures, water courses, railroads, bridges, culverts, storm drains, and corporate limits, township boundaries, and county lines. **Please show on plat or this information may be submitted as supplement information.**
9. The accurate locations and descriptions of all monuments, markers, and control points. **Please show on the plat.**
10. Certificate of approval by the Pender County Addressing Coordinator for proposed road names. **Please provide the Road Name approval Certification (language is provided below)**
11. Stormwater facilities, water supply, sanitary sewer service, fire protection and hydrants, street signs, and street lighting designed in conformance with department standards, specifications and guidelines; Plan profile and cross section of drainage and utility services **Please show on plat or this information may be submitted as supplement information and/or plan**
12. Soil suitability analysis indicating the suitability of the property for individual septic tanks. The soil suitability analysis of the property shall also indicate the suitability of the soil for the type structures proposed. **Please provide a soil analysis of the site.**
13. Sufficient information shall be provided so that a corner of the property can be located on the ground and found with a measurement from the intersection of two state maintained roads. **Just a FYI**

14. A copy of the Preliminary Plat with the street names as approved by the Pender County Addressing Coordinator or his/her designee. **Please provide the Road Name approval Certification (language is provided below)**
15. Verification of receipt of the preliminary plat of the development by the Pender County Health Department. **Please provide the Pender County Health Department Submittal Certification (language is provided below)**
16. Verification of receipt of the preliminary plat of the development by the Pender County Public Utilities (PCU) **Please provide the Pender County Public Utilities Submittal Certification (language is provided below)**
17. Verification of receipt of the preliminary plat of the development by the NCDOT District Engineer or his designee. **Please provide documentation from the NCDOT that the Preliminary Plat has been received.**
18. Street construction & street drainage plans as approved by DOT District Engineer with letter of approval (for public streets). **Please see note above.**
19. One or both of the following items will be required for any development utilizing a community water or wastewater system:

Water System:

- a. Construction plans sealed by a registered engineer, as approved by DENR,
- b. Acceptance of operation and maintenance of the system by a Public or Community Water system as defined in this Ordinance,
- c. Certification that the system will be owned by a Public or Community Water system as defined in this Ordinance with conditional acceptance of ownership or certification that the system will be owned by a homeowners association established under the provisions of this Ordinance.

Please provide documentation that PCU will provide water service to this development.

20. Approval of Wetlands Delineation by the Army Corps of Engineers (USACE).
Please provide documentation that the provided Wetland Delineation is still valid for this project.
21. A drainage plan that will include all portions of the development shall be submitted. This plan shall be prepared and sealed by a registered engineer. The plan and facilities shall provide for a drainage system for these areas that will accommodate the ten-year storm event without flooding or substantial ponding of water in the areas included in the plan. The plan must also accommodate any discharge from properties in upland portions of the drainage basin that flows through the property for the same storm event for the type development for which that property is zoned. The boundary of any drainage area on a portion of the site and/or upland from the site and drainage areas between stormwater discharge points from the site to the recipient perennial stream shall be shown on a map (copy of 7.5 min. USGS Quad or similar map). Any drainage facility receiving stormwater discharge from the development shall have the capacity to carry the anticipated stormwater flow from areas that discharge through them for the 10 year storm event from the point of discharge at the development to the recipient perennial stream without 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, stormwater management plan or on the preliminary plat, as long as the design professional certifies that the specific drainage plan submitted complies with these requirements and the information required is shown or submitted. **Please provide a copy of the State approved drainage plan.**
22. Revisions to the Plat-
 - a. **Please check note 3 on the plat- is wastewater onsite or off-site?**
 - b. **Please check note 5 on the plat- are roads public or private?**
 - c. **Note 6 - Please show the location of the walking trail on the plat**
 - d. **Please show the open space calculation for this development both active and passive acreages.**
 - e. **Please indicate the accurate phase lines on the preliminary plat. Phase 1 is shown but phase 2 is not. Please note that phase 1 must include at least 25 lots.**
 - f. **Please submit the application and fee.**
 - g. **See included certifications below. Please include on the Final Preliminary Plat.**

Please be aware this project cannot proceed forward until the outstanding items have been addressed. If you have additional questions regarding the information please feel free to contact me.

Certificate of Preliminary Plat Approval

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

Planning Staff: _____ Date: _____

Certification of Submission

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

Pender County Utilities: _____ Date: _____

Pender County Addressing Coordinator: _____ Date: _____

Respectfully,

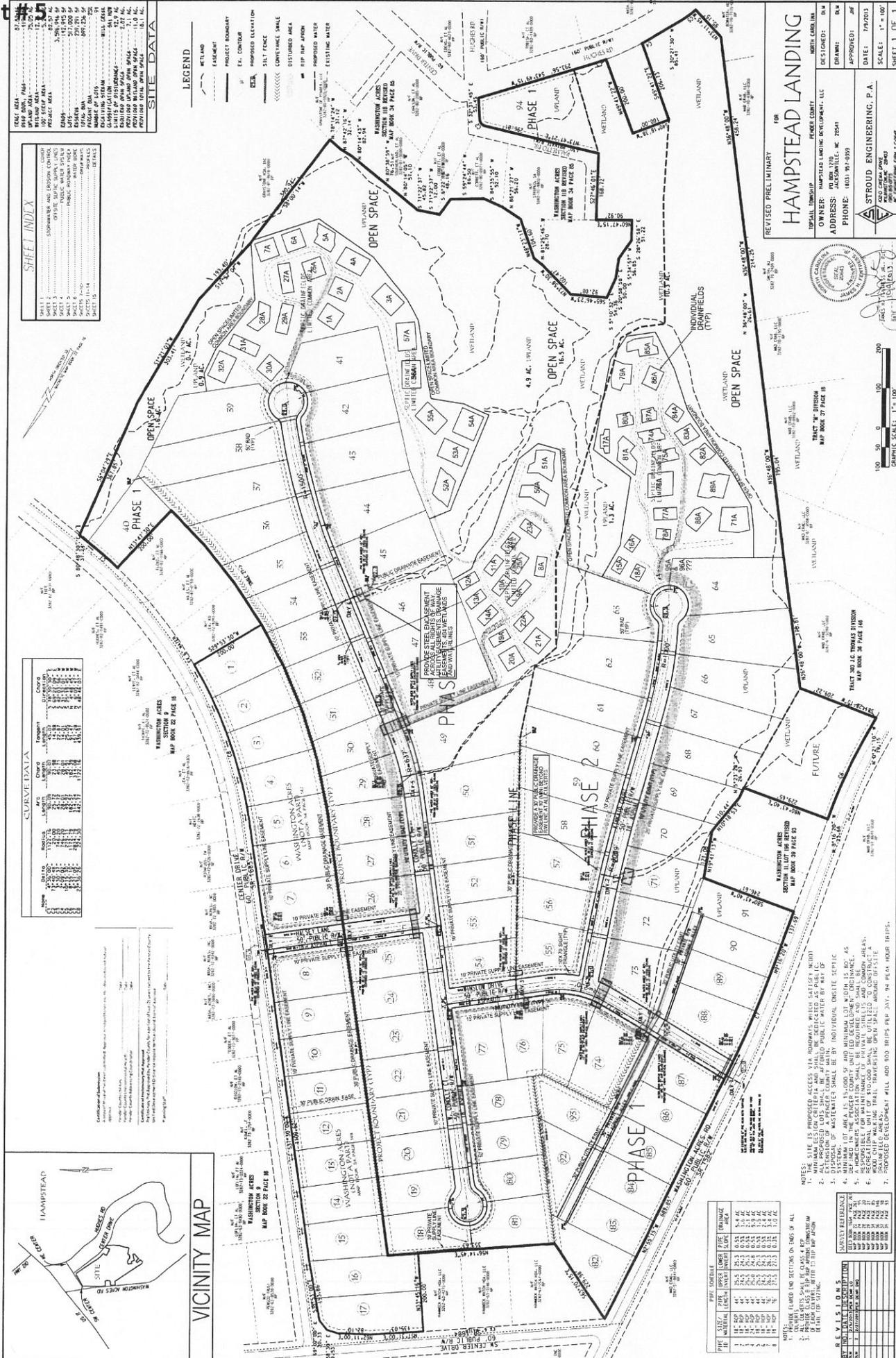
Ashley D. Frank, CZO, CLIDP
Senior Planner

Pender County Planning and Community Development
Division of Planning
805 South Walker Street (Physical Address)
PO Box 1519 (Mailing Address)
Burgaw, North Carolina 28425
(910) 259-1274 (phone)
(910) 259-1295 (fax)

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Jimmy Fentress [mailto:jfentress@stroudengineer.com]
Sent: Tuesday, August 06, 2013 3:34 PM
To: Ashley Frank
Cc: Jan Dawson
Subject: Hampstead Landing

Ashley,
Here is the revised Preliminary Plan for this development including road names as reportedly approved by the developer, Coleman Parks. I am hoping to get this Preliminary approved to enable Improvement Permit application for lots interior to the development. Please advise if there remain outstanding responsibilities in this regard.
Thanks,
Jimmy Fentress





STROUD ENGINEERING, P.A.

CONSULTING ENGINEERS
102-D CINEMA DRIVE
WILMINGTON, NORTH CAROLINA 28403
(910) 815-0775

**Hampstead Landing Lots 92 & 93
Variance Application Narrative**

Sept. 7, 2013

Overview:

Hampstead Landing proposes to add two lots on Washington Acres Road for new homesites on useable upland soils. These two lots are adjacent existing platted lots to either side. Long Range Planning, MPO, has classified Washington Acres Road to be a collector. As such, Pender County Ordinance will not allow driveway access to Washington Acres Road to serve new properties. New properties should provide a single driveway and a road for the new lots to access. These two proposed properties have difficulty providing any access other than to Washington Acres Road. The following is an address to the required findings of fact to support the proposed variance aimed at allowing individual driveway access off this collector classified road.

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; **Driveway access to these properties from the internal road network of the Hampstead Landing Subdivision would require crossing a regulated wetland. The impacts associated with the construction of a road or driveway across the wetland is unconsidered unnecessary hardship given the existing state road frontage. This hardship would be the burden of the subdivider as well as the environment.**
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; **This hardship is a result of the topography being challenging as a proposed driveway would descend into and through the wetlands. The subdivider has complied where possible to access other lots fronting Washington Acres Road from the subdivision road network. The required fording off the wetland in this location to accomplish the same access would be both a regulatory, as well as a cost, hardship.**
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship; **The prohibition of driveways along collector roads was not known at the time the property was purchased or planned out.**
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. **Granting of this requested variance would result in development no different than that already existing up and down Washington Acres Road. The lots created by the allowance of this request will be otherwise consistent with Pender County ordinances.**

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE

Application No.	VA 11048	Date	10.7.2013
Application Fee	\$ 250.00	Receipt No.	# 132258

SECTION 1: APPLICANT INFORMATION

Applicant's Name	COLEMAN PARKS	Owner's Name:	COLEMAN PARKS HAMPSHIRE LANDING
Applicant's Address	214 BARNACLE CIRCLE	Owner's Address:	214 BARNACLE Cir
City, State, & Zip	LEXINGTON SC 29072	City, State, & Zip	LEXINGTON SC 290
Phone Number:	803 960 8991	Phone Number:	803 960 8991
Relationship of applicant to land owner:	OWNER, Mgr, PHASE 2, UNDER CONTRACT		

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3282-71-0479-0000	Total property acreage:	1 AC - 2 Lots
Classification:	RP	Variance Size:	
Project Location & Address			
Project Variance and type requested:			

SECTION 3: SIGNATURES

Applicant's Signature	[Signature]	Date:	10-4-
Agent's Signature	[Signature] HAMPSHIRE LANDING	Date:	10-4-

NOTICE TO APPLICANT:

The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements. 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.

An application for a variance shall be submitted in accordance with application requirements.

Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.

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

Applicant must also submit the information described in the Variance Checklist provided below.

Applicant or agent authorized in writing must attend the public hearing.

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
Payment Method: <input type="checkbox"/> Cash \$ _____ <input type="checkbox"/> Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input checked="" type="checkbox"/> Check # 1125
Application received by: Ashley Frank	Date: 10.7.13
Application completeness approved by: [Signature]	Date:
Scheduled for public hearing: NOV. 20 - 2013	



Applicant:
Coleman Parks

Owner:
Washington Acres Inc.

Varinace

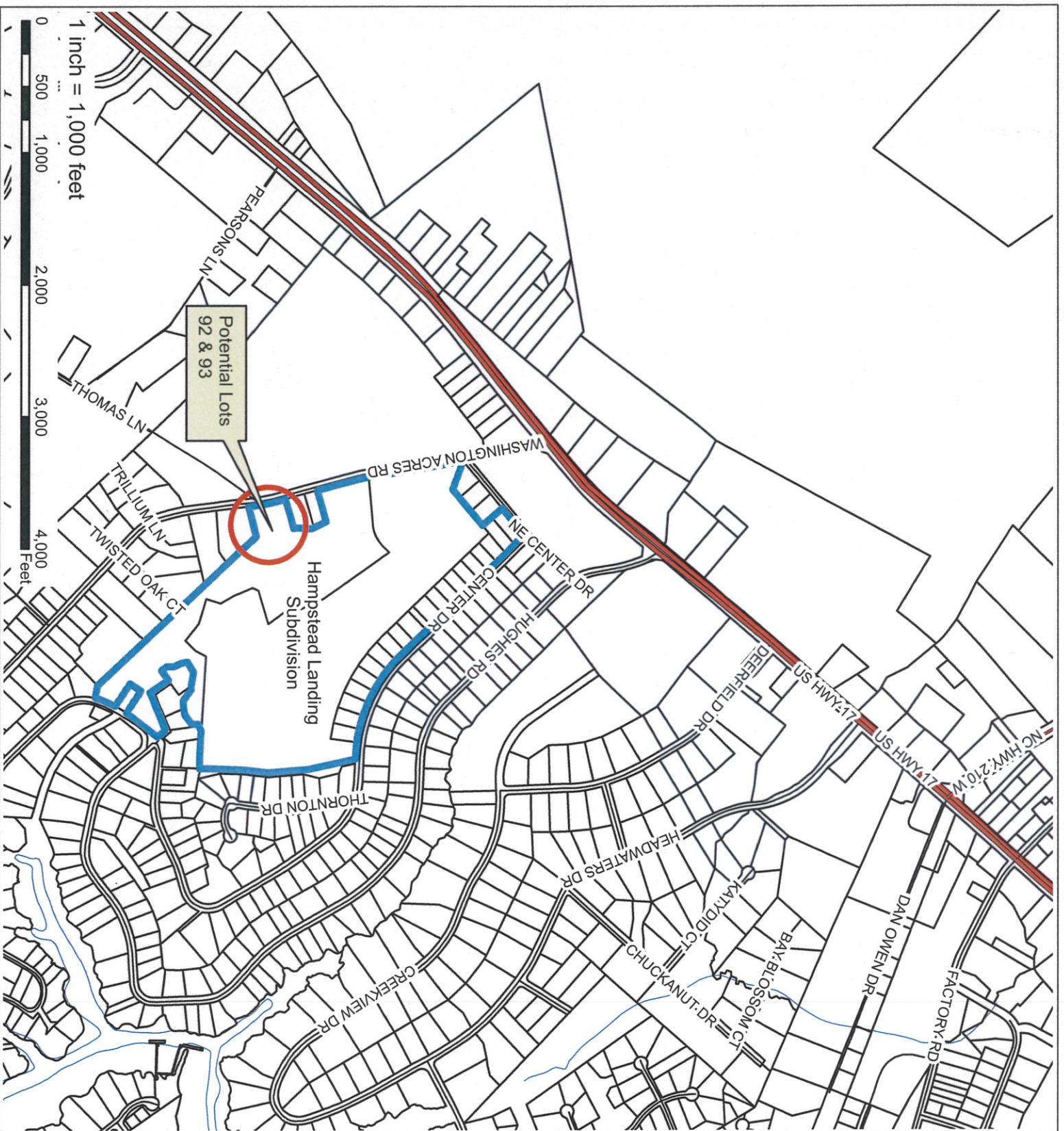
Case # 11048

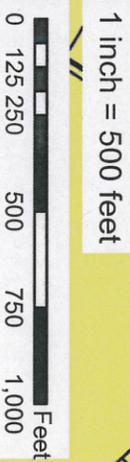
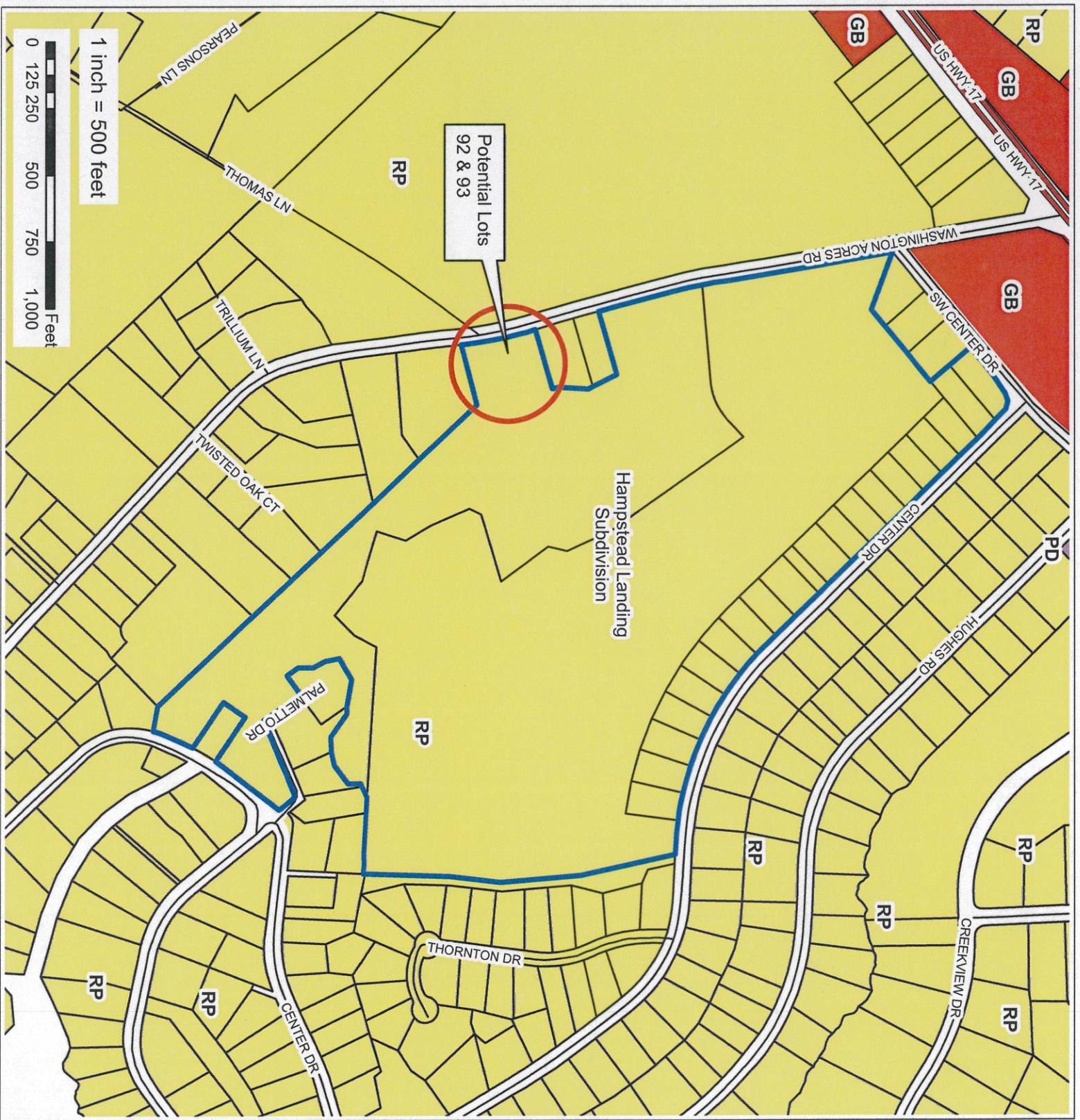
Legend

-  Subject Property



VICINITY MAP





Potential Lots
92 & 93

Hampstead Landing
Subdivision

	Legend
	Subject Property
Zoning Classification	
	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)



Applicant:
Coleman Parks

Owner:
Washington Acres Inc.

Variance

Case # 11048



Applicant:
Coleman Parks

Owner:
Washington Acres Inc.

Variance

Case # 11048

Legend
 Subject Property



2012 Aerial Map

